
Hunter Water Corporation
ABN 46 228 513 446

And

[Insert]

Agreement to Provide Services
To Owners Corporation SP

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Agreement

Date

Parties

Name Hunter Water Corporation ABN 46 228 513 446 (**Hunter Water**)

Address 36 Honeysuckle Drive, Newcastle West NSW 2302

Fax Number (02) 4979 9711

Email Address

Contact

Name Owners Corporation Strata Plan ### (**Owners Corporation**)

Address

Fax Number

Email Address

Contact

Background

- A. Hunter Water is:
- (a) a public authority within the meaning given to that term in the *Strata Schemes Management Act 1996* (NSW); and
 - (b) a state owned corporation within the meaning given to that term in the *State Owned Corporations Act 1991* (NSW) which provides, constructs, operates, manages and maintains the Services in accordance with its Operating Licence granted pursuant to section 12 of the *Hunter Water Act 1991* (NSW).
- B. The Owners Corporation has requested and Hunter Water has agreed to install Sub meters within the Strata Parcel on the terms and conditions set out in this Agreement.
- C. The Owners Corporation enters into this Agreement on behalf of the Owners.

Operative part

1 Definitions and interpretation

1.1 Definitions

In this agreement:

Accessible means the unfettered and unencumbered ability of Hunter Water to access the Master meter and the Sub meters for reading and recording purposes.

Account holder has the same meaning as under the Customer Contract.

Association Property means the Common Property in the Strata Scheme.

Automated Meter Reading means the system to be developed by Hunter Water for implementation in the future as another means of reading meters.

Business Day means a day that is not:

- (a) a Saturday or Sunday, or
- (b) a public holiday or a bank holiday in the place to which the matter relates.

Common Property means the lot shown in a Strata Plan as common property.

Customer Contract means the contract prepared by Hunter Water under section 36 of the Hunter Water Act as varied from time to time.

Design Criteria means the Hunter Water design criteria as varied from time to time, the current version of which is attached in Schedule 1.

GST means goods and services tax under *A New Tax System (Goods & Services Tax) Act 1999* (Cth).

Hunter Water Act means the *Hunter Water Act 1991* (NSW).

Hunter Water By-Laws means the by-laws which are to be made by the Owners Corporation pursuant to clause 2, a draft of which is in Schedule 2.

Law means any statute, ordinance, proclamation, order or regulation present or future.

Lot means a lot within the Strata Parcel other than Common Property.

LPI means Land & Property Information, a division of Office of Finance & Services.

Master Meter means the meter used to record the total amount of water used by the Owners Corporation.

Master Meter Fees and Charges means the fees and charges payable by the Owners Corporation to Hunter Water.

Occupier means any person in lawful occupation of the Lot.

Owner means the registered proprietor for the time being of any Lot, their successors and assigns.

Owners Corporation means a corporation constituted under section 11 of the *Strata Schemes Management Act 1996* (NSW).

Public Authority means a public or local authority that is constituted by or under an Act.

Services means:

- (a) supplying water;
- (b) providing sewerage and drainage services; and
- (c) disposing of waste water.

Strata Parcel means the land the subject of the Strata Scheme.

Strata Plan means a plan for the subdivision of land into a Strata Scheme.

Strata Scheme means the manner of subdivision of land by a Strata Plan.

Sub meter means the sub meter installed for each Lot by Hunter Water to record the amount of water used by each Owner or Occupier.

Sub Meter Fees and Charges means the fees and charges payable by each Owner to Hunter Water.

1.2 Interpretation

In this agreement, unless the context indicates a contrary intention:

- (a) headings and clause numbers are for convenience only and do not form part of the document or affect its interpretation;
- (b) the singular number includes the plural and vice versa, unless the

- context requires otherwise;
- (c) a reference to a party includes that party's executors, administrators, trustees, successors and permitted assigns;
 - (d) a reference to a person includes an individual, corporation, unincorporated association, partnership, joint venture or government body;
 - (e) references to any statute, ordinance or other law include all regulations and other instruments under it and all consolidations, amendments, re-enactments or replacements of it;
 - (f) money references are in Australian dollars, unless otherwise provided;
 - (g) a reference to a 'month' means a calendar month;
 - (h) if a party is a corporation, a reference to that party's authorised officer includes an 'officer' of the corporation as defined in the *Corporations Act 2001* (Cth), or any other person authorised to act on its behalf;
 - (i) an expression used in this Agreement which is defined in the Customer Contract has the same meaning as in the Customer Contract unless it is also defined in this Agreement, in which event the definition in this Agreement prevails.

2 Background

2.1 The parties acknowledge:

- (a) Hunter Water currently provides the Services to the Strata Scheme and a Master Meter is installed on the Common Property; and
- (b) the Owners Corporation is the Account holder as defined under the Customer Contract in relation to the Master Meter.

3 Obligations

3.1 Installation of meters

The Owners Corporation must:

- (a) ensure there is a Master Meter for the Common Property; and
- (b) ensure a water meter assembly is installed for each Owner either within the Owner's Lot or on Common Property which complies with the Design Criteria; and
- (c) register the Hunter Water By-Laws; and
- (d) comply, and ensure that each Owner complies with any Law requiring any upgrade of the Master Meter or a Sub meter necessary for Hunter Water to implement Automated Meter Reading.

3.2 Sub meters

- (a) Hunter Water will install a Sub meter on each Owner's water meter assembly when the conditions contained in clauses 3.1(b) and 3.1(c) have been met.
- (b) Hunter Water's obligations in this Agreement do not commence until:
 - i. the Hunter Water By-laws are registered at LPI; and
 - ii all Sub meters are installed.

4 Acknowledgements

4.1 The Owners Corporation acknowledges:

- (a) In addition to the Owners Corporation each Owner will be deemed to be an Account holder on and from installation of a Sub meter and will be bound by the obligations contained within the Customer Contract and the Hunter Water Act.
-

- (b) Pursuant to the Customer Contract Hunter Water may from time to time:
 - i arrange for planned interruptions to the Services, or
 - ii interrupt, limit or place restrictions on the provision of the Services in the event of a significant operational difficulty
 and, where practicable, Hunter Water will provide advance notice of such interruption, limitation or restriction to the Owners Corporation and the Owners Corporation will then notify each Owner.
- (c) Hunter Water will, if it becomes aware of any defective or unauthorised work within the Strata Scheme, serve notice on the Owners Corporation requiring the defective or unauthorised work to be remedied within the time specified by Hunter Water.

5 Account for Service

- (a) Where Sub meters are installed in accordance with this Agreement Hunter Water will raise accounts:
 - (i) to each Owner for the Sub Meter Fees and Charges; and
 - (ii) to the Owners Corporation for the Master Meter Fees and Charges.
- (b) Clauses 4 and 5 of the Customer Contract will apply to accounts raised pursuant to clause 5(a).

6 Obligations

6.1 Obligation to maintain and repair

- (a) The Owners Corporation is responsible for maintaining all pipes and fittings within the boundaries of the Strata Scheme except for pipes and fittings within each Owner's Lot.
- (b) Each Owner is responsible for maintaining their water system within their Lot as provided under the Customer Contract.
- (c) Hunter Water is responsible for maintaining and repairing the Sub meters.

6.2 Defective or unauthorised work

The Owners Corporation must promptly notify Hunter Water of any defective or unauthorised work.

7 Default

7.1 Events of default

The following will constitute default events by the Owners Corporation or Owner:

- (a) failure to comply with any obligation under this Agreement whether a formal demand for compliance has or has not been made; or
- (b) failure to comply with any Law present and future relating to the installation and operation of any Sub meter and/or Automatic Metering System; or
- (c) a breach of the Customer Contract, the Hunter Water Act or the Hunter Water By-Laws.

7.2 Effect of Default Events

Upon the happening of a default event and provided the default continues for at least 30 days after a written request by Hunter Water made to the Owners Corporation or the Owner as applicable to remedy the default, Hunter Water may:

- (a) take all steps necessary to recover any fees and charges owing; and/or
- (b) commence reading the Master Meter and raise a single account to the Owners Corporation for the Master Meter Fees and Charges.

7.3 Termination of Agreement

- (a) The Owners Corporation may terminate this agreement by giving 30 days written notice to Hunter Water.
- (b) Hunter Water may terminate this agreement at any time after the giving of notice referred to in clause 7.2 if the Owners Corporation or Owner fails to comply with such notice.
- (c) Upon termination by either party, Hunter Water will commence reading the Master Meter and will raise a single account to the Owners Corporation for the Master Meter Fees and Charges.

8 Dispute resolution

8.1 Procedure to resolve a dispute

In the case of a dispute between the parties, the process for resolution outlined in the Customer Contract will be followed.

9 Notices

- (a) A Notice or other communication connected with this Agreement (**Notice**) must be in writing and given by a party, its authorised officer or its lawyer.
- (b) A Notice must be:
 - (1) delivered to the recipient's address or registered office;
 - (2) posted to the recipient's address or registered office by prepaid ordinary post (or airmail, if posted to or from a place outside Australia); or
 - (3) faxed to the recipient's facsimile number, as set out in this Agreement, or notified from time to time.
- (c) Service of a Notice is deemed to have occurred, if sent:
 - (1) as a delivered letter - at the time it is delivered;
 - (2) as a posted letter - on the 2nd Business Day after posting (or the 7th, if posted to or from a place outside Australia); or
 - (3) by facsimile - on production of a report by the sender's facsimile machine, confirming the successful transmission to the addressee's facsimile number of all pages comprising the Notice.

8 General

8.1 Governing Law

This Agreement is governed by the laws of New South Wales.

8.2 Assignment

- (a) Rights arising out of or under this Agreement may only be assigned by a party with the prior written consent of the other party/parties
- (b) A party will not unreasonably withhold its consent to assignment.

8.3 Severance

If a clause is void, illegal or unenforceable, it may be severed without affecting the other provisions in this Agreement.

8.4 Entire agreement

This Agreement replaces all previous agreements about its subject matter and constitutes the entire agreement between the parties.

8.5 Variation

A variation of this Agreement must be in writing and signed by the parties.

8.6 Waiver

(a) No right under this Agreement is waived or deemed to be waived, except by written notice signed by the party waiving the right, or its authorised officer.

(b) A party does not waive its rights under this Agreement by granting an extension or forbearance to another party.

8.7 Costs and expenses

Each party will pay its own costs and expenses arising from this Agreement and any related documents, unless otherwise set out in this Agreement.

8.8 Time of performance

(a) If a Notice is served or a payment made after 5.00 pm on any Business Day, it is deemed Served or paid on the next Business Day.

(b) If this Agreement requires something to be done on a day that is not a Business Day, it must be done on the next Business Day.

8.9 Nature of obligations

(a) An obligation of 2 or more persons under this Agreement binds them jointly and severally.

(b) This Agreement is not intended to create a partnership, joint venture or relationship of principal and agent between the parties.

8.10 Further action

Each party must take all necessary further action to give full effect to this Agreement.

8.11 Counterparts

This Agreement may be executed in any number of counterparts.

8.12 Survival

The terms of this Agreement survive its termination to the extent permitted by law.

8.13 Confidentiality

The terms of this Agreement are confidential and must not be disclosed (without the prior written consent of the parties) to any person other than the parties professional advisers or as required by Law.

8.14 Binding Effect on Successors and Assigns

The terms of this Agreement are binding on all parties to this Agreement and the parties successors and assigns.

Signing page

Executed as an agreement

Signed by)
as authorised representative for)
Hunter Water Corporation ABN 46)
228 513 446 in the presence of:)
)

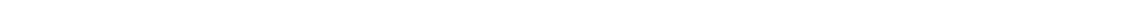
.....
Signature of Witness Signature of Authorised Representative

.....
Print name of Witness

[Insert execution provision])
)
)
)
)
)

.....
Signature of Witness Signature of Authorised Representative

.....
Print name of Witness



Schedule 1 Design Criteria

Prior to Hunter Water installing Sub meters, the following criteria will need to be met:

- (a) The internal water service and each meter assembly are to be installed by a Plumber who is licensed by NSW Fair Trading.
- (b) All work on the internal water service and meter assemblies are to comply with the Plumbing Code of Australia and AS/NZ 3500.
- (c) Each individual service is required to have a lot and unit identification tag located above the meter; either a brass engraved plaque attached to a wall or a brass engraved disc attached to the unit's meter assembly. Discs are to be attached with a non-corrosive metal ring.
- (d) Meters and meter assemblies are located above ground and easily accessible at all times. **Internal meter assemblies must not be higher than 1.5 metres.**
- (e) The meter assemblies are installed in an accessible location for routine reading of the sub meters and for maintenance purposes. Meter assemblies are to be located adjacent to the boundary of each lot where possible or in an accessible location on common property. Meter assemblies are not to be installed behind fences, within enclosed areas or confined spaces. There are to be no safety hazards (such as gardens, overgrown vegetation or other obstructions) within the vicinity of the water meter which prevents safe access at any time.
- (f) The length of a Hunter Water 20mm meter is 154mm plus Hunter Water meter unions is a total of 276mm. (Therefore the **overall opening dimension** to be left on meter assemblies for 20mm meters is **246mm**).
- (g) If the complex has special security requirements these requirements must be provided prior to entering into an agreement with Hunter Water.

Once all requirements have been met, a Hunter Water representative will inspect the property to confirm these details. If this inspection identifies any non-compliance, these issues will need to be resolved before proceeding with an agreement to provide services.

Please note additional fees will be payable for any subsequent inspections.

Schedule 2 Hunter Water By-Laws

1. In this By-Law the following provisions apply:

Accessible means the unfettered and unencumbered ability of Hunter Water to access the Master meter and the Sub meters for reading and recording purposes.

Automated Meter Reading means the system to be developed by Hunter Water for implementation in the future as another means of reading meters.

Common Property has the same meaning as in the *Strata Schemes Management Act 1996* (NSW).

Hunter Water means Hunter Water Corporation, a public authority within the meaning given to that term in the *Strata Schemes Management Act 1996* (NSW) and a state owned corporation within the meaning given to that term in the *State Owned Corporations Act 1991* (NSW) its successors and assigns.

Hunter Water Design Criteria means the Hunter Water design criteria as varied from time to time.

Lot has the same meaning as in the *Strata Schemes (Freehold Development) Act 1973* (NSW).

Occupier means any person in lawful occupation of the Lot.

Owner means the registered proprietor for the time being of any Lot, their successors and assigns.

Owners Corporation means a corporation constituted under section 11 of the *Strata Schemes Management Act 1996* (NSW).

Sub meter means the sub meter installed for each Lot to record the amount of water used by each Owner or Occupier.

2. All Owners and Occupiers of Lots must:

- (a) ensure all water connections (including the water meter assembly) are approved by Hunter Water and are installed in accordance with Hunter Water Design Criteria and ensure that all water connections including the water meter assembly are repaired and maintained at the sole expense of the Owner as required by Hunter Water (acting reasonably) from time to time;
 - (b) modify the water meter assembly when necessary or required to do so by Hunter Water to comply with Hunter Water Design Criteria;
 - (c) ensure the water meter assembly is situated as close as possible to the street boundary of the Lot or in an accessible location on the Common Property and is Accessible at all times;
 - (d) ensure that the water meter assembly is not installed behind fences or in an enclosed area or confined space;
 - (e) ensure that the position of the water meter assembly minimises the risk of harm to Hunter Water employees/contractors. This includes the hazards such as pets, overgrown vegetation or any other obstruction in the vicinity of the water meter which would prevent safe access to the meter for reading and maintenance;
 - (f) pay any account raised by Hunter Water from a reading of the Sub meter, in accordance with Hunter Water's Customer Contract;
 - (g) comply with any request by Hunter Water to upgrade the water meter assembly to enable Hunter Water to implement Automated Meter Reading, promptly when requested to do so;
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- (h) when requested to do so by either the Owners Corporation or Hunter Water, promptly provide access to any water meter or associated water equipment situated within the Lot to Hunter Water's authorised personnel or personnel authorised by the Owners Corporation to allow those personnel to read any water meter, inspect all water connections including the water meter assembly and, if reasonably required by Hunter Water and subject to the Owner's obligations under paragraph (a) above carry out repair and maintenance work upon those items;
- 3. Either the Owners Corporation or Hunter Water may give a notice to the Owner or Occupier of a Lot requiring the Owner or Occupier to comply with the terms of this by-law. If any Owner or Occupier fails to comply with any requirement relating to access to the Lot or any part of the Lot or repair and maintenance of the Hunter Water meter, the meter assembly or any water equipment within a reasonable time after receipt of a notice requiring compliance, the Owners Corporation or Hunter Water may take such steps as may be reasonable to secure such access or to carry out the relevant repair and maintenance at the expense of the Owner or Occupier of the Lot.

SAMPLE

Schedule 3

Customer Contract

SAMPLE

SAMPLE