



Submission to:

**Economic Regulation of the South Australian Water Industry
Statement of Issues**

Essential Services Commission of SA
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Dear Sir,

The Australian Civic Trust (ACT) has been active in the integration and support of civic issues since 1969. For example it promoted the concept of an independent management authority for the Murray-Darling Basin before the Premier adopted this approach. Darian Hiles, the Chairman of the ACT, has been active in strategic planning for water since 2004, when he obtained support from the Premier for a United Nations initiative related to the UN Decade of Water for Life.

Introduction

The general thrust of this paper is that the services of the environment to the water industry, the community and the environment in return have not been recognised in the Statement of Issues. Thus the primary driver of the water industry has been ignored.

As most of the issues listed in the Statement of Issues are affected by this, the notes below focus on a selection of general issues that will in turn affect many of the details and approach of the Statement of Issues. Necessarily, only a selection have been chosen for comment, as a general restructure of the Statement is recommended as the best solution.

1. General role of ESCOSA

In its Statement of Issues, the Essential Services Commission of South Australia is described as an independent economic regulator of essential services in South Australia, in regard to water:

- with the role to determine the form of economic regulatory regime to be developed and implemented in SA
- and to meet the needs of South Australian consumers and water industry participants into the future

But this scope of needs is inadequate, as essential services for the community extend beyond the simple economic issues addressed and it also omits the environment, which is:

- the major agent of supply (through the natural water cycle) and demand (the natural maintenance of the environment),
- the ultimate origin of all supply to consumers and the industry and
- the greatest demand agent, through the natural water cycle.

This major role of the environment has a direct impact on human needs but it is now becoming increasingly affected by industry, which is detracting from the supply to the environment and causing pollution that is detrimental to the environment, consumers and industry itself.

Recommendation:

Recognise and restructure the Statement of Issues to incorporate:

- the natural water cycle as the ultimate base of all water operations and
- the supply and demand of the consumer and industry as a subset of and dependent on this cycle.

This necessitates a significant rewrite of the Statement.

Land is also fundamental to the monitoring, protection and management of water and therefore a key issue.

Similarly the atmosphere is a critical controlling agent, particularly through fluctuations in the weather and through climate change.

Recommendation:

Redraft the Statement of Issues to place in context air, land, water (including ground water mapping and management), weather and climate change, as key issues for the water industry.

2. Action 70

The Government's *Water for Good* framework tables a set of reforms and commitments but has a number of significant faults. For example Action 70 states:

Appoint ESCOSA as the independent economic regulator for monopoly supplies of urban and regional water and wastewater services in South Australia. This will apply to SA Water's potable water and wastewater services in the first instance.

This addresses monopoly supplies for urban and regional purposes but not:

- The potential for distributed supply, e.g. by local government.
- The potential for the replacement of services supply by other initiatives such as water collection and conservation at user level.
- The dynamism of the timing and volume of the natural supply of water by the environment and the environment's demand.

- The need to manage supply to the community and industry in the context of the environment (e.g. the maintenance of water tables is one example).
- Quality regulation, both for users and the environment, which should be part of ESCOSA's framework. Objective 6(a) should be modified to reflect this

The environment provides essential services which cannot be duplicated. These include, for example, the initial provision of water and the natural treatment of wastewater.

This is also highlighted in the Functions of the Commission (Section 2.2.1), where the ESC Act is deficient in its omission of the role of the environment, for example in the specified essential services, and this must be addressed.

The Statement of Issues states that: "It is important to note that section 5 specifically contemplates that the Commission's role extends beyond the ESC Act itself". However this appears to relate only to other Acts.

Recommendation:

Restructure the Bill and the Statement of Issues to redress these omissions. This will necessitate a general rewrite, which is not within the scope of a simple response to the issues as listed.

3. Declaration of the water industry as a regulated industry (Sect 3.1)

The declaration states that Clause 4 of the Bill sets out definitions of the various terms used within it. In that clause, the term "water industry" is defined as referring to any operations associated with the provision of water services or sewerage services.

It also states that: "the effect of the definitions as established under clause 4 is that *any operations associated with the provision of either a water or a sewerage service are considered to be a part of the water industry*. This has significant implications for the scope of regulation under the Act and ensures that there is the potential for all relevant activity to be controlled under the Act should the protection of the public interest warrant that outcome".

As natural operations very often have similar effects to artificial ones, are essential to our wellbeing and can be strongly affected by human intervention, they must be addressed as key issues.

Recommendation:

Include human interventions that may affect natural water operations as part of the water industry and also include adequate protection of natural water and the environment.

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