



Department of Water
Government of Western Australia

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Our ref: CEOW133/08
Enquiries: Shane O' Donohue, ph 6364 6814

Mr Lyndon Rowe
Economic Regulation Authority
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Dear Mr Rowe

***INQUIRY INTO COMPETITION IN THE WATER AND WASTEWATER SERVICES
SECTOR – DEPARTMENT OF WATER'S SUBMISSION***

Thank you for your letter of 21 February 2008 in which the Authority seeks clarification on a number of matters.

As a general comment, the restructuring of the water industry that commenced under the National Competition Policy framework has focused in part on the separation of roles within government to ensure no conflicting or overlapping responsibilities. The creation of the Department of Water (DoW) is part of this continuing reform process. In addition to the water resources management functions of the former Water and Rivers Commission the DoW has an emergent role in protecting the public interest through all phases of the water cycle. The current legislative review is examining the necessary governance arrangements for this purpose. This role contrasts with and complements the role of service providers such as the Water Corporation which have a commercial charter.

The concept of protecting the public interest is open to interpretation which is why our original submission to the Inquiry dedicated a chapter to discussing the matter as it applies to the water industry. In our submission public interest is defined as: security and reliability of supply, quality and safety, sustainability of supply, prices based on efficiency and scarcity, (service provider) responsiveness to customer needs and impartial, transparent and effective governance. Also, Attachment E of the National Water Initiative Guidelines sets out public interest criteria to be taken into account.

It is the art of governance and regulation to protect the public interest and to balance competing claims with commercial interests. The separation of roles and responsibilities within the governance framework is in recognition of the difficulty of this task. Separation of role also allows for the development of expertise and organizational capacity.

As proposed, the independent procurement entity seeks to embed responsibility for protecting the public interest for water source planning and supply within an organisation that is to have a commercial focus. The DoW would need to be convinced that such a conflicting role is in the public interest and best practice governance. Also, the proposal does not reflect the emergent role of the DoW in strategic water planning that would guide water source planning and development. The DoW's emergent role is that which is in the process of being established through responsibilities under the State Water Plan and the National Water Initiative. For the proposed independent procurement entity to be operational would require a significant realignment and change in these emergent roles and potentially create an environment of greater institutional and regulatory uncertainty.

Economic Regulation Authority 04 Mar 2008

In response to the specific questions asked of the Department of Water:

1. The Authority is unsure of the DoW's role in non-commercial public aspects of planning and is keen to gain a greater understanding of this function.

The public interest in water planning are those identified above: security of supply, quality and safety, sustainability of supply, prices based on efficiency and scarcity, (service provider) responsiveness to customer needs and impartial, transparent and effective governance. There are overlapping commercial aspects such as pricing and commercial and non-commercial aspects are not necessarily mutually exclusive. In planning the DoW ensures that the processes:

- are based on the best available science and information
- achieve a balance between environmental needs and human needs
- respect cultural and Indigenous requirements
- involve monitoring and adaptive management practices
- involve stakeholder consultation and transparent processes that provide timely information to stakeholders
- support water use efficiency.

The 'non-commercial public interest aspects' of water source planning can be drawn out further with respect to the DoW's water resources management in areas such as:

- ensuring that existing water sources are used efficiently before allocating access to new water resources
- ensuring that sources proposed by the water service provider are consistent with DoW water allocation planning and reservations of water resources for public water supply
- preventing over extraction of water from existing water sources to meet water supply shortfalls due to inadequate supply augmentation
- ensuring orderly investigation of surface water and groundwater sources in line with DoW water resource investigation program
- ensuring ongoing supply security for public supply customers.

For source development plans the DoW would expect a water service provider to address the following information for proposed augmentation of supply within their licensed, or a proposed licence, water service area.

- targets per capita water use levels and the proposed demand management measures to achieve these levels of efficient water use;
- current and projected water demands taking account of target per capita use levels;
- supply capacity of existing sources, taking account of climate change;
- proposed new supply sources, their estimated system yield benefit, and proposed timing for development;
- identification of redundant sources previously used;
- new supply source investigation and approvals timetable;
- analysis of supply security level and probability of restrictions, including any variations from proscribed design criteria;

- contingency plans and restriction trigger points; and
- triggers for initiating new source development construction.

The major guiding design criteria for source developments could be agreement between the Department of Water and other agencies. Key criteria would include reference climate sequences to be used in hydrologic design and levels of probability of restrictions.

2. The Authority would appreciate a description of the manner in which the DoW is expecting to influence the use of water resources and allocations. In addition, the Authority is seeking further information on the evaluation framework used in undertaking such planning.

The water development planning framework (refer to Attachment) illustrates the role of the DoW in relation to a water service provider, such as the Water Corporation, and the EPA in relation to water allocation and source development planning. The diagram shows the DoW involvement in planning at three levels: strategic (regional water plan), detailed (water allocation management plan) and development (assessment of source development licence application).

Regional water plans provides an example of a new strategic planning function that supports the planning context of water resources development planning. A working definition of water resources development planning is the approximate matching of projected regional demands for water with broadly defined water source options on a fit-for-purpose basis. Detail of specific development proposals would be further explored by water source development plans put forward by a water service provider. Water resources development plans provide an overview of water source options and likely changes in demand. The context provided through this planning function enables prospective suppliers and consumer blocks (sectors, developments, ...) to plan for future needs. The framework for water source development plans will be drawn from provisions in new legislation with guidance from administrative arms of government.

Regional water plans also provide a vehicle for broad assignment of water resources to appropriate water use and water allocation management plans enable reservation of water for public water supply. These mechanisms are required where there is expected to be strong competition for limited water resources and a need to proactively protect high grade water resources for high grade use. High grade water resources can become degraded through inappropriate land use. Action is usually needed well before the source is required to protect it through the land use planning system or initiate restoration through active management (eg salinity recovery actions).

The evaluation framework for these mechanisms involves evaluating options through a multi-objective planning process against sustainability and water quality criteria to determine which sources need to be set aside for public water supply. A key principle is 'fit for purpose' water assignment – reserve higher quality and more protected (from a land use point of view) water for public water supply and assign lower quality water for lower grade use.

Historically, water source development decisions were largely based on water allocation, policies and licensing decisions. These processes and the evaluation framework are set out in various allocation plans that have been completed or are in the process of being completed. In short, the allocation plans address issues such as water availability, rules for extraction/constraints, reliability of source, allocation of reserves and shared resources. Evaluation criteria are applied to: relative value of water use, alternative

options, risk assessment and options, known demand, likely demand. These criteria are used on an as required basis – for example, economic impact assessment, environmental assessment and so on.

Under the National Water Initiative, water allocation and use is being converted to a consumptive pool, where appropriate, with water entitlements being defined as shares in the consumptive pool. Licensing of water will continue in water management areas where there are discrete resources serving non-competitive uses that do not lend themselves to being managed through the consumptive pool.

3. The meaning of and issues about the Minister's power to intervene in the planning process under section 9(1) of the Water Agencies (Powers) Act.

This provision identifies water recycling and efficient water use as two objectives in the planning for new water resources. There are now additional objectives of water planning. This Act is part of the legislative review and it is envisaged that it will be amended and that such amendments will be subject to a competitive neutrality review at the appropriate time.

4. The DoW's reasoning for developing Section 33 (5) (h) of the proposed Water Services Bill 2007 which provides for the development of codes in relation to...planning for the future provision of water services by licensees, including for the development of future water services.

A code is a set of rules and regulations. The intention with the Section is for the Minister to have a flexible regulatory provision to define/prescribe the rules and regulations governing the planning process. Typically, such codes could state the specific requirements to be met by different licensees or classes of licensee or could be applied to licenses of a prescribed class.

Should you have further inquiries please contact Mr Shane O'Donohue, Policy and Planning, the Department of Water on 6364 6814.

Yours sincerely



John Loney
A/DIRECTOR GENERAL

28 February 2008

Att

Attachment - Water Development Planning Framework

