



Our Reference: 63422 / MB : CS

28 January 2011

Adam Wilson
Essential Services Commission of SA
GPO Box 2605
ADELAIDE SA 5001

Dear Adam

Economic Regulation of the Water Industry – Issues Paper

Please find enclosed the LGA submission to the Department for Water on the Draft Water Industry Bill 2010. Please also consider this submission as the LGA's preliminary response to the ESCOSA Issues Paper on the Economic Regulation of the Water Industry. As noted in the submission and the legal advice to the LGA the draft Water Industry Bill and the ESCOSA Issues Paper are inextricably linked, and, in the time available, it has not been possible to prepare a separate submission on the Issues Paper.

However, the LGA looks forward to further discussion and consultation with ESCOSA staff on the development of the proposed regulatory framework, including the specific questions highlighted in the Issues Paper.

I also appreciate the contribution from the staff of your department, the Department of Treasury and Finance and ESCOSA in consultation with the LGA and Councils on the Bill to date.

Please contact Michael Barry, Director - Local Government Reform on 8224 2033 or email michael.barry@lga.sa.gov.au if further information is required.

Yours sincerely

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Attach: Water Industry Bill Submission (63099)



Water Industry Bill

**Submission by the Local Government Association
of South Australia**

27 January 2011



1 INTRODUCTION

The Local Government Association of South Australia (LGA) appreciates the opportunity to comment on the consultation draft of the *Water Industry Bill 2010* (the Bill). The LGA State Executive Committee considered a report on the Bill (and the ESCOSA Issues Paper) at its meeting held on Thursday January 2011 and authorised the LGA President and Chief Executive Officer to finalise this submission based on comments received from Councils and legal advice.

While it is appreciated that the concepts enshrined in the Bill were first flagged in the State Government's Water Security Plan (*Water for Good*), released in June 2009 and a Discussion Paper was released in late 2009, the time available for formal consultation on the Bill has been both limited and held over the holiday season. Therefore, the LGA would expect to be making further and more detailed comments in the near future prior to the Bill being considered by Parliament.

The LGA is aware that individual Councils have made submissions on the Bill which will need to be considered in their own right. In particular the LGA is aware of the joint submission prepared on behalf of the Cities of Tea Tree Gully, Salisbury, Charles Sturt, Onkaparinga and Playford that principally deals with the issues confronted by these Councils regarding relatively large scale stormwater harvesting and recycling projects. The LGA supports the main elements of the joint submission and will not repeat the detailed arguments in this LGA submission. The LGA has also sought legal advice on the implications of the Bill for Councils and a copy of this advice is included as Attachment 1 and forms part of the LGA submission.

In most cases, this submission relates to both the provisions of the Bill and the role of ESCOSA, as canvassed in their issues paper as they are inextricably linked.

From a Local Government perspective the legislative framework proposed by the Bill needs to be analysed in a number of ways including the role of Councils in:

- Community Wastewater Management Systems (CWMS);
- stormwater management;
- 'other' water services;
- managing water infrastructure; and
- technical regulation of on-site wastewater systems.

2 COMMUNITY WASTEWATER MANAGEMENT SYSTEMS (CWMS)

2.1 History

Most of the townships in regional South Australia are provided with wastewater services by Local Government through various forms of CWMS. It is submitted that Councils did not 'choose' to become involved in the provision of wastewater services as historically this was the role the South Australian Engineering and Water Supply Department (E&WS) and subsequently SA Water under the *Sewerage Act 1929*. In particular, section 18 of that Act provided for **any area of the State** to be proclaimed as a 'drainage area' which empowered E&WS/SA Water to construct, manage and rate traditional deep drainage sewerage systems. In practice however, the proclamation of 'drainage areas' was historically limited to the Adelaide metropolitan area and major provincial cities.

From the early 1960s the State Government sought to encourage Councils to construct a cheaper form of communal drainage in regional towns based on linking existing septic tanks.



It is understood that the original policy concern of the State Government was based around public health considerations due to failing septic tanks and/or unfavourable drainage conditions. The *Local Government Act 1934* was amended to provide Councils with the necessary powers to construct and charge for these schemes¹. Councils were provided with financial subsidies and technical assistance originally by the Department of Health and subsequently by the Department of Local Government and the E&WS. The LGA agreed to take over the management of the State Government subsidy program in 2005. Over time 39 Councils manage more than 170 separate CWMS. Attachment 2 contains a list of existing CWMS.

The purpose of summarising this history is to demonstrate that, in regional areas, the provision of CWMS was a public service provided by a Council when the State Government's water utility was unwilling to do so, presumably on the basis of scale and economic considerations. In fact, once Council submission suggested that the opportunity be taken to transfer responsibility for CWMS from Local Government to State Government!

2.2 CWMS Charges

Provision of Wastewater Services

The power to charge landholders for CWMS services resides in s155 of the *Local Government Act 1999* (LG Act) through a 'service rate' or a 'service charge'. In practice most Councils adopt the 'service charge' option where a flat fee is applied to each household and a scaled fee is applied to land use types that generate higher levels of wastewater. However, Councils are forbidden from charging fees greater than the whole of life cost of providing the service, so it is submitted that CWMS 'prices' (or at least maximum 'prices') are already subject to regulation.

Due to the scale and location of regional CWMS it is submitted that the vast majority are providing a basic public service (equivalent to collection of domestic refuse) for which there is no prospect of competition from another entity and where the fees levied on users are based on cost recovery or less.

Furthermore, the service charges levied by Councils under s155 of the LG Act are a charge on the land pursuant to s177 of that Act. It is important that this feature of CWMS charges be retained even if a change of legislation is considered. The legal advice in Attachment 1 provides more detail and supporting material on these matters.

Recycled Wastewater

Many of the older CWMS rely on disposal of treated wastewater through evaporation ponds or non-contact irrigation schemes eg woodlots on Council land. In more recent times, with the assistance of Australian Government funding, nearly sixty old CWMS have been upgraded to enable the treatment and recycling of wastewater. In most cases, the recycled wastewater is used for irrigation of parks and reserves on Council land and therefore would not be caught under the terms of the Bill as currently drafted. Even where third parties are recipients of the recycled wastewater eg schools, golf clubs, farmers, the primary motivation of the Councils is to safely and responsibly dispose of the wastewater, and the costs borne by the recipient (if any) is reflective of this.

It is acknowledged that a very small number of Councils (usually metropolitan or large regional) have recycled water customers approaching a more 'commercial' scale. These opportunities are only available because these Councils have sufficient supplies of recycled wastewater and available value adding uses for the water eg horticulture, mining operations. However it is submitted that even in the case of the small number of Councils with material

¹ These schemes were originally known as Common Effluent Drainage (CED) and subsequently Septic Tank Effluent Drainage (STED) schemes.



revenue streams from recycled wastewater, the primary objective of the Councils remains the provision of a public service through the responsible disposal of wastewater.

2.3 Proposed Approach to Regulation of CWMS

The LGA's attached legal advice identifies that there may be some technical difficulty with the definition of 'sale and supply' in the Bill. Leaving aside this technicality, it is assumed that the intention of the Bill is to capture CWMS as a *retail service*. However based on the discussion in the submission it is proposed that most CWMS should either be:

- exempted from the classification of *retail service* by regulation; and/or
- recognised as a *water industry entity* under Part 4 of the Bill **without** the need for a licence.

Pursuant to s 113(3) of the Bill.

If some CWMS warrant regulation, then as discussed throughout this submission, that level of regulation should be commensurate with the scale of operation of each CWMS. The LGA submission on the ESCOSA Issues paper will elaborate on this proposed approach to regulation, where it is required. In brief, however, it is submitted that it would be possible to establish an agreed set of criteria to assign classes to CWMS where the lowest or smallest class would be exempt or not require a licence, through to 'soft' regulation for larger schemes.

3 STORMWATER MANAGEMENT SCHEMES

As stated in Part 1 of this submission, the LGA is aware that some large Councils with current or planned stormwater harvesting and recycling schemes have made separate submissions on the Bill and the ESCOSA Issues paper. In particular, the LGA was provided a copy of the joint submission prepared on behalf of the Cities of Tea Tree Gully, Salisbury, Charles Sturt, Onkaparinga and Playford and the LGA supports the main elements of the joint submission so that it is not necessary to not repeat the detailed arguments in this LGA submission.

It should be noted that the State Government's water security plan, 'Water for Good', sets ambitious targets for the harvesting and recycling of stormwater in the Greater Adelaide and regional areas. The vast majority of stormwater harvesting is undertaken by Councils and it would be a perverse policy outcome if Councils were confronted with a regulatory regime which created disincentives for harvesting, recycling and sale of stormwater resources. Care should be taken to ensure that where Councils are involved in significant stormwater harvesting and recycling projects which include the sale of water resources that any proscription under the Bill and/or regulation by ESCOSA is commensurate with the scale of the scheme(s).

4 OTHER WATER SERVICES

The vast majority of SA Councils are not involved in the provision of potable water supply but there are some exceptions including the District Council of Coober Pedy and Roxby Downs Municipal Council that manage 'town water' and sewerage supplies. The District Council of Ceduna also on-sells potable water to small communities west of Ceduna. It is suggested that these be considered as 'special cases' on their merits similar to the regulation of electricity supply.

Other Councils are involved in what might be best described as 'supplementary supply' of potable water for isolated communities where the normal SA Water potable supply service is not adequate or not available. These small scale schemes are developed in response to community need and it is submitted that they be exempt under the Bill.



5 MANAGING WATER INFRASTRUCTURE

Part 5 of the Bill – '*Powers and duties relating to land and infrastructure*' – is of significant interest to Local Government. For many years the LGA and Councils have sought to obtain legal clarification of Councils' powers to access CWMS and stormwater infrastructure located on private land. Many older CWMS and stormwater infrastructure were constructed at a time when it was deemed the infrastructure could be placed on a private land with an ongoing right of access to the Councils to protect and maintain that infrastructure. Over time it became evident that this right of access was not legally clear, resulting in there being a very large number of sites across the state where essential CWMS or stormwater is located on private land with no guaranteed right of access to maintain or replace that infrastructure.

The provisions of Part 5 of the Bill presents the opportunity for this anomaly to be corrected with out the potential difficulties of introducing a piece of 'special purpose' legislation. The LGA is able to provide more detail on this matter if requested. It also understood that the Ombudsman has had recent experience with a specific case which highlighted the issues associated with CWMS infrastructure on private land in the District Council of Yorke Peninsula.

6 TECHNICAL REGULATION

A number of regional Councils have approached the LGA about the practical implications that might arise from the implementation of technical regulation aspects of the Bill and the role of the Office of the Technical Regulator.

In regional areas, Council Environmental Health Officers (EHOs) are currently delegated to inspect and approve on-site wastewater systems under the *Public and Environmental Health (Waste Control) Regulations 2010*. Concern has been expressed that multiple approvals may be required under the Bill and the health regulations and/or a removal of the delegation to EHOs which would reduce the viability of these specialist positions in regional Councils. The LGA appreciates that this matter is yet to be determined but wished to flag this issue at this early stage of the process.

7 TRANSITIONAL PROVISIONS

It is appreciated that the current draft of the Bill does not contain Transitional Provisions in Part 4 but these will be considered and drafted after consultation. Appropriate Transitional Provisions will be imperative for the successful transition to the new legislative framework and the LGA looks forward to detailed consultation on this matter.

8 SUMMARY OF ISSUES

While this submission (including the legal advice attached) and submissions from other Councils contain a number of points of detail, the main elements of the LGA submission are summarised below:

1. The vast majority of Council Wastewater (CWMS) and Stormwater Harvesting Schemes are essential 'public services' rather than commercial operations and therefore should either be exempted from the provisions of the *Water Industry Act 2010* and/or be subject to no or minimal regulation by ESCOSA.
2. Where Councils are involved in genuinely commercial supply of water or wastewater services any regulation should be commensurate with the economic scale of the 'business'.
3. The powers for Councils to levy service rate or charges against the land (currently pursuant to Section 155 of the *Local Government Act 1999*) should be retained.



4. Provision of access rights for Councils to maintain wastewater and water infrastructure located on private land is strongly supported, including where a Council is not required to be licensed.
5. Technical regulation of on-site wastewater treatment systems in regional areas to should remain the responsibility of Councils and should not require multiple approvals.
6. The legislative framework should not have the unintended consequence of discouraging Councils and other bodies undertaking water recycling projects.
7. Transitional arrangements should reflect that Councils have long term contractual arrangements for the supply of treated wastewater and stormwater.



Attachment 1

Mr M Barry
Director –Local Government Reform
Local Government Association of South Australia
148 Frome Street
Adelaide 5001

Dear Sir

Water Industry Bill 2010 and Discussion Paper issued by the Essential Services Commission of South Australia

I refer to our meeting held on 10 January at which we discussed the implications for Councils arising out of the Water Industry Bill 2010 (the Bill) and the Discussion Paper issued by the Essential Services Commission of South Australia (ESCOSA).

As you know, section 17 of the Bill proposes to declare the Water Industry to be a regulated industry for the purposes of the Essential Services Commission Act 2002.

The regulation of the industry will have significant implications for those involved in the industry, including Local Government. The Bill establishes a system of licensing of those participating in the industry, price regulation and imposes on licensed participants other duties and obligations.

Other provisions of the Bill cover topics such as:

- the role of a technical regulator;
- the investigation of the basis for, and the future allowance of third party access to a participant's infrastructure;
- the power to limit or discontinue supply of water;
- the protection of infrastructure; and
- various powers to be granted to industry participants in relation to the development, construction, maintenance and rights to infrastructure on third party.

The last two points listed are provisions which, if enacted would be advantageous to the Councils involved in the Industry.

At our discussions, a number of key issues were identified for consideration and comment. These were:

1. To ensure that ESCOSA is fully aware of the historical background to Councils, current involvement in the industry and in particular, CWMS.
2. The application of the legislation to a wide range of schemes and the extent to which the provisions of the Bill ought to apply.
3. The basis on which exemptions to the obligation to be licensed will be granted, relevant factors to be taken into account and where it is considered appropriate to impose soft regulation
4. Concern over the use of the phrase "sale and supply" in the definition of retail service in section 4 of the Bill.



5. Transitional arrangements for existing contracts, some of which will continue for 20 years or more and in particular how ESCOSA will ensure that there is no prejudice to a Councils contract partners and other stakeholders.

6. The role of the technical regulator and its impact, particularly with respect to regional Councils.

My comments below in relation to each of these points relate to both the Bill and the ESCOSA Discussion Paper as they are inextricably linked.

History of Councils' involvement in the water industry.

In the 1960's and 1970's there was a need to both extend and improve the treatment of waste water. Problems, such as a lack of any treatment of waste water produced by households and other premises, septic tanks where there was inadequate disposal path for waste water were prevalent in many parts of the State, but in particular in regional areas. The then Engineering and Water Supply Department did not see itself as having a role in extending its operations to many regional areas and the developing outer suburbs of Adelaide. It therefore fell to Councils to deal with what was seen as a public health issue and a threat to further development. The Councils had power under initially the Local Government Act 1934, and subsequently the 1999 Act to develop the necessary infrastructure and to rate those who received the service.

The cost of construction of the schemes was sometimes paid by developers of the land who were required to do so as a condition of development. On other occasions the schemes were developed by the Council and the costs of construction were amortised and recovered by imposing a service rate over a period of years.

In more recent times other schemes were designed, constructed and paid for by shack owners. These shack owners were keen to convert their leased or licensed shack sites to freehold. Where there was not already one in place, a condition of them doing so was that they installed an acceptable waste water disposal system.

In most cases where the scheme was developed by third parties the relevant Council would have the infrastructure vested in it and would accept responsibility for the management, and eventual replacement of the scheme and the end of its operational life.

As Councils recovered their costs pursuant to S155 of the Local Government Act 1999 (LG Act), the Council was limited to recovering the cost incurred by it in "establishing, operating, maintaining, improving and replacing....the service in its area...." See section 155(5) LG Act. Councils were, and still are precluded from making a profit out of the provision of the service. I suspect very few, if any, include any amount for "return on capital". It was and is still seem by most as the provision of a community service.

A Council's performance in providing the service is already subject to monitoring by a number of agencies. The performance of the scheme itself is monitored by the Dept of Health and, depending on the size of the scheme, the EPA. Just like any other Council matter or issue, procedures for complaints grievances and external review are set out in the LG Act. The Ombudsman has the right to investigate and review (Chapter 6 Part 7). External auditors also review expenditure and provisions for future capital works etc (Chapter 8 Part 4 Division 3). There are requirements for Codes of Conduct for staff (Chapter 7 Part 4 Division 1). The relevant Minister for Local Government also has certain powers to investigate should issues arise (Chapter 13).



Some schemes in a Council area treat the waste water to Class A standard and another scheme within the same Council may only treat to Class B. Treatment to Class A generally is more expensive than Class B.

In summary it is worth repeating that these schemes are schemes that provide a community benefit at cost. There is no profit motive or shareholder dividend involved. They are subject to third party scrutiny and dispute procedures in the LG Act.

Unlike the electricity or gas industry, both of which are regulated by ESCOSA, the water and in particular the sewerage industry is dominated in number by Councils. As at 2006 there were approximately 172 Community Wastewater Management Schemes in South Australia operated by 39 Councils. Water and gas is and has been for some time dominated by major private sector operators.

Who should be required to be licensed, and if licensed , what provisions of the Bill ought to apply to them.

As mentioned above, there are a wide variety of schemes to which the Bill could potentially apply. The Bill anticipates that a service of a particular class could be exempt from the need to be licensed. There is also reference in the ESCOSA Discussion Paper of the possibility that a lower level of regulation (or soft regulation) may be appropriate. This reflects the provisions of section 19 of the Bill which anticipates categories of licence.

In order to understand who could possibly be able to mount a case not to be required to be licensed at all, it is necessary to consider the reasons for imposing the licence requirement, and being able to show that in such circumstances that apply the requirement to hold a licence does not add to the attainment of the objectives behind the Bill. Secondly they wish to ensure that the holder of a licence is a fit and proper entity to do so.

Very little guidance is provided either by the Bill or by the ESCOSA Discussion Paper as to possible grounds for exemption or limited regulation.

Those objectives relevant to the role currently played by Councils are to strengthen service delivery, to ensure excellent service delivery through independent and transparent complaints processes. To achieve these objectives the Bill proposes a scheme involving licences with conditions attached covering issues such as price, standard terms and conditions of supply, health and environmental standards, customer codes and dispute resolution procedures. There are also references to insurance requirements, Billing and auditing performance. ESCOSA also refers in its discussion paper to the need to protect consumers who are in a comparatively weaker bargaining position than the supplier.

Looking at the types of schemes currently operated by Councils, there would seem to be a good argument that the requirement that a licence should be required to operate a CWMS should be exempted where the treated water is not sold and supplied to a third party. As discussed above.

The current schemes have an appropriate level of monitoring through the Dept of Health and EPA. There are adequate and appropriate levels of external review through the LG Act dispute resolution provisions. Councils have appropriate insurance cover if they are a member of the Mutual Liability Scheme. The provisions of S155 LG Act act as price control applicable to a particular scheme. The only area that is not already covered in existing legislation is a customer code. A condition of exemption could include that as a requirement without the need for a licence.



As for whether a Council is a fit and proper entity to hold a licence, I note that the issues to be considered in assessment of an application include:

- whether the applicant is of good character and honest in its dealings;
- whether it has access to appropriate financial technical and human resources;
- honesty of its shareholders officers; and
- other matters as may be prescribed by regulation.

These on the whole are directed to the private sector, not Councils. What therefore is the point of requiring a Council to make application and pay the application and on going licence fees? The Council will need to recover the costs of these fees from either its household customers or rate payers generally.

Limited or soft regulation ought to apply to schemes where there is no reticulation of potable or reclaimed water to households or small business. It also ought to apply where either the cost of full regulation cannot be justified taking into account the cost of compliance with full regulation, or the issues address by full regulation are not relevant to a scheme or Council. For example a small scheme may find that the costs are out of all proportion to the benefits. Those costs would need to be passed on to the customers with little benefit for them as well. Limited regulation may apply to a CWMS where the treated waste water is sold and supplied to a limited number of commercial entities for industrial, agricultural or horticultural purposes. In this case the consumer may have significantly stronger bargaining power than the Council. They are most likely to have access to professional advisors to provide advice on the terms and conditions proposed to ensure that they suit the needs of both parties. The Council may also be in the position of having to find a satisfactory and cost effective disposal path.

In summary therefore submissions need to be made to enable flexibility in the application of the licensing requirements. Further guidance ought to be sought as to the grounds on which exemption will be available or limited regulation will apply.

Sale and supply

Section 18 of the proposed Bill will make it illegal for a person, which includes a Council, to provide a retail service unless they hold a licence. Section 4 includes a definition of a retail service. It is "...a service constituted by –

- (a) the sale and supply of water to a person for use.... where the water is to be conveyed by a reticulated system; or
- (b) the sale and supply of sewerage services for the removal of sewerage."

The concept of what is a sale is not defined. Therefore in determining what it means rules of statutory interpretation enable us to consider whether any other statute provides guidance and to take into account the ordinary and usual meaning of the words used in the section.

Coincidentally the Essential Services Act 1981 (ES Act) defines sale as to sell or offer to sell in the case of goods, and to sell or offer to sell services. This fits with the ordinary meaning of the word sale as being the exchange of goods, property, or services for an agreed sum of money or credit.

In both the ordinary meaning and in the meaning given to the term in the ES Act there is an element of a voluntary offer and acceptance consistent with the laws of contract. How then does this sit with a CWMS scheme where there is no offer or acceptance, rather the Council has the statutory right to impose on a property owner a charge in the form of a rate which the owner has no right not to pay and irrespective of whether he or she chooses to use the service provided or not.



I do not believe the provision of the services by a Council utilising the powers under S155 LG Act amount to a sale. It therefore follows that these schemes will not amount to retail services and therefore the licensing requirements will not apply. I am sure that this was not the intention of the Parliamentary Counsel. I am not suggesting that Councils rely on this to argue that they need not be licensed, but rather I suggest that Parliamentary Counsel may wish to review the section to eliminate any uncertainty.

Transitional arrangements for existing contracts

Councils have entered into many and varied contracts with third parties in relation to the design construction and ongoing management of water infrastructure, the disposal of trade waste, the supply of reclaimed water to name a few. These legally binding contractual arrangements were rarely on similar terms. Rather they were negotiated on a case by case basis to take into account the circumstances relevant to the applicable infrastructure and the needs of both parties to achieve a win win result. Many of the contracts are for significant terms as they were to be relied upon to underpin long term investment.

Some were unusual, for example a trade waste customer paid a large capital sum to a Council to assist in the development of a new disposal system that could handle the nature and volume of its trade waste in exchange for a lesser trade waste charge. Another example I am aware of is where a landowner gave land to a Council on which the Council constructed water infrastructure in exchange for a free supply of reclaimed water for 20 or so years.

There are numerous agreements for the supply of reclaimed water that run for many years with a fixed fee to be adjusted from time to time in accordance with a formula or mechanism set out in the agreement.

I am concerned that the proposed regulation of these types of transactions will cause prejudice to one or both of the parties to the agreement and consequently potentially leave consumers out of pocket. There is also a risk, albeit slight that a party may resort to litigation to try to enforce the original contract terms or seek damages.

The obvious solution is to exempt all contractual arrangements in existence at the date of commencement of the Water Industry Act until the term of the contract expires. Again further information ought to be sought regarding the status of existing arrangements.

The role of the technical regulator

The Bill proposes that there be a technical regulator appointed by the Minister. It is expected that this person will work out of the Office of the Technical Regulator which is part of the Department for Transport Energy and Infrastructure.

The role proposed for the Technical Regulator includes the monitoring of water and sewerage installations (infrastructure?) including Council owned and operated infrastructure and infrastructure upstream from a customer's connection point. Leaving aside for the moment how this will be achieved in the short term bearing in mind the resources needed to monitor the whole State, the role is one that has traditionally been conducted by EHO appointed by each Council. There are also valid concerns that the new regime:

1. must be coordinated with the role of Councils existing EHOs and that a clear delineation of responsibility be agreed especially with respect to a Council's owner duties and responsibilities under the Public and Environmental Health Act 1987;
2. must have sufficient staff and other resources to meet the demands of the role across the State; and



3. must not impose on Councils significant costs of monitoring bearing in mind that Councils already have the necessary skills in house.

Neither the Bill, the Explanatory Paper issued with the Bill or the ESCOSA Discussion Paper discusses these issues.

I note that the Technical Regulator has the power to delegate the role to a person or body. Clarification ought to be sought from ESCOSA and Department for Water as to whether it is intended to delegate all or part of the role to existing Council EHOs. If so, what part of the role and on what terms? Further clarification ought to be sought as to the matters raised in paragraphs 1 to 3 above.

Application of provisions of the proposed Act to unlicensed or limited licence participants.

I have already mentioned that the proposed Bill contains many provisions that are to the benefit of Councils. For example an issue that has caused, and continues to cause considerable concern to many Councils is that infrastructure, such a pipes that pass across private land, is not protected by registered easements. Not only does the Bill propose that water industry entities have the right to carry out works on private land but also that interference with water or sewer infrastructure by a third party is an offence. There are also other provisions such as compulsory acquisition of land, that are broader than those in the current LG Act.

On the current wording of the Bill, these provisions only apply for water industry entities. Water industry entities are defined as those who are licensed or otherwise included in the definition by regulation. Submissions should be made to ensure that Councils who have a role are included in the definition of water industry entities irrespective of whether they are required to be licensed or are otherwise exempt.

I look forward to discussing these issues further with you.

Yours faithfully

Peter G. R. Fisher

Legal practitioner
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Schedule of CWMS - South Australia

Council	Town	EPA lis.	State subs.	Year const.	Audit year	Live conn.	Pump stat.	Treatment	Disposal
Adelaide Hills	Kersbrook		yes	1992	2004	133	1	lagoon	evap
	Woodside		yes	1974/98	2005	785	1	to SA W	
	Birdwood/Mt Torr	1642	no/yes	1973/77	2005	411	4	lagoon	irrig - wood
	Golflinks Rd		yes	1995	2005	53	1	to SA W	
	Verdun		yes	1998	2005	45	1	to SA W	
	Charleston		yes	1998	2005	88	1	to SA W	
Alexandrina	Goolwa	2132	yes	1976	2004	1832	22	lagoon	irrig - wood
	Pt Elliot/Waterpoin	2131	no/yes	1968/91	2005	981	12	wwtp + lag	irrig - pasture
	Strathalbyn		yes	1981	2005	2138	12	lagoon	irrig - race
	Milang		yes	1998	2005	581	5	lagoon	irrig - pasture
Barossa	Nuriootpa/Stockw	1647	no/yes	1967/01	2004	1700	14	lagoon	evap
	Mt Pleasant	1917		1971	2005	239	3	lagoon	irrig - golf
	Tanunda	1646		1972	2005	1903	3	lagoon	irrig - vines
	Lyndoch	1648	yes	1979	2005	466	2	lagoon	irrig - vines
	Williamstown	1649	yes	1979	2005	566	5	lagoon	evap
	Penrice		yes	1994	2005	72	0	to sewer	
	Springton								
Barunga West	Bute			1984	2004	100	1	lagoon	evap
	Port Broughton	14690		2003	2004	690	10	wwtp	irrig - park
Berri Barmera	Berri	1972		1967	2005	1535	20	lagoon	irrig - turf
	Barmera	1972		1965	2005	786	11	lagoon	evap
	Monash	2370	yes	1994	2005	76	1	to Glossop	
	Cobdogla	14030	yes	1977	2005	102	2	lagoon	evap
	Glossop	2370	yes	1983	2005	97	3	lagoon	irrig - wood
	Loveday		yes	2005	2005	40	1	to Barmera	
Clare/Gilbert Vall.	Clare	2357		1972	2004	1470	4	lagoon	irrig - golf
	Riverton			1971	2005	355	1	lagoon	evap
	Saddleworth			1970	2005	221	0	lagoon	evap
Ceduna	Ceduna/Theven	1547	yes	1981	2005	1180	13	lagoon	irrig - golf
	Smoky Bay			2002	2005	170	3	wwtp	irrig - oval
Cleve	Cleve			1969	2004	458	2	lagoon	irrig - park
Coober Pedy	Coober Pedy		yes	1994	No	630			
Coorong	Taillem Bend	13977	yes	1979	2004	717	10	lagoon	evap
	Tintinara		yes	1978	2005	185	4	lagoon	evap
	Meningie	13976	yes	1972	2005	455	8	lagoon	evap
	East Wellington	13975		1989	2005	56	2	lagoon	evap
Copper Coast	Wallaroo	1571	yes	1993	2004	1500	8	lagoon	irrig -
	Kadina	2356	yes	1977	2004	1297	10	lagoon	irrig -
	Moonta				No				
Elliston	Lock			1970	2005	98	0	lagoon	evap
Flinders Rangers	Hawker		yes	1982	2004	194	0	lagoon	evap
	Quorn		yes	2006	2006				
	Deakin Ct				No				

Schedule of CWMS - South Australia

Council	Town	EPA lis.	State subs.	Year const.	Audit year	Live conn.	Pump stat.	Treatment	Disposal
Goyder	Burra		yes	1978	2004	240	4	lagoon	evap
	Eudunda			1968	No	229	3	lagoon	evap
Grant	Pt MacDonnell		yes	1996	2005	573	9	to SA Water	
	Tarpeena	1827	yes	1987	2005	199	3	lagoon	evap
	Pelican Point Allendale East		yes	2005	2005	140	3	wwtp	irrig-pasture
Kangaroo Island	Kingscote	1516	yes	1979	2004	869	5	lagoon	evap
	Parndana			1967	2005	96	0	lagoon	evap
	American River				No				
Karoonda East M	Karoonda		yes	1984	2004	178	2	lagoon	evap
Kimba	Kimba		yes	1980	2004	421	0	lagoon	evap
Kingston	Kingston	13957	yes	1999	2004	814	12	lagoon	evap
Le Hunte	Wudinna		yes	1986	2004	319	2	lagoon	evap
Light	Kapunda	2558		1969	2004	1100	5	lagoon	evap
	Freeling	12957	yes	1982	2005	423	5	lagoon	irrig - vines
	Greenoch	11187	yes	1985	2005	293	2	lagoon	irrig - vines
	Roseworthy		yes	1996	2005	629	0	wwtp	irrig -
Lower Eyre Pen.	Cummins			1971	2004	462	8	lagoon	evap
	North Shields		yes	1994	2005	86	2	lagoon	evap
	Coffin Bay	13715	yes	2002	2005	765	12	wwtp	irrig - wood
	Tulka			2002	2005	20	3	wwtp	irrig - reserve
Loxton/Waikerie	Waikerie	2368		1968	2004	598	5	lagoon	evap
	Loxton	1921	yes	1975	2004	1392	17	lagoon	irrig - wood
	Moorook	13952		2001	2005	74	1	lagoon	evap
	Kingston		yes	2005	2005	102	3	lagoon	irrig-wood
Mid Murray	Scotts Creek	14164		2003	2004	99	1	wwtp	irrig
	Brenda Park			2003	2005	133	indiv	wwtp-sewer	irrig
	Bolto reserve	13730		1998	2005	48	indiv	wwtp	irrig
	Teal Flat	14160		2003	2005	71	indiv	wwtp	irrig
	The Rocks			1998	2005	6	indiv	wwtp	irrig
	Kroehn's Land			1998	2005	6	indiv	wwtp	irrig
	Seven Mile Shac			1998	2005	11	indiv	wwtp	irrig
	Old Teal Flat			2000	2005	12	0	wwtp-sewer	irrig
	Swan Reach	12912		1999	2005	33	indiv	wwtp	irrig
	Truro			1999	2005	16	indiv	wwtp	irrig - wood
	Punyelroo North	14199		2000	2005	12	indiv	indiv bioc	irrig
	Punyelroo South	14199		2003	2005	100	indiv	wwtp-sewer	irrig
	Caloote Landing	13299		1998	2005	42	1	wwtp-sewer	irrig
	Scrubby Flat			1998	2005	9	indiv	wwtp	irrig - wood
	Walker Flat	11463		1997	2005	51	indiv	wwtp	irrig
	Big Bend	12914		1998	2005	26	indiv	wwtp	irrig
	Greenway's Land			1999	2005	8	indiv	wwtp	irrig
Caunanmont	14198		2002	2005	77	indiv	wwtp-sewer	irrig	
Five Mile/Kia	14161		1998	2005	26	1	wwtp	irrig	
Blanchetown	14162		2003	2005	124	indiv	wwtp	irrig	

Schedule of CWMS - South Australia

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Mid Murray	Marks Landing	14163		2003	2005	133	2	wwtp-sewer	irrig
	Pellaring Flat			1994	2005	27	1	nil	soakage
	Morgan Caravan	12486		2001	No		1	wwtp	irrig
Mount Barker	Macclesfield	2439	yes	1991	2004	350	2	lagoon	evap
	Mt Barker/Littleha	1912	no/yes	1970/81	2005	4162	11	lagoon	irrig - park
	Nairne/Brukunga	1915	yes/no	1987/57	2005	1269	4	To Mt Barker	
	Echunga	2438	yes	1986	2005	186	1	lagoon	irrig - golf
	Meadows	1913	yes	1981	2005	265	2	lagoon	evap
Mount Remark.	Willmington		yes	1993	2004	158	1	lagoon	evap
	Melrose		yes	2001	2005	118	0	lagoon	irrig - oval
	Boolaroo Centre			2004	2005	165	1	lagoon	irrig - golf
Murray Bridge	Woodlane			1997	2005	58	2	wwtp-sewer	irrig - wood
	Riverglan			1990	2005	104	2	nil	soakage
Naracoorte	Lucindale	1822	yes	1987	2004	141	5	lagoon	evap
Northern Areas	Jamestown	2055	yes	1979	2004	666	2	lagoon	evap
	Laura		yes	1990	2005	313	1	lagoon	evap
	Moyletown			1998	2005	44	1	to Jamestown	
	Gladstone		yes	2006	2006	383		wwtp	irrig - school
Onkaparinga	Willunga				No	789		wwtp	irrig
	McLaren Vale					1296			
	McLaren Flat					208			
	Maslins					503			
	Clarendon					86			
	Sellicks Beach								
Pt Augusta	part town	14332		1971	2005	1258	5	to SA W	
	Stirling Nth			1995	2005	101	0	lagoon	irrig - palms
Pt Pirie	Crystal Brook	2249	yes	1974	2005	503	1	lagoon	irrig - wood
	Napperby			1998	2005	89	0	wwtp	irrig - park
Renmark/Paringa	Paringa	2053	yes	1974	2004	452	2	lagoon	evap
	Renmark	2208		1968	2004	2397	26	wwtp	irrig - park
Robe	Robe	1488	yes	1987	2004	1004	19	lagoon	irrig - park
Roxby Downs	Roxby Downs				No	962			
Streaky Bay	Streaky Bay	13932	yes	1992	2004	491	5	wwtp	irrig -
Southern Mallee	Pinnaroo		yes	1962	2004	160	8	lagoon	irrig -
	Lameroo		yes	1975	2005	317	6	lagoon	irrig - golf
Tatiara	Bordertown	2372		1969	2004	1316	8	lagoon	wet land
	Mundulla	1929	yes	1983	No	90	1	lagoon	evap
	Keith	1848	yes	1982	2005	750	10	lagoon	evap
	Wolseley	12673	yes	1992	No	52	1	lagoon	evap
Tea Tree Gully					No		to SA Water		

Schedule of CWMS - South Australia

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Tumby Bay	Tumby Bay	1794	yes	1989	2004	770	16	lagoon	evap	
Wakefield	Balaklava	1969	yes	1982	2004	803	2	lagoon	evap	
	Port Wakefield				2005	65	1	wwtp	irrig - golf	
	Hamley Bridge				2005	270	1	lagoon	evap	
	Snowtown				2005	194	1	lagoon	evap	
	Blyth				2005	190	1	lagoon	evap	
Wattle Range	Kalangadoo	1845	yes	1983	2004	128	2	lagoon	evap	
	Penola	1844	yes	1975	No					
	Southend	2753	yes	1997	2005	223	2	wwtp	irrig - dunes	
Yankalilla	Yankalilla/Norman	2369	yes	1996	2004	934	7	wwtp	irrig -	
	Myponga			1999	No	16	1	wwtp	irrig -	
	Second Valley			1993	No	22	1	wwtp	irrig -	
Yorke Peninsula	Maitland	13972	yes	1965	2005	451	2	wwtp	irrig - school	
	Ardrossan/Tiddy			1980/82	2005	812	4	wwtp	irrig - golf	
	Black Point			1996	2005	153	2	wwtp	irrig - wood	
	Yorke town			2000	2005	399	6	wwtp	irrig - golf	
	Sultana Point			2002	2005	39	0	wwtp	irrig - spray	
	Rouges Point			1999	2005	21	0	wwtp	irrig - spray	
	Foul Bay			2000	2005	23	0	wwtp	irrig - spray	
	Hardwicke Bay			2001	No	46	indiv	wwtp	irrig -	
	Pt Hughes			2003	No	19	indiv	wwtp	irrig -	
	Pt Julia			2003	No	11	indiv	wwtp-sewer	irrig -	
	Balgowan			2004	No	13	indiv	wwtp-sewer	irrig -	
	Collins Beach			2004	No	7	indiv	wwtp	irrig -	
	Stansbury				No					
	Bluff Beach			2004	No	18	indiv	wwtp-sewer	irrig -	
	Pt Vincent				2005	104	3	wwtp	irrig - spray	
	Pt Turton				2005	27	0	wwtp	irrig - spray	
Outback Areas	Parachilna			2004	2006	40	1	wwtp	irrig	
	Oodnadatta			1990	2006	54	1		evap	
	Marla			1980	2006	125	2	lagoon	evap	
	Pt McLeay				No					
	Pt Pearce				No					
	Pipalyatjara			1999	No			lagoon	evap	
Outback Areas	Mimili			2001	No			Lagoon	evap	
	Davenport			No						
	Amata			No						
	Ernabella			No						
	Indulkna			No						
	Fregon			No						
	Gerrard			No						
	Koonibba			No						
	Nepabunna			No	90					
45 Councils	172 Schemes	70	74		133	62770	497	90 lagoon	48 evap	
	average			1989		415	4.2	76 wwtp	85 irrig	
O&M Operation and Maintenance				CP Contingency Plan						
EMP Environmental Management Plan				ST p/o Septic Tank pump out						
IMP Irrigation Management Plan				WWTP Wastewater treatment plant						