

Australian Capital Territory

# Utilities (Water and Sewerage Network Boundary Code) Determination 2013

Disallowable instrument DI2013–73

made under the

**Utilities Act 2000, s 59 (Determined codes) and s 63 (Public access)**

## EXPLANATORY STATEMENT

---

### *Purpose of Water and Sewerage Network Boundary Code*

The Water and Sewerage Network Boundary Code is an industry code determined by the Independent Competition and Regulatory Commission (the Commission) under the *Utilities Act 2000*. The Code defines the boundaries between water utilities' networks; a water utility's network and a customer's boundary; sewerage utilities' networks; and a sewerage utility's network and customer's premises.

The Code applies to Water Utilities and Sewerage Utilities.

The Code is enforceable under the Utilities Act. The Commission is responsible for monitoring the compliance of utilities with this and other industry codes.

### *Legislative provisions — industry codes*

The Utilities Act provides a regulatory framework for utilities in the ACT. Section 21 of the Act provides that a person must not provide a utility service except in accordance with a licence. Licences are subject to a number of conditions with which utilities are required to comply. For example, section 25 of the Act requires all licensees to comply with any relevant industry or technical codes.

Provisions relating to industry codes are set out in Part 4 of the Utilities Act. An industry code 'may set out practices, standards and other matters about the provision of a utility service'.

Section 59 of the Utilities Act provides for industry codes to be determined by the Commission. The Commission may determine an industry code if it has consulted with the Minister and the Minister responsible for technical regulation and is satisfied that the code is not inconsistent in material respects with another industry code or a technical code; and it is necessary or convenient to determine the code.

Section 60 of the Utilities Act sets out the public consultation requirements for industry codes to be followed unless the Commission satisfied that “the variation is unlikely to adversely affect anyone and would not materially alter the code”.

Under section 62 of the Utilities Act, an industry code determined under section 59 of the Act is a disallowable instrument.

Section 63 of the Utilities Act sets out a number of requirements relating to public access to industry codes.

### *Revocation and remaking of Code*

This Disallowable Instrument revokes the Utilities (Water and Sewerage Network Boundary Code) Determination 2012 (DI2012-170) and determines a new Code as set out in the Attachment to the Disallowable Instrument.

This revocation and remaking process ensures that an authorised version of the Code is available through the Legislation Register.

### *Outline of the Code*

The Code sets out the boundary between:

(1) Water Networks:

- (a) the Water Network of one Water Utility and the Water Network of another Water Utility; and
- (b) a Water Utility’s Water Network and a Customer’s Premises.

(2) Sewerage Networks:

- (a) the Sewerage Network of one Sewerage Network and the Sewerage Network of another Sewerage Utility.
- (b) a Sewerage Utility’s Sewerage Network and a Customer’s Premises.

The Code allows a Customer and a Water Utility or Sewerage Utility to agree on an alternative boundary. The current variation requires this agreement to be in writing and agreed to by the technical regulator and notified to the ICRC. This approval process will ensure that appropriate standards and safety procedures are observed. Customer, Water Utility and Sewerage Utility are defined in the Utilities Act. The Water Utility or Sewerage Utility will be required to provide evidence of this agreement with their current customer if their Network is inspected.

One issue canvassed in the Consultation Package that is not included in the Disallowable Instrument is to define a boundary between the stormwater network regulated under Part 14 of the Utilities Act and a water utility network following an application from the Territory and Municipal Services Directorate to use non potable

stormwater to irrigate playing fields. The licence application was refused and the variation was therefore unnecessary.

#### *Consultation on Code*

In accordance with the Utilities Act, the Commission has consulted with relevant parties on the variation to the Code. A notice was also published in the Canberra Times and on the Commission's website inviting comments. The submissions received and the outcome of consultation is detailed on the Commission's website.

In accordance with the requirements of the Utilities Act, the Commission consulted with the Minister and the Minister responsible for technical regulation and is satisfied that the Code is not inconsistent in material respects with another industry code or a technical code and it is necessary or convenient to determine the Code.

The Commission has had due regard to the submissions received in response to the consultation process.

#### *Public access to the Code*

Copies of the Water and Sewerage Network Boundary Code are available for inspection by members of the public between 9:00 am and 5:00 pm, Monday to Friday, at the Commission's offices at Level 8, 221 London Circuit, Canberra City ACT and on the Commission's website ([www.icrc.act.gov.au](http://www.icrc.act.gov.au)). Copies of these documents can be made at the Commission's offices. Electronic copies are available on request. No charge will apply.