

Community management of publicly owned irrigation schemes: Legislative basis and application process

What is the *Water Miscellaneous Amendments Act (Delegation and Industrial Water Supply) 2023*?

The *Water Miscellaneous Amendments (Delegation and Industrial Water Supply) Act* (the WMA Act) was passed by the Tasmanian Parliament in December 2023. It enables two things:

1. It allows Tasmanian Irrigation to supply industrial water for hydrogen production; and
2. It allows Tasmanian Irrigation to delegate some powers and functions to irrigator groups who want to take on self-management of publicly owned irrigation schemes.

Why was it developed?

The Tasmanian Government has two policies that were not capable of being realised without the WMA Act. The policies are:

- To allow self-management of publicly owned irrigation schemes where feasible and appropriate; and
- Where publicly funded irrigation schemes are developed the asset owner (Tasmanian Irrigation) must be the Responsible Water Entity (RWE).

Tasmanian Irrigation's governing legislation restricted the options of the RWE to delegate powers and functions to other bodies.

So the WMA Act was required to allow for greater delegation of powers and functions.

Who does it affect? Who is eligible for delegation?

Groups of irrigators within and representing an Irrigation District, who have formed a corporation and met the requirements set out by the WMA Act, can apply to Tasmanian Irrigation for delegation to exercise powers and undertake functions that Tasmanian Irrigation would otherwise undertake.

The WMA Act prescribes a set of conditions that must be met in order for an irrigator group to be eligible for delegation.

What powers and functions does the Act allow, and not allow, to be delegated?

The WMA Act allows groups to apply to Tasmanian Irrigation to have any and all powers and functions of the RWE delegated to them, except:

- The power to make bylaws; and
- The power of delegation.

Applications for delegation must set out the scope of the powers and functions requested. The WMA Act requires Tasmanian Irrigation to make a delegation of the requested powers and functions unless there is a reasonable likelihood of negative impacts, or if the applicant has not satisfied the requirements of the WMA Act or the application process to the satisfaction of Tasmanian Irrigation.

Tasmanian Irrigation must then decide what powers and functions will be delegated based on the requirements of the WMA Act and other matters. There are a range of threshold issues identified in the WMA Act that would prevent delegation if adverse outcomes are considered likely. There are also other legislative restrictions that may prevent delegation of the full extent of a function or power.

As well, Tasmanian Irrigation may decide that the risk of delegation is too great for some powers and functions. If Tasmanian Irrigation makes a decision to not grant a delegation it will provide the Applicant with the reasons in writing. The Act does not facilitate:

- The sale of assets; or
- The transfer of the RWE status.

Tasmanian Irrigation will remain the RWE and asset owner.



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How is public investment in irrigation schemes protected?

Public investment in the schemes is protected because Tasmanian Irrigation remains the asset owner and the Responsible Water Entity.

Tasmanian Irrigation is required under the WMA Act to ensure that any delegation has merit and will likely result in a benefit to irrigators within the Irrigation District.

Tasmanian Irrigation will also establish a set of contractual conditions that the self-management body must adhere to in order to maintain the delegation.

How will the application process work?

Tasmanian Irrigation has drafted an application process to comply with the requirements of the WMA Act.

This process and the detail required to be submitted by an applicant is outlined in the following documents (draft for consultation):

- Guideline for Applicants;
- Application Process Flow Chart; and
- Application Form.

These documents have been prepared for consultation purposes, and are subject to feedback from Tasmanian Irrigation irrigators, and other key stakeholders.

When will applications open?

Tasmanian Irrigation is running an information and consultation process with irrigators across Tasmania from May to September 2024.

Feedback from information sessions and other feedback mechanisms will inform development of the final Guidelines for Applicants and Application Form documents.

As well, contracts will be developed to govern the contractual relationships between Tasmanian Irrigation and self-management groups for powers and functions that are to be delegated.

It is anticipated that all necessary documentation will be completed by the end of September 2024 and the application process will open in October 2024.

These dates are subject to change.



Contact details

For more information on the WMA Act, the process for submitting an application, or the consultation process Tasmanian Irrigation is holding with irrigators, contact:

Phone: (03) 6398-8433

Email: consultation@tasirrigation.com.au

Web: www.tasmanianirrigation.com.au/community-management-of-schemes