



## District Council Lower Eyre Peninsula

### Submission:

### **INQUIRY FOR SMALL-SCALE WATER, SEWERAGE AND ENERGY SERVICES REGULATORY ARRANGEMENTS.**

The *Issues paper* is a welcome opportunity to raise a number of concerns that have impacted on local governments that have been operating Community Wastewater Management Schemes (CWMS) for many years.

Whilst ESCOSA is obliged under the Water Industry Act 2012 to regulate and monitor the many local governments that provide CWMS services to many small and medium sized communities, the *Issues paper* infers that there is flexibility in how it meets those legislative requirements.

One of the many challenges faced by local government is dealing with compliance requirements of a multitude of state and federal government agencies to ensure that grants, rates and fees/charges income and revenue are spent appropriately.

Individually the respective agency's requirements are both valid and reasonable. Collectively they overlap at best and duplicate at worst.

The underlying reason that individual local governments have provided CWMS services over many years is due to the lack of interest by state government agencies such as SA Water to provide these services. Given the dichotomy that exists between services available to rural and metropolitan council residents, the provision of CWMS can not be argued that it is a core function of local government. Even within the Eyre Peninsula 2 of the councils' residents are provided sewerage services by SA Water whilst 8 of the remaining 9 councils provide CWMS services in 16 towns and settlements.

The approach to date by ESCOSA and given the apparent directions inferred in the *Issues paper*, the decision has clearly been made that local government is providing CWMS services as a free market monopoly and its service recipients need to be protected from aggressive, bullish behaviour.

As the current Office of the Technical Regulator (OTR) *Guidelines for Non-drinking Water in South Australia* demonstrates, the monitoring of local

government CWMS and water re-use service providers can involve up to seven (7) agencies. Prior to 2012 the number was typically two (2) agencies.

In evaluating the *Issues paper*, it is unclear where the efficient service provision and customer protection aspects move to ensuring a free market environment for new 'players'.

In responding to the opportunities for new 'players in a free market environment, the following comments are made:

- a) Should SA Water approach the local government industry with a proposal to take over the CWMS infrastructure and service provision in rural South Australia it would be welcomed subject to our ratepayers and residents being offered the same or better service at the same or lower cost,
- b) Should a private enterprise make the same approach then the difficulty would be in addressing the State Government's legislative requirements written in to the Local Government Act 1999 and Regulations. However if the same scenario of same or better service at the same or lower cost was on offer then those legislative requirements could be resolved at the State Government level in concert with local government.
- c) Why should local government, in the circumstances that exist currently, be required to actively encourage or at the very least not inhibit free market opportunities?

In responding to the reporting requirements and policy 'initiatives' required by ESCOSA to date there is no evidence presented in the *Issues paper* that local government service providers have suddenly become efficient service providers, or that customers are not being overcharged or that their service stopped being disconnected as a result of overdue payments. In addition, the *Issues paper* infers the need for service providers to constantly or at least regularly survey their customers.

As was the case before 2012, individual local governments are required to prepare a draft Annual Business Plan (ABP) and to make those available for public comment, and it is a requirement that the Annual Business Plan and subsequent financial budget can not be adopted until all public submissions have been considered. The Business Plan is required to include information on all activities, including CWMS for relevant councils.

In addition to the ABP, each council, within 2 years of the 4-yearly election cycle is required to review and consult on its Strategic Plan and Long Term Financial Plan – with the forward projection of 10 years being updated at each review period. In other words, each local government has a Strategic Plan and Long Term Financial Plan that is used to frame key elements of the ABP plus be reviewed every 4 years ( or sooner if a council chooses).

Each review of the Strategic Plan incorporates public consultation – both publicly invited and face-to-face.

In addition to these processes, each local government is required to have an annual, independent audit in addition to maintaining an internal Audit Committee which is required to comprise independent membership.

It would be encouraging if ESCOSA were to consult with the local government industry to establish reporting requirements that were an adjunct of the current systems rather than have its own reporting framework to demonstrate its capacity to keep respective local governments as honest, efficient, responsive small scale service providers.

The questions posed in the *Issues paper* are responded to as follows:

**a) Understanding what customers value - Question 1**

| Question | Topic  | Staff Response   |
|----------|--|--|
| 1 (a)    | What issues are current customers of small-scale utility services concerned about? How do you know customers are concerned about these issues?                       | <p>The DCLEP, as a local government provides a broad range of services to its communities. The inherent issue in the W I Act and Regulations is the presumption that we should be treated as though we exist only to provide a single, isolated service.</p> <p>There 17 urban localities within the District.</p> <p>Only 4 are provided with CWMS. One of those was required by the state government as a condition of freeholding coastal shacks.</p> <p>Based on the 3 Annual Business Plan community meetings and advertised submission period and recently completed Strategic Plan community meetings, there are no current concerns related to the CWMS services being delivered by the DCLEP.</p> |
| 1 (b)    | Does our current regulatory framework allow suppliers the flexibility to respond to the issues raised by customers? What improvements to our framework are required? | <p>Given that the DCLEP CWMS services pre-date the Water Industry Act 2012 and Regulations by many years there has been no change whatsoever to the flexibility of the DCLEP to respond to issues raised by customers.</p> <p>The DCLEP had hardship payment policies in place prior to the Regulations and no service has ever been disconnected as a result of overdue or outstanding payments – in the same way individuals are not denied access to our road network, footpaths, parks etc.</p>  |
| 1 (c)    | Where customers are not provided with a choice of supply arrangements, what  | <p>Historically the DCLEP does not compete with the commercial market.</p> <p>If a viable alternative to the current services</p>  |

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|       | information do they need to understand the service they receive?  | provided could be provided at the same or lower cost than we and our customers/residents/ratepayers would welcome the opportunity.  |
| 1 (d) | What are the appropriate indicators to allow us to monitor customer confidence, engagement and satisfaction in these markets? | The most appropriate indicators are those incorporated in our current annual business planning process. The need to require separate indicator methodologies is an additional and unnecessary cost borne by the customer. |

**b) Improving supplier efficiency in the longer term - Question 2**

| Question | Topic  | Staff Response  |
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| 2 (a)    | Are there any difficulties for small-scale utility suppliers in setting prices to recover the long-term efficient costs of running their businesses? If so, how could our regulatory framework assist to address this issue? | No  |
| 2 (b)    | Are there any concerns that suppliers are over-recovering their long-term efficient costs? If so, how could our regulatory framework assist to address this issue?   | <p>The DCLEP does not monitor other councils as to their over- or under-recovery of costs.</p> <p>The DCELP considers that it can demonstrate a reasonable pricing structure. The legislated 4-year review of our Infrastructure and Asset Management Plan and asset valuations this financial year will be assessed by our independent auditors and determine the accuracy of our belief.</p> <p>It would be more efficient to have reporting piggybacked off existing financial compliance processes.</p> |

**c) Guidance for customers considering alternate supply options - Question 3**

| Question | Topic  | Staff Response           |
|----------|--|--------------------------|
| 3 (a)    | Does our current regulatory framework present any issues or challenges for new entrants offering new small-scale utility services? If so, how? | Not possible to comment. |
| 3 (b)    | Are there any new or emerging business models that will create a different relationship between suppliers and customers? If so,                | Not possible to comment  |

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|       | will this relationship create new financial, service reliability or other risks that customers need to be aware of when making their decisions?  |   |
| 3 (c) | Where customers are provided with a choice of supply arrangements, what information will they need to make informed decisions about new supply options? Who should provide this information? | Local government exists by virtue of and is bound by predominantly state government legislation.<br><br>In the context of CWMS it would most likely be a state government decision to open the market to new suppliers. If that were to occur, and the net cost is the same or cheaper to our customers over future years, then we would welcome the opportunity. |

**d) The cost of regulation and effectively managing market risks -  
Question 4**

| Question | Topic  | Staff Response   |
|----------|--|--|
| 4 (a)    | How much does it cost for suppliers to comply with their obligations under our current regulatory framework?           | The direct staff resources cost of ESCOSA compliance reporting is around 40 hours per annum.<br><br>The collective staff resource cost for all agencies is around 100 hours, and increasing.<br><br>The direct cost to achieve all of the reporting frameworks/systems and management policies and guidelines is around \$30,000 to date and increasing.<br><br>The anticipated increase in staff to meet the ongoing requirements of all agencies as a 0.5 FTE. |
| 4 (b)    | Are you aware of any areas where more than one regulator is seeking to deal with the same matter (regulatory overlap)? | Not at this time, however the OTR and SA Health are progressively reviewing and updating their requirements regards guidelines and reporting requirements.   |
| 4 (c)    | Are there any areas where you believe that no regulator is dealing with a gap matter but should be (regulatory gap)?   | No   |
| 4 (d)    | Are you aware of any emerging risks that we need to take into account?   | Yes:<br><br>The potential for the requirements of four agencies to progressively increase their individual reporting and management requirements with the aggregate effect of a disproportionate inspectorial regime.  |

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|  |  | There has been reference to discussions about a coordinated approach by all the agencies however the fact that this <i>Issues paper</i> is not co-authored by the other agencies indicates that this not occurring. |
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**e) Other issues - Question 5**

| <b>Question</b> | <b>Topic</b>  | <b>Staff Response</b> |
|-----------------|---|-----------------------|
| 5               | Are there any other issues that you think we should consider as part of this inquiry? | No                    |

**Summary:**

Of the requirements introduced as part of the enactment of the Water Industry Act 2012, the requirements of the OTR, in our view been the most constructive with regards to service delivery, as they compliment the historical oversight of the Public Health section of the Department of Health and Ageing (SA Health). The reasoning behind this statement is that the requirements of OTR are inadvertently encouraging the formation of CWMS user groups similar to the South East CWMS User Group.

Eight councils providing CWMS services have formed a similar user group for the Eyre Peninsula – thereby establishing opportunities for collaborative and common practices and procedures in CWMS operational and maintenance systems.

In our view ESCOSA should be able to differentiate between local government and private small-scale service providers, simply because the dynamic compliance environment that applies to local government through state and federal legislation and regulation.

We should not be seen in the same vein private companies or state government corporations that operate as commercial enterprises required to deliver a profit or dividend to their shareholders/owners.

The annual reporting and compliance requirements that are already in place should be more than capable of being assessed and modified to meet the reasonable and effective monitoring requirements for ESCOSA's purposes.

**Alex Douglas**  
**Director Works and Infrastructure**

**30 September 2016**