



THE DISTRICT COUNCIL OF MOUNT BARKER

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Essential Services Commission of SA
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Dear Sir or Madam

Re: Economic Regulation of the South Australian Water Industry

Thank you for the opportunity to comment on the draft advice – Economic Regulation of the South Australian Water Industry.

We acknowledge that our water business activities are likely to be subject to the Commission's regulatory regime and appreciate being able to provide input to that regime both now and as it develops further.

Implementing a new regulatory regime is a very significant event and it is important to get it right and be able to adapt over time to changing circumstances and additional knowledge and insights. The regulatory regime should not operate to skew our infrastructure investment and operating decisions away from greater economic, environmental and social sustainability.

Your comments about collaboration and the benefits of receiving comments and insights from stakeholders are very encouraging. We also see collaboration as essential to obtaining the best regulatory regime for all stakeholders associated with the water industry.

The District Council of Mount Barker has contributed to this process already through making submissions on both the draft Water Industry Bill (5 January 2011) and the ESCOSA Statement of Issues Paper (27 January 2011).

We have three major concerns about the proposed regime.

- The first is that aspects do not fit particularly well with the existing governance and legislative framework within which councils operate in South Australia. This is of significant concern as councils are the largest providers of water services apart from SA Water. It is important that the Commission has a good understanding of the local government sector in relation to and beyond the water business activities of councils.
- Our second concern is the likely cost of complying with a new regulatory regime.

- The third is the extent to which the regulatory regime allows us to implement appropriate charges for our water services, including the additional compliance costs.

The District Council of Mt Barker is home to approximately 30,000 South Australians in a geographic area of around 600 sq km. Mt Barker is the largest town in the council area. The current combined population of Mt Barker, Littlehampton and Nairne is approximately 19,000. Over the coming 20 years the population of the council area is expected to more than double to around 65,000 as a result of growth decisions made by the State Government.

Population growth will bring with it both challenges and opportunities. In the context of the regulatory regime the most significant challenge is to provide wastewater infrastructure and services in an economically, environmentally, socially and financially sustainable way. We are currently working our way through the issues around that challenge.

Funding of the infrastructure and service needs of growth communities presents a very different landscape to jurisdictions without significant growth. It needs to be recognised that funding for new infrastructure investment is required in advance of direct service provision revenue.

Opportunity comes through the potential reuse of the treated wastewater.

The District Council of Mount Barker has a proud history of innovation in the management of its community wastewater management system (CWMS). The Mt Barker scheme servicing Mt Baker, Littlehampton, Nairne and Brukunga is the largest in South Australia.

CWMS is also provided by council in the smaller townships of Echunga, Macclesfield and Meadows.

Council provides sewerage services for around 8,000 residential properties (with an estimated 20,000 plus residents) and 800 commercial/public purpose/industrial properties.

From an asset perspective it represents an investment of \$53m (replacement cost) through treatment plants, 20 pumping stations, 300 km of pipes etc. The schemes cost \$2.9m pa to operate and generates revenue of \$3.6m pa with any surpluses transferred to a separate reserve fund to meet future upgrading and replacement costs and any annual losses.

Current charges are a once off infrastructure fee of \$3,750 for each new residential allotment created via development applications approved under the Development Act and an annual service charge of \$371 per property pursuant to Section 155 of the Local Government Act 1999 which is a charge against the property if not paid.

These charges are due for review in the coming year as we are concerned that they do not adequately reflect the true costs of the service and thus service recipients may be subsidised by other ratepayers.

Council also provides non-potable water to some 45 properties in the township of Meadows. This is currently sourced from bores and is not metered. The cost per household per annum is \$284.

We receive very few complaints/concerns about our CWMS services. Those that are received are dealt with as quickly as possible and if the customer is not satisfied council makes known the opportunity to seek a formal review under our internal grievance procedure as required by Section 270 of the Local Government Act.

To put our water business roles in context it represents approximately 14% of our asset base of \$385m and about 8.5% of our annual operating budget of \$34m. Of the 145 FTE people employed by the council, 5 are directly involved in the operations of the CWMS on a daily basis while others (field staff, supervisors and managers including myself) are involved at varying times depending on the issues at hand.

Approximately 1,000ML of treated wastewater is released into the award winning Laratinga wetlands every year. The wetlands are a major feature covering approximately 8.2 Ha. They are also a crucial component of our CWMS as they provide an environmentally sustainable disposal path for treated wastewater.

Many areas of public open space are irrigated using treated wastewater as are some schools ovals.

Treated wastewater is also consumed by industry in our area. We currently provide approximately 230ML pa to Samwell Pty Ltd for irrigating vegetable crops of brussel sprouts etc at Bald Hills Road, and approximately 500ML pa to the Hillgrove Mine at Callington. Greater volumes of treated wastewater from population growth present an opportunity for further economic growth. This is an important consideration as around 60% of Mt Barker residents in work find that work outside our council area due to our limited employment base.

One of the options for the management of increased wastewater for the significant growth in population is for the council CWMS to be expanded, including the option to treat sewer as distinct from the current liquid from septic tanks. A further option is for SA Water to take full or partial responsibility for sewerage infrastructure and services. Another option may be for one or several private schemes to be developed either as build, own and operate (BOO) or build, own, operate, transfer (BOOT) which again may include council. Whichever option is eventually chosen we know that the costs will be very significant (in the hundreds of millions of dollars) and cost sharing arrangements quite complex as there are around 100 private property owners in the growth area which covers approximately 1,260 hectares. If the CWMS option or a council operated sewer system is chosen it will represent a massive infrastructure investment for the council, both up front establishment and subsequently.

As with all local government authorities in South Australia the District Council of Mt Barker is constituted under the Local Government Act 1999. As a result the council is accountable under specific legislation such as the Local Government Act, Development Act and the Public and Environmental Health Act as well as more general legislation such as the Environmental Protection Act and the Ombudsman Act.

Councils do not exist to generate profits to pay to shareholders. Any annual surpluses (or deficits) are retained within our balance sheet and become part of future financial planning decisions.

The legislative framework under which the council is constituted and operates brings with it specific requirements including for decision making (including a requirement for council meetings to be held open to the public except for certain types of matters which may be discussed in confidence provided they pass certain legislative tests), review of decisions, delegation of authority, financial and asset management (including requirements for long term asset and financial planning and to have an audit committee), taxing (property rates), charging for services, community engagement, policy development, and procurement.

Our reading of the documents on your website is that they appear to not adequately take into account the legislative environment in which councils, as owners and operators of community wastewater schemes, operate. There is potential for conflict and duplication between the local government governance and legislative framework and the operation of the regulatory regime which needs to be avoided for the sake of good public administration and to adequately meet the needs of CWMS service recipients, ratepayers and councils.

Our view is that there needs to be a working group of people from the Commission and local government to work through issues to ensure that the elements of the regime are appropriate for councils and compatible with the governance and legislative framework in which they operate. That working group should continue to exist for some years to assist in bedding down the new regime as it applies to councils. This model worked very successfully when the major changes to the funding and custody of fixed assets of emergency services were made several years ago and the Parliament established a transitional committee to oversee the process including asset rationalisation. We would be willing to be part of such a working group, the establishment of which should be progressed in liaison with the Local Government Association of SA.

Examples of potential conflict or duplication include:

- terminology in part 3 (Suitability of Applicant to Hold a Licence) of the draft Licence Application form about shareholders and action under the Corporations Act is not relevant to local government as our 'water business' is a relatively small part of our overall functions and operations it is unclear which 'officers' are referred to
- in any event, councils are public bodies constituted under an Act of Parliament and to some extent a natural and 'last resort' supplier of water

services so it is difficult to understand why we would have to prove our honesty and integrity

- conditions in the draft Water Industry Retail Licence requiring separate accounts, compliance audits and specified types and cover of insurance need to be considered against current arrangements we have in place to comply with existing legislation in each of those areas.

Likewise, provisions in the draft Water Industry Guideline 1 (Compliance Systems and Reporting) about reporting and auditing need to be considered against existing legislation and the reference to signing of Annual Compliance reports by Directors is not relevant to the local government environment.

Given the very strict governance and legislative framework in which our organisation operates we are likely to seek exemptions to some of the standard licence conditions on the basis that they are met through compliance with existing legislation. Draft Advice 3 should be refined to recognise current levels of compliance with similar requirements as those to be imposed by licensing as a ground for exemption.

Our second concern is the additional costs associated with the new regulatory regime. Even with refinement of the regime to better align with the current governance and legislative environment for local government there are likely to be significant additional costs which we will need to pass onto service consumers as it would be unfair to burden other ratepayers with those costs.

Efficiency of the regime should be one of its measurable performance goals including the extent to which it skews decision making by councils towards or away from economic, environmental and social sustainability in relation to their water businesses. The pricing structures put in place need to take account of the very significant investment we have already made in infrastructure, future expansion requirements, and asset maintenance and replacement, likewise the substantial future investment that will occur.

The working group we have proposed in this submission could play a very useful role in the efficiency of the regulatory regime including in the development of codes that are proposed to be established.

It could also assist with the determination of the lead times that would be required by councils to enable transition before compliance was necessary.

Council has the following documentation in place and would be pleased to make this available.

1. Treated Waste Water Pricing Framework (inclusive of criteria for rebates of up to 80% for customers) ;
2. Treated Waste Water Customer Charter; and
3. Model Waste Water Supply Agreement.

We would welcome the opportunity to meet with representatives of the Commission to expand on our submission. Our contact person for this matter is

Brian Clancey, General Manager, Infrastructure and Projects, telephone 8391 7218 or email bclancey@dcmtbarker.sa.gov.au .

Yours sincerely

A handwritten signature in black ink, appearing to read 'A Stuart', written in a cursive style.

Andrew Stuart
CHIEF EXECUTIVE OFFICER

Copy to:

Wendy Campana, Executive Director, Local Government Association of SA
Graeme Martin, Executive Officer, Southern and Hills LGA