

# Utilities (Licensing) Exemption 2019

## Disallowable instrument DI2019–268

made under the

**Utilities Act 2000, s 22 (Exemptions)**

## EXPLANATORY STATEMENT

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Section 21 of the *Utilities Act 2000* (the *Act*) provides that a person must not provide a utility service except in accordance with a licence. Section 22 of the Act permits the Minister to exempt a person from the requirement to hold a licence in relation to a utility service. Under section 22 (2), an exemption is subject to compliance with the conditions stated in the instrument of exemption.

This disallowable instrument provides a licensing exemption to the Territory to operate the Inner North Reticulation Network (*INRN*), as represented by the directorate that has responsibility from time to time for providing the non-potable water supply service. At the time of the drafting, the relevant directorate is the Transport Canberra and City Services Directorate (*TCCS*).

The INRN is a stormwater harvesting initiative of the ACT Government under which non-potable water is captured in urban ponds, then filtered, reticulated and sold for irrigation uses. The exemption specifically permits TCCS to source stormwater from Flemington Road Pond, Dickson Pond, Lyneham Pond and EPIC bore.

Under clause 5 of the exemption, TCCS must comply with the following conditions, which are developed from section 25 (2) of the Act:

- each industry code that applies to the utility;
- each technical code that applies to the utility;
- a technical regulator's direction given under the *Utilities (Technical Regulation) Act 2014*;
- provide an annual report for 2019-20, 2020-21 and 2021-22 detailing scheme performance and that includes monitored water quality parameters for the stormwater that enters the aquifer;
- provide a triple bottom line assessment of the scheme that includes a cost-benefit analysis after 5 years in operation (2017-18 to 2021-22) and then every 5 years thereafter;
- dedicate at least 1.5 full time equivalent staff to manage operation of the utility service; and

- keeping all records and documents necessary to enable TCCS to meet any reporting requirement, or any requirement to produce a record or document under the Act or another condition of the exemption.

In accordance with section 36 (1) (b) of the *Legislation Act 2001* a regulatory impact statement is not required for this instrument as it only provides for a matter that does not operate to the disadvantage of anyone by affecting the person's rights, or imposing liabilities on the person.

This instrument revokes the *Utilities (Licensing) Exemption 2015 (No 1)* (DI2015-10), which gave the Territory a temporary licensing exemption to run the INRN for a period of 5 years and which was due to expire in January 2020. This instrument does not have an expiry date, to allow the Territory to run the INRN in perpetuity.