

Water Resources Compliance & Enforcement Strategic Plan

May 2020

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Acknowledgement

We acknowledge and respect our regions Traditional Owners as the original custodians of Southern Victoria's land and waters, their unique ability to care for Country and deep spiritual connection to it. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices

We are committed to genuinely partner and meaningfully engage, with Traditional Owners and Aboriginal communities to support the protection of Country across Southern Victoria, the maintenance of spiritual and cultural practices and their broader aspirations in the 21st century and beyond.

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1. Introduction

This strategy informs Southern Rural Water’s (SRW) approach to compliance and enforcement as it relates to the use of water resources across Southern Victoria to ensure they are managed to ensure the sustainability of rural businesses and the environment.

1.1. Organisational Context

SRW is responsible for the operational management and compliance activities for rural water supplies across Southern Victoria (with the exception of stream diversions within the Melbourne Water region).

This includes the management of over 639,000 ML of unregulated water across and 11,600 licences, and over 250,000 ML of regulated water shares across 1,500 customers, over an area of 88,000 square kilometres.

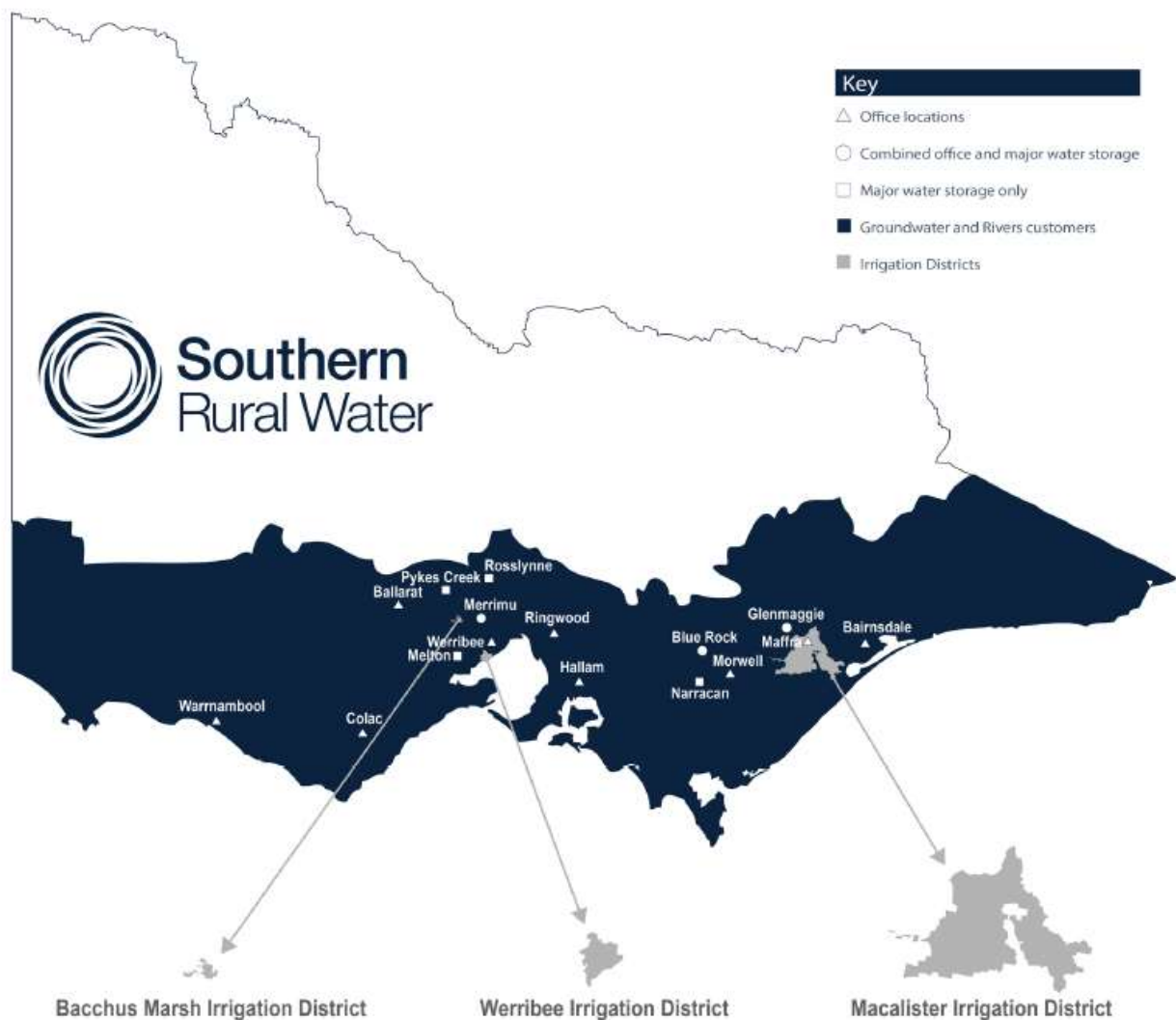


Figure 1: Southern Rural Water's Operational Area

1.2. Compliance and Enforcement at SRW

Key to the sustainable management of water resources for economic, social and environmental purposes is ensuring that management arrangements are respected and effectively implemented. This ensures confidence in the integrity of water markets, critical to the encouragement of trade and maximising productive use of water, and public confidence in water management across southern Victoria.

The approach taken to meeting regulated compliance and enforcement obligations at SRW is informed by the difference between the two concepts where:

- Compliance is a proactive process where actions are taken to prevent breaches or offences from occurring in the first instance. There are a variety of compliance tools to support compliance with Victorian water laws, including education, hydrographic monitoring programs, metering inspections or audits, reporting and accounting.
- Enforcement is the reaction to when a breach of the Water Act is detected. Enforcement actions under the Victorian Water Act include warning notices, direction notices, orders for reinstatement where appropriate, suspension or cancellation of an authorisation, or prosecution.

Greater detail of SRW's approach to compliance and enforcement can be found in Section 3. Importantly this outlines the organisations focus on education, engagement and provision of information to customers to encourage a proactive culture of compliance within our community.

1.3. Corporate Strategy and Objectives

SRW's corporate vision is:

Excellence in rural water management, driving growth and customer productivity in southern Victoria.

This is supported by four key outcomes and related objectives for compliance and enforcement activities. These outcomes are:

- **Growth and Customer Productivity**
- **Affordable Prices**
- **Financial Sustainability**
- **Sustainable Water Resources**

Ensuring effective compliance and enforcement activities are integral to achieving these outcomes, as this provides confidence in water markets to allow for increased investment and production, ensures SRW can operate efficiently, reducing pressures on prices and resources, and helps ensure water can be accessed for productive purposes without impacting on the environmental sustainability of our freshwater resources.

2. Context

Southern Rural Water operates under delegation from the Minister for Water to implement the Water Act 1989 (the Act), as it relates to non-urban water across Southern Victoria.

Specifically, these delegations authorise SRW to undertake compliance activities as related to the following sections of the Act as outlined in the *Non-Urban Water Compliance and Enforcement Guidelines for Water Corporations (the Victorian compliance guidelines)* DELWP, 2019:

- **Section 51:** a licence to take and use water, which is mainly applicable in non-declared water systems (subject to some specified exceptions in declared systems);
- **Sections 67 and 75:** a licence to construct certain works on a waterway or bore;
- **Section 33F:** a water share that authorises the taking of water under the water allocation for the share during the water season for which the allocation is allocated in a declared water system; and
- **Sections 64L and 64P:** a water-use licence or a water re-use registration that authorises the use of water for the purpose of irrigation (in the case of the licence) or for another purpose (in the case of the registration) on certain land in a declared (un-bundled) water system.

Specific offences related to these regulated activities can be found in *Appendix 1 – Offences under the Victorian Water Act*.

The delivery of these delegations is also informed by the institutional arrangements for the broader Victorian water industry in which SRW operates. These arrangements are outlined in Figure 2.

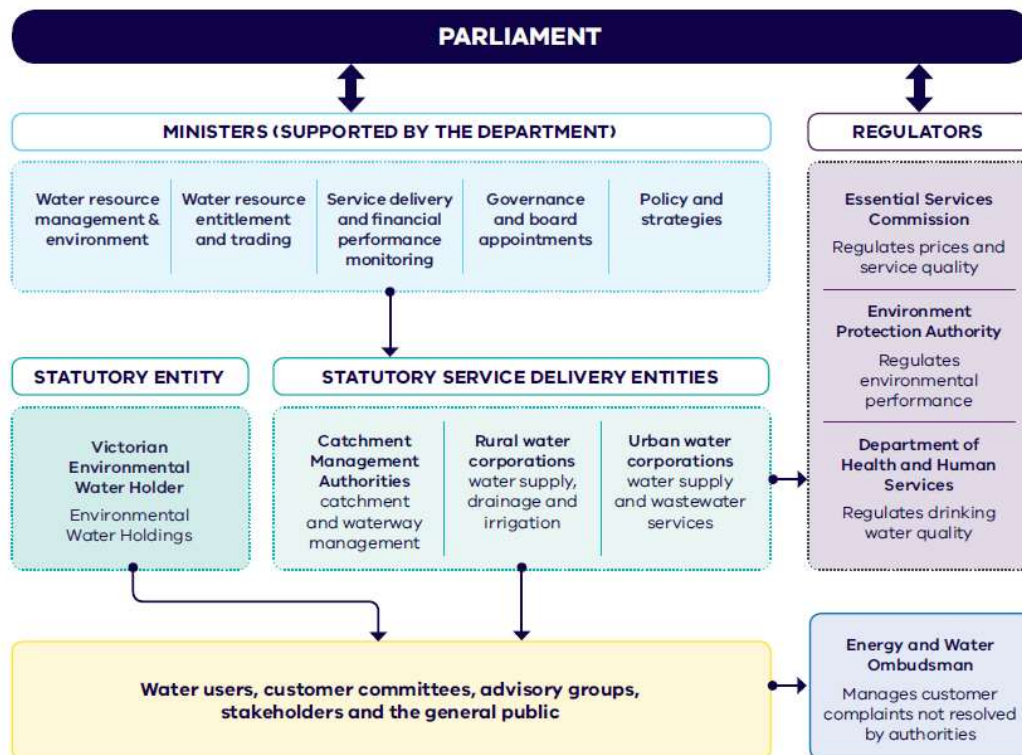


Figure 2: Illustration of the institutional arrangements in Victoria's water sector

State Policy

SRW's approach to the management of non-urban water compliance is informed by the Victorian compliance guidelines (DELWP, 2019).

The key component of these guidelines is a series of five principles, with 18 underlying standards. These five principles are:

- **Principle 1:** Compliance strategies will be risk-based to make sure that resources are used efficiently, focusing more on areas where there are the greatest compliance risks;
- **Principle 2:** Water corporations have a range of available compliance and enforcement tools. Use of these tools will be responsive and appropriate to the level of non-compliance and the risk associated with the non-compliance;
- **Principle 3:** Water corporations will be transparent about their compliance strategies, protocols and compliance and enforcement activities;
- **Principle 4:** Water corporations will be accountable for compliance and enforcement; and
- **Principle 5:** Water corporations will strive to put consistent approaches in place across the state.

Whilst this policy largely focusses on the first four principles, it is informed by the fifth principle and a commitment by SRW to work cooperatively with the Victorian Government to modernise both policies and guidelines to implement the intent of the Water Act and ensure a contemporary approach to compliance. This will be done through initiatives such as:

- Implementation of the Victorian non-urban water meter guidelines; and
- Contribution to policy and procedure development through the compliance compact.

This will include pro-actively working with DELWP to ensure confidence in the rural water by the Minister and key stakeholders through transparent approaches to compliance and enforcement. This will in turn help maximise the economic value of water for customers.

To support these efforts, this strategy will also be reviewed at least every four years to align with the review of risk assessments, or when a material change to broader compliance requirements and approaches for non-urban water occurs in Victoria.

3. Approach to Compliance and Enforcement

SRW has a strong risk based approach to compliance that is focussed on working with customers to understand and comply with their obligations, with clear escalation pathways from these activities through directing of compliance to formal compliance actions.

This pathway is best understood through the compliance pyramid included in the Victorian Non-Urban Water Compliance and Enforcement Guidelines (DELWP, 2019), included at *Figure 3*, which is consistent with SRW’s historic approach to compliance.

The compliance pyramid conceptualises the importance of a strong foundation of education and engagement to ensure that not only individual obligations for compliance but why this provides for equitable sharing of resources, to the benefit of all licence holders.

More detail on SRW’s approach is detailed under the broad headings from the compliance pyramid of:

- Encouragement and Assistance Compliance;
- Directing Compliance; and
- Prosecutions and Revocations or suspensions of entitlements.



Figure 3: The Compliance Pyramid (DELWP, 2019)

3.1. Encouraging and Assisting Compliance

SRW will focus on working with our customers to ensure a culture of compliance, where individuals understand their obligations and take responsibility for their compliance. This will be achieved through actions such as the ongoing review and development of strategic communication plans and proactive interactions with customers by field staff.

These interactions include the use of advisory letters where actual or potential instances of non-compliance are identified that are inadvertent, minor in nature with minimal impact on the environment or other water users, and/or can easily be rectified.

Often these interactions will represent first time offences due to the lack of understanding of legal obligations. The exception to this would be where it can be demonstrated that the alleged offender was aware of their obligations, such as through engagement with the authority on the requirements for an application process, yet still proceeded to commit the offence.

To assist this SRW will also continue to provide tools that assist customers to operate in a compliant manner. These tools include:

- Automation of meter readings to allow near real time access to usage data for unregulated customers
- Customer portals and other online tools allow for improved access to usage data, forms and other information; and
- Improved trading platforms to allow access to additional water when required in a timely manner.

3.2. Directing Compliance

The focus on directions for compliance will remain on educative principles and increasing the voluntary level of compliance, whilst ensuring potential areas of non-compliance are addressed with a clear understanding of consequences.

This will include a clear pathway for formal engagement from warning letters for first or minor offences, through to notices where the offence is more serious. The choice of warning letter or notice will largely be driven by consideration of pre-existing knowledge, deliberateness of the action and the magnitude/impact of the offence.

As availability and quality of information improve, there will be a greater expectation that customers will comply without needing to be directed, which may result in higher level enforcement actions being applied. This will be assisted by increased use of automated meter readings for unregulated water customers, which when combined with the MySRW portal will increase the expectation of compliant behaviour.

Where the construction of illegal works has been identified, additional considerations will be given to the course of action required, including:

- Impact of works on the environment;
- Impact of works on third parties;
- Risks presented to the community;
- The likelihood of the works being approved if applied for (including discussions with referral agencies if required); and

- The ability, if required, to modify the works to ensure compliance with any conditions that would be imposed by a licence to operate.

This consideration is particularly relevant in the case of the construction of works such as an illegal dam, as the likelihood of approval and ability to modify the works if required will be critical to determining if the works need to be removed.

3.3. Prosecutions and Revocations or suspensions of entitlements

In the most serious cases, formal enforcement action may be taken to address matters of non-compliance. Whilst this has historically been limited to either prosecution and/or the suspension or revocation of entitlements, recent changes to *the Act* will result in the introduction of penalty infringement notices as an interim enforcement option.

The implementation of infringement notices will also require new processes and procedures to be developed to ensure they are implemented consistently not only by SRW but across Victoria more broadly.

The implementation of these enforcement actions by SRW, rather than actions taken to direct compliance, is informed by a number of principles to assess the seriousness of the offence, including:

- Deliberateness and level of pre-existing knowledge;
- Ability to materially impact on third parties or the environment; and
- The magnitude of any offence.

3.4. Compliance and Enforcement Tools

As part of operating in line with the compliance pyramid, SRW will continue to develop and implement a range of compliance and enforcement tools, building upon existing policies and procedures.

This approach will continue to evolve to ensure alignment with best practice approaches to non-urban water compliance and enforcement, covering the key areas outlined in *Figure 4*, which documents the state-wide approach to compliance, enforcement and detection tools.

A key initiative in this space will be the continued roll out of automated meter readings, which when combined with the ongoing development of information portals for customers and staff will allow not only the real time monitoring of water use by customers but increased ability to actively monitor and engage with customers to ensure compliance.

Critical to the development of these tools will be the participation in forums such as the Victorian Water Compliance and Enforcement Community of Practice and the State-wide Licencing Committee. This will also allow SRW to proactively work with DELWP and other stakeholders to ensure tools are consistent and operational appropriate.

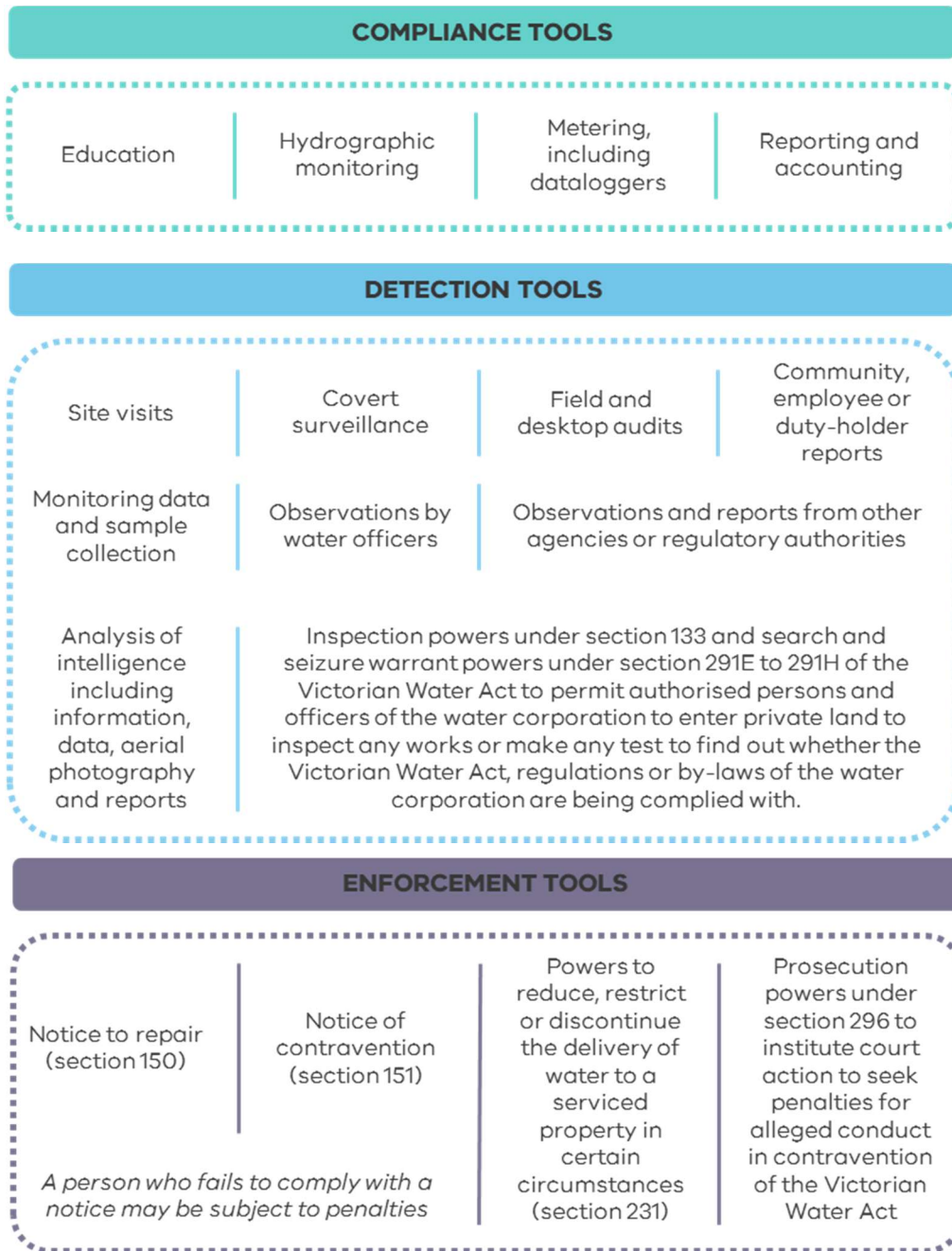


Figure 4: Compliance, detection and enforcement tools

3.5. Information gathering and Intelligence

A key aspect of compliance and detection tools is the effective gathering of information and intelligence. This process can be separated into active and reactive approaches.

The management of the taking of water is largely driven through active information sources including meter readings and hydrographic monitoring (which informs restriction management), which are supported by reactive intelligence related to offences such as alleged meter tampering or breaching of restrictions.

The approach to collection and management of meter readings, including the use of automated meter readings, is detailed in *Appendix 2*.

For regulated systems, the requirement for meter reads as part of the ordering of water greatly assist in ensuring compliance.

Identification of illegal works is much more reliant on reacting to intelligence from community members, supported by monitoring of activities through regular catchment inspections.

3.6. Investigations

Investigations undertaken by SRW Authorised Officers will ensure the integrity of information and process at all times, to ensure fairness to all parties and transparency of actions.

Where a potential breach of the Victorian Water Act has been identified, either through the course of our ongoing monitoring or intelligence provided by a third party, SRW will ensure these are investigated in a systematic manner. This will include gathering information to:

- Establish that an offence has occurred;
- Confirming the identity of the person(s) who are alleged to have committed the offence; and
- Determine the magnitude and consequences of the confirmed offence.

Should the offence be confirmed, including the need for formal action, SRW will ensure that any data is managed in such a way to ensure the integrity of the investigation and formal interviews take place to determine the level of awareness and pre-meditation for the offence.

Whilst SRW aims to conduct these investigations in a timely, cost efficient manner, this will be secondary to ensure all legal requirements are met and that outcomes are defensible in court and are justifiable (particularly where the alleged offence was reported by a third party, but no action was required following the investigation).

3.7. Key Activities to Deliver this Plan

Communication and Education Resources

As part of implementing this policy, and delivering on updated state-wide policies and procedures, SRW will review existing communication approaches and products to ensure they remain consistent with the state-wide approach.

Training of Staff

Training of staff to ensure they maintain current knowledge of the Water Act and approaches to compliance and enforcement is critical to meeting SRW's obligations to manage water resources across Southern Victoria in a sustainable and responsible manner.

Initial steps to ensure this will include a review of existing training levels and an analysis of any gaps that are present. This will be done in conjunction with the state-wide compliance compact and the development of indicative training manuals by DELWP.

This will be also supported by specific guidance on expected conduct and approach to compliance by SRW staff through the development of a dedicated corporate instruction for non-urban water compliance and enforcement activities. This will support SRW's overarching compliance policy, which focuses on ensuring compliance with our statutory and legal responsibilities.

Risk Assessment for the Prioritisation of Water Resources

Given the criticality of monitoring for compliance, SRW will primarily prioritise compliance activities regarded risks to water resources in unregulated systems as part of the establishment of the *SRW Non-Urban Water Metering Action Plan*.

This risk assessment of water resources was based on the:

- volume of water available,
- level of allocation against available resources, including restrictions on supply, and
- level of usage against allocations.

This provides a prioritised ranking from low to high of catchments where metering of water usage is required to manage the resource (and ensure usage is compliant with allocated volumes), providing clear prioritisation of areas where competition for water, and the availability of water for trade, results in pressure points that make non-compliance more likely.

The priority water resources from this assessment that are defined as high risk are:

The Latrobe (including Thorpdale and the lower Latrobe areas) and Mitchell River catchments, and the following groundwater management units:

- Denison GMU;
- Giffard GMU;
- Rosedale GMU;
- Yarram GMU;
- Bungaree GMU;
- Sale GMU; and
- Deutgam GMU.

In addition to this, areas of specific higher intensity such as the high intensity zones in the South-West Limestone groundwater resources will also be subject to higher levels of monitoring.

Given the level of competition for water also drives potential non-compliance in other areas, such as illegal works for the taking of water, this consistent prioritisation of target areas will ensure compliance focus is consistent across the unregulated water resources.

Critically this prioritisation informs efforts for investment in proactive monitoring effort (modernising meters and installation of automated meter readings), which will be rolled out more broadly as well, and the concentration of field officer areas.

Regulated Systems

All of SRW’s regulated irrigation districts will continue to be high priorities for ensuring compliance with entitlement conditions and the provisions of the act more broadly.

This will ensure people only take water they are entitled to, in the manner they are allowed to, at the time they are allowed.

Focus on compliance will continue to be on the manner of taking water, given the ability of systems to prevent the ordering of water in excess of entitlements.

3.8. Roles and Responsibilities

The formal roles and responsibilities of SRW staff as it relates to compliance and enforcement are documented in the SRW Instrument of Delegation approved by the Board of Management.

This document limits the number of staff who can formally issue notices to repair (s150), notices of contravention (s151), restriction or reduced supply (s231) or bring prosecutions against individuals or companies (s296). The officers with these delegated powers are detailed in *Table 1*.

Field Officers, operating in unregulated areas, undertake their duties through powers delegated to them as *Authorised Officers* and are empowered to carry out investigations, implement rosters and restrictions in accordance with agreed management rules, and to issue advisory notices to customers to encourage improved compliance.

Water Service Officers are responsible for monitoring customer operations in the irrigation districts, including the identification of potential offences to bring to the attention of their supervisors for action. Water Service Officers also assist the customers to understand their obligations, if they see the potential for a breach due to the current approach to operations.

Section	Description	Position Title/s
150	Power to give notice to repair private works affecting SRW services	Managing Director, General Manager Assets and Environment, General Manager Service Delivery, Manager Water Supply, Manager Groundwater and Rivers and Manager Headworks Operations
151	Power to give notice of contravention of the Act, regulations, licence etc	Managing Director, General Manager Assets and Environment, General Manager Service Delivery, Manager Water Supply, Manager Headworks Operations, Manager Groundwater and Rivers, Manager Applications, Field Supervisor and Irrigation Service Delivery Supervisor
231	Power to reduce, restrict or discontinue water supply	Managing Director, General Manager Assets and Environment, General Manager Service Delivery, Manager Water Supply and Manager Headworks Operations
296	Power to bring prosecutions on behalf of SRW	Managing Director, General Manager Assets and Environment, General Manager Service Delivery, Manager Water Supply, Manager Groundwater and Rivers, Manager Headworks Operations, Manager Applications, Irrigation Service Delivery Supervisor and Field Supervisor

Table 1: SRW delegated enforcement powers

4. Customer commitment

SRW's commitment to our customers, stakeholders and members of the public is detailed in the SRW Customer Charter. This charter can be found at:

<http://www.srw.com.au/wp-content/uploads/2019/01/SRW-Customer-Charter.pdf>

This is complemented by organisational policies on privacy, freedom of information and accountability.

4.1. Transparency

SRW's commitment to transparency is documented through our promises to our customers within the charter. These promises are:

- No Surprises
- Listening
- Privacy
- Regular Information
- Consultation
- Responding

By striving to meet these promises to our customers and broader stakeholders, we will ensure the manner in which we undertake our business is clear and transparent, with all parties understanding their commitment.

4.2. Reporting potential misconduct to SRW

SRW welcomes members of the community to raise concerns with us about alleged misconduct. These reports are always treated confidentially, and where members of the public are comfortable to provide their details, SRW will confirm the outcome of investigations.

If members of the public are not comfortable leaving their details, all reports will still be investigated fully.

Potential cases of misconduct can be reported to SRW via the following contact details:

- Phone: 1300 139 510
- Email: srw@srw.com.au

4.3. Customer Complaints

SRW has a formal process for the management of complaints, with clear escalation pathways through the business to the Managing Director if required.

The process for making a complainant, and our commitment around timeframes for responses are detailed in the customer charter. This includes the ability to refer the complaint to the Energy and Water Ombudsman of Victoria.

4.4. Public Reporting

SRW will also continue to work with our community to build confidence and trust in how we undertake compliance and enforcement activities. This will be done through a combination of education and improved public reporting.

SRW will continue to improve its public reporting through a range of activities including the following:

- Making compliance policies and guidelines publicly available via the SRW website; and
- Development of publicly available annual reports on SRW's compliance activities.

References:

DELWP (2019), *Non-Urban Water Compliance and Enforcement Guidelines for Water Corporations*, Victorian Government, Melbourne.

Appendix 1: Offences under the Victorian Water Act

Offences relating to Take and Use of Water

<p>Taking or using water from certain water sources in a non-declared water system without being authorised under the Victorian Water Act or any other act to do so</p> <p>Section 63 Section 289(1)</p>	<p>If the water is supplied for domestic and stock purposes, using the water for a different purpose</p> <p>Section 143</p>	<p>Without the consent of the water corporation, or without any other lawful authority, taking, using or diverting water that is under the control and management of an Authority or that is supplied by a water corporation for the use of another person</p> <p>Section 289(1)</p>	<p>Failing to comply with a notice of contravention</p> <p>Section 151</p>
<p>In a declared water system:</p> <ul style="list-style-type: none"> • Taking water from certain water sources without being authorised to do so by a water share or under any other authorisation to do so • Using water for irrigation on land, or knowingly cause or permit water to be used for irrigation on land unless the person does so under a water-use licence that authorises the use of water for that purpose on that land • Using water on land or knowingly cause or permit water to be used on land for purposes other than the purpose of irrigation, unless the person does so under a water-use registration that authorises the use of water for purposes other than irrigation on that land • Failing to comply with conditions imposed on a water-use licence 		<p>Section 33E</p> <p>Section 64J(1)</p> <p>Section 64J(2)</p> <p>Section 64AF</p>	

Offences relating to Construction of Works

<p>Constructing, altering, operating, removing or decommission any works on a waterway, obstruct or interfere with any works on a waterway, without being authorised to do so by or under this or any other Victorian Water Act</p> <p>Section 75</p>	<p>Wasting and misusing a water supply</p> <p>Section 143</p>	<p>Without the consent of the water corporation, or without any other lawful authority, interfering with the flow of water in any waterway, aquifer or works under the control and management of a water corporation</p> <p>Section 289(1)</p>	<p>Failing to comply with a notice to repair works</p> <p>Section 150</p>	<p>Fail to comply with a notice of contravention</p> <p>Section 151</p>
<p>Altering or removing any works that are connected to the works of a water corporation without consent</p> <p>Section 145</p>	<p>Breaching a water corporation's by-laws relating to water use or works made under</p> <p>Sections 160 and 171</p>	<p>Without the consent of the water corporation, or without any other lawful authority, destroying, damaging, removing, altering or in any way interfering with any works or other property (whether real or personal) belonging to or under the control and management of a water corporation</p> <p>Section 288</p>		

Appendix 2: Management of meter readings

Integral to the management of the unauthorised taking of water is the monitoring of water use through meter readings. This will be undertaken through a combination of either physical meter readings or, increasingly, monitoring of automated meter readings.

For meters that are either yet to have AMR installed, or it is not a viable option, as a minimum, meter reads are to be conducted twice per year in all areas. The meter reads will occur mid-season (December/January) and end of season (end of June). Evidence of use during the summer meter reads may prove valuable in establishing the facts for a successful prosecution.

Following the collation of meter reads, usage reports are to be compiled and forwarded to Supervisors. Usage statements for large volume customers, and any that have used more than 60% of their entitlement should be sent out both as a courtesy and a reminder of usage. This does not negate the licence holders responsibility to monitor their water use, however should be viewed as a pro-active measure to assist customers to remain within licensed volumes.

Automated Meter Readings

Where AMR has been installed, the expectation is that data will be regularly monitored by Field Officers with physical meter readings carried out for the purpose ensuring accuracy of data collected.

Communication of usage and the need to consider trades for additional water will continue to be consistent with the existing process for existing users (large users and licences with greater than 60% usage at the mid-year point), however it is expected licence holders with access to usage data will increasingly take a greater degree of responsibility for monitoring usage.

Collection of meter readings for the purpose of audit/compliance will focus on the following areas:

- Large water licence holders (including those with greater than 2% of the specific resource in line with Victorian Government initiatives on increased transparency)
- Individuals using more than 75% of their licensee volume.

The use of the MySRW customer portal will also the self-collection of meter reads by water users. This will allow the confirmation of accuracy of water use prior to the processing of water trades to ensure unused water volumes are accurate.

The increasing implementation of AMR will also greatly assisting with the monitoring of compliance with rosters, restrictions and bans as it will provide direct evidence of the use of water during these periods, and not just between meter readings.