

Review of the *Water Industry Act 2012*

HAVE YOUR SAY

The *Water Industry Act 2012* (the Act) has been in operation for five years, having become fully operational on 1 January 2013. Section 116 of the Act requires the Minister for Environment and Water (the Minister) to cause a review of its operation after five years. The Department for Environment and Water is undertaking the review on behalf of the Minister.

The focus of the review is to understand:

- the success or otherwise of the first five years of implementation of the *Water Industry Act 2012*
- opportunities for legislative or policy improvement and reform that will further the achievement of the objects of the Act.

This discussion paper forms a key part of the review. We encourage you to read through the discussion paper and provide feedback on the discussion questions within it.

The discussion paper highlights a range of issues that have already been identified through initial discussions with licensed water industry entities, regulators and government bodies. This does not preclude you from identifying other opportunities to improve water industry regulation.

Throughout the document you will find boxes like this one, which will direct you towards the section of the *Water Industry Act 2012* that is relevant for that discussion topic.

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Background information is provided for each section to help you to understand the issue, and there are a number of targeted questions to help guide feedback.

If you wish to view the Act in full, it can be found here:

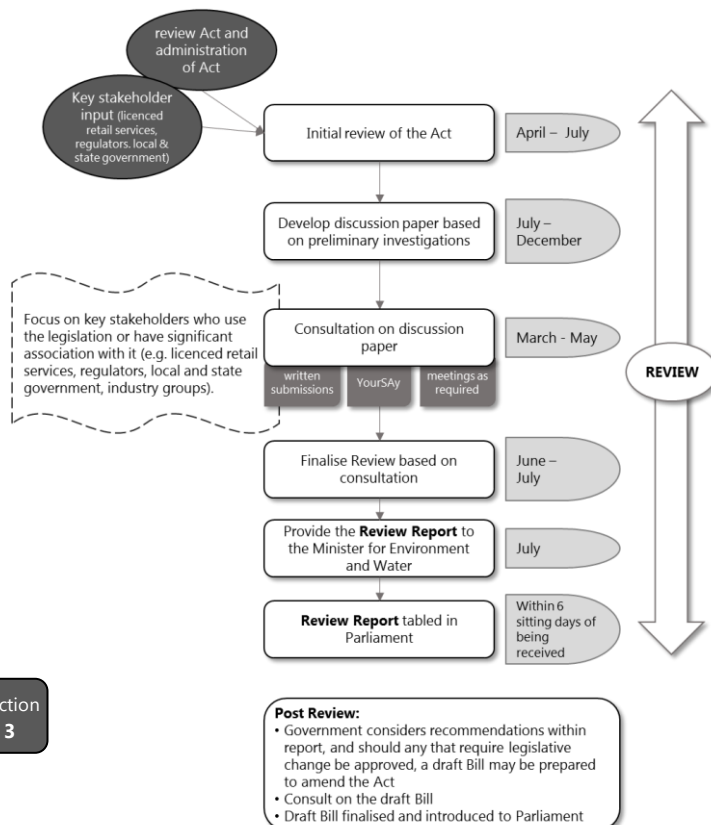
Act: www.legislation.sa.gov.au/LZ/C/A/WATER%20INDUSTRY%20ACT%202012.aspx

Regulations: www.legislation.sa.gov.au/LZ/C/R/Water%20Industry%20Regulations%202012.aspx

Feedback can be provided to the email address below on the feedback form. Please provide your views on the targeted questions and feel free to provide feedback on any other issues you consider important to be considered as part of the review.

Further information can be found on YourSAY: www.yoursay.sa.gov.au

Process for the Review of the *Water Industry Act 2012*



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Submissions
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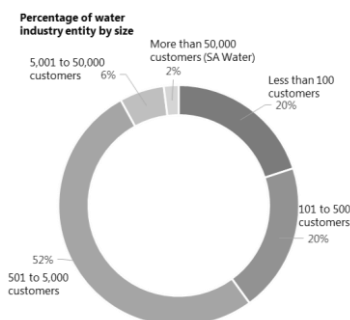
Summary

The *Water Industry Act 2012* regulates the water and sewerage industry. It was introduced to provide the framework for the move to an independently regulated water industry that protects the needs of customers, public health and the environment and provides opportunities for new participants in the industry. After five years of operation, we are seeking your input to the review of the Act to identify opportunities for improvement to the regulation of the water industry. This discussion paper forms a key part of the review. We encourage you to read through the discussion paper and provide feedback on the discussion questions within it.

The discussion paper highlights a range of issues that have already been identified through initial discussions with licensed water industry entities, regulators and government bodies. A summary of some of the key issues is provided below and further detail is provided within the discussion paper. We encourage you to read those parts of the discussion paper of interest to you, and to provide your feedback on those topics, or any other areas that you think are relevant to the review.

Who makes up the water and sewage industry

There are currently 68 licensed water industry entities that provide drinking water service to approximately 770,000 customers and sewerage services to approximately 693,000 customers across South Australia. The scale and scope of water and sewerage services offered varies considerably across retailers. SA Water is the largest retailer, servicing over 99 percent of total drinking water customers and 87 percent of total sewerage customers.



Licensing and exemptions

Retail water services are provided under licences issued under the *Water Industry Act 2012*. There are specific water licensing arrangements for SA Water as the major water and sewerage supplier in the State. The licensing regime within the legislation is currently a single licence regime; that is, the same process applies for all sizes and types of water industry entities, with the exception of SA Water. In administering the Act it has been recognised that there are differences in the scale and scope of retail operations and therefore three retail licence classes have been created – minor, intermediate and major. The review of the Act provides the opportunity to review the licensing regime and explore the benefits or otherwise of a more formal tiered licensing system.

There are also a range of water retailers that are exempt from the requirement for a licence, with a number of different mechanisms for exemption in place. This includes:

- Section 108 of the Act gives the Essential Services Commission of South Australia (ESCOSA) the power to exempt an entity from requiring a retail licence. In granting these exemptions, the Commission may attach a range of conditions that relate to other parts of the Act (e.g. compliance with technical standards or customer requirements such as pricing or complaints). This type of exemption has generally been granted to small community run (not for profit) schemes.
- Section 5 of the Act exempts irrigation services from the entire Act (not just the requirement for a licence) if they are:
 - regulated under irrigation legislation
 - designated as an irrigation service by the Minister (to date this includes Barossa Infrastructure Limited, Langhorne Creek Water Company, The Creeks Pipeline Company, Water Reticulation Services (Virginia), Willunga Basin Water Company).

There are opportunities with the review of the Act to explore a more formal exemption regime. This could provide clarity to the water industry on the circumstances where an exemption could apply. To enable an exemption regime to function efficiently and effectively it is necessary to clearly articulate the circumstances where an exemption would apply, the review of the Act provides the opportunity for you to input how you think this could work.

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Planning for water security

The need for long term planning for water supply to meet future water demands was recognised with the introduction of the *Water Industry Act 2012*, which has as a key object – “to promote planning associated with the availability of water within the State to respond to demand within the community”. This object is supported by section 6 of the Act, which requires the Minister to prepare and maintain a *State Water Demand and Supply Statement*. The aim of demand and supply statements has been to ensure that we plan for future water security, accounting for changing demands and changes in water availability, particularly in light of predicted warming and drying associated with climate change. To date this requirement has been met by the development of Regional Demand and Supply Statements prepared by the Department for Environment and Water on behalf of the Minister. In addition to the high level planning undertaken by the state government, water industry entities undertake their own planning to ensure that their infrastructure adequately meets current and future needs. SA Water, as the largest water industry entity in the state, regularly undertakes this work. Planning for future infrastructure requirements for a water industry entity is also an important part in ensuring that water prices are set to meet current and future infrastructure needs.

There are currently a range of overlapping planning processes all aimed at ensuring a secure water supply for South Australia now and in the future. The review of the Act provides an opportunity to look at the way water security planning is undertaken in South Australia and to ensure that this important planning is undertaken in a coordinated and efficient manner.

Third party access

Third party access requires owners of natural monopoly infrastructure to grant access to that infrastructure to parties other than their own customers. This is usually competitors who could provide the same or similar services on commercial terms comparable to those that would apply in a competitive market. The third party access regime was introduced into the Act in 2016. It provides a negotiate/arbitrate framework for businesses seeking access to services provided by natural monopoly water infrastructure, in this case, SA Water infrastructure.

During consultation on the Bill for the access regime, concern was raised that an access regime had the potential to increase costs for existing SA Water customers by placing additional costs on SA Water, which would then be passed on. To address this concern, the then Minister committed to direct SA Water on the pricing methodology that SA Water should use in negotiating access prices with an access seeker. SA Water was directed to use a “retail minus methodology”, which means that the access price is calculated based on the state-wide price for retail services minus SA Water’s avoidable costs for the service.

The Essential Services Commission of South Australia is currently undertaking a review of the third party access regime, the information gathered as part of that process will also feed into this review.

Technical Regulation and Reporting

Water industry entities are subject to technical regulation under both the *Water Industry Act 2012* and other legislation. Other legislative requirements will differ dependent on the type of water services offered. Other legislation that may be relevant for the water industry includes:

- *Environment Protection Act 1993* – sewerage treatment works or septic tank disposal schemes
- *Environment Protection Act 1993* – Managed aquifer recharge
- *South Australian Public Health (Wastewater) Regulations 2013* – Approval of sewerage infrastructure

There has been some suggestion that opportunities may exist to streamline reporting requirements under various legislation to simplify reporting processes for water industry entities. Initial investigations by the regulators suggest that there is not generally significant overlap in the reporting requirements and therefore there is limited opportunities for streamlining reporting requirements. However, the review of the *Water Industry Act* provides the opportunity to consider elements of the reporting framework required under this legislation and to identify potential opportunities to simplify reporting requirements for the water industry. Primarily this relates to

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Where to find current regional demand and supply statements

Copies of the completed demand and supply statements can be found at the web link below:

www.environment.sa.gov.au/topics/water/planning/regional-demand-and-supply-statements

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- SA Water has a number of access agreements in place to cover a total of 13 GL of water annually.
- These arrangements have been through direct negotiation with SA Water.
- No new agreements have been negotiated as a result of the introduction of the scheme

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the requirements of the Office of the Technical Regulator and the annual reporting requirements of the Essential Services Commission of South Australia.

Levelling the playing field

There are a range of areas within the Act where the implementation of the Act depends on the type of water industry entity, for example local government, private sector or SA Water. The review of the Act provides an opportunity to explore these discrepancies to identify if there are further opportunities to ensure that the implementation of the Act is equal across entity types. The differences are largely a result of historical differences between entities and authorities granted under other legislation (e.g. the Local Government Act). A level playing field is important in continuing to support the competitiveness of the water industry and to remove any potential barriers to competition within the industry.

Particular topics that have been identified by the review to date include:

- availability charging, or rating on abuttal (see page 13)
- powers and duties relating to land and infrastructure (see page 21)
- obligations to connect to infrastructure (see page 15)

Other issues

A range of other areas have been identified where amendments to the Act offer the opportunity to improve the administration of the water industry. For further information see section 5.

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1. BACKGROUND

The *Water Industry Act 2012* is an Act to regulate the water and sewerage industry. It governs all water industry entities that provide retail services to South Australian customers.

The objects of the Act (see sidebar) describe its intended purpose; which can be broadly summarised as to:

- facilitate planning for water security through preparation of a *State demand and supply statement*
- license retail services for the provision of water and sewerage
- manage the water and sewerage industry, including: price regulation, customer service standards, and technical standards for water and sewerage infrastructure, installations and plumbing.

A key driver for the introduction of the Act was the opportunity for independent regulation of the industry. To facilitate the transition to independent regulators, those parts of the Act that established supporting institutional arrangements (in particular the Essential Services Commission of South Australia (ESCOSA or the Commission) and the Office of the Technical Regulator (OTR)) came into operation first, on 1 July 2012.

The full Act became operational on 1 January 2013, when the remaining provisions, and the Water Industry Regulations 2012 commenced. The Act repealed the *Sewerage Act 1929*, *Waterworks Act 1932* and the *Water Conservation Act 1936*.

Since 2013, the Act has been amended once to provide for a third-party access regime (Part 9A), which commenced on 1 July 2016.

Section 116 of the *Water Industry Act 2012* requires the Minister to cause a review of its operation to be conducted as soon as practicable after the expiry of five years from the Act's commencement. This discussion paper forms a key part of that review.

2. WHY REGULATE?

The concept of a new Act to manage the water industry was first proposed in 2009. The intent was to establish a regulatory framework that promoted an efficient, competitive and innovative water industry, while protecting the long-term interests of customers, public health and the environment.

The need for new water industry legislation was driven by several factors, including:

- heightened community awareness about water security and the need to manage water resources carefully
- the prospect of an increasingly diverse range of water supplies, including through new and emerging technologies
- the prospect of new participants in the water industry
- the need to replace water legislation that was nearly 80 years old
- the potential impacts on water supply of climate change, population and economic growth
- national water reforms.

The introduction of the Water Industry Act was intended to provide the framework for the move to an independently regulated water industry that protects the needs of customers, public health and the environment, and provides opportunities for new participants in the industry.

Objects of the Water Industry Act

- to promote planning associated with the availability of water within the State to respond to demand within the community
- to promote efficiency, competition and innovation in the water industry
- to provide mechanisms for the transparent setting of prices within the water industry and to facilitate pricing structures that reflect the true value of services provided by participants in that industry
- to provide for and enforce proper standards of reliability and quality in connection with the water industry, including in relation to technical standards for water and sewerage infrastructure and installations and plumbing
- to protect the interests of consumers of water and sewerage services
- to promote measures to ensure that water is managed wisely
- to promote the economically efficient use and operation of, and investment in, significant infrastructure so as to promote effective competition in upstream and downstream markets.

DISCUSSION QUESTIONS: REGULATION

- | | |
|-----|--|
| 2.1 | Do you think that the introduction of the Water Industry Act has helped to achieve the objects of the Act? If yes, why? If not, why not? |
| 2.2 | What have been the advantages of regulation of the water industry? |
| 2.3 | What have been the disadvantages of regulation of the water industry? |

3. THE WATER INDUSTRY

The water industry is made up of a number of licensed water industry entities that provide water and/or sewerage services to customers across the state. While the legislation does not distinguish between types of licences, the Essential Services Commission of South Australia (the Commission) has established three retail licence classes:

- Major retailers – greater than 50,000 connections
- Intermediate retailers – greater than 500 and up to and including 50,000 connections
- Minor retailers – up to 500 connections.

In administering the Act, minor and intermediate retailers have been grouped together under a single code and operate under the same obligations.

There are currently 68 licences, across 65 licensed water industry entities, with some entities holding more than one licence.

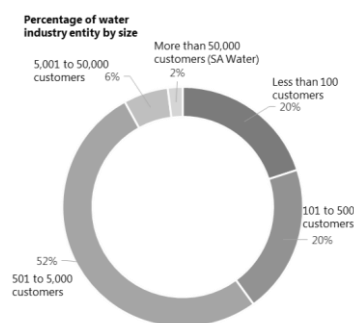
Collectively, the retailers licensed under the Water Industry Act provide drinking water services to approximately 770,000 customers and sewerage services to approximately 693,000 customers across South Australia. The scale and scope of water and sewerage services offered varies considerably across retailers. SA Water is the largest (and only major) retailer, servicing over 99 percent of total drinking water customers and 87 percent of total sewerage customers in South Australia.

In addition to SA Water, the Commission had licensed 64 Minor and Intermediate Retailers (as at 30 June 2017). Of those:

- approximately 85% of minor and intermediate retailers are local governments, who provide mainly sewerage services to local communities – serving around 94,100 customers or about 13% of the state's population
- thirteen retailers provide drinking water services to around 4,000 customers (serving less than one percent of the State's population, with over half located in Roxby Downs and Coober Pedy) – 10 are council-run schemes and three are private companies
- twenty-three are licensed to provide non-drinking water services to around 3,300 customers
- seven private companies provide water or sewerage retail services to approximately 2,100 customers in South Australia.

Type of licence		Number*
31	Minor (up to 500 connections)	water 14
		sewerage 10
		water and sewerage 7
36	Intermediate (501 to 50,000 connections)	water 1
		sewerage 15
		water and sewerage 20
1	Major (more than 50,000 connections)	water and sewerage 1
Total		68

* This is the number of licences, some licensed water industry entities hold more than one licence



4. OPPORTUNITIES FOR AMENDMENT AND REFORM TO IMPROVE REGULATION OF THE WATER INDUSTRY

Initial discussions with water industry entities, regulators and government have identified a number of sections of the *Water Industry Act 2012* as potential areas where changes to legislation could provide opportunities to improve regulation of the water industry. These are discussed in more detail in the following sections. Each section includes some targeted questions to guide discussion. The information gathered from your feedback will inform the final review report to the Minister, which will highlight opportunities for legislative reform.

A. Licensing and exemption

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Under the *Water Industry Act 2012* a person must not provide a retail service (see sidebar) unless they hold a licence authorising the relevant services, operations or activities.

There are specific licensing arrangements for SA Water as the major water and sewerage supplier in South Australia. These include:

- SA Water is entitled to hold a non-transferable licence appropriate to the services, operations or activities provided, carried on or undertaken by it from time to time
- in issuing the licence to SA Water the Commission must comply with any requirements specified by the Minister as to the terms and conditions of a licence and rights conferred by a licence
- the SA Water licence cannot be transferred, suspended or cancelled

Retail service

"the sale and supply of water to a person for use (and not for resale other than in prescribed circumstances (if any)) where the water is to be conveyed by a reticulated system, or the sale and supply of sewerage services for the removal of sewage, (even if the service is not actually used) ..." *Water Industry Act 2012 section 4.*

- the Minister must establish a set of community service obligations that require SA Water to continue to provide services within those areas of the State where services were provided before the Act commenced, unless the Minister grants an approval for the discontinuance of any such service.

All other water industry entities must apply to the Commission for a retail licence. The Commission provides an application form and guidance to assist with the application process. A licence application may cover multiple operations run by the same water industry entity, or separate licences may be applied for, for each operation.

A broad range of information is required for the application, which includes:

- applicant details (e.g. address, contact person)
- description of the retail services (drinking water, non-drinking water, residential/non-residential, sewerage, trade waste)
- suitability to hold a licence (honesty and integrity, shareholders)
- resources available (financial, technical, human resources)
- suitable and appropriate infrastructure
- risk management
- licences held in other jurisdictions
- compliance program.

The licensing regime within the legislation is currently a single licence regime; that is, the same process applies for all sizes and types of water industry entities, with the exception of SA Water.

In administering the Act, the Commission has recognised that there are differences in the scale and scope of retail operations provided throughout the State and has therefore established three retail licence classes (minor and intermediate retailers are administered in the same way):

- Minor** (less than 500 customers) and **Intermediate** (501 to 50,000 customers)
- Major**: those retailing more than 50,000 customers (currently only SA Water)

The review of the Water Industry Act provides an opportunity to review the licensing regime and explore opportunities to introduce a tiered licensing system, which may simplify the administration of the Act. The current administrative split between licence types is based solely on the number of connections, as an indicator of the size of the operation. A tiered licensing regime could also be based on this, or could consider a broader range of criteria, such as size or type of water supply (potable or non-potable).

There are a range of water suppliers that are exempt from all or part of the Act. This is either because the Act itself exempts them or because the Commission has issued them with a licence exemption under section 108 of the Act.

Section 108

While section 108 provides for an exemption from the requirement to have a licence, it does not automatically exempt water suppliers from all parts of the Water Industry Act. A water industry entity exempt under section 108 is still required to submit a request for exemption and Ministerial approval is required for the exemption. The Commission, in granting these exemptions, may attach a range of conditions that relate to other parts of the Water Industry Act, including to:

- require participation in an Ombudsman Scheme if directed
- operate in accordance with any relevant South Australian Health guidelines
- comply with any relevant safety and technical provisions of the Act as required by the Office of the Technical Regulator
- be considered as a “water industry entity” for the purposes of some sections of the Act, for example:
 - section 38 (Power to take over operations)
 - section 39 (Appointment of an operator)
 - section 68 (Responsibilities of water industry entity (in relation to technical and safety issues))
- operate within a range of requirements in relation to customer dispute resolution, customer satisfaction, pricing and billing.

This means that an exemption under section 108 does not necessarily exempt a water industry entity from all regulation under the Act. The types of water industry entities that have been

A **community service obligation** arises when a government specifically requires a public enterprise to carry out activities relating to outputs or inputs which it would not elect to do on a commercial basis, and which the government does not require other businesses in the public or private sectors to generally undertake or which it would only do commercially at higher prices.

Section 108 – Power of exemption

- (1) The Commission may, with the approval of the Minister, grant an exemption from Part 4, or specified provisions of that Part, on terms and conditions the Commission considers appropriate.
- (2) Without limiting subsection (1), the power to exempt includes power to exempt a person from the application of a provision requiring the Commission to make a licence held by the person subject to a specified condition.
- (3) A person exempted from a requirement to hold a licence under Part 4 is, if the Commission has so determined by writing, to be treated as a water industry entity for the purposes of specified provisions of this or another Act...

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exempted under this section are generally small, community run (i.e. not for profit) schemes that supply non-potable water.

Given this type of exemption requires Ministerial approval, there is still an administrative requirement on both the water industry entity and the Essential Services Commission of South Australia.

The Water Industry Act also includes provisions for some water suppliers to be exempt from the Act in its entirety. In particular this relates to water suppliers that provide irrigation services. This occurs through section 5 of the Act:

"This Act does not apply to or in relation to-

- (a) an irrigation trust, or any services provided or infrastructure held by an irrigation trust, under the Irrigation Act 2009*
- (b) the Renmark Irrigation Trust, or any services provided or infrastructure held by the Renmark Irrigation Trust, under the Renmark Irrigation Trust Act 2009*
- (c) any other person providing irrigation services designated by the Minister by notice in the Gazette".*

The Minister has designated (by publishing in the Government Gazette on 4 February 2016) the following water supply companies as irrigation services under section 5(c):

- Barossa Infrastructure Limited
- Langhorne Creek Water Company Pty Ltd
- The Creeks Pipeline Company Limited
- Water Reticulation Services (Virginia) Pty Ltd
- Willunga Basin Water Company Pty Ltd.

As section 5 of the Act exempts irrigation services from the Act entirely, it provides no opportunity to attach other conditions under the Act. This differs from section 108 (which can exempt from selection sections of the Act) because section 5 cannot provide the consumer protection aspects of the Act.

Irrigation trusts (under 5(a) and 5(b)) are regulated through alternative legislation, namely the *Irrigation Act 2009* and *Renmark Irrigation Trust Act 2009*, as well as the *Commonwealth Water Act 2007*. The *Irrigation Act 2009* and *Renmark Irrigation Trust Act 2009* provide a framework for the management and operation of shared infrastructure for irrigation or drainage purposes associated with primary production. Both pieces of legislation include:

- management of the Trust
- financial management
- functions and powers of the Trust, including construction, maintenance and repair of infrastructure
- charges for irrigation and drainage (pricing)
- appeals.

These irrigation Acts provide alternative ways to ensure that factors such as asset management and replacement, consumer protection and pricing are appropriately regulated to protect consumer interests.

Those irrigation services exempt from the *Water Industry Act 2012* in full (under section 5(2)(c)) are not regulated by any other specific water industry related legislation, although general company regulation applies.

There are a number of other water industry entities that primarily supply water for irrigation that are fully licensed under the Water Industry Act. These are generally local governments that supply water for the irrigation of parks and ovals, rather than for agricultural irrigation purposes.

Differing exemptions under different parts of the Act have resulted in the current situation where there are three broad types of water suppliers that are exempted fully, or in part, from the *Water Industry Act 2012*:

- water suppliers exempted by the Commission under section 108 of the Act, that may have conditions placed on them requiring them to meet certain parts of the Act

- irrigation trusts fully exempt from the Water Industry Act and governed by irrigation legislation
- irrigation services fully exempt from the Water Industry Act under section 5(2)(c).

In each of these circumstances there are different levels of regulation around elements of running a water industry business, such as technical regulation and consumer protections.

There review of the Water Industry Act provides an opportunity to consider alternative exemption regimes. This could clarify the circumstances under which a water industry entity is exempt from all or part of the legislation, without the need for an assessment process and Ministerial approval of an exemption. Other sectors, such as the electricity industry, have included legislative exemptions, for example the exemption for small non-commercial generators under the *Electricity Act 1996* (see sidebar).

To enable an exemption regime to function effectively and efficiently the circumstances under which a water industry entity would be exempt from the requirements for a licence must be clear. The regime must also determine whether the exemption applies to the whole Act, or just to the need for a licence. Allowing an exemption to a licence would still facilitate the attachment of conditions under other sections of the Water Industry Act to apply to the water industry entity.

Factors that could be considered in determining whether or not an exemption applies could include:

- water type – potable vs non-potable water supply
- whether the water provided is a primary or secondary supply (i.e. the only source available or a supplementary source)
- number of connections
- nature of business – community cooperative, non-profit, commercial business

Licensing exemption – example from the Electricity Industry

15(2) "A person who carries on the generation of electricity is exempt from the requirement to hold a licence under the Act authorising the operations if-

- (a) the generating plant has a rated nameplate output of 100 kVA or less; or
- (b) the person does not supply electricity for reward to or by means of a transmission or distribution network"

(Section 15 of the *Electricity (General) Regulations 2012*, under the *Electricity Act 1996*).

DISCUSSION QUESTIONS: LICENSING AND EXEMPTION

4A.1	Is a single licensing regime appropriate? If yes, why? If not, why not?
4A.2	If you disagree with a single licensing regime, how do you think a tiered licensing system should operate? Should it exist in the legislation (including regulations), or remain at the discretion of the Commission?
4A.3	If a tiered licensing system were introduced, what factors should define the tiers (e.g. number of connections)?
4A.4	Do you think that there should be any changes to the formal licence exemption regime that exists under the Act? If so, what should they be?
4A.5	If an automatic exemption regime was introduced into the Act, what factors (or combination of factors) should define the exemptions and why (e.g. water type, number of connections, purpose of use, nature of business)?
4A.6	Do you have any other comments about the current licensing regime, or any additional suggestions on ways it could be improved?
4A.7	Do you have any other comments about exemptions?

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B. Planning for water security

The need for long term planning for water supply to meet future water demands was recognised with the introduction of the *Water Industry Act 2012*, which has as a key object – “to promote planning associated with the availability of water within the State to respond to demand within the community”.

This object is supported by water planning requirements within the legislation; specifically section 6 of the Act, which requires the Minister to prepare and maintain a *State Water Demand and Supply Statement* which:

- assesses the state of South Australia’s water resources and the extent of water supplies available
- assesses current and future demand for water
- outlines policies, plans and strategies relevant to ensuring that the State’s water supplies are secure and reliable and are able to sustain economic growth within the State.

To date regional statements have been developed in line with the direction set by Water for Good to form a picture of the state’s water demand and supply needs.

Regional demand and supply statements have been developed for the Eyre Peninsula, Northern and Yorke, South Australian Arid Lands, Alinytjara Wilurara and Kangaroo Island regions. It is not proposed that any additional demand and supply statements be developed before the completion of this review of the *Water Industry Act*.

The aim of demand and supply statements has been to ensure that South Australia is undertaking appropriate and transparent planning for future water security, accounting for changing demands and changes in water availability, particularly in light of predicted warming and drying associated with climate change.

The statements have sought to provide public information that may be relevant to new market entrants or third parties. This could potentially lead to increased competition in the future and result in improved services and lower water prices for customers in the long term.

Under the Act, the State Water Demand and Supply Statement is required to be comprehensively reviewed every five years. In addition an annual report must be prepared each year that:

- provides information about the water demand and supply status of the various regions of the state
- identifies emerging risks or significant issues associated with the state’s water supply.

In addition to the high level planning undertaken by the state government, water industry entities undertake their own planning to ensure that their infrastructure adequately meets current and future needs. SA Water, as the largest water industry entity in the state, regularly undertakes this work. Planning for future infrastructure requirements for a water industry entity is also an important part in ensuring that water prices are set to meet current and future infrastructure needs.

There are currently a range of overlapping planning processes all aimed at ensuring a secure water supply for South Australia now and in the future. It may be useful to streamline and coordinate these processes to allow for more efficient and effective water security planning (for example, water industry entities could provide more information from their detailed planning processes to assist in the development of high level demand and supply statements for the state). The review of the *Water Industry Act* provides an opportunity to look at the way water security planning is undertaken in South Australia and to ensure that this important planning is undertaken in a coordinated and efficient manner.



Where to find current regional demand and supply statements

Copies of the completed demand and supply statements can be found at the web link below:
www.environment.sa.gov.au/topics/water/planning/regional-demand-and-supply-statements

DISCUSSION QUESTIONS: PLANNING FOR WATER SECURITY

4B.1	Do you think the current demand and supply statements adequately allow for planning for future water security? If yes, why? If not, why not?
4B.2	Do you think that demand and supply statements should encompass both potable and non-potable water supply, and all potential alternative water sources? If yes, why? If not, why not?
4B.3	Who should be responsible for preparing the demand and supply statements?
4B.4	Is the regional scale that is currently used for regional demand and supply statements an appropriate scale? If not, why not, and what do you think the appropriate scale is?
4B.5	The Act currently requires the state water demand and supply statement to be reviewed and reported on annually. What do you think is the appropriate frequency for review?
4B.6	Information contained in the statements has the potential to motivate new market entrants and therefore increase competition in the water sector. What additional information do you think would be required in the statements to increase water sector competition?
4B.7	Do you have any other comments in relation to planning for water security, or any additional suggestions on ways it could be improved?

C. Third party access

Part 9A

Third party access policies require owners of natural monopoly infrastructure to grant access to that infrastructure to parties other than their own customers. This is usually competitors who could provide the same or similar services on commercial terms comparable to those that would apply in a competitive market. Third party access is designed to allow additional access to water infrastructure to open up a market to competition and to provide goods and services to customers in downstream or upstream markets. The Minister for Environment and Water has indicated that he would like to review access by third parties to SA Water infrastructure, to look at new ways of delivering water to customers.

Third party access policies play an important role in Australia's National Competition Policy. Access policies are generally applied to essential infrastructure which cannot be economically duplicated. This includes gas networks, electricity transmission and distribution grids, water transportation and sewerage networks, telecommunications networks, rail networks, ports and airports.

The third party access regime was introduced into the Water Industry Act through the *Water Industry (Third Party Access) Proclamation 2016*. The third party access regime added part 9A to the Act to provide a negotiate/arbitrate framework for businesses seeking access to services provided by natural monopoly water infrastructure (in this case, SA Water infrastructure).

The access regime initially adopted a "light-handed" approach, requiring parties to an access request to negotiate in good faith, without direct interference in the access negotiations by the regulator. The access regime provides for binding arbitration if negotiations between the parties break down. At the time of introduction it was felt that a light-handed approach was the best way to move forward given the stage of development of the water industry. The access regime does not preclude water industry entities undertaking separate commercial negotiations for access.

The access regime currently only applies to SA Water infrastructure, which has been declared by proclamation (see box on the next page). Additional infrastructure can be added to the access regime over time through additional proclamations. This could potentially provide opportunities for distribution of alternative water supplies through existing infrastructure, which could in turn diversify water supplies.

What is a natural monopoly?

A natural monopoly arises when a single company supplies the entire market with a particular product or service without any competition because of large barriers to entry. For example in the water industry it makes sense to have one company provide a network of water and sewer pipes because of the very high capital costs involved in setting up a pipe network. Having more than one supplier of pipes would result in the average cost of water being much higher than if there was only one supplier. It would also result in additional disturbance as a result of having two companies digging up roads to lay duplicate sets of pipes.

Extract from *Water Industry (Third Party Access) Proclamation 2016*

4—Application of Part 9A of Act (section 86B)

- (1) In accordance with section 86B of the Act (but subject to clause 5), SA Water is declared to be an operator of infrastructure subject to the operation of Part 9A of the Act in respect of the classes of water and sewerage infrastructure and infrastructure services referred to in subclauses (2) and (3).
- (2) In connection with subclause (1)—
 - (a) the following water infrastructure is declared to be subject to the operation of Part 9A of the Act:
 - (i) the water distribution networks to which SA Water's licence relates;
 - (ii) the following water pipelines operated by SA Water:
 - (A) Murray Bridge to Onkaparinga;
 - (B) Mannum to Adelaide;
 - (C) Swan Reach to Paskerville;
 - (D) Myponga to Adelaide;
 - (E) Morgan to Whyalla;
 - (F) Tailem Bend to Keith;
 - (G) Eyre Peninsula;
 - (H) Glenelg to Adelaide; and
 - (b) the bulk sewage and local sewage networks to which SA Water's licence relates are declared to be sewerage infrastructure subject to the operation of Part 9A of the Act.
- (3) In addition, infrastructure and infrastructure services the use of which is necessary for the transport of water or sewage (as the case may be) in water/sewerage infrastructure referred to in subclause (2) (such as treatment plants, pumping stations, storage tanks and surge protection units and valves) is declared to be infrastructure and infrastructure services subject to the operation of Part 9A of the Act.

5—Limitation of application of Part 9A of Act (section 5A)

- (1) In accordance with section 5A of the Act, it is declared that only the prescribed provisions of Part 9A of the Act apply to the following classes of water and sewerage infrastructure and infrastructure services (declared to be subject to that Part of the Act under clause 4):
 - (a) the water distribution networks to which SA Water's licence relates;
 - (b) the bulk sewage and local sewage networks to which SA Water's licence relates;
 - (c) infrastructure and infrastructure services of a kind referred to in clause 4(3) the use of which is necessary for the transport of water or sewage (as the case may be) in water/sewerage infrastructure referred to in paragraphs (a) and (b).
- (2) In this clause—
prescribed provisions means the following sections of Part 9A of the Act:
 - (a) section 86F (other than subsection (1)(c) and (d));
 - (b) section 86H;
 - (c) section 86ZO;
 - (d) section 86ZP.

During consultation on the Bill for the third party access regime, a number of stakeholders and parliamentarians expressed concern that a third party access regime had the potential to increase costs for existing SA Water customers by placing additional costs on SA Water, that would then be passed on. To address this concern, the then Minister committed to direct SA Water on the pricing methodology that SA Water should use in negotiating access prices with an access seeker.

This direction occurred through a notice published in the Government Gazette on 30 June 2016 (page 2655) under the *Public Corporations Act 1993* stating:

"... In accordance with Section 86P(1)(j) of the Water Industry Act, an arbitrator, to whom a dispute is referred pursuant Part 2 of the Water Industry Act, must take into account any direction given to SA Water by its Minister under Section 6 of the Public Corporations Act that is relevant to the arbitration ..."

"... Minister for Water and the River Murray, direct SA Water to determine prices for access to designated services on the basis of a charge per customer calculated using a retail-minus methodology unless otherwise approved by me"

Where:

Retail-minus methodology means SA Water's retail fees and charges per customer calculated in accordance with the state-wide price for retail services minus SA Water's avoidable costs for the designated services, plus any facilitation costs to provide the designated services.

Avoidable costs means the costs that SA Water would otherwise incur in the provision of retail services to the customer(s) that SA Water could avoid in the long term if it completely ceased provision of the retail service to the customer(s). (Extract from *Government Gazette* 30 June 2016).

SA Water has a number of transportation (third party access) agreements in place with customers. These include large schemes such as Barossa Infrastructure Limited (BIL) and the Clare Valley Peak Water Transportation Scheme. There are also a number of individual arrangements in place that provide off peak water transport of individual River Murray irrigation licences. A total of approximately 13 gegalitres of water is transported annually. All current arrangements were negotiated directly with SA Water prior to the introduction of the access regime through legislation. There have been no new schemes negotiated as a result of the inclusion of the third party access regime in the *Water Industry Act*.

When the third-party access regime was introduced to the Act it included a prescribed period of operation after which a review was required, to either recommend that the Part should continue for a further prescribed period (five years) or to recommend that it should expire at the end of the current prescribed period (30 June 2019). The Essential Services Commission of South Australia is required to undertake this review as the regulator under the Act. The Commission has released a Consultation Paper to seek feedback from stakeholders on whether or not the access regime should continue beyond 30 June 2019. Feedback is particularly sought from existing and potential access seekers on their experiences with the regime. Submissions were required by the Commission by Friday 7 December. Information gathered during the Commission's review will also feed into this review of the *Water Industry Act 2012*.

The theory of retail-minus methodology

If the final product price is \$10 and the incumbent avoids costs of \$3 by not supplying the final customer itself, then the access charge should be \$7. In those circumstances, a more efficient entrant could enter the market if their other costs are less than \$3 (say \$2). These lower costs would then enable the new entrant to charge the final customer \$9. This is thought to be efficient as the final product is being supplied at the lowest total cost to the customer (\$9 instead of \$10), while at the same time the incumbent is recovering all their common fixed costs, including infrastructure costs.

www.wiglelaw.com/assets/pdfs/2007-%282%29/retail-minus-pricing-panned-by-cat.pdf

DISCUSSION QUESTIONS: THIRD PARTY ACCESS

- | | |
|------|---|
| 4C.1 | How successful do you think the third party access regime negotiate/arbitrate framework has been in opening up the water industry to new water industry entities? Please explain your answer. |
| 4C.2 | Do you think there are other aspects of the <i>Water Industry Act</i> that either help or hinder a new third party access regime commencing? Please explain your answer. |
| 4C.3 | How does the required pricing methodology impact (positively or negatively) on the uptake of third party access opportunities? |
| 4C.4 | How else could the <i>Water Industry Act</i> facilitate third party access to the water supply and sewerage networks? |
| 4C.5 | Do you have any other comments in relation to the negotiate/arbitrate third party access regime included in the <i>Water Industry Act</i> ? |
| 4C.6 | Do you have any other comments in relation to third party access? |

D. Availability charging, or rating on abuttal

Before the introduction of the *Water Industry Act 2012*, SA Water was able to impose charges in respect of land that was adjacent to, or abutted, its infrastructure, under a practice known as “rating on abuttal”. This meant that owners of land that abutted infrastructure were liable for charges despite not using the water or sewerage service that was provided by that infrastructure. This is also sometimes referred to as availability charging.

This was previously possible under the *Waterworks Act 1932*, which included the following section in relation to rates:

“65B—Composition of rates

- (1) Rates are made up of—*
 - (a) a supply charge which is payable for the right to a supply of water to the land by the Corporation; and*
 - (b) a water use charge or charges based on the volume of water supplied to the land; and*
 - (c) the Save the River Murray levy.*
- (2) The supply charge is payable in respect of land notwithstanding that the land is not connected to the waterworks or that the Corporation has lessened, discontinued or cut off the supply of water to the land under this Act.” (Waterworks Act 1932)*

The *Water Industry Act* has provided the ability for this practice to continue under section 115(2)(c) and regulation 38 (see sidebar).

To date only one gazette notice has been issued under the regulation (on 6 June 2013) which indicated that charging can be applied to:

“land adjacent, but not connected to, SA Water’s water and/or sewerage infrastructure and that was subject to the application of rates under the Waterworks Act 1932 and/or Sewerage Act 1929 immediately prior to the repeal of those Acts.

Land adjacent, but not connected to, water and/or sewerage infrastructure that has been declared by SA Water by public notice as available for connection to supply water and/or sewerage services”.

Local government water industry entities have similar powers under the rating provisions of the *Local Government Act 1999* (section 155). Under that legislation, a council can impose a service rate, an annual service charge or a combination of the two on rateable land within its area, where it provides, or makes available, a prescribed service – which includes the treatment or provision of water and the collection, treatment or disposal of waste. The council cannot seek to recover costs exceeding the cost to the council of establishing, operating, maintaining, improving and replacing the service in its area.

“s155 (2) A council may impose—

- (a) a service rate, an annual service charge, or a combination of a service rate and an annual service charge, on rateable land within its area to which it provides, or makes available, a prescribed service;*
- (b) an annual service charge on non-rateable land to which it provides, or makes available, a prescribed service.*

s155(5) A council must not seek to recover in relation to a prescribed service an amount by way of service rate, annual service charge, or a combination of both exceeding the cost to the council of establishing, operating, maintaining, improving and replacing (including by future capital works and including so as to take into account the depreciation of any assets) the service in its area (being a cost determined taking into account or applying any principle or requirement prescribed by the regulations).” (Local Government Act 1999).

As it currently stands, availability charging is possible for SA Water through section 115 of the *Water Industry Act* (including regulation 38 and the associated gazette notice) and to local government through the provisions of the *Local Government Act*, but is not available to private water industry entities. Some private entities have used encumbrances over land to achieve a similar outcome; that is, to allow for charging of property owners who are adjacent to infrastructure and able to connect to it, but have not yet done so. These various mechanisms have

Section 115(2)(c) of the Water Industry Act

The regulations may – prescribe circumstances where a charge may be imposed by a water industry entity in respect of land despite the fact-

- (i) that the land is not connected to the relevant service at the relevant time; or
- (ii) the provision of a service to the land has been reduced or discontinued under this Act.

Regulation 38

for the purposes of section 115(2)(c) of the Act, a charge may be imposed by a water industry entity in respect of land of a kind specified by the Minister by notice in the Gazette despite the fact that-

- (a) the land is not connected to infrastructure by which a retail service is provided by the water industry entity; or
- (b) the provision of a retail service to the land by the water industry entity has been reduced or discontinued.

in part been used to fund initial infrastructure construction costs prior to the connection of properties to a service.

Section 115 of the *Water Industry Act* and Regulation 38 of the *Water Industry Regulations 2012* provide a way for water industry entities (including private entities if additional gazette notices are issued) to charge the owner of land that is not connected to infrastructure in certain circumstances.

Regulation 38 applies to land, rather than to a person, and allows for a standalone charge. The wording of Regulation 38 does not bring an owner of unconnected adjacent land into the definition of a customer (see sidebar for customer definition). This means that an adjacent land owner charged under this section is not considered to be a customer under the *Water Industry Act* and is not receiving a retail service as defined by the Act. The flow on effect of this is that a range of the Act's customer protection policies do not apply, including: standard contracts, hardship policies and price regulation.

The review of the *Water Industry Act* provides the opportunity to reconsider the practice of rating on abuttal to determine if it is appropriate and to consider what customer rights should be in place for a land owner charged in any such circumstances.

Definition of customer

A person who owns land in relation to which a retail service is provided and includes-

- (a) where the context requires, a person seeking the provision of a retail service; and
- (b) in prescribed circumstances – a person supplied with retail services as a consumer or user of those services (without limiting the application of this definition to owners of land); and
- (c) a person of a class declared by the regulations to be customers.

DISCUSSION QUESTIONS: AVAILABILITY CHARGING

4D.1	Should water industry entities be able to charge landowners for the ability to connect to a water or sewerage supply that is available? If yes, why? If not, why not?
4D.2	If charges are allowed, should the person paying be considered a customer under the Act and therefore have the various customer protection policies available to them?
4D.3	Do you have any additional comments in relation to availability charging?

E. Requirement to connect to infrastructure

Prior to the introduction of the *Water Industry Act 2012*, public authorities were able to require owners of land adjacent to sewerage infrastructure to connect to that infrastructure under a range of legislation. Over time this included:

- section 33 of the *Sewerage Act 1929* (repealed), which directly empowered SA Water to require adjacent land owners to connect to the 'undertaking' (i.e. SA Water's sewerage infrastructure)
- regulation 24 of the *Public and Environmental Health (Waste Control) Regulations 2010* (revoked), which directly empowered the Minister or a local council to require owners/occupiers of land where a septic tank was located to connect to a septic tank effluent disposal (STED) scheme or sewer
- section 530C of the *Local Government Act 1934*, which directly empowered a local council to require owners/occupiers of land where a septic tank was located to connect to a STED scheme. Under section 530C, a council is required to give notice to owners of land in an area that would be affected by a proposed STED scheme.

Ministerial approval was not a requirement of these provisions and they were essentially designed to address public health and/or environmental concerns.

Section 48 of the *Water Industry Act 2012*, replaced section 33 of the *Sewerage Act 1929*, extending the powers previously available to SA Water to all water industry entities. However, as the ability to compel a landholder to become a customer is a significant power, the powers to require a landholder to connect to infrastructure under the *Water Industry Act* were subject to Ministerial approval of a scheme.

Under current legislation, local government is still able to require adjacent landholders to connect to a community wastewater management system through the *South Australian Public Health (Wastewater) Regulations 2013* (see sidebar). This regulation only applies to local government. This means that section 48 of the *Water Industry Act* in practical terms only applies to water industry entities other than local government that may wish to require adjacent landholders to connect to a sewerage system.

Section 48 provides that the Minister may approve a scheme that provides for the supply of sewerage services by a water industry entity. Once that approval is granted, the water industry entity may require owners of land adjacent to its infrastructure to connect to that infrastructure to provide for the discharge of sewerage.

Section 48(5) of the Act provides that the Minister may determine whether or not to approve a scheme after taking into account such matters as the Minister thinks fit. The Minister, therefore, has broad discretion as to the matters that are considered when deciding whether or not a water industry entity scheme should be approved and in turn provided with the opportunity to require adjoining landholders to connect to sewerage infrastructure.

Originally this type of provision was included in previous legislation to ensure that potential risks to public health and the environment were adequately managed. However the current wording of the legislation does not limit the approval of a scheme to public health and environmental matters. Local government powers to connect under public health regulation do relate to achieving a public health outcome.

A water industry entity being able to require all adjoining landholders to connect to its scheme potentially gives it a significant competitive advantage and limits the potential for any other entity to enter into the market in that geographic location. This may not best serve the interests of consumers and may not align with the objects of the Act – to promote efficiency, competition and innovation in the water industry and promote the interests of consumers of water and sewerage services. The review of the *Water Industry Act* provides the opportunity to consider whether or not water industry entities should be able to require landholders to connect to sewerage infrastructure and under what circumstances.

Regulation 9 of the SA Public Health (Wastewater) Regulations 2013

"On obtaining a wastewater works approval for a community wastewater management system, a council may, by written notice, require the operator of an on-site wastewater system-

(a) to connect the system to the community wastewater management system ..."

DISCUSSION QUESTIONS: REQUIREMENT TO CONNECT TO INFRASTRUCTURE

4E.1	Should water industry entities be able to require adjoining land holders to connect to sewerage infrastructure? If yes, why? If not, why not?
4E.2	Is the current mechanism (requiring the Minister to approve a scheme which allows a water industry entity to require adjacent landholders to connect to sewerage infrastructure) the best way to achieve this? If yes, why? If not, why not?
4E.3	What factors should the Minister consider in determining whether or not to approve a scheme under section 48 of the Act?
4E.4	Do you have any additional comments in relation to the requirement to connect to infrastructure?

F. Technical regulation and reporting

Water industry entities are subject to technical regulation under both the *Water Industry Act 2012* and other legislation. Other legislative requirements for water industry entities will depend on the nature of their services.

Responsibilities for technical regulation under the *Water Industry Act* rest with the Technical Regulator, supported by the Office of the Technical Regulator.

The Technical Regulator is responsible for:

- developing technical standards in connection with the water industry
- monitoring and regulating technical standards for water, sewerage and plumbing
- providing advice in relation to safety and technical standards.



Section
68

Technical standards are also set by other regulators in some circumstances. For example, SA Health has standards in relation to wastewater (sewerage) systems, such as the SA CWMS (community wastewater management system) *Design Criteria*, which set minimum design standards for wastewater schemes in South Australia.

Licensed water industry entities also have responsibilities in relation to technical and safety issues under the Act, as described in section 68. These responsibilities include ensuring that the infrastructure, equipment, products or materials within their water business are safe and in good working order. In addition, a water industry entity must take reasonable steps to ensure that any infrastructure and equipment used by the entity is in accordance with technical and safety requirements specified by standards published by the Technical Regulator under the Act or any other safety and technical standards specified by the Technical Regulator.

The Act (section 68(2)(a)) sets a framework for the technical regulator to ask a water industry entity to prepare a *Safety, reliability, maintenance, and technical management plan* (SRMTMP). The requirements for the SRMTMP are outlined in regulation 21 of the Water Industry Regulations (see sidebar). The broad intent of this document is to demonstrate that the water industry entity's infrastructure is designed, installed, commissioned, operated, maintained, monitored and, where required, decommissioned, in a safe and reliable manner by suitably qualified persons.

The Technical Regulator has determined that all water industry entities are required to prepare a SRMTMP. Guidelines and templates were prepared by the Office of the Technical Regulator to assist water industry entities with this task.

The SRMTMP is intended to be a working document that is unique and functional to each water industry entity. In administering this section of the Act, the Office of the Technical Regulator has worked with water industry entities to ensure that the scope of the plan is suitable to the size and nature of the entity. Where information exists in other documents (e.g. an asset management plan) the SRMTMP is able to point to this documentation rather than duplicate effort. Once the plan is signed off and in operation, it does not need to be resubmitted to the Technical Regulator for approval unless circumstances change significantly. Water industry entities are required to complete a short checklist annually to identify any changes that may have occurred in the previous 12 months. This checklist assists to determine whether a SRMTMP needs to be resubmitted to the Technical Regulator.

Water industry entities have a range of reporting requirements under both the Water Industry Act and other legislation. Under the Water Industry Act, this relates to the safety, reliability, maintenance and technical management plan and annual reporting to the Essential Services Commission of South Australia against the water retail licence. The annual report to the Commission covers financial and operational performance and compliance.

Licensed water industry entities may also be regulated by other legislation, which is likely to have its own reporting requirements. In some instances there is overlap in the approvals required and follow up reporting arrangements. There are also circumstances where different regulatory requirements apply to different water industry entities. For example the regulation of sewerage infrastructure under the *South Australian Public Health (Wastewater) Regulation 2013* applies to local government and private water industry entities, but does not apply to SA Water, which is exempt under the regulation.

The type of regulation and reporting that is required will depend on the type of water industry entity and the source and use of the water. A summary of other key legislation that may require reporting by a water industry entity is provided in the following table.

There has been some suggestion that opportunities may exist to streamline reporting requirements under various legislation to simplify reporting processes for water industry entities. Initial investigations by the regulators suggest that there is not generally significant overlap in the reporting requirements and that each regulator has specific information needs to meet the requirements for their legislation. However, the review of the Water Industry Act provides the

Regulation 21

... matters that must be dealt with by a safety, reliability, maintenance and technical management plan:

- (a) *the safe design, installation, commissioning, operation, maintenance and decommissioning of water/sewerage infrastructure owned or operated by the water industry entity;*
- (b) *the maintenance of water or sewerage services of the quality required to be maintained by or under the Act, these regulations, the water industry entity's licence or the conditions of any exemption granted to the entity;*
- (c) *monitoring compliance with safety and technical requirements imposed by or under the Act, these regulations, the water industry entity's licence or the conditions of any exemption granted to the entity;*
- (d) *monitoring water/sewerage infrastructure owned or operated by the water industry entity for the purposes of identifying infrastructure that is unsafe or at risk of failing or malfunctioning;*
- (e) *the establishment of indicators and the collection and recording of information to measure the water industry entity's performance in respect of matters referred to in the preceding paragraphs.*

opportunity to consider elements of the reporting framework required under this legislation and to identify whether there are opportunities for streamlining.

The detail of the requirements for annual reporting against a retail licence are described in codes and guidelines produced by the Essential Services Commission of South Australia. The Commission publishes a Regulatory Performance Report, which provides a summary of each water industry entity's performance against others. The Commission is currently reviewing its reporting framework, although that is a separate process to this legislative review. Issues relating to reporting to the Commission through this consultation process will be provided to the Commission for its consideration.

Annual benchmarking of water utilities to evaluate performance and compare urban water usage and costs is also undertaken at a national level through the Bureau of Meteorology's (Bureau) National Performance Report on urban water utilities (the NPR). The NPR is underpinned by a framework, including performance indicators, definitions, data collection, collation, auditing and reporting processes and practices.

In June 2018, the Bureau, Department of Agriculture and Water Resources, all Australian jurisdictions and the Water Services Association of Australia agreed to conduct a thorough review and refresh the framework. The Review will examine the current performance indicators, data collection processes and associated information management systems, the structure and format of the existing NPR, current governance arrangements and provide recommendations for future enhancements in all of these areas. The NPR currently only relates to SA Water, not all water industry entities.

Reviewing the NPR to include information on financial returns, which can be made public, offers the opportunity to promote competition by comparison.

While the review of reporting requirements under other legislation is out of scope for this review, issues raised can be provided to other regulators for their consideration.

To view the regulatory performance reports see:

<https://www.escosa.sa.gov.au/industry/water/regulatory-reporting/regulatory-performance-reports>

Legislation	What is regulated	Who it applies to	Reporting required	Why
<i>Environment Protection Act 1993</i>	Sewerage treatment works or septic tank disposal schemes (in accordance with clause 3(2) of schedule 1 of the Act)	Water industry entities (sewerage) over a certain size	Targeted monitoring dependent on the site (which may include no monitoring requirements, in particular if there is no reuse or discharge)	Ensure compliance with licence Protection of the environment
<i>Environment Protection Act 1993</i>	Managed aquifer recharge (Drainage of stormwater to underground water for later reuse)	Water industry entities (water supply) that includes a managed aquifer recharge scheme	Targeted monitoring dependent on the site	Ensure compliance with licence Ensuring that managed aquifer recharge operations are operated and managed to limit potential risks
<i>South Australian Public Health (Wastewater) Regulations 2013*</i>	Approval of sewage infrastructure prior to installation All recycled water schemes (reuse/irrigation of wastewater)	Water industry entities (sewerage)	Provision of "As constructed drawings" and Engineering Certification for sewage works Annual report including recycled water monitoring results	Ensure compliance with approval conditions Checks compliance with minimum water quality criteria for reuse Protection of public health
<i>Safe Drinking Water Act 2011</i>	Potable water supplies	Water industry entities (water supply) that supply drinking water	Incident reporting and reporting of water quality test results	Protection of public health

Legislation	What is regulated	Who it applies to	Reporting required	Why
<i>Natural Resources Management Act 2004</i>	Water extraction from prescribed water resources (surface or groundwater)	Water industry entities (water supply) that extract a prescribed water resource as part of their supply	Annual meter readings	Monitor water use is within allocation
<i>Natural Resources Management Act 2004</i>	Managed aquifer recharge schemes	Water industry entities (water supply) that include a managed aquifer recharge scheme	Linked to EPA reporting requirements	Ensuring that managed aquifer recharge operations are operated and managed to limit potential risks

* SA Water is exempt from the requirements of the Wastewater Regulations

DISCUSSION QUESTIONS: TECHNICAL REGULATION AND REPORTING

4F.1	If you are a water industry entity and have been required to prepare a safety, reliability, maintenance and technical management plan, did you find the preparation of the plan useful? If yes, why? If not, why not?
4F.2	Do you think there is an opportunity to streamline the preparation of safety, reliability, maintenance and technical management plans (SRMTMP)? If so, how?
4F.3	Are there aspects of the requirements of an SRMTMP (as described by regulation 21) that you think should not be required? Are there additional things that you think should be included??
4F.4	If you are a water industry entity, do you find the reporting requirements of different regulators to be overlapping? If so, how?
4F.5	Can you identify any opportunities for streamlining reporting requirements between all technical regulators and the essential services commission?
4F.6	Do you have any other comments in relation to technical regulation and reporting?

G. Definition of a retail service

Under section 18 of the Act (requirements for a license), water industry entities cannot provide a "retail service" unless the person holds a licence. Section 4 of the Act (definitions) defines a retail service as:

"retail service means a service constituted by-

(a) The sale and supply of water to a person for use (and not for resale other than in prescribed circumstances (if any)) where the water is to be conveyed by a reticulated system; or

(b) The sale and supply of sewage services for the removal of sewage,

(even if the service is not actually used) but does not include any service, or any service of a class, excluded from the ambit of this definition by the regulations)."

This definition relies on the words “reticulated system”, which has not been specifically defined within the legislation. This can result in confusion in some circumstances as to whether or not a particular water supply arrangement constitutes a retail service and therefore requires a licence. For example, a landholder extracts water from a well and on-sells a portion of the supply to a neighbour, delivered via a small pipe. Under the current definition this could be considered as providing a retail service and therefore the landholder would be required to apply for a licence.

Amendments to the Act to better define “reticulated system” and therefore retail service could provide clarity on what is, and is not, a retail service. This in turn can provide clarity on the circumstances under which a licence is required. This will simplify requirements for both potential water industry entities and regulators.

In determining an appropriate definition, it is possible to consider existing legislative and common use definitions, or to create a new definition. Within existing South Australian legislation, the *Safe Drinking Water Act 2011* provides a definition for a reticulated water system (see sidebar) which could be used for the Water Industry Act.

This definition provides that a reticulated water system needs to deliver to at least two locations via a network. The word network is a broad term that could encompass a wide range of water/sewerage delivery mechanisms.

The definition of a retail service allows for “any service, or any service of a class” to be excluded from the definition by regulation. Exclusion from the definition of a retail service would also exclude a service provider from the requirement for a licence and therefore the Act. Local government has suggested that community wastewater management schemes (CWMS) run by councils could potentially be excluded on the basis that they are providing a community service and are already regulated in a range of ways by the Local Government Act and other legislation (e.g. *South Australian Public Health (Wastewater) Regulations 2013* and *Environment Protection Act 1993*). Regulation under the Local Government Act includes customer service charters, requirements for asset management plans, customer hardship policies and customer charges.

The review of the Water Industry Act provides the opportunity to clarify the definition of a retail service within the legislation and therefore simplify administrative procedures for both water industry entities and the Essential Services Commission of South Australia.

Definition of “reticulated system” from the *Safe Drinking Water Act 2011*

Reticulated water system: A network for the provision of water to 2 or more locations, other than a network, or network of a class, excluded from the ambit of this definition by the regulations

Broad definitions of reticulated water systems talk about a “piped water system”

DISCUSSION QUESTIONS: DEFINITION OF A RETAIL SERVICE

4G.1	Is the definition of “reticulated system” in the <i>Safe Drinking Act 2009</i> suitable for use in the <i>Water Industry Act 2012</i> ? If not, what alternatives can you suggest?
4G.2	Can you envisage any form of water retail service that you think should be licenced under the <i>Water Industry Act 2012</i> , but would not deliver water to customers consistent with the <i>Safe Drinking Water Act</i> definition of a reticulated system? If so, what?
4G.3	The current definition within the <i>Water Industry Act</i> allows for exclusion of services from being a retail services through this component of the definition: “service, or any service of a class, excluded from the ambit of this definition by the regulations”. Do you think there are any services, or classes of services, that should be excluded from the definition of a retail service by regulation? If so, what, and why?
4G.4	Do you have any additional comments in relation to the definition of a retail service?

H. Publishing standard terms and conditions for retail services

The *Water Industry Act* requires a water industry entity to provide standard terms and conditions for their customer contracts.

The *Water Retail Code – Minor and Intermediate Retailers* has a standard customer service contract that retailers must adopt in respect of their residential customers and may adopt in relation to non-residential customers. A retailer can alter the standard terms and conditions with the written

approval of the Essential Services Commission of South Australia. If altered, the final standard contract must be published in accordance with the requirements of section 36 of the *Water Industry Act 2012*.

The Water Retail Code also indicates that, unless otherwise agreed by the parties, the requirement to adopt the Commission's standard contract does not apply to a retailer that charges a residential customer for retail services as a component of a rate notice issued under the *Local Government Act 1999*. This occurs for customers connected to local government community wastewater management schemes.

Where a water industry entity varies the standard conditions, the entity is required to meet the publication requirements of the Act (section 36). This includes:

- publishing a notice in the Government Gazette setting out the standard terms and conditions, and
- publishing a notice in a newspaper circulating in the state, advising of the gazette notice, describing the nature of the standard terms and conditions, and advising where a copy can be viewed or obtained.

Publication in the Gazette can be expensive, with indicative costs to publish the type of notice required in the order of \$5,000. Given that most potential customers of a water industry entity are unlikely to read the *Government Gazette*, it has been questioned whether this is an appropriate notification mechanism, particularly given the costs involved. There are a range of other alternative options that are likely to be far more effective in reaching current and future customers, for significantly lower costs; for example publishing standard terms and conditions on the water industry entity or the Commission's websites. The review of the Water Industry Act provides the opportunity to streamline administrative requirements and reduce costs in relation to publication of standard terms and conditions.

DISCUSSION QUESTIONS: PUBLISHING STANDARD TERMS AND CONDITIONS

4H.1	Is it necessary to publish standard contract terms and conditions in the <i>Government Gazette</i> ? If yes, why? If not, why not?
4H.2	Could appropriate customer notification be achieved through publication on a water industry entity website? If not, do you have any alternative suggestions?
4H.3	Do you have any additional comments in relation to publishing standard terms and conditions?

I. Powers and duties relating to land and infrastructure

Section 45

Section 45 of the Water Industry Act outlines the powers that a water industry entity has to carry out works on land owned by others. The Act provides for "authorised entities" (the Minister or any water industry entity) to enter land and carry out a range of works related to the construction or maintenance of water and sewerage infrastructure. This includes maintaining and operating infrastructure, construction of infrastructure, laying pipes and obtaining or enlarging a water supply.

There are notification requirements for a water industry entity to work on land that it does not own, but the requirements differ dependent on whether the land is privately or publicly owned.

If an entity seeks to enter private land for the first time, the entity must give prior written notice to the occupier (not the owner) of the land stating the reason and the date and time of the proposed entry. The period of notice must also be reasonable.

If an authorised entity seeks to enter public land, the entity must give the authority responsible for the management of public land not less than 12 hours' notice of the intention to carry out work on the land and secure the authority's agreement to the carrying out of the work.

For the purposes of this section – **public land** is considered to be land owned by the Crown or an instrumentality or agent of the Crown or by a council or other local government body.

This means that potentially large scale works can be undertaken on a private property without the owner of that land being aware of it, because the notification requirement is to the occupier. This is not the case for public lands, where the agreement of the authority responsible for managing the land is required before major work is carried out. Regulation exempts requirements for prior notice and agreement for maintenance, repairs or minor works on existing water/sewerage infrastructure on public land.

Section 45(17) of the Act requires a water industry entity to *"make good any damage caused by the exercise of powers under this section as soon as practicable (including so as to reinstate any road or other place ..."*. The current wording of the Act does not include reference to the standard to which the repairs are required, particularly in relation to the repair of roads. It has been suggested that this could be clarified by adding wording to indicate that the "make good" needs to be to a standard so as not to diminish the life or standard of the road asset.

The review of the Water Industry Act provides the opportunity to review the sections of the Act dealing with powers and duties relating to land and infrastructure for consistency and clarity.

DISCUSSION QUESTIONS: POWERS AND DUTIES RELATING TO LAND AND INFRASTRUCTURE

41.1	Should the notification requirements be the same for work on both public land and private land? If yes, why? If not, why not?
41.2	What do you think are appropriate notification requirements?
41.3	Should additional clarification be added to the requirement to "make good" damage caused by the exercise of section 45 of the Act? If so, what should be added and why?
41.4	Do you have any additional comments in relation to powers and duties relating to land and infrastructure?

J. Ceasing operations as a water industry entity

If a water industry entity wishes to cease operation, the simplest process available to it is to find another water industry entity to take over operations through a commercial negotiation and agreement (sale of the business). In this situation the Essential Services Commission of South Australia can work with the two water industry entities to transfer the licence to the new entity. This process is envisaged by the Act which includes in its objects; "to promote efficiency, competition and innovation in the water industry". A competitive market encourages commercial arrangements to shift businesses between entities.

Under section 32 of the Water Industry Act, a water industry entity can surrender its licence by written notice to the Commission. Section 38 gives the Commission the power to take over operations in certain circumstances. Some water industry entities have questioned whether the Commission would take over their operations under section 38 if they were to surrender their licence.

The Commission has not used section 38 to take over the operations of a water industry entity, and a takeover is unlikely to occur unless there are exceptional circumstances; for example when a water industry entity ceases to be able to operate. Taking over an operation is considered to be a significant power and therefore there are a number of circumstances that are required to be met before it can occur. The Commission can only take over operations after a proclamation is made by the Governor, which is only likely to occur if the Commission can demonstrate to the Governor that a water industry entity has contravened the Act or that the Commission believes that it is necessary to take over operations to maintain continuity of supply of service. In addition the Commission would require indemnity from the government in relation to incurred costs/liabilities if it were to take over the operations of a water industry entity. The power to take over operation is only likely to be used if there is no other alternative and there is a significant risk to supply to customers.

DISCUSSION QUESTIONS: CEASING OPERATIONS AS A WATER INDUSTRY ENTITY

- 4J.1** Do you have any comments relating to the ability of the Commission to take over operation of a water industry entity?

5. ADMINISTRATIVE OR MINOR ISSUES

A number of additional issues have been identified through the first stage of the review process. These issues and some targeted discussion questions are presented in the table below.

Section of the Act	Issue	Discussion questions
Section 18 – Licensing	In some instances multiple companies are involved in the delivery of services for water or sewerage supply. This may occur where one company owns the assets, and another sells the water. There has been some confusion over which company should be the licence holder. The Act currently allows for licences to be held jointly (section 21) so this may be able to be resolved administratively by issuing a licence jointly to all relevant companies.	1. Is there a need for the licensing requirements to be clarified for circumstances where multiple companies are involved in delivering requirements to meet licence conditions?
Regulation 24 – Water Conservation long term measures (Water Industry Regulations)	Regulation 24(2) allows for SA Water to issue a permit to exempt a water user from the water conservation measures described in Schedule 4 of the Water Industry Regulations. This regulation is set to expire in January 2023. It has been questioned whether or not the permits are still required, given that water conservation is now standard practice.	2. Do you think the Regulations should be amended to remove the requirement for permits to exempt water users from long term water conservation measures are still required? If yes, why? If not, why not?
Section 98 – Fire plugs	At the direction of the Minister a water industry entity must provide and maintain fire plugs in accordance with a scheme determined by the Minister under this section. The relevant scheme under this section has never been developed.	3. Is a fire plug scheme (and this section of the Act) still needed? Please explain your answer.
Section 15 – Technical Reference Committee	Section 15 requires the Technical Regulator to establish a technical advisory committee, with representatives of water industry entities, contractor and employer associations involved in the water industry, persons involved in administration of public health legislation, local government and any other entities determined by the technical regulator. The terms of the committee are to advise the technical regulator. There have been some questions raised regarding the role and use of the committee, and the communication of the outcomes of meetings back to water industry entities; providing early indications of directions that may be sought by the regulator.	4. Is the technical advisory committee required? If yes, why? If not, why not? 5. If the technical advisory committee continues, who do you think should be part of the committee? 6. What do you think the role of the technical advisory committee should be?
Section 37 – Customer hardship policies	Under the <i>Local Government Act 1999</i> (section 182 – Remission and postponement of payment) local governments have in place mechanisms to manage payment in hardship situations. Local government believes that, as payments for local government community wastewater management schemes are made through rates payments under the Local Government Act, additional hardship policies are not required.	7. Should local government be able to use existing hardship provisions under the <i>Local Government Act 1999</i> to meet the needs of customer hardship policies under the <i>Water Industry Act 2012</i> ? If yes, why? If not, why not?

Section of the Act	Issue	Discussion questions
Section 25(1)(p) Section 25 relates to license conditions, section 25(1)(p) is: <i>"requiring the water industry entity to comply with the requirements of any scheme approved and funded by the Minister for the purposes of providing specified exemptions from the requirements to pay for the provision of specified services"</i>	Under the <i>Waterworks Act 1932</i> (repealed) and the <i>Sewerage Act 1929</i> (repealed) land used exclusively for charitable purposes or public worship is exempt from the requirement to pay rates. For the <i>Waterworks Act</i> this also included land used for the purposes of a State school, and for the <i>Sewerage Act</i> this extended to land used by a municipal corporation exclusively for the purposes of the corporation. Over time this requirement has translated into a customer service obligation for SA Water that allows it to exempt certain groups of organisational customers from water and sewerage rates. This exemption option is not available to other water industry entities. It has been proposed that section 25(1)(p) of the Act could be delegated to the Minister for Human Services, to develop a scheme for exemptions that could be applicable to all water industry entities and therefore available to all customers regardless of their supplier. This would replace the customer service obligation for SA Water that currently exists. Section 25(1)(o) of the <i>Water Industry Act</i> requires water industry entities to comply with the requirements of any scheme approved and funded by the Minister for the provision by the State of customer concessions. Section 25(1)(o) is already delegated to the Minister for Human Services and allows the Department of Human Services to administer water and sewerage concessions.	8. Should certain organisation groups be exempt from part of their water payments (e.g. charities, churches or schools)?
Section 67	The installation of meters (as infrastructure that is used in the water industry) is regulated under this section. In some instances sub metering agencies install private meters and provide meter reading and billing services where one meter has been supplied by the water industry entity. The question has been raised as to whether or not sub-metering agencies are subject to the same regulation as water industry entities in this circumstance. The legislation currently does not specifically mention water industry entities in relation to this section.	9. Should sub metering agencies be subject to the same requirements as water industry entities? 10. Do you think legislation needs to be clarified for this to occur, or is this an administrative or licensing issue? Explain your answer.
Section 99	Single metered properties and the benefit of individual metering on South Australian Housing Trust homes was reviewed by the Commission in accordance with this section. The findings of the Commission noted there was no significant benefit to the retrofit of individual meters. Given that this work has now been completed and any additional work could be undertaken through an enquiry, this section of the Act is no longer required and has been recommended for removal.	11. Do you object to this section being removed from the Act? Please explain your answer.
Section 4	The current definition of "sewerage infrastructure" and "sewerage service" do not include a reference to the disposal of treated sewage or of by-products or waste products, such as sludge. This exclusion restricts the ability of the Technical Regulator to monitor and regulate safety and technical standards for the entire sewerage system. At present a water industry entity that operates a sewerage service without a retail disposal path (i.e. sale of recycled water to a third party) is not required to comply with safety and technical standards that are regulated by the Technical Regulator. This results in a gap in the regulatory oversight of this area. It has been suggested that this could be addressed by: - amending the definition of "sewerage infrastructure" to add a new provision that includes the disposal of treated sewage and treatment of sewerage by-products - amending the definition of "sewerage service" to include the disposal of treated sewage and treatment of sewerage by-products.	12. Do you agree with the suggested amendments? If yes, why? If not, why not?

Section of the Act	Issue	Discussion questions
Section 9	Section 9 of the Act outlines the functions of the Technical Regulator. The Office of the Technical Regulator (OTR) has made some suggestions to better clarify their role. New wording is shown in bold and proposed deletion is shown as ~~striketrough~~ text. The Technical Regulator has the following functions: - to develop safety and technical standards in connection with the water and plumbing industries - to monitor and regulate safety and technical standards with respect to - ... - to provide advice in relation to safety and technical standards – to members of the water and plumbing industries and to consumers - in the water industry to the Commission at the Commission's request; ~~and~~ ~~in the plumbing industry.~~ In order to further clarify the scope of functions of the OTR it has been proposed to: - further define "safety and technical standards" to include: specifications, procedures and guidelines which ensure the safety, consistency and reliability of products, material, services and systems - exclude the regulation of stormwater from the responsibilities of the OTR - stormwater could be interpreted to be within the regulatory area of the OTR because the definition of water industry and water service rely on the definition of water in the Act, which includes stormwater	- Do you agree with the proposed changes to the functions of the Technical Regulator? If yes, why? If not, why not? - Do you agree with the further definition of safety and technical standards? If yes, why? If not, why not? - Do you agree with the exclusion of stormwater from the regulatory role of the Office of the Technical Regulator? If yes, why? If not, why not? - Do you have any further comments in relation to the functions of the Technical Regulator?
New provision (New type of notice e.g. new section 80A)	Under section 80 of the Act, an authorised officer may issue an enforcement notice for the purposes of ensuring compliance with a provision of the Act or the Regulations. This enforcement notice is disclosed to prospective purchasers of a property (under Regulation 12) as a prescribed encumbrance for the purposes of the <i>Land and Business (Sale and Conveyancing) Act 1994</i>. In some instances an enforcement notice is not appropriate as an authorised officer simply wants to inform the owner of a premises of a certain plumbing issue but does not require the owner to fix or otherwise change it. For example when a "common drain" crosses two or more properties. This occurred in premises built prior to the <i>Sewerage Act 1929</i>, but is now outside contemporary legislative requirements. Other examples where an advisory notice may be required are when there is a testable backflow prevention device installed on the premises, where there is an alternative plumbing based solution or a non-compliant flood gully (which might result in raw sewerage flooding into the property). The purpose of issuing an advisory notice is to inform the customer of the existence of the plumbing issues and to ensure that any potential future property owners are also aware of plumbing issues. It is proposed to introduce a new provision to the Act that allows an authorised officer to issue an Advisory Notice, which is also a prescribed encumbrance for the purposes of the <i>Land and Business (Sale and Conveyancing) Act 1994</i>. This would allow a prospective purchaser to be aware of the issue prior to purchase.	Do you have any comments about the proposed introduction of this provision?



Section of the Act	Issue	Discussion questions
Regulation 39 – vents – cost of compliance with requirements	The current drafting of Regulation 39 refers to “vents” without any further clarification. As the term vents is not defined in the Act, it takes the ordinary dictionary definition. This has resulted in a lack of clarity in interpretation of this regulation. There are many vents that should not be caught by the wording of this provision, including the air extractor in a range hood above a stove. To clarify the intent of this provision, it is proposed to amend the wording of this regulation to clarify that this relates to vents that limit the pressure fluctuations with plumbing and equipment.	18. Do you have any comments about the amendment to Regulation 39?
Regulation 34 – Pipes must not lie across allotment boundaries	The current narrow drafting of Regulation 34 has resulted in failure to capture all relevant matters that ensure efficient and effective regulation of this area of plumbing. This is because equipment other than a pipe may lie across two or more property boundaries – for example a grease arrester. In addition there are several thousand properties in the Adelaide region that have common drains traversing two or more properties. These were installed in compliance with the legislation in place at the time, the <i>Adelaide Sewers Act 1878</i> . It is proposed to amend Regulation 34 to broaden its reach beyond pipes and to clarify that common drains installed under previous legislation are “grandfathered” into the regulations. Wording to preserve pipes connected to any water/sewerage infrastructure lying across the boundary between adjoining allotments that were installed in accordance with the <i>Adelaide Sewers Act 1878</i> would meet this requirement. The new provision should make clear that Regulation 34(1)(a) does not apply to “common drains” which will maintain the power of the Technical Regulator to give direction under Regulation 34(1)(b) if land is subdivided and it becomes necessary to issue such a direction.	19. Do you have any comments about the amendment to Regulation 34?
New regulation	There are currently no penalty and expiation fees for failure to book an audit for plumbing pipework, which means that it is not possible to enforce this requirement when necessary for health, safety and technical reasons. Further, audits which are conducted outside of normal business hours for the Office of the Technical Regulator need to be charged at a reasonable hourly rate, so as to recoup the monies paid by government paying additional wages to the plumbing inspector. Such audits occur on a regular basis and there should be a mechanism to recoup fees for the audit (often during the early morning hours to allow for a premises to be fully operational by morning). It has been suggested that a new regulation is required to first enforce the requirement to book an audit of plumbing pipework and secondly, to recoup reasonable fees for audit work conducted outside of ordinary business hours.	20. Do you support the inclusion of a new regulation to address these issues? If yes, why? If not, why not?

6. BROADER WATER REFORMS

Managing South Australia’s water resources occurs within a complex framework of legislation. While the *Water Industry Act 2012* is a discrete piece of legislation that requires review, there is also an opportunity as part of this review to consider how the regulation of the water industry under the *Water Industry Act* can fit within broader water reform processes.

Water resources management is covered by a range of other legislation. One key piece of legislation is the *Natural Resources Management Act 2004*, which includes provisions for:

- the prescribing of water resources, where necessary for proper management

- preparation of statutory water allocation plans for prescribed resources and community consultation on draft plans by the relevant NRM Board, prior to Ministerial approval
- licensing of water access entitlements under a water allocation plan and associated water levy requirements
- permits for other water affecting activities, including where water is regulated under a regional NRM plan.

A process of reform is currently underway for managing natural resources. A key element of the reform is the development of a new Landscape SA Act to replace the *Natural Resources Management Act 2004*. A separate discussion paper was released for consultation last year for this process. A range of short and long term reforms are being considered, including reforms to the way water is managed under the *Natural Resources Management Act 2004*. This discussion paper and the review of the *Water Industry Act 2012* is a separate process.

There is also an opportunity to align any state water reforms with emerging national water reforms arising out of the Productivity Commission's review of the National Water Initiative.

The Productivity Commission identified three key priorities for the next phase of water reform as outlined in the following table.

Maintaining the key foundations	It is important that the key foundations of water reforms in the areas of water entitlements and planning, water markets, water accounting and compliance, water quality, water pricing and institutional arrangements, are maintained.
Revising existing policy settings	There are areas where revisions to current policy settings are required to deal with contemporary issues and concerns – to be made by State and Territory governments in the areas of: • arrangements for extractive industries • incorporating alternative water sources • developing contemporary water entitlements and planning frameworks • more fully recognising the water needs of Indigenous Australians • removing remaining barriers to trade • improving the quality and consistency of economic regulation • addressing future knowledge and capacity building needs • better targeting adjustment assistance
Enhancing national policy settings	There are three priorities for inclusion in a future national water reform agenda. These areas require a significant enhancement of current policy settings and, associated with this, considerable effort by all governments to make the necessary changes. These are: • making urban water management more robust and responsive • improving environmental management • delivering new infrastructure that is viable and sustainable.

The review of the Water Industry Act provides an opportunity to think about broader water reform opportunities that may help to achieve the objects of the Water Industry Act in the short and long term. This could include ideas for water reforms that contribute to the Landscape SA reform process and the next iteration of the National Water Initiative.

DISCUSSION QUESTIONS: BROADER WATER REFORMS

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| 6.1 | Do you see any opportunities to achieve broader water reforms through future amendments to the Water Industry Act? Please explain your answer. |
| 6.2 | Do you see opportunities for the water industry in other areas of water reform? |
| 6.3 | Do you have any further comments related to broader water reforms? |

Further information on the Productivity Commission's review of the National Water Initiative can be found at this link:
www.pc.gov.au/inquiries/completed/water-reform#report