



**PUBLIC CONSULTATION REGARDING
REGULATIONS OF COUNCIL WATER, CWMS AND
STORMWATER OPERATIONS**

**SUBMISSION TO THE ESSENTIAL SERVICES
COMMISSION OF SOUTH AUSTRALIA**

August 2012

NOTE: This submission has been endorsed by the 20 September 2012 LGA State Executive Committee meeting.

Public Consultation Regarding Regulations of Council Water, CWMS and Stormwater Operations

INTRODUCTION

Local Government Association of SA (LGA)

The LGA is a membership organisation for all Councils in South Australia and is the voice of Local Government in this State. The LGA is created by Councils and endorsed by the South Australian Parliament through the South Australian Local Government Act 1999 and is recognised in 29 other South Australian Acts.

All 68 Councils are members of the Association, as is Anangu Pitjantjatjara Yankunytjatjara.

The LGA provides representation, quality service and leadership relevant to the needs of member Councils. The LGA also operates specific units / entities providing:

- all public liability and professional indemnity cover for all South Australia Councils;
- all workers compensation cover for all South Australian Council employees and associated Local Government bodies;
- asset cover for South Australian Councils; and
- extensive education and training; industrial relations; procurement; online services and a research and development scheme.

The LGA is involved in the operation of (and establishment of):

- the Local Government Finance Authority;
- Local Super; and
- Public Library Services.

The LGA has a formal State / Local Government Relations Agreement with the Premier of the State, and is a constituent member of the Australian Local Government Association.

BACKGROUND

The Water Industry Act 2012 has been proclaimed to come into operation on 1 July 2012, however not all provisions will commence at that time.

The Essential Services Commission of SA (ESCOSA) is the independent economic regulator who is responsible for regulation of the water industry in South Australia (for Local Government where it relates to CWMS including treated CWMS effluent and stormwater systems operated by Councils).

ESCOSA released consultation documents seeking the views of all stakeholders in three key regulatory areas:

1. licensing framework for water and wastewater retail service providers;
2. water retail regulatory instruments (codes and guidelines) to apply to licensees; and
3. proposed price regulation frameworks for non-South Australian Water licensees.

Public consultation on the documents closed 24 August 2012.

The LGA has undertaken consultation with Councils to obtain feedback on the documents and policies released by ESCOSA.

The LGA has also established two working groups (CWMS and Stormwater) to undertake continuing work with ESCOSA to step through the proposed regulatory process with a view

to reaching agreement on a consistent and effective process that represents Local Governments status as a sphere of government and to reflect existing regulatory controls that are already in place.

It is envisaged that the LGA working groups will continue to work with ESCOSA on an ongoing basis to further clarify Local Government operations and ESCOSA's regulatory requirements.

This submission paper was prepared with the assistance of Gayler Professional Services as CWMS Program Manager for the LGA. It has been formatted using ESCOSA's papers as templates. ESCOSA's wordings have not necessarily been used. Some paraphrasing has been used for brevity and to express matters from the LGA perspective.

LICENSING

Brief comments are made below in the section on Licensing. More detailed comments on proposed licensing provisions are attached as Appendix A.

PRICING PRINCIPLES

Similarly, brief comments are made in the section on Pricing Principles below, with the context for those comments being highlighted in an abridged document condensed from ESCOSA's July 2012 Discussion Paper "Proposed Price Regulation for Water and Sewerage Service Providers other than SA Water", presented as Appendix B.

GENERAL

In general terms, the LGA representatives on the Working Groups have noted requirement for licensing and pricing of water services on sector wide principles.

This follows rejection by the State Government of previous extensive submissions by Councils and the LGA that Councils by nature should not be subject to additional licensing or price regulation, other than through the provisions of the Local Government and related Acts.

Local Government consideration of licensing and pricing principles is conditional and subject to the following key considerations:

- timing needs, the proposed application date of 1 January 2013 for the new regulations is unachievable for South Australian Local Government as a whole;
- there is requirement for (the opportunity for) much more collaborative effort to define suitable licensing and pricing provisions;
- acknowledging the constraining effects of the present limitations of capacity, knowledge, data and system constraints generally across the Local Government sector on compliance. There is a need for a viable timeframe and procedural arrangements to facilitate eventual compliance;
- continuation of the collaborative working group process between ESCOSA and the LGA to guide implementation of the new regulatory regime(Water Industry) where it relates to Local Government;
- acknowledging the very extensive and comprehensive actions already in train across the Local Government Sector as a whole, in accordance with widely-agreed National timeframes and in accordance with Best Practice Asset Management Principles; and
- recognition of the difference between essential services (e.g. potable water supplies where a community is dependent on that supply for Critical Human Needs) as opposed to non-essential, low-risk services such as Common Effluent, municipal

stormwater, and sewage systems (i.e. where temporary cessation of the service has no direct health or well-being implications for individuals).

TIMING

It is the LGAs position that the envisaged timeframe for commencement of the provisions of ESCOSA Licensing and Price Regulation is inadequate. This position is detailed in various sections below, particularly in relation to Pricing Principles. The LGA has emphasised throughout consultation with ESCOSA that there are gaps between what ESCOSA envisages and what is practical in the immediate future.

A large body of work is still required to make this possible. Councils (or Local Authorities established by Councils) are not major private commercial single service corporations. Corporations, such as SA Water have large expert workforces across a largely similar service organisation enabling them to adhere to the complexity of the detailed National Water Initiative (NWI) pricing principles. They also have substantive budgets for systems (purchase, maintenance, operation and augmentation) and IT personnel to keep the systems running. The customer base is materially above that of Local Government in general and this provides some measure of efficiencies to be gained across the organisation (e.g, cost attribution of large overheads). Whereas Local Authorities have a large range of dissimilar services to provide to much smaller client numbers with limited staff with less specific skill sets to plan, deliver and monitor.

ESCOSA must ensure licensing and pricing principles and procedures recognise the variation in scope and scale of operations by Councils.

In the short term, Councils will not be in a position to comply with the onerous administration, reporting and monitoring requirements.

The LGA recommends a transitional compliance timeframe be provided to assist Councils to work with ESCOSA to develop appropriate Licensing and Pricing practices and to comply therewith.

INFRASTRUCTURE ASSET MANAGEMENT, SUSTAINABLE PRICING AND LONG TERM FINANCIAL PLANS

Councils have been required to implement long term Infrastructure Asset Management Plans since January 2007. The LGA has actively assisted Councils in development of these plans. A Federal Government funding program (undertaken by the LGA) is currently assisting Councils to provide sustainable pricing of services, and to align best practice Strategic, Business and Long Term Financial Plans with informed IAMPs.

National Practice Manuals and Practice Notes have been published by Engineering, Municipal Management and Financial bodies to assist Council with leading asset management practices. e.g, the National Asset Management initiatives of the Institute of Public Works Engineers, Australia (IPWEA NAMS) Program.

IPWEA NAMS is a large-scale, Australia-wide, educational, assistance and training program that South Australian Councils have been instrumental in implementing. Key elements of the program include asset management data acquisition, and debate on critical input parameters to the costing and depreciating of assets (Useful Lives, Remaining Useful Lives, Asset Valuation and Unit Cost determination, Discount Rate for future costs and revenues, interpretation of AASB116 across the board).

Implementation of arbitrary pricing principles by ESCOSA may be detrimental to the considered knowledge and skill base, and agreed valuation and depreciation methodologies that have been established through this program.

ACCESS TO EXISTING AND FUTURE INFRASTRUCTURE WITHOUT THE NEED FOR EASEMENTS

One of the key determinants of a measure of support by Local Government lies in the provisions in the Water Industries Act for conditional Third Party Access Regimes (TPA Regimes) to ensure accessibility of Councils to infrastructure. It is believed that this right of access will pertain regardless of the existence (or otherwise) of formal easements.

The matter of “conditions” for these “regimes” has yet to be further detailed.

This is a vital positive element of the value to Local Government of the regulations.

Local Government should be provided with an extended opportunity to research and provide input to the development of conditions applying to the TPA Regimes.

LICENSING

In addition to the comments in Appendix A, some specific points regarding proposed licensing provisions are:

- Local Government is not convinced of the need for an ESCOSA licence for the majority of Council wastewater schemes (due to adequate protections under existing Public Health, Environment and Local Government statutes); and
- however, if there are to be licences, then the Licence Conditions should be:
 - considered collaboratively by the LGA / ESCOSA Working Group prior to implementation (subject to further consultation with individual Council's by ESCOSA);
 - generically consistent across Local Government (with specific exception of licences for essential potable water suppliers, who will need individual consideration);
 - commensurate with size of community, financial capacity of the Council, and relative risk of the service (e.g, effluent only schemes being less risky than full sewer schemes in the event of extended power outages);
 - affordable and practical;
 - not replicating EPA, Department for Health or any other existing Regulator's licence; and
 - the ESCOSA licence should apply as one licence per Council, not individual licences for each scheme (important for consistency with aggregated schemes pricing within a Council area).

PRICING

There are critical differences between the Pricing Principles (as outlined by ESCOSA) and current practice in many aspects of the provision of CWMS and stormwater services by Local Government.

Historically Councils were encouraged by State Agency advice to price CWMS services on the basis of:

- no up front connection fee (no Standard Capital Contribution);
- enough revenue to pay off the (subsidised) Capital Loan in 15 or 25 years; and
- thereafter charge a nominal amount for ongoing operation and maintenance.

That basis has now been revisited by the LGA, but it is taking time for Councils to “go back on” old “undertakings” and seek endorsement from ratepayers to move progressively towards sustainable pricing.

It can be said with confidence that no Council charged more for its CWMS services than the amortised whole of life cost.

The LGA CWMS Management Committee has been instrumental in bringing the awareness of the sector to its present, much sounder position, with still further improvements being pursued.

Whilst Councils still prefer to levee uniform service charges for CWMS services and to differentiate between vacant and occupied allotments, they have been assisted to determine sustainable pricing by using the LGA fostered whole of life costing template model. This uses traditional discounted cash flow techniques to estimate the whole of life cost of owning, operating, maintaining and replacing systems. Service charges are set to recoup those costs, but not necessarily without temporary cross subsidy from other schemes or general revenue depending on the structure the overall Business and Long Term Financial Plans.

The LGA view is that there are community-wide benefits flowing to all residents and ratepayers from the advent of CWMS and recycled water schemes and some temporal cross subsidy from general revenue should be regarded as appropriate.

Precise quantification of any such cross-subsidy should not be required by ESCOSA, and in practice could not be achieved with any precision. Councils budget preparation and public consultation process ensures that ratepayers are informed of the major aspects of the pricing, including inherent cross subsidy of a wide range of Council services.

SKILLS AND KNOWLEDGE

Only in recent years has whole of life cost principles been introduced to a sector which was historically minimally funded, and maintained on the whole. In recognition, major efforts have been, and continue to be, made in:

- achieving sound data (asset knowledge) bases;
- informed long-term cost modelling of systems (however this can only be on the basis of very limited disaggregation);
- sound operation and maintenance practices, and sound job numbering and financial cost recording; and
- remediation of existing schemes to bring them to current regulatory compliance.

These are all major undertakings, and are still very much works-in-progress.

The LGA has concurrently conducted and funded research projects in collaboration with Councils, to develop “aggregation” models for regionally-shared intelligence and systems to allow the sector to improve its knowledge and compliance bases. Only two regions of the State have not yet been presented with the findings of the Pilot Studies. Adoption of the principles and practices findings will in time support better pricing for CWMS yet still very much in progress and should not be pre-empted to the detriment of the sector as a whole.

DIFFERENTIAL PROPERTY PRICING

State legislation provides for differential pricing for CWMS to be determined on the basis of the LGA “Property Units Code”. This Code was developed through joint efforts of SA Water, the Departments of Health and Local Government Services, industry representatives (experienced wastewater Consulting Engineers) and public administrators.

The basic “unit” is a 3.5 person household generating 490L wastewater per day. This is a figure which was taken from historic field measurements.

Councils are entitled to raise revenue on the basis of nearest up rounding of the estimated average daily wastewater generated by different property types (e.g, schools, hotels, caravan parks, laundromats, etc). It is a method to base charges on relative loading of a property on the system.

Price setting using the Property Units Code as an aid is widely accepted by communities and Local Authorities, and is much easier and more cost-effective to implement than ESCOSA’s models.

ACCOUNTING STANDARDS

ESCOSA should not impose price regulation, modelling, monitoring or setting which conflicts with the Local Government Act and associated legislation and standards as follows:

- accounting Standard AASB116, which requires Councils to value public infrastructure on the Fair Value (generally Depreciated Replacement Cost) methodology. Valuation of "legacy" assets on the "deprival" methodology as per NWI Pricing Principles may be in conflict with AASB116; and
- Councils should be able to use appropriate and agreed depreciation methodologies that best fits their Business Plan.

EXISTING CONTRACTUAL COMMITMENTS

All existing contractual commitments must stand.

DETAILED CONSIDERATION OF “FIT” OF CURRENT PRACTICES WITH ESCOSA’S PRINCIPLES

It is envisaged sector wide responses to the detailed questions contained in ECOSA’s July 2012 Consultation Paper on Proposed Price Regulation will inform on the "fit" with current sector pricing practices.

COUNCIL WIDE PRICE AVERAGING

It is the view of the LGA that the following principles should be accepted regarding price averaging:

- ongoing rights of Councils to average pricing over multiple schemes in the area and not determine price on an individual scheme basis;
- the rights of Councils to apply time-based variation to service pricing to accord with Strategic, Business and Long Term Financial Planning; and
- the status and legitimacy of the LGA CWMS Property Units Code as a basis for the determination of differential charging for different property types, and not be required to work on Capital Values as the differentiator for individual properties, or property types.

DOUBLING UP ON EXISTING LEGISLATIVE REQUIREMENTS: REPORTING AND MONITORING

Pursuant to the Local Government Act 1999, Councils are required to declare pricing information to ratepayers at every budget time (prior to fixing or issuing of Rates Notices). There are many provisions of the Act which govern the pricing of Local Authority services, and which set limits on cost-recovery.

It contended that these requirements are not at odds with sound Public Enterprise Business Practice, or are in any other respect inadequate in terms of protecting the rights of ratepayers. Pricing has to be transparent, and Councils performance with respect to Accounting Standards is audited annually by independent external auditors.

In this respect, having to report to ESCOSA is clearly a doubling up of effort.

The question has to be asked as to what ESCOSA can achieve through the proposed Price Monitoring and Reporting requirements, when Local Government is already highly regulated in precisely those areas of performance.

The proposition is equally debatable that the specific and complex costing and reporting requirements of the NWI principles are measurably superior to the current requirements on Local Government in South Australia.

It is also questioned that the proposed requirements will achieve any beneficial outcome for ratepayers (the contrary is argued that the additional level of bureaucracy, and the cost imposts it will place on sparsely-resourced Councils, will produce a net negative outcome).

APPENDIX A: (TABLE BASED ON ESCOSA RE WATER INDUSTRY RETAIL POSITION)

POINTS OF ISSUE RE LICENCING

Requirements of Final Advice By ESCOSA	Is It Currently Required	COMMENTS/OPTIONS/ISSUES
<p>Final Advice 1 Will require entities providing retail services to be licensed.</p>	<p>A license to operate CWMS is not currently required except in the case of schemes greater than 1,000 EP in which case an EPA license is required.</p> <p>Both the EPA and Department for Health (DH) have a monitoring/regulatory role.</p>	<p>There are 42 Councils in South Australia plus outback areas plus special arrangements such as Roxby Downs that provide publicly operated CWMS.</p> <p>There are 161 public CWMS Schemes.</p> <p>68 schemes exceed 1,000 EP in size and require an EPA license.</p> <p>Few CWMS schemes are “full sewer” with the vast majority being Septic Tank Effluent Drainage Schemes (STEDS).</p> <p>Section 3.2.3.2 of the discussion paper, issue box 3.6 and page 29. 2 Urban Water Tariffs all refer to the urban environment without providing any definition of urban.</p> <p>Clearly the vast majority of the CWMS services operated by Local Governments in South Australia are not urban with most systems serving only very small rural clusters or townships. Indeed all of the CWMS systems in the larger cities and towns in South Australia such as Mount Gambier, Port Pirie, Whyalla, etc are operated by SA Water.</p> <p>Urban growth has caught up with the developing areas of Onkaparinga, Tea Tree Gully and Mt Barker and a strong case could be made for these areas to be classified as Urban for ESCOSA regulatory purposes.</p> <p>The LGA view is that except for those very few Councils that could be considered to be Urban for the purposes of ESCOSA regulation</p>

		<p>and those Councils that have commercialized the sale and reuse of treated wastewater, that rural Councils providing CWMS do not provide a retail service that requires licensing.</p>
<p>Final Advice 2 Assumes that Councils will be required to seek a license and in so doing the commission may consult re the licensing process, obligations and conditions.</p>	<p>As previously indicated under the current arrangements 68 public schemes require an EPA license. No other licenses are required.</p>	<p>Final Advice 2 takes for granted that Council CWMS will be licensed. There is no definition of the license requirements e.g:</p> <ul style="list-style-type: none"> • license granted to Councils operating CWMS = 42 licenses; • license for every scheme = 161 licenses; • license for schemes bigger than 1,000 EP = 68 licenses; • license for those schemes that beneficially reuse treated wastewater for community facilities = approx 80; • license for “Full Sewer” CWMS (unknown but few); and • license for those schemes that reuse treated wastewater on a semi commercial basis = approx. 12. <p>An ESCOSA a license should only be required of the 42 Councils that operate CWMS, such licenses should eliminate the requirement for an additional EPA license.</p> <p>CWMS / STEDS schemes have been provided by Councils at the request of the communities as an environmental and / or public health initiative. The imposition of onerous license requirements could result in small communities being unwilling to invest in CWMS.</p> <p>Construction of new CWMS and the potential beneficial reuse of treated wastewater on community facilities could in future be severely compromised.</p> <p>The future of the State Government/Local Government CWMS funding agreement for equalization of funding for the construction of new CWMS schemes could be at jeopardy.</p> <p>Failing to reuse recycled wastewater as and when the opportunity arises is contrary to the objectives of the SA Government Water For Good initiative</p>

		Councils that have commercialized the sale of treated wastewater should be licensed (approx.12 licenses).
<p>Final Advice 3 Indicates that a license will be mandatory then goes on to indicate that size and scale etc will be taken into account</p>	<p>Other than EPA licensing which cover environmental pollution issues and operates in conjunction with DH re Public Health no other licensing is required.</p>	<p>There is no indication or definition other than that the commission will take into account size/scale etc. what standards will be applied? Who will have input into determining the rules of determination etc?</p> <p>The applicable standards, exemptions (if any) scale of operation, definition of urban etc. need to be determined and documented before the license requirements are implemented. This will enable the impact on local government to be clearly defined.</p>
<p>Final Advice 4 This advice indicates that the supplier (Councils) will need to take the following consumer protection steps.</p> <ul style="list-style-type: none"> • Adopt and implement a customer charter; • An enquiries, complaints and disputes handling process; • A register of critical needs customers; • A billing process and policy; • Payment requirements and payment difficulties, flexible payment options and hardship provisions; • Restriction, disconnection and 	<p>The Local Government Act 1999 as amended provides for almost all of the issues indicated in Final Advice 4.</p> <p>Most of the issues likely to be covered in a Customer Charter are very well covered by various sections of the Local Government Act which also provides the added benefit of Council policies / decisions / dispute resolution etc, falling under the ambit of the South Australian Ombudsman and the Ombudsman’s Act The Local Government Act does not provide for the collection of data on critical needs customers.</p>	<p>Councils provide and operate CWMS systems as an environmental and/or public health service.</p> <p>Councils are only permitted under the Local Government Act to recover the whole of life capital and operating cost of providing the service and are not permitted to make a profit (many Councils are currently in catch up mode and are operating at a whole of life loss).</p> <p>The Local Government act is prescriptive in most aspects of operations with section 270 of the act providing for complaints handling and grievance procedures and a review of Council decisions process.</p> <p>Sections 180, 181,182.182A all provide for billing requirements. The Service rate or Service charge for provision of CWMS is provided as separate items on rate notices and is the subject of a separate decision by the Council.</p> <p>The Local Government Act chapter 10, Part 1, Divisions 1 to 10 Rates and Charges and Part 2 Fees and Charges is prescriptive in the manner in which the Council manages the setting and collection of rates and service charges and also the setting of fees and charges.</p>

<p>reinstatement of supply policy; and</p> <ul style="list-style-type: none"> • Illegal use. 		<p>Eligible persons (pension card holders) may make an application for a rate concession. These same persons are likely to be able to access any other government concessional arrangements that may be available to them.</p> <p>Most Councils already provide documents / application forms / advice etc, however there is no mandated requirement to do so in the LG Act.</p> <p>Rates do not apply to the sale of treated wastewater where Councils provide the water for a commercial/water saving purpose.</p> <p>The arrangement for the sale of treated Wastewater is normally the subject of a separate commercial agreement between Council (the supplier) and the customer (the recipient) (this therefore only applies to approximately 12 Councils).</p> <p>The Local Government Act does not require Councils to identify and register persons residing in the Council area that are reliant on life support.</p> <p>With very few exceptions such as Roxby Downs and Coober Pedy Councils do not supply potable water.</p> <p>A supply restriction or operational downtime of sewerage or STEDS even for a period of moderate duration is unlikely to endanger persons reliant on life support.</p> <p>It is the LGA view in respect to Final Advice 4 that there are sufficient “customer protections” in place in the Local Government Act and separate ESCOSA customer charter is not required.</p>
<p>Final Advice 5 Requires that Councils will need to use standard terms and conditions to contract</p>	<p>Local Governments interaction between property owners / residents / occupiers is mandated primarily in the Local</p>	<p>The Local Government Act and Accounting regulations require Councils to adopt Strategic Plans, Asset Management Plans and Long Term Financial Plans all of which require community consultation and input before being adopted by Councils.</p>

<p>with residential customers.</p>	<p>Government Act.</p> <p>Provision, implementation, operation etc, of CWMS in particular is covered by the requirements of the LG Act, the Health Act and the Environment Protection Act.</p> <p>The decision to proceed with construction of a new CWMS is usually as a result of a perceived need in the community and only after considerable community consultation.</p>	<p>Local communities have a far greater input into Council service levels etc than is the case with SA Water.</p> <p>CWMS or STEDS schemes are services provision the same as waste collection services, recycling etc. The cost of Council providing and operating the service can be separately identified and recovered by means of a service rate or service charge. However the Local Government Act (section 155 (5) requires that Councils may only recover the cost of providing the service and generation of profit is prohibited.</p> <p>Of those few Councils which have facilitated disposal and recycling of treated wastewater, most have prepared and signed contracts with recipient customers. Contract arrangements will be significantly vary from contract to contract.</p> <p>The LGA view is that for those Councils providing a CWMS/STEDS service the Local Government Act etc provides the necessary customer protections.</p> <p>There may be a case to argue that where Councils enter into a new commercial arrangement with customers for the supply of water/wastewater that new contracts should include some commonly agreed standard terms and conditions.</p>
<p>Final Advice 6 Best endeavors service standards regimes.</p>	<p>Service standards, operating conditions etc, are imposed by Department for Health (DH) and monitored by the Environment Protection Authority (EP).</p> <p>In the last few years the LGA has worked with Councils to bring both CWMS operating standards and also fees for</p>	<p>Councils have made significant progress in efficient and effective management of CWMS considerably over the last few years, driven for the most part by being recipients of external funding for upgrades of CWMS for wastewater recycling etc.</p> <p>Excessive and onerous regulatory requirements imposed on already under resourced rural Councils are likely to result in this impetus being lost with Council efforts / plans to recycle / reuse being abandoned.</p>

	<p>service charges up to a realistic Whole of Life service standard.</p>	<p>It is fair that some minimum service and maintenance standards and minimum operational reporting requirements should be imposed (probably 6 monthly to DH) to ensure that at least minimum standards are both consistent and are maintained.</p> <p>Consideration should be given that in preparing minimum standards and compulsory reporting document Councils, DH and the EPA all be consulted prior to formal adoption and implementation.</p>
<p>Final Advice 7 Reporting to Commission re performance monitoring.</p>	<p>Councils that reuse treated wastewater are currently required to carry out quarterly system monitoring, to provide water quality test results to the DH and also to submit an annual system activity report.</p> <p>All EPA licensed schemes are required to report to the EPA as part of license renewal applications.</p> <p>All spills or environmental impacts must be recorded and reported in accordance with strict EPA reporting standards.</p>	<p>This would appear to be another level of reporting.</p> <p>As indicated in the response to Final Advice 6 there is a scope for some improved performance, monitoring and reporting.</p> <p>The main question is to whom reports should be made, the number of different levels of reporting required etc.</p> <p>Establishing which regulatory body is the best recipient of a single report and the format of the report should be resolved between the Commission, DH, EPA and the LGA before the reporting requirements are finally determined.</p> <p>The LGA is opposed to any process that ultimately requires multiple reports to different regulatory bodies.</p>
<p>Final Advice 8 Adherence to compliance in relation to other essential service industries.</p>	<p>Compliance standards for Local Government CWMS are set by EPA and DH.</p>	<p>The main debate here is whether or not the provision of a CWMS / STEDS is an essential service.</p> <p>Where Councils have decided to install a Full Sewer System and therefore receives solids and liquids a system failure could rapidly deteriorate and become a significant health concern.</p> <p>This is not the case with CWMS where for the most part solids are retained in a tank at residential or commercial premises (to be</p>

		<p>pumped out every 4 years by a licensed contractor) whilst the liquids overflow into a pipeline to either evaporate, be disposed of, or, subject to ongoing treatment for reuse.</p> <p>The vast majority of schemes in South Australia are CWMS which are installed voluntarily by small communities to minimize the risk of tank overflows, odors etc. and to minimize the amount of water from effluent entering the environment.</p> <p>ESCOSA should determine which schemes / systems (if any) fall into the essential service industry area.</p> <p>Treated water used by Councils for commercial purposes may fall into this category and as a result compliance standards should be applied.</p>
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SUMMARY

Since 2003 / 2004 when an audit of all existing Public CWMS schemes was carried out the LGA has been actively involved in working with Councils to bring CWMS schemes to a standard that will meet modern standards and to work toward increasing rates / service charges to reach a point where charges equal Whole of Life costs and are sustainable.

This process has been assisted by the injection of Australian Government funding of various schemes under the National Water Initiative. This external funding has enabled many rural Councils to upgrade CWMS/STEDS schemes and, where feasible, to recycle improved standards of treated wastewater for use on Council ovals, reserves, open space, etc.

The result is that Councils have been able to reduce reliance on water from the River Murray and from groundwater and to therefore work toward meeting the South Australian Government “Water for Good” objectives.

The proposed regulatory provisions by ESCOSA have the potential to work against (if not widely mitigate against) the whole Local Government CWMS and Total Water Strategy impetus, halt much of it and possibly reverse valuable water-initiative gains already made.

As indicated above, there may be a case to seek to impose some regulatory standards on some aspects of Local Government CWMS / STEDS / Wastewater Recycling. However, the largest CWMS schemes are Mt Barker 7,316 connections, Onkaparinga 4,167 connections and TT Gully 4,473 connections which by all definitions should be classed as Urban Schemes.

These three schemes also have significantly commercialized the use of treated wastewater from systems.

Where Councils are required to be licensed by ESCOSA then EPA licensing requirement should be discontinued (however EPA environmental standards could continue to be applied).

There are sufficient provisions in the Local Government Act to facilitate consumer protection standards and charter provisions.

If a separate customer charter is required by ESCOSA it will add another layer of administrative requirements and another layer of confusion for both operatives and customers.

CWMS / STEDS are not essential services and the provisions such as developing and maintaining a register of persons relying on life support is not required.

There is a case to be made for development and adoption of minimum standards for operation and management of CWMS / STEDS, including reuse of treated wastewater for non commercial activities. The LGA, on behalf of Councils, is keen to work with ESCOSA, DH and EPA to prepare a set of minimum standards and to seek adoption by Local Government as a whole.

All Councils both licensed and unlicensed could be required to report at an agreed frequency to the agreed body (as the greatest risk is to public health the preference is to report 6 monthly to DH).

There is a need to ensure that the water being commercially supplied meets the relevant standards, is fit for purpose and is safe.

A defined standard agreed by all parties (particularly DH) re the safety of this by product is important.

Pricing: The payment made to Councils for supply of treated wastewater is generally commercial in confidence.

Every Council has differing needs. In some cases the sale of the water is necessary as the only economical disposal path available and is needed to avoid the option of long disposal distances and or non productive disposal to the environment.

For the most part selling the treated wastewater at what may be considered at less than the optimal cost is likely to be the best overall financial and environmental outcome.

In some cases the sale of the water at low cost can also save and/or create local jobs which could be considered to provide community benefits in addition to the financial benefits.

CWMS construction is very expensive for small communities. This has resulted from modern construction standards, increased DH and EPA requirements and consideration of wastewater treatment and disposal options. In addition to the LGA administered State Government CWMS Subsidy Scheme requires that Councils must adopt service charges that are set at sustainable levels.

Imposition of additional licensing and compliance costs may create a risk that Councils in consultation with communities will decide to continue with septic tanks or to assist the use of bio-cycle tanks and to not proceed with long planned CWMS schemes. If this is the case it will be to the detriment of public health, to the environment, to beneficial wastewater reuse and to advances in CWMS standards made in recent years.

APPENDIX B: PRICING PRINCIPLES

FORMAT AND NUMBERING EXTRACTED FROM ESCOSA JULY 2012 DISCUSSION PAPER

Issue 3.2 - What are the advantages and limitations of current pricing practices for providers of sewerage services (excluding SA Water)?

- *competency levels;*
- *asset data bases;*
- *simplicity;*
- *consistency; and*
- *working towards sustainable pricing in a structured manner with Federal and Local Government assisted improvement programs.*

3.1.3 Recycled Water and Stormwater

Issue 3.3 - What are the advantages and limitations of current pricing practices for providers of recycled water and stormwater services (excluding SA Water)?

- *mMost are municipal or convenience-based, providing community-wide benefits, and no identifiable “customers” to charge (eg, pointless to charge the footy club which is a community organisation subsidised by Councils anyway);*
- *where there is a specific customer, simple allocation is done by commercial agreement without costly, theoretical argument about apportioning “real” share of total costs to the recipient(s); and*
- *Council at large benefits from reduced system deficits, reduced reliance on potable water supplies, and all income etc is declared at budget and rates time so the community sees the simple details.*

3.1.4 Other Non-Drinking Water

Issue 3.4 - What are the advantages and limitations of current pricing practices for providers of other non-drinking water services (excluding SA Water)?

- *No comment until further investigation and consultation carried out.*

3.1.5 Other Related Water and Sewerage Services

Issue 3.5

- **What are the advantages and limitations of current pricing practices for the other related water and sewerage services?**
- **What relevant legislative and regulatory matters should the Commission have regard to in the price regulation of these services?**

Same as for Issue 3.5 above.

3.2 Proposed Pricing Principles

3.2.1 The National Water Initiative Pricing Principles

No objection to the following principles:

- *promote economically efficient and sustainable use of water resources, water infrastructure assets, and government resources devoted to the management of water;*
- *ensure sufficient revenue streams to allow efficient delivery of the required services;*
- *facilitate the efficient functioning of water markets, including inter-jurisdictional water markets, and in both rural and urban settings;*

- *give effect to the principle of user-pays and achieve pricing transparency in respect of water storage and delivery in irrigation systems and cost recovery for water planning and management; and*
- *avoid perverse or unintended pricing outcomes.*

3.2.4 Sewerage

The NWI principles only apply to capital expenditure incurred in the provision of water services. They do not cover sewerage services. The Commission is unaware of the reason for excluding sewerage services from these principles.

A number of the NWI pricing principles appear to be relevant to sewerage services, and the Commission considers it appropriate that consistency in price regulation between the regulated services should be promoted where practical.

No argument in principle, but affordability, simplicity and practicality are the big queries.

Therefore, the question for the Commission is, what NWI pricing principles should be adopted for sewerage services? The Commission has considered this, and proposes that the pricing principles in Box 3-3, which are similar to those for drinking water services, should be adopted.

Issue 3.7

- **How do the proposed NWI Pricing Principles for sewerage services align with current pricing practices for providers of these services (excluding SA Water)?**
- **Are there any impediments to applying these NWI pricing principles from 1 July 2013?**
- **Are there any other relevant factors the Commission should take into account in considering these pricing principles?**

See comments in body of text above under "Pricing".

3.2.5 Recycled Water and Stormwater Use

Pricing for recycled water and stormwater needs to take into account a number of complex, and at times competing, factors. For example:

- recycled and stormwater projects often receive significant government funding. This is often for the initial capital only with the operating costs to be borne by the schemes 'beneficiaries', which are often not directly apparent;
comment: always the case for Local Government, e.g, capital subsidy only - scheme beneficiaries are apparent the whole community benefits from such schemes.
- water recycling and stormwater harvesting have been heavily promoted by Governments as a favourable water supply option, to avoid system augmentation and for environmental reasons (e.g, to reduce demand on other water sources); and
- recycled water and stormwater can be direct substitutes for non-potable mains water, which can at times be less expensive to produce.

Similar to the Commission's Final Advice, the NWI states that light handed and flexible regulation (including use of pricing principles) is preferable, as it is generally more cost-efficient than formal regulation. However, formal regulation (e.g, establishing maximum prices and revenue caps to address problems arising from market power) should be employed where it will improve economic efficiency.

Comment: not relevant in all known schemes. Councils recoup only some of the costs of production and distribution of the water, as the community as a whole are the beneficiaries of reduced scheme costs and improved municipal amenities.

3.2.5.1. Cost Allocation

When allocating costs, a beneficiary pays approach — typically including direct user pay contributions — should be the starting point, with specific cost share across beneficiaries based on the scheme's drivers (and other characteristics of the recycled water/stormwater reuse scheme).

To further assist recycled water and stormwater service providers, on the principle of allocating costs, the Commission proposes the following:

- Where the recycled water service is the lowest cost method of disposal, costs should be paid by sewerage customers;

Comment: not always eg, lowest cost might not be the lowest carbon footprint or may not reflect Council's adopted environmental, planning and other municipal policy positions which are endorsed by the community (and thereby the customers) at budget declaration time.

- Where the users are industrial, agricultural or municipal customers, costs should be paid by the beneficiaries of the service;

Comment: they already are:

- Where the recycled water service is discretionary, the costs should be paid by the water provider's customer base, provided they have demonstrated willingness to pay (WTP);

Comment: too hard to define; unclear; who decides, and on what ongoing information base?

Overall comment: this principle is far too theoretical and impractical for Local Government to apply, for reasons given consistently throughout this paper.

3.2.5.2. Cost Recovery

With respect to cost recovery, the NWI Pricing Principles state that prices should recover efficient, full direct costs — with system-wide incremental costs (adjusted for avoided costs and externalities) as the lower limit, and the lesser of stand-alone costs and customer's WTP as the upper limit. Any full cost recovery gap should be recovered with reference to all beneficiaries of the avoided costs and externalities. Subsidies and Community Service Obligation (CSO) payments should be reviewed periodically and, where appropriate, reduced over time.

Comment: this is far too complex for Local Councils. Unrealistic to expect ever to know this accurately. Impractical, theoretical, not going to be understood etc. More appropriate to use to simpler methodologies).

3.2.5.3 Water Usage Charge

The Commission proposes that, for reasons of consistency, this proviso be applied to Principle 3 of the Recycled Water and Stormwater Reuse for consistency. This does not change the intent of the principle, as the default position will be a requirement for a water usage charge to be applied. If a recycled water / stormwater provider chooses not to apply a usage charge, they must demonstrate, to the satisfaction of the Commission, why such a charge would not be cost effective.

Comment: again too unrealistic and theoretical. Not a major issue for almost all Council schemes. No justification for Councils having to explain “to the satisfaction of the Commission” if they choose not to apply a user charge. That is a decision for Council to make as a part of its overall, publicly-declared, Business Plan and rating practice.

3.2.5.4. Substitutes

These NWI Pricing Principles also state that consideration of the price of substitutes (potable water and raw water) may be necessary when setting the upper bound of a price band. The Commission notes that this practice is adopted by the City of Onkaparinga, as highlighted in its pricing principles (Appendix G) .23.

This is a complex matter, and one that has caused tensions between stakeholders and retailers. For example, retailers and users of recycled water have argued that recycled water should be priced lower than potable water, on the basis that recycled water is an inferior product, due to its lower quality. However, there are potentially other benefits in using recycled water that relate to its substitutes that may need to be taken into account, such as security of supply.

Comment: It is understood no Council charges more than 70% of the SA Water potable water charge for recycled water.

3.2.5.5. Differential Pricing

Pricing structures should be able to reflect differentiation in the quality or reliability of water supply.

Comment: they currently do.

3.2.5.6. Integrated Water Resource Planning

The NWC pricing principles also refer to integrated resource water planning (IWRP) (Principle 6). IWRP relates to the idea that alternative water supply options can be utilised to balance demand and supply and consequently, minimise system-wide costs. *Comment: too complex and will not be able to comply.*

3.2.5.7. Transparency

The NWI principles also state that prices should be transparent, understandable to users, and published, to assist efficient choices. This is consistent with the Commission’s Final Advice, which proposed a price monitoring regime for mandated recycled water services.

However, a distinction between mandated water recycling schemes and voluntary water recycling schemes is not made in the NWI. This principle therefore applies to all recycled water/stormwater schemes.

Comment: OK if it is accepted by ESCOSA that this matter is inherent in Council’s annual publishing of its budget papers and rates information, but not a separate impost.

Issue 3.8

- **How do the proposed NWI Pricing Principles for recycled water and stormwater services align with current pricing practices for providers of those services?**
- **Are there any impediments to applying these NWI Pricing Principles from 1 July 2013?**

Comment : Need time and collaborative effort through the Joint Working Group to deal with the details. Impediments are as described elsewhere, primarily lack of resources, data, skills, systems etc and the fact that separate, Nationally-recognised and promoted initiatives are already leading Councils to sustainable pricing in accordance with mandates under existing legislation.

- **Over what period should a ‘gradualism’ approach to moving prices to comply with NWI Pricing Principles, be implemented?**
- **Are there any other relevant factors the Commission should take into account in considering the NWI Pricing Principles?**

Comment: as above. A sufficient transition period needed prior to commencement of Licensing and Price Regulation.

3.2.6 Other Non-Drinking Water

Comment: as above.

3.2.7 Other Related Water and Sewerage Services

In light of the above, the following principles are proposed:

- Principle 1: Where a service is provided for the sole benefit of the recipient, the beneficiary should pay the full cost of the service and other consumers should not be required to contribute to the cost of the service through water tariffs;

(Comment: Already generally practiced under Sec 188 of the LG Act, and/or through Development Approval Conditions and Trade Waste regulations).

- Principle 2: Where services are provided under differing circumstances, the associated costs can differ between consumers.

Comment: already happens.

Issue 3.10

- **How do the proposed pricing principles for other related water and sewerage services align with current pricing practices for providers of those services?**
- **Are there any impediments to applying these NWI Pricing Principles from 1 July 2013?**
- **Are there any other relevant factors the Commission should take into account in considering these pricing principles?**

Comment: as in 3.8 above.

3.2.8 Abuse of Market Power

It should be noted, that if any evidence of material misuse of market power comes to light, the Commission will reserve the right to consider a “heavier handed” form of price regulation.

Comment: Councils Elected Members make transparent decisions on behalf of the community and are answerable at law for decisions. Another layer of bureaucracy to report to is not required.

3.3 Duration of First Price Determination Period and Reviewing the Effectiveness of the Pricing Principles Framework

Issue 3.11

- **What is an appropriate duration for the initial price determination period for water service providers other than SA Water?**
- **What matters should the Commission consider when reviewing the effectiveness of the pricing principles framework?**

Comment: same as above. Too soon to commence the “initial price determination period”. It needs collaborative effort to define practical price principles and practices before it can be reviewed. There remains the question of what additional benefits are expected to flow from ESCOSA’s imposition of a different price regimen from those under development in a practical, affordable way by the Sector as a whole.

4 Price Monitoring Frameworks

Issue 4.1 - Is the public disclosure of a pricing schedule and pricing policy statement sufficient? If not, what other information should be published and why?

Comment: yes and it is already covered through Council’s mandatory public consultation process relating to its annual budget, declaration of rates, Strategic, Business and Long Term Financial plan).

4.4.1.2. Regulatory Reporting Requirements

There are two common regulatory reporting requirements under the Commission’s proposed price monitoring frameworks.

First, regulated service providers are required to provide the Commission with an up to date copy of the pricing schedule and accompanying pricing policy statement, and provide information on factors underpinning price movements. The provision of such information on a timely basis enables the Commission to monitor prices, and to gain insights into the relative price movements between different regulated service providers.

Comment: A template / framework should be provided for any reporting requirement.

Second, regulated service providers are required to provide regulatory accounts that cover all of business activities (encompassing both regulated and unregulated services) in a manner prescribed by the Commission. These regulatory accounting statements will need to be prepared in accordance with the Australian Accounting Standards, and audited under the Australian Auditing Standards.

Comment: Already happens the Commission should not be prescribing the manner. The Working Group should consider the possible necessity, and whether any augmentation of existing standard reporting requirements is warranted).

The provision of regulatory accounts serves several purposes, some of which are identified by the Commission below in Table 4.2.

Table 4-2: Main Purposes of Regulatory Accounts

PURPOSE	DESCRIPTION
Detecting anti competitive behaviour.	

Regulatory accounts allow the Commission to detect anti-competitive behaviour (e.g, misuse of market power and / or unfair cross-subsidisation). For example, where the Commission’s monitoring reveals that prices are being increased far in excess of the actual cost increase incurred by the regulated provider.

They are therefore important regulatory instruments to assist the Commission in forming an opinion of the level of competition, and in identifying anti-competitive behaviour.

Monitoring the financial viability of regulated service providers.

The Commission considers that the long-term interests of consumers are consistent with efficient and financially viable industries that have incentives for long-term investment.

In that context, monitoring of financial information assists the Commission in ensuring that prices of water retail services are being set at a level that would allow for the full recovery of efficient costs.

Identifying key drivers of price increases.

Regulatory accounts allow the Commission to identify the key drivers of any price increases. For example, whether those price increases are as a result of capital expenditure on new water infrastructure, or as a result of market power being exercised to earn monopoly rents. Informing future regulatory decisions.

In the absence of regulatory accounts, the Commission would not have the necessary financial information to inform future regulatory reviews. This could potentially lead to the Commission placing an undue emphasis on information gathering and analysing at the time of a regulatory review.

The reporting of such information to the Commission also enables it to monitor financial performance between regulatory reviews.

Comment; As above

Table 4-3 below summarises the type of financial information that is collected by the Commission to perform its regulatory functions across other regulated industries.

Table 4-3: Information for Financial Performance Reporting INFORMATION REQUIREMENTS DESCRIPTION

Disaggregation of various parameters and inputs.

Comment: As previously described, Local Government does not have resources to facilitate finely disaggregated information for Financial Performance Reporting.