

ENFORCEABLE UNDERTAKING

This undertaking is **given** by Queensland Bulk Water Supply Authority (ABN 75450239876) (**Seqwater**) and **accepted** by the Fair Work Ombudsman pursuant to s 715(2) of the *Fair Work Act 2009* in relation to the contraventions described in clauses 8 and 9 of this undertaking.

ENFORCEABLE UNDERTAKING

PARTIES

1. This enforceable undertaking (**Undertaking**) is given to the Fair Work Ombudsman (**FWO**) pursuant to section 715 of the *Fair Work Act 2009* (Cth) (**FW Act**) by the Queensland Bulk Water Supply Authority (ABN 75450239876) (**Seqwater**), 117 Brisbane Street, Ipswich QLD 4305.

COMMENCEMENT

2. This Undertaking comes into effect when:
 - (a) the Undertaking is executed by Seqwater; and
 - (b) the FWO accepts the Undertaking so executed (**Commencement Date**).

BACKGROUND

3. Seqwater is a Queensland State Government Statutory Authority governed by the *South East Queensland Water (Restructuring) Act 2007* (Qld). Seqwater supplies bulk water and flood mitigation services to approximately 3.2 million people across South-East Queensland and water and irrigation services to 1,200 rural customers.
4. Seqwater employs approximately 800 persons who historically have been engaged under various industrial instruments, including:
 - (a) the *Seqwater Enterprise Agreement 2016-2019* (**2016 Agreement**); and
 - (b) the *Seqwater Enterprise Agreement 2019-2023* (**2019 Agreement**),(collectively referred to as the **Agreements**).
5. In May 2020, the FWO wrote to Seqwater after underpayment allegations appeared in the media. In response to the FWO's letter, and in subsequent correspondence to the date of this Undertaking, Seqwater relevantly informed the FWO that:
 - (a) it had incorrectly determined current and former employees engaged under common law contracts of employment (**CLC Employees**) were not covered by the Agreements and had commenced a review of CLC Employees historical remuneration to identify potential underpayments;

- (b) it had subsequently widened the scope of its initial review of potential underpayments to CLC Employees to also include other current and former employees it historically understood were covered by the Agreements (**Agreement Employees**);
 - (c) it had engaged:
 - (i) Ashurst Australia to advise on and assist with Seqwater's review of potential underpayments to both the CLC Employees and Agreement Employees (**Remuneration Practices Review**);
 - (ii) McGrathNicol to calculate any outstanding employee entitlements in respect to CLC Employees and certain overtime entitlements for Agreement Employees;
 - (iii) Deloitte to identify risks associated with the administration of employee remuneration and entitlements, calculate any outstanding employee entitlements in respect to certain areas of risk and provide an independent assessment as to the accuracy of certain calculations which form part of the Remuneration Practices Review;
 - (iv) KPMG to provide an independent assessment as to the accuracy of certain calculations which form part of the Remuneration Practices Review; and
 - (v) Providence HR (now Mazars) to undertake a preliminary remuneration risk assessment of Seqwater's payroll system and conduct a detailed review of the wages and conditions applicable to 'job families';
 - (d) it is implementing a range of controls for full compliance with current and future Agreements.
6. Prior to the execution of this Undertaking, Seqwater notified the FWO that it had:
- (a) made rectification payments to the employees named in column B of Schedule A to this Undertaking (**Schedule A Employees**) by paying each of the Schedule A Employees the amounts referred to in column K of Schedule A.
 - (b) paid interest to each of the Schedule A Employees on the amount referred to in column I of Schedule A, in the sum referred to in column J of Schedule

A, calculated using an interest rate that is 4% above the last cash rate published by the Reserve Bank of Australia (**RBA**) for each relevant six-monthly period;

- (c) as part of the Remuneration Practices Review, identified the further employees listed in Schedule B to this Undertaking (**Schedule B Employees**) to whom the Agreements apply, or previously applied, but who may not have been paid by Seqwater in accordance with those Agreements.

7. Seqwater is now in the process of finalising its Remuneration Practices Review and will ensure all impacted employees (both current and former) are reimbursed for any underpayment of workplace entitlements.

ADMISSIONS

8. The FWO has a reasonable belief, and Seqwater admits, that Seqwater contravened:

- (a) sections 89, 97, 98, and 119(2) Item 2 of the FW Act between 8 December 2016 and 8 July 2022 (**Relevant Period**), by failing to comply with those sections, including by failing to pay each of the Schedule A Employees the amount or amounts to which that employee was entitled in respect of each section of the FW Act which is identified in Schedule A to this Undertaking; and
- (b) section 50 of the FW Act for the Relevant Period by failing to comply with the following provisions of the Agreements, including by failing to pay each of the Schedule A Employees the amount or amounts to which that employee was entitled under the Agreements in respect of each provision of any of the Agreements which is identified in Schedule A to this Undertaking in relation to that employee:

| Entitlement | | 2016 EA | 2019 EA |
|--------------------|------------------|----------------|----------------|
| i. | Back payment | 1.6.2 | 1.7.2 |
| ii. | Pay increments | 5.4.1 | 5.4.1 |
| iii. | Shift allowances | 6.2.2(a) | 6.2.2(a)-(b) |

| | | | |
|--------|--|--|--|
| iv. | Accrued Days Off | 6.1.3(e)-(f), 7.9.3(b) | 6.1.3(e)-(f), 7.9.4(b) |
| v. | Time off in lieu | 6.5.4, 6.5.5 | 6.5.5, 6.5.6 |
| vi. | Overtime (including hours worked on a Public Holiday and paid meal breaks during overtime) | 6.5.3/ 6.5.6/ 7.9.3(a)/ 7.9.5/ 6.3.3 | 6.5.3/ 6.5.7/ 7.9.4(a)/ 7.9.6/ 6.3.3 |
| vii. | On Call Allowance | 9.3.1 | 6.7.1/ 6.7.2 |
| viii. | Call out | 6.5.9 | 6.5.7 |
| ix. | Remote Response | 6.5.10 | 6.7.4 |
| x. | Call Back | 6.5.7, 6.5.8 | 6.6.3, 6.6.2(a)-(d) |
| xi. | First aid allowance | 9.1.1 | 9.1.1 |
| xii. | Travel entitlements | 8.2.1, 8.2.2, 8.3.2 | 8.2.1, 8.2.2, 8.3.2 |
| xiii. | Obnoxious Conditions Allowance | 9.6 | 9.5 |
| xiv. | Overtime Meal Allowance | 9.2 | 9.2.1 |
| xv. | Excess Travel Allowance | 8.2.2 | 8.2.2 |
| xvi. | All Purpose operational allowance | 9.5 | 9.4 |
| xvii. | Ordinary Hours | 4.3.2 | 4.3.2 |
| xviii. | Annual Leave Loading | 7.1.5 | 7.1.6, 7.1.3(b) |
| xix. | Personal/carer's leave | 7.2.1(a)-(b), 7.2.2(a) | 7.2.1(a)-(b), 7.2.2(a) |
| xx. | Bereavement leave | 7.3.1 | 7.3.1 |
| xxi. | Long service leave | 7.8.4 | 7.8.4 |
| xxii. | Payment of accrued leave on termination | 7.1.2 | 7.1.2 |
| xxiii. | Redundancy | 3.5, Sch 7, cl 7.5(a) | Sch 7, cl 7.5(a) |
| xxiv. | Higher Duties | 4.2.1, 7.1.1(e)-(f), 7.8.7, Sch 6 cl 6.17 | 4.2.1, 7.1.1(e)-(f), 7.8.7, Sch 6 cl 6.17 |
| xxv. | Superannuation | 4.4.1(a), 4.4.1(c) | 4.4.1(a), 4.4.1(c) |
| xxvi. | Tool Allowance | 9.4.1 | 9.3.1, 9.3.3 |
| xxvii. | Apprentice | 3.11 | - |

- (c) for the avoidance of doubt, clause 4.1 of the Agreements by failing to pay each of the Schedule A employees the amount or amounts that the employees were entitled to in each pay period in which an underpayment arose.

9. The FWO also has a reasonable belief, and Seqwater also admits, that Seqwater contravened section 50 of the FW Act by failing to comply with the Agreements in respect of Schedule B Employees, including by failing to pay the Schedule B Employees the amount or amounts to which each employee was entitled under the Agreements during the Relevant Period.
10. The FWO has a reasonable belief, and Seqwater admits, that Seqwater contravened sections 535(2) and 536(2) of the FW Act by failing to make and keep employee records and provide pay slips as required by regulations 3.33(3), 3.34 and 3.46(1)(g) of the *Fair Work Regulations 2009 (FW Regulations)* in respect of each of the Schedule A Employees and the Schedule B Employees between 8 December 2016 to 30 June 2021.
11. The contraventions identified in clause 8 and 9 of this Undertaking do not include:
 - (a) any contraventions which relate to or arise as a consequence of Seqwater failing to correctly apply the Agreements to any employee not listed in Schedule A or B to this Undertaking (**Non-schedule Employees**). For the avoidance of doubt this Undertaking is not given in respect of any Non-schedule Employees who were underpaid as a result of Seqwater failing to correctly apply the Agreements and the FWO's acceptance of this Undertaking is not based on any reasonable belief about the existence of any contravention because of any such underpayment; or
 - (b) any contraventions which have not yet occurred at the date that this Undertaking is offered by Seqwater (whether or not those contraventions are identified in the independent audits described at clause 30 below). For the avoidance of doubt this Undertaking is not given in respect of any contravention which has not occurred on the date which it is offered by Seqwater and the FWO's acceptance of this Undertaking is not based on any reasonable belief about the existence of any such contravention.

UNDERTAKINGS

12. Seqwater will take the actions set out at clauses 13 to 70 below.

Review and rectification of underpayments

13. By 28 February 2023, Seqwater will:

- (a) calculate the quantum of any underpayments which are payable to the Schedule A Employees and Schedule B Employees under the Agreements during the Relevant Period (**Underpayments**), together with any applicable superannuation contributions identified as being payable in respect of those amounts; and
 - (b) pay the Schedule A Employees and B Employees to whom any of the Underpayments relate, other than deceased employees and employees who are subject to a defined benefits scheme:
 - (i) any underpayment amount owing to them;
 - (ii) any superannuation payments which may be required by law, by making payment to their chosen superannuation fund;
 - (iii) interest on the amount referred to in (i), calculated using an interest rate that is 4% above the last cash rate published by the RBA for each relevant six-monthly period.
14. By 30 May 2023, Seqwater will pay to the estate of deceased employees in Schedules A and B and Schedule A and B employees who are subject to a defined benefits scheme:
- (i) any underpayment amount owing to them;
 - (ii) any superannuation payments which may be required by law, by making payment to their chosen superannuation fund;
 - (iii) interest on the amount referred to in (i), calculated using an interest rate that is 4% above the last cash rate published by the RBA for each relevant six-monthly period.
15. By 15 June 2023, Seqwater will provide the FWO with payroll transaction reports as evidence of all payments made to Schedule A and Schedule B employees to rectify the Underpayments.
16. If any of the former employees in Schedule A or Schedule B to whom Underpayments are owed cannot be located by 14 July 2023, Seqwater will pay the underpayment amounts (excluding interest) owing to those employees to the Commonwealth of Australia in accordance with section 559 of the FW Act. Seqwater will complete the required documents supplied by the FWO for this

purpose.

17. In the event that the FWO is able to locate and contact any former Schedule A or Schedule B employees to whom Underpayments are owed, the FWO will (in addition to its obligations under s 559 of the FW Act) notify Seqwater in writing of the name and contact details of the current or former employee. Within 14 days of receiving any such notice Seqwater will:
 - (a) pay to the former employee interest on the amount already paid by Seqwater to the Commonwealth of Australia in respect of that employee, calculated using an interest rate that is 4% above the last cash rate published by the RBA for each relevant six-monthly period from the date that the employee first became entitled to that amount until the date on which Seqwater paid the underpayment amount owing to the Commonwealth of Australia pursuant to clause 16 above;
 - (b) pay to the former employee's nominated superannuation fund an amount equal to the amount that would have been required by law, had Seqwater paid the amount under clause 16 directly to the former employee.

Independent Assessment

18. By 28 April 2023, Seqwater must, at its cost, engage an appropriately qualified, experienced, external and independent expert, approved in writing by the FWO under clause 19, (**Independent Expert**), to conduct an independent assessment of the areas of Seqwater's Remuneration Practices Review which have not yet been assessed by an external and independent expert referred to at clauses 5(c)(ii) - 5(c)(iv) above (**Independent Assessment**).
19. Seqwater must notify the FWO of its proposed Independent Expert and ensure that they are an:
 - (a) accounting professional (Certified Practising Accountant, Chartered Accountant);
 - (b) auditor (Registered Company Auditor within an Authorised Audit Company); or
 - (c) lawyer (admitted, practising lawyer and employment law specialist),by no later than 31 March 2023. The FWO may in its sole discretion approve the

Independent Expert or otherwise require Seqwater to propose other Independent Experts until the FWO has approved an Independent Expert in writing. The Independent Expert must be approved by the FWO in writing prior to being engaged by Seqwater.

20. Seqwater must ensure the Independent Assessment commences by no later than 15 June 2023 and that the Independent Expert assesses whether:
 - (a) the Agreements apply, or previously applied, to each of the Schedule A Employees and Schedule B Employees;
 - (b) the Schedule A Employees and Schedule B Employees were correctly classified by Seqwater under the Agreements;
 - (c) any Underpayments were correctly calculated by Seqwater, including identifying any Schedule A Employees or Schedule B Employees to whom Seqwater incorrectly determined the Agreements did not apply, as well as calculating any incorrect calculations, any issues with the methodology used and verifying the calculations do not include any unlawful set-offs, deductions or reconciling of overpayments;
 - (d) Seqwater has now paid each of the Schedule A Employees and Schedule B Employees to whom the Agreements apply, or applied, any amounts payable to them under clauses 6(a), 13 and 14 above; and
 - (e) Seqwater's payroll and record keeping systems and processes are compliant with the FW Act in respect of employees to whom the Agreements apply, and if not setting out any non-compliance found.
21. Seqwater will use its best endeavours to ensure that the Independent Expert provides a report (**Expert Report**) of its Independent Assessment directly to the FWO, and for the benefit of the FWO, setting out its findings, and the facts and circumstances supporting its findings by 15 September 2023. Seqwater must ensure the Independent Expert does not provide the Expert Report, or a copy of the same, to Seqwater without the FWO's approval.
22. Seqwater must ensure that the Expert Report contains the following declarations from the Independent Expert:
 - (a) the Independent Expert has no actual, potential or perceived conflict of

interest in providing the Expert Report on Seqwater to the FWO;

- (b) notwithstanding that the Independent Expert is retained by Seqwater, the Independent Expert undertakes that it has acted independently, impartially, objectively and without influence from Seqwater in preparing the Expert Report;
 - (c) the Expert Report is provided in accordance with applicable professional standards (which will be listed in the Expert Report); and
 - (d) the Expert Report is provided to the FWO for its benefit and the FWO can rely on the Expert Report.
23. If the Expert Report identifies that any Schedule A Employees or Schedule B Employees are owed amounts additional to those calculated and paid by Seqwater, Seqwater will pay those additional amounts to those employees, and provide evidence of such payment to the FWO, by 24 November 2023.
24. If any of the Schedule A Employees or Schedule B Employees identified in the Expert Report as being owed amounts additional to the Underpayments calculated by Seqwater cannot be located and paid by 15 December 2023 Seqwater will pay those amounts to the Commonwealth of Australia (through the FWO) in accordance with section 559 of the FW Act. Seqwater will complete the required documents supplied by the FWO for this purpose.
25. The FWO acknowledges that Seqwater does not contravene this Undertaking in the event that the Independent Expert makes a finding in relation to coverage, classification and/or additional amounts to be rectified under the Agreements that is contrary to the determination made by Seqwater in its internal review under clause 13 above, provided Seqwater pays any additional amounts owing to Schedule A Employees or Schedule B Employees in accordance with clause 23 above on or before 24 November 2023 or to the Commonwealth of Australia in accordance with clause 24 above on or before 15 December 2023. For the avoidance of doubt, Seqwater acknowledges that this Undertaking does not relate to any contraventions that may be identified by the Independent Expert which are not identified at clause 8, Schedule A or Schedule B.

Provision of information about changes to systems

26. By 14 December 2022 Seqwater will provide to the FWO detailed information about the systems and processes that it is implementing to ensure compliance with its obligations under the FW Act and the 2019 Agreement (and any future agreements that replace it).
27. The FWO may, within 45 days of receiving the information under clause 26, seek reasonable further information regarding the systems and processes from Seqwater by issuing a written notice to Seqwater specifying the additional information required. Seqwater must provide the information specified in such a notice within 14 days of receipt.

No limitation on use of information

28. When providing information under clauses 26–27, Seqwater will state in writing that it does so without qualification and without seeking to place any limitation on how the FWO may use the information in the lawful performance of its statutory functions and powers. Seqwater will not assert, or seek to assert, any limitation on how the FWO may use or rely on the information in the lawful performance of its statutory functions and powers.

Letter of Assurance

29. By 16 December 2023 Seqwater will provide the FWO a Letter of Assurance signed by the Chief Executive in the terms as set out at Attachment A.

Independent Audits

30. Seqwater must, at its cost, engage an appropriately qualified, experienced, external and independent accounting professional or an employment law specialist (**Independent Auditor**) to conduct two desktop audits of Seqwater's compliance with the FW Act and FW Regulations in relation to the 2019 Agreement and any future agreements that may replace it (**Audits**).
31. Seqwater will notify the FWO of its proposed Independent Auditor by no later than 31 March 2023. The FWO may in its sole discretion approve the Independent Auditor in writing or otherwise require Seqwater to propose other Independent Auditors until the FWO has approved in writing an Independent Auditor. The Independent Auditor must be approved by the FWO in writing prior

to being engaged by Seqwater.

32. Seqwater must ensure that each of the Audits conducted by the Independent Auditor includes:
- (a) an assessment 10% of all employees to whom the 2019 Agreement (or any future agreements that replace it) applies, across a range of classifications, locations and employment types (full time, part time and casual employment), during the relevant audit period (**Sampled Employees**) in respect of their employment by Seqwater;
 - (b) an assessment of whether the Sampled Employees have been correctly classified by Seqwater;
 - (c) an assessment of whether the pay and conditions of the Sampled Employees during the relevant audit period is in compliance with the FW Act and the 2019 Agreement (or any future agreements that replace it);
 - (d) the production of a written report on each of the Audits setting out the Independent Auditor's findings, and the facts and circumstances surrounding them, to the FWO; and
 - (e) that each of the written reports referred to in (d) above contains the following declarations from the Independent Auditor:
 - (i) the Independent Auditor has no actual, potential or perceived conflict of interest in providing the report to the FWO;
 - (ii) notwithstanding that the Independent Auditor is retained by Seqwater the Independent Auditor undertakes that it has acted independently, impartially, objectively and without influence from Seqwater in preparing the report;
 - (iii) the report is provided in accordance with applicable professional standards (which will be listed in the report); and
 - (iv) the report is provided to the FWO for its benefit and the FWO can rely on the report.

The First Audit

33. Seqwater must ensure the Independent Auditor commences the first of the Audits

by no later than 1 September 2023 (**First Audit**).

34. The relevant audit period for the First Audit must be at least two full pay periods falling within the period 1 July 2023 -1 August 2023.
35. By 30 June 2023 Seqwater will provide for the FWO's approval, details of the methodology to be used by the Independent Auditor to conduct the First Audit.
36. Seqwater will use its best endeavours to ensure the Independent Auditor provides a draft written report of the First Audit directly to the FWO by 1 November 2023 setting out the draft First Audit findings, and the facts and circumstances supporting the First Audit findings. Seqwater will ensure the Independent Auditor does not provide the draft written report, or a copy of the same, to Seqwater without the FWO's approval.
37. Seqwater will use its best endeavours to ensure the Independent Auditor finalises the First Audit and provides a written report of the First Audit (**First Audit Report**) directly to the FWO within one month of FWO providing any comments on the draft report to the Independent Auditor. Seqwater will ensure the Independent Auditor does not provide the First Audit Report, or a copy of the same, to Seqwater without the FWO's approval.

The Second Audit

38. Seqwater must ensure the Independent Auditor commences the second of the Audits by no later than 1 September 2024 (**Second Audit**).
39. The relevant audit period for the Second Audit must be at least two full pay periods falling within the period 1 July 2024 -1 August 2024.
40. By 30 June 2024, Seqwater will provide for the FWO's approval, details of the methodology to be used by the Independent Auditor to conduct the Second Audit.
41. Seqwater will use its best endeavours to ensure the Independent Auditor provides a draft written report of the Second Audit directly to the FWO by 1 November 2024, setting out the draft Second Audit findings, and the facts and circumstances supporting the Second Audit findings. Seqwater will ensure the Independent Auditor does not provide the draft written report, or a copy of the same, to Seqwater without the FWO's approval.
42. Seqwater will use its best endeavours to ensure the Independent Auditor finalises

the Second Audit and provides a written report of the Second Audit (**Second Audit Report**) directly to the FWO within one month of FWO providing any comments on the draft report to the Independent Auditor. Seqwater will ensure the Independent Auditor does not provide the written report, or a copy of the same, to Seqwater without the FWO's approval.

Outcome of Audits

43. If any of the Audits identify underpayments to any current or former employees, Seqwater will:
 - (a) rectify any underpayments identified in the relevant audit period; and
 - (b) conduct a reconciliation of the amounts paid and owed to those employees in the 12 month period immediately prior to the relevant audit period, and rectify any underpayments that are identified.
44. Seqwater will provide to the FWO evidence of such rectification within 28 days of being informed by the FWO of the requirement to undertake the reconciliation.
45. If any employees identified in the Audits as having underpayments owing to them cannot be located within 60 days of the conclusion of each Audit, Seqwater will pay those amounts to the Commonwealth of Australia (through the FWO) in accordance with section 559 of the FW Act. Seqwater will complete the required documents supplied by the FWO for this purpose.
46. If any of the Audits identify an underpayment of minimum entitlements to one or more employees, and the FWO reasonably believes that employees not included in the Audits are also likely to have been underpaid, Seqwater will engage an accounting professional or an employment law specialist approved by the FWO to conduct a further audit of all its employees to whom the 2019 Agreement (or any future agreements that replace it), as determined by the FWO (**Additional Audit**). Any Additional Audit must be paid for by Seqwater.
47. If requested by the FWO, Seqwater will provide the FWO with all records and documents used to conduct any or all of the Audits (including any Additional Audit), within 7 days of such a request.

Employee Hotline

48. At its own expense, Seqwater will continue to operate a dedicated internal

telephone number and email address for all current and former employees to whom the Agreements applies, or had applied, to make enquiries in relation to their entitlements, underpayments or related employment concerns (**Employee Hotline**). Employees will have the option of making enquiries on a confidential basis.

49. Seqwater will:

- (a) ensure the Employee Hotline remains operational for a period of 12 months;
- (b) ensure that the telephone number and email address are included on a communication to employees to whom the Agreements apply, or had applied, the public notice (see clauses 55-57), the workplace notice (see clauses 58-60) and the social media notice (see clauses 65-67);
- (c) communicate the existence and purpose of the Employee Hotline by way of letter to the last known address of all current and former employees to whom the Agreements apply, or had applied, known as at the Commencement Date, or identified during the Independent Assessment, and dating back to 8 December 2016. Seqwater will:
 - (i) ensure the letter is in the form of Attachment B to this Undertaking; and
 - (ii) provide evidence to the FWO that the letter has been mailed to all required current and former employees within 21 days of the Commencement Date.
- (d) take steps to respond to each telephone and email enquiry and seek to resolve any issues within 30 days and notify the FWO of any issues that are not resolved within 60 days; and
- (e) provide a de-identified list of enquiries received by the Employee Hotline to the FWO every three months from the establishment of the Employee Hotline.

Notices – Internal and External

Apology to Employees

50. Seqwater will send a letter of apology (**Apology Letter**) to all affected employees

found by the Independent Assessment to have been underpaid by Seqwater, by 7 November 2023. The Apology Letter will be in the form of Attachment C to this Undertaking.

51. Seqwater will provide evidence to the FWO that the Apology Letter has been sent to all affected employees by 14 November 2023.

Apology to Unions

52. Seqwater will send a letter of apology (**Apology Letter – Unions**) to the Australian Services Union, Electrical Trades Union of Australia, Australian Manufacturing Workers' Union, Construction, Forestry, Maritime, Mining and Energy Union and the Australian Workers' Union (Unions) within 28 days of the Commencement Date. The Apology Letter will be in the form of Attachment D to this Undertaking.
53. Seqwater will provide evidence to the FWO that the Apology Letter has been sent to the Unions within 35 days of the Commencement Date.

Media Release

54. Upon acceptance of the Undertaking, the FWO will publish a media release on its website in respect of this Undertaking.

Public Notice

55. Within 28 days of, but not prior to, the FWO publishing a media release on its website in respect of the Undertaking, Seqwater will place a notice in the Courier Mail (**Public Notice**).
56. The Public Notice must:
 - (a) bear the name and logo of Seqwater;
 - (b) appear within the first 5 pages of the Courier Mail;
 - (c) be at least 10 cm x 8 cm; and
 - (d) contain wording in the form of Attachment E.
57. Seqwater will inform the FWO when the Public Notice will be published and provide a copy to the FWO within seven days of its publication.

Workplace Notice

58. Within 28 days of, but not prior to, the FWO publishing a media release on its website in respect of the Undertaking, Seqwater will cause to be displayed within each of its Australian worksites where the current Schedule A Employees or Schedule B Employees work a notice in the form of Attachment E to this Undertaking (**Workplace Notice**).
59. Seqwater must ensure the Workplace Notice is:
- (a) at least A3 size;
 - (b) clearly displayed in a location to which all employees have access (for example, by placement on a staff noticeboard); and
 - (c) displayed for a period of 28 continuous days.
60. Within 7 days of first displaying the Workplace Notice, Seqwater will provide photographic evidence to the FWO of the display and location of the Workplace Notice in each of its worksites.
61. At the end of the 28 day period referred to in paragraph 58 above, Seqwater will provide confirmation to the FWO that the Workplace Notice has been continuously displayed at each location for the required period.

Website Notice

62. Within 28 days of, but not prior to, the FWO publishing a media release on its website in respect of the Undertaking, Seqwater will place a notice on its website, accessible through a hyperlink on the front page of <https://www.seqwater.com.au> (**Website Notice**).
63. The Website Notice must:
- (a) be in the form of the Website Notice set out at Attachment E;
 - (b) be displayed in at least size 10 font; and
 - (c) remain on the website for a period of 1 month.
64. Within 7 days of placing the Website Notice on its website, Seqwater will provide to the FWO evidence of its placement.

Social Media Notices

65. Within 28 days of, but not prior to, the FWO publishing a media release on its website in respect of the Undertaking, Seqwater will place a post on its Facebook, Twitter, Instagram and LinkedIn pages (**Social Media Notices**).
66. The Social Media Notices must:
- (a) be posted to Seqwater's timeline, and will remain in public view;
 - (b) remain on the social media pages for a continuous period of at least one month; and
 - (c) be in the form of the Social Media Notice set out at Attachment E.
67. Within 7 days of posting the Social Media Notices to its social media pages, Seqwater will provide to the FWO evidence of the post.

Contrition Payment

68. Within 28 days of the Commencement Date, Seqwater will make a contrition payment of \$545,000 to the Consolidated Revenue Fund.
69. Seqwater will provide evidence to the FWO of any contrition payment within 14 days of making payment to the Consolidated Revenue Fund.

No Inconsistent Statements

70. Seqwater must not, and must use its best endeavours to ensure that its officers, employees or agents do not, make any statement or otherwise imply, either orally or in writing, anything that is inconsistent with admissions or acknowledgements contained in this Undertaking.

Extension of Time

71. Seqwater may request of the FWO an extension on a time specified for completion of an obligation set out in this Undertaking. The request must be provided to the FWO at least 14 days before the date of the obligation in writing and must set out the reasons why the extension is being sought. The FWO will notify Seqwater of its decision within 14 days of receiving the written request. The FWO will not unreasonably withhold agreement on a request for an extension of time.

72. Where the time specified for undertaking an obligation set out in this Undertaking is contingent on, or follows from, the time specified for the completion of another obligation under this Undertaking, and that time for completion has been extended by the FWO, the time specified for completion of the later obligation is correspondingly extended by the same period.

ACKNOWLEDGEMENTS

73. Seqwater acknowledges that:

- (a) the FWO may;
 - (i) make this Undertaking (and any of the Attachments hereto) available for public inspection, including by posting it on the FWO internet site at www.fairwork.gov.au;
 - (ii) release a copy of this Undertaking (and any of the Attachments hereto) pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
 - (iii) issue a media release in relation to this Undertaking;
 - (iv) from time to time, publicly refer to the Undertaking (and any of the Attachments hereto) and its terms; and
 - (v) rely upon the admissions made by Seqwater set out in paragraphs 8 and 9 above in respect of decisions taken regarding enforcement action in the event that Seqwater is found to have failed to comply with its workplace relations obligations in the future, including but not limited to any failure by Seqwater to comply with its obligations under this Undertaking.
- (b) consistent with the Note to section 715(4) of the FW Act, this Undertaking in no way derogates from the rights and remedies available to any other person arising from the conduct set out herein;
- (c) consistent with section 715(3) of the FW Act, Seqwater may withdraw from or vary this Undertaking at any time, but only with the consent of the FWO; and
- (d) if Seqwater contravenes any of the terms of this Undertaking:

- (i) the FWO may apply to any of the Courts set out in section 715(6) of the FW Act, for orders under section 715(7) of the FW Act; and
- (ii) this Undertaking may be provided to the Court as evidence of the admissions made by Seqwater in clauses 8 and 9 above, and also in respect of the question of costs.

Executed as an undertaking


EXECUTED by Queensland Bulk Water Supply Authority ABN 75 450 239 876
trading as Seqwater in accordance with *South East Queensland Water
(Restructuring) Act 2007 (Qld)*


(Signature of Chief Executive Officer)

NEIL BRENNAN
(Name of Chief Executive Officer)

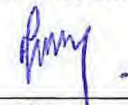
23-9-2022
(Date)

in the presence of:


(Signature of witness)


Lori Beeton
(Name of witness)

ACCEPTED by the FAIR WORK OMBUDSMAN pursuant to section 715(2) of the
Fair Work Act 2009 on:


Mark Scully
Deputy Fair Work Ombudsman –
Compliance & Enforcement

Delegate for the FAIR WORK
OMBUDSMAN

in the presence of:


(Signature of witness)

27 September 2022
(Date)

Cheryl Tam
(Name of Witness)

SCHEDULE A

See Attached

SCHEDULE B

See Attached

Attachment A – Letter of Assurance

Sandra Parker
Fair Work Ombudsman
Office of the Fair Work Ombudsman
GPO Box 9987
MELBOURNE VIC 3001

Dear Ms Parker

I am writing on behalf of the Queensland Bulk Water Supply Authority (**Seqwater**) in my capacity as its Chief Executive Officer. Seqwater has previously advised the Fair Work Ombudsman (**FWO**) that:

- it had historically incorrectly determined some employees engaged under common law contracts (**CLC Employees**) were not covered by the *Seqwater Enterprise Agreement 2016-2019* and the *Seqwater Enterprise Agreement 2019-2023* (collectively, **Agreements**) and as a result had been underpaid;
- Seqwater was conducting a review of underpayments to the CLC Employees, which was subsequently expanded to also include employees it historically had treated as covered by the Agreements (**Agreement-Covered Employees**), and was committed to rectifying any identified underpayments (**Remuneration Practices Review**);
- as a result of the Remuneration Practices Review, Seqwater identified the contraventions of the Agreements described at clause 8 and 9 of its Enforceable Undertaking with the FWO (**EU**) and resulting underpayments (**Underpayments**) and, as a part of the Remuneration Practices Review, had engaged external and independent experts to independently assess the accuracy of certain Underpayment calculations.

Under the terms of the EU, Seqwater engaged an Independent Expert to conduct an independent assessment of those areas of its Remuneration Practices Review not previously independently assessed by an external and independent expert (**Independent Assessment**).

I now write to provide the FWO with Seqwater's assurance that Seqwater:

- has rectified the Underpayments by making remedial payments (including interest) to all employees entitled to rectification that it has been able to locate;
- has rectified any additional amounts identified through the Independent Assessment by making remedial payments (including interest) to all impacted employees it has been able to locate; and
- is compliant with the *Fair Work Act 2009* as it relates to the Agreements.

Seqwater has remediated all issues as a matter of priority and is committed to minimising the risk of future non-compliance.

The above assurances are provided to the best of Seqwater's knowledge by reference to my knowledge as at the date of this letter of assurance.

Should Seqwater become aware of any further systemic non-compliance prior to the completion of the Second Audit, Seqwater will advise the FWO as soon as reasonably practicable and in any event within 14 business days of Seqwater first becoming aware of such non-compliance.

Sincerely,

Neil Brennan
Chief Executive Officer
Seqwater

Attachment B – Letter to employees

Dear <insert name >

As you may be aware, Seqwater has admitted to the Fair Work Ombudsman (**FWO**) that it contravened the *Fair Work Act 2009* (Cth) in respect of certain provisions of the *Seqwater Enterprise Agreement 2016-2019* and the *Seqwater Enterprise Agreement 2019-2023* (**Agreements**). As a result of these contraventions, Seqwater identified that it underpaid some employees.

Seqwater understands that you may have questions and concerns relating to this and other employment issues. To address these concerns a hotline has been established for all employees to access. The hotline is being operated by Seqwater to assist you with your enquiries. Seqwater's hotline can be contacted on 0422 628 281 or at entitlements@seqwater.com.au and, if required, on a confidential basis.

Seqwater will make every attempt to resolve your enquiry within 30 days of receiving it and commit to maintaining open communication with you about the progress of your enquiry.

Alternatively, anyone can contact the FWO via www.fairwork.gov.au or on 13 13 94.

Seqwater expresses its sincere regret and apologises to you for failing to comply with our lawful obligations.

Yours sincerely

Seqwater

Attachment C – Letter of Apology

FORM OF APOLOGY LETTER TO AFFECTED EMPLOYEES

<Date>

<Employee Name>

<Employee Address>

Dear <Employee Name>

I am writing to apologise on behalf of Seqwater for non-compliance with Commonwealth workplace relations laws.

Seqwater has formally admitted to the Fair Work Ombudsman (**FWO**) that it contravened the *Fair Work Act 2009* (Cth) in respect of certain provisions of the *Seqwater Enterprise Agreement 2016-2019* and the *Seqwater Enterprise Agreement 2019-2023 (Agreements)*.

Regrettably, Seqwater determined that you were affected and has taken steps to remedy these contraventions. A review has determined that you are/or were owed an additional amount, being:

- (a) \$[insert amount] in respect of minimum entitlements
- (b) \$[insert amounts] in respect of superannuation
- (c) \$[insert amount] in respect of interest.

You will/have receive/d this payment on [insert date] and will be/have been provided with a payment advice regarding the payment. This is in addition to the amount previously paid to you on [Date].

Seqwater has formally admitted to the FWO that Seqwater did not comply with its obligations under Commonwealth workplace relations laws and have entered into an Enforceable Undertaking with the FWO, a copy of which will be available at www.fairwork.gov.au.

As part of the Enforceable Undertaking, we have committed to a number of measures to ensure future compliance with Commonwealth workplace relations laws.

We express our sincere regret and apologise for failing to comply with our lawful obligations.

Should you have any questions or concerns about this or any other employment matter, a hotline has been established and is being operated by Seqwater to assist you with your enquiries, on a confidential basis if required. Seqwater's hotline can be contacted on 0422 628 281 or at entitlements@seqwater.com.au. We will make every attempt to resolve your enquiry within 30 days of receiving it and commit to maintaining open communication with you about the progress of your enquiry.

Alternatively, anyone can contact the FWO via www.fairwork.gov.au or on 13 13 94.

Yours sincerely

Seqwater

Attachment D – Apology Letter – Unions

Dear <insert name >

As you may be aware, the Queensland Bulk Water Supply Authority (**Seqwater**) has formally admitted to the Fair Work Ombudsman (**FWO**) that it contravened the *Fair Work Act 2009* (Cth) in respect of certain provisions of the *Seqwater Enterprise Agreement 2016-2019* and the *Seqwater Enterprise Agreement 2019-2023* (**Agreements**).

Seqwater understands that your members may have questions and concerns relating to this and other employment issues. To address these concerns a hotline has been established for all employees to access. The hotline is being operated by Seqwater to assist you with your enquiries. Seqwater's hotline can be contacted on 0422 628 281 or at entitlements@seqwater.com.au and, if required, on a confidential basis.

We will make every attempt to resolve enquiries within 30 days of receiving it and commit to maintaining open communication with current and former employees about the progress of their enquiry.

Alternatively, anyone can contact the FWO via www.fairwork.gov.au or on 13 13 94.

Seqwater expresses its sincere regret and apologises to its employees and their unions for failing to comply with our lawful obligations.

Yours sincerely

Seqwater

Attachment E – Form of Public, Website, Social Media and Workplace Notice

The Queensland Bulk Water Supply Authority (**Seqwater**) recently undertook a review of its payroll systems and processes and determined that it contravened the *Fair Work Act 2009* (Cth) in respect of certain provisions of the *Seqwater Enterprise Agreement 2016-2019* and the *Seqwater Enterprise Agreement 2019-2023* (**Agreements**).

Seqwater has formally admitted to the Fair Work Ombudsman (**FWO**) that these contraventions had occurred and that consequently it had underpaid a number of its employees.

Seqwater has now entered into an Enforceable Undertaking with the FWO to ensure its ongoing compliance with Commonwealth workplace laws.

Seqwater has, as a result of the Enforceable Undertaking, committed to a range of activities that help ensure its future compliance, including independent audits and apologising to its employees.

Seqwater expresses its sincerest regrets and apologises for these contraventions.

If you worked for Seqwater during the period 8 December 2016 and 8 July 2022 and have any queries or questions relating to your employment, please contact the hotline being operated by Seqwater on 0422 628 281. This hotline can be contacted on a confidential basis or at entitlements@seqwater.com.au.

Alternatively, anyone can contact the FWO via www.fairwork.gov.au or on 13 13 94.