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| <b>Name of policy:</b>                | <b>Water and Sewer Offences</b>  |                       |                 |
| <b>Adoption by Council:</b>           | <b>26 June 2024</b>  | <b>Minute number:</b> | <b>247/2024</b> |
| <b>Last review date:</b>              |  |                       |                 |
| <b>Review timeframe:</b>              | <b>2 years</b>   |                       |                 |
| <b>Next scheduled review date:</b>    | <b>May 2026</b>  |                       |                 |
| <b>Related legislation:</b>           | <b><i>Local Government Act 1993</i></b><br><b><i>Local Government (General) Regulation 2021</i></b>                                      |                       |                 |
| <b>Associated policies/documents:</b> | <b>MidCoast Council Drought Contingency and Emergency Response Plan</b><br><b>MidCoast Council Concealed Water Leak Allowance Policy</b> |                       |                 |
| <b>Responsible division:</b>          | <b>Infrastructure and Engineering Services</b>   |                       |                 |

## Policy objective

To provide a framework in relation to water and sewer offences including water meter tampering, asset damage, misuse and waste of water, and discharge of prohibited matter into the sewer system, as well as damaged water meters.

## Policy statement

Water conservation and demand management is a priority for MidCoast Council, and we aim to promote efficient water usage and the reduction of water wastage and environmental harm, including during periods of water restrictions.

Council manages its water and sewerage systems to manage and minimise water loss, as well as financial loss due to theft or damage. In accordance with the current Local Government Act, property owners, occupiers or managers must take any reasonable action to prevent waste and misuse of water, and damage of water and sewer assets.

## Coverage of the policy

This policy covers any person:

- who owns, manages or resides in a property connected to MidCoast Council's water supply systems or sewerage collection systems.
- who, regardless of residency, commits an offence under Chapter 16, Part 3 (*Water, sewerage and stormwater drainage offences*) of the *Local Government Act 1993*, including the taking of water with unmetered standpipes or the taking of water with metered standpipes from unauthorised locations.

**Strategic Plan link**

Community Outcome 2:

An integrated and considered approach to managing our natural and built environments

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| 2.4 We have an adequate and reliable water supply | 2.4.1 Manage all elements of the water cycle to deliver an adequate and reliable water supply that meets community needs now and into the future |
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**Links with other strategic documents**

Council’s Integrated Water Cycle Management Strategy, *Our Water Our Future 2050*, ensures water conservation and demand management is a priority in our Local Government Area, and together with the Drought Contingency and Emergency Response Plan, aims to promote efficient water usage and the reduction of water wastage.

The Drought Contingency and Emergency Response Plan sets out the triggers and targets for each level of water restrictions for each water supply scheme. It also specifies what water use is permitted by residential and commercial water users in each level of water restrictions (this information is available on Council’s website).

**Policy content**

Water meters

Water meters are ‘hired’ by owners but remain the property of MidCoast Council. The property owner is responsible for ensuring the security and accessibility of the meter for reading and maintenance requirements.

Tampering with meters and fittings

As per section 636 of the *Local Government Act 1993*, a person who wilfully or fraudulently, or by culpable negligence—

- a. damages a meter, fitting, fixture or other thing belonging to a council in connection with the supply of water, or
- b. alters the index of such a meter, or
- c. prevents such a meter from duly registering the quantity of water supplied,

is guilty of an offence.

The existence of any means for altering the index of such a meter or preventing such a meter from duly registering the quantity of water supplied is prima facie evidence that the person supplied with water through the meter has wilfully or fraudulently altered the index of the meter or prevented the meter from duly registering the quantity of water supplied.

In accordance with the *Local Government (General) Regulation 2021*, MidCoast Council may cut off or restrict the supply of water to a property if any water meter used to measure that supply is out of repair or, in the opinion of MidCoast Council, incorrectly registers the supply of water.

If MidCoast Council cuts off the supply of water to a property, Council may refuse to supply water to those premises until:

- a water meter is installed on the premises,
- the water meter registers correctly, or
- any outstanding water charges are paid.

MidCoast Council may charge a fee, as set each year through Fees and Charges, for the:

- issue of a 'Notice of Intention to Disconnect Water',
- disconnection of the water supply, and
- reconnection of the water supply.

The *Local Government Act 1993* provides that water charges including any accrued interest (and any costs awarded by the courts in proceedings to recover the water charges) are a charge on the land, and MidCoast Council may sell the land (including vacant land) if water charges have remained unpaid for more than five years from the date on which it became payable.

#### Damaged water meters

If Council finds that a water meter has been damaged other than by normal wear and tear, Council will charge the property owner for the cost of repairing or replacing the damaged meter, whichever has the lowest cost. The cost to replace a damaged standard 20mm water meter is set out in MidCoast Council's Fees and Charges. Other meter types and sizes will be charged the repair or replacement cost applicable at the time.

The property owner is responsible for providing protection to the water meter to avoid it being damaged, however the meter must remain accessible.

#### Hire of meters

A person who wishes to hire a metered standpipe from MidCoast Council must enter into an agreement with Council. This agreement sets out the agreed locations within MidCoast Council's water distribution systems from which water can be accessed.

Accessing water from anywhere in Council's water distribution systems that is not identified as an agreed location is considered 'misuse of water' (see below).

Using a non-metered standpipe or using a standpipe from another local water utility (LWU) to access water from Council's water distribution systems is considered 'misuse of water' (see below).

#### Waste and misuse of water

A person who wilfully or negligently wastes or misuses water from a public water supply, or causes any such water to be wasted, is guilty of an offence. This includes using water contrary to water restrictions, which are outlined in the *Drought Contingency and Emergency Response Plan*.

As per clause 159 of the *Local Government (General) Regulation 2021*, the owner, occupier or manager of premises to which water is supplied by Council must -

- a. prevent waste of water by taking prompt action to repair leaking taps, pipes or fittings located on the premises, and
- b. take any other action that is reasonable to prevent waste and misuse of water.

As per clause 160 of the *Local Government (General) Regulation 2021*, an occupier of premises supplied with water from Council's water supply system must not:

- a. take any of the water away from the premises, or
- b. allow any other person to take any of the water away from the premises, or
- c. use water contrary to a council notice restricting the use of water,

other than in accordance with arrangements instituted by the council.

In this instance, “take any of the water away from the premises” refers to volumes greater than 200L that are not intended for personal use. It does not include water used to fill car batteries, caravan water tanks and the like.

In accordance with section 137 of the *Local Government Act 1993*, if an offence is committed, the occupier of the premises on which the offence was committed is guilty of the offence as if the occupier were the actual offender unless the occupier proves that the waste or misuse constituting the offence—

- a. was not reasonably within the occupier’s knowledge, and
- b. was caused by the act of the person other than a member of the occupier’s household or other than a person employed on the premises by the occupier.

Where an offence has been committed, Council may issue a Penalty Infringement Notice (PIN) of up to 20 penalty units.

#### Prevention of waste and misuse of water

The owner, occupier or manager of premises to which water is supplied by the council must:

- a. prevent waste of water by taking prompt action to repair leaking taps, pipes or fittings located on the premises, and
- b. take any other action that is reasonable to prevent waste and misuse of water.

#### Discharge of prohibited matter into sewer or drain

A person who discharges any *prohibited matter* into—

- a. a public sewer, or
- b. a fitting connected to a public sewer, or
- c. a public drain, or
- d. a gutter of a council,

is guilty of an offence. This includes roof, rain, surface, seepage or ground water. This does not include discharge into a public drain or a gutter.

Where an offence has been committed, Council may issue a Penalty Infringement Notice (PIN) of up to 20 penalty units.

#### **Definitions**

***Council notice restricting the use of water*** includes, but is not limited to, information on water restrictions available on Council’s website, media, social media, signage and newsletters.

***Recycled Water supplied by Council*** is defined as water for the purposes of the *Water and Sewer Offences Policy*. Recycled water, for the purposes of the policy, does not include water recycled or reused privately, such as greywater.

#### **Responsible officer**

Manager Water Planning & Assets