



*A Community Legal Centre specialising
in public interest environmental law.*

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Commissioner for Water Security
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Dear Commissioner

WATER FOR GOOD: WATER INDUSTRY ACT DISCUSSION PAPER

The Environmental Defenders Office (SA) Inc (“EDO”) welcomes the opportunity to provide a submission with respect to the above discussion paper. The submission refers to the paragraph numbering in the discussion paper.

Section 2: Planning

Question 2.1 *Of key importance in the preparation of demand and supply plans is that they are integrated with other plans and that no duplication occurs. Comments and suggestions are invited on ways that this might be readily achieved.*

The discussion paper proposes Regional Supply and Demand Plans (“RSDPlans”) which are to include:

- the status of water resources (potable or otherwise);
- demand and supply forecasts;
- an action plan incorporating demand management and augmentation options¹.

There appears to be duplication with the RSDPlan and the:

¹ Water For Good: Water Industry Act Discussion Paper, p13

- Water Allocation Plans under the Natural Resources Management Act which provides details as to the water available from the prescribed source for consumptive use;
- SA Water Infrastructure Plans which forecast data on drinking water demand and supply.

To avoid duplication, the RSDPlans could simply refer to the above plans and repeat the statistics to avoid confusion.

However, RSDPlans must be enforceable otherwise they are powerless to carry out any obligations set out in them.

Question 2.2 *What other matters should be considered when developing risk points that will initiate consideration of options to meet supply or reduce demand?*

The discussion paper sets out certain risk points with respect to setting water security standards and those risk points include environmental requirements. Environmental requirements are critical to such standards *ipso facto*. Further, a degraded environment leads to reduced social and economic outcomes. As a result, environmental requirements should incorporate the following principles:

- a definition of 'environment' which includes:
 - ecosystems and their constituent parts;
 - natural and physical resources;
 - the qualities and characteristics of locations, places and areas; and
 - the heritage values of places;
 - the social, economic and cultural aspects of the above matters²;
- the ecologically sustainable use of water by incorporating the principles unanimously adopted by the international community in the Rio Declaration on Environment and Development at the Earth Summit in Rio De Janeiro in 1992 which include the following:
 - Regard must be had to the environmental needs of future as well as present generations (Principle 3);
 - Environmental protection must be an integral part of development (Principle 4);
 - Unsustainable patterns of production and consumption must be reduced (Principle 8);

² A similar definition was adopted in the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*.

- The precautionary principle, that is, “ ... where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.” (Principle 15).

2.3 Independent Water Planning Process

Question 2.3 *What governance arrangement should be established for the independent water planning body?*

The body should be governed by environmental requirements set out above, that is, by the ecologically sustainable use of water when considered in the light of the definition of the environment as set out above.

Policy 3.1 – Monopoly supplier

Question 3.2 - Pricing

Given that SA Water is a monopoly supplier of water and is a profit making organisation, it is critical that it be appropriately regulated to ensure that water is not sold at unreasonable prices for profit. As a result, it is appropriate that an independent body undertake regulatory functions with respect to pricing. These functions should also include regulating the amount of water available for sale, so that tough decisions on issues such as water restrictions can be made by an independent body.

Further, the EDO strongly agrees that pricing should be:

- cost reflective so that its use is not abused³;
- appropriately priced so as to reduce the impact on low income households⁴.

In addition, pricing of environmental purchases should reflect the fact that water is being used for the environment and profit making on such water purchases should be limited.

The EDO does not, however, support opening up the industry to other suppliers as water is an essential service and notes that “*Water for Good*” reiterates the Government’s intention to maintain SA Water in Government ownership.⁵”

We also note, however, that there are regional bodies managing water supplies⁶ and these bodies should be licenced. Such licences should include the environmental obligations set out in with respect to question 2.2 above (in addition to the matters set out in item 3.4.3) to ensure that the environment is protected.

³ This approach was promoted in Water For Good p147

⁴ Ibid

⁵ Ibid p19

⁶ Ibid p16

5.2 Environmental Water Reserve

The EDO strongly supports:

- the setting of realistic end of system targets and targets for groundwater levels to achieve environmental outcomes;
- setting aside environmental water prior to setting the consumptive pool;
- a realistic environmental water reserve⁷.

The position of the River Murray Environmental Manager should be given legislative authority. This would enhance its perception in the community. Community support for these mechanisms can be further enhanced by a comprehensive educative media campaign.

The consumptive pool should be determined using the ecologically sustainable principles set out above.

5.4 Swimming Pool Covers

Question 5.2 - *Low cost regulatory method to ensure swimming pool covers are used*

Community support for pool covers can be further enhanced by a comprehensive educative media campaign so that it becomes “uncool” to not use a cover. However, such a campaign needs to be supported in other areas of government regulation. For example, the relaxing of water restrictions recently sends the message to the community that water is not an issue. As a result, issues such as the setting of water restrictions should be determined by the regulator as set out above.

6.2 Water Conservation Act

The discussion paper proposes to transfer some provisions of the Water Conservation Act to other legislation. However, the following provisions have not been included in that transition and should be as no other equivalent sections exist:

- Part 4 (sections 52-63) which deals with water conservation reserves;
- Sections 66, 67 and 68 dealing with compensation;
- Sections 74 and 75 regarding the unlawful taking or diverting of water.

Additional issues: Industry Targets

The Water Industry Act should set targets on industrial use of water. Currently, industrial users are not penalised by excessive use of water and are simply required to prepare a water use plan which is not enforceable. Further, the liberal use of water allowed under

⁷ Ibid p31

for example, the Roxby Downs (Indenture Ratification) Act, should be altered to reflect the very limited availability of water in South Australia.

Additional issues: Enforceability

The Water Industry Act must include provisions which enable breaches of the Act to be enforced. Simply relying on voluntary compliance does not ensure cooperation with the terms of the Act.

Environmental Defenders Office (SA) Inc