



Department of
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Ms Gayle Milnes
Assistant Secretary, Market Development Branch
Department of Environment, Water, Heritage, and the Arts
GPO Box 787
CANBERRA ACT 2601

Dear Ms Milnes

**DRAFT REGULATIONS UNDER SECTIONS 49(1) AND 91(1)(D) OF THE WATER
ACT 2007**

Thank you for the opportunity to provide comment on the draft regulations on water charge rules outlined in your letter dated 27 February 2009.

I would like to take this opportunity to raise some concerns with the proposed regulations. The Department of the Environment, Water, Heritage, and the Arts (DEWHA) is proposing to extend the application of the Commonwealth Government's water charge rules to stock and domestic users taking water from a regulated system and paying charges levied by a bulk supplier. Stock and domestic users relying on irrigation infrastructure for supply are already subject to the Commonwealth's *Water Act 2007*.

This proposal has highlighted to me a potential issue in the arrangements being set in place for the Murray-Darling Basin (MDB).

It was not the intention of the Inter-Governmental Agreement (IGA) on MDB reform to include water for essential household use in the water charge rules. The IGA was intended to cover water used for commercial irrigation and capable of being traded within the Basin. Paragraph 7.4 of the IGA states that responsibility for securing and providing the volume of water required for critical human needs rests with the respective jurisdictions. While critical human needs is yet to be clearly defined in the Basin Plan, I am of the view that household use of water is related to critical human needs and thus the Victorian Government should be responsible for policy directed towards these customers.

I suggest that DEWHA amend the proposed regulation to recognise this issue. One Option for doing this may be for the arrangements to provide for derogation to a relevant jurisdictional instrument governing access and sufficiency of water services for residential use.

The proposed regulations may also extend the coverage of the water charge rules to infrastructure in the MDB used for purposes other than irrigation.

It is my understanding that DEWHA does not intend for infrastructure that supplies urban users to be covered. However, there is significant uncertainty around the coverage of infrastructure that may primarily be used for urban supply but not entirely. It is not desirable for the coverage of the water

charge rules to be dependent on identifying the final use of the water being conveyed. I would encourage you to consider the current wording of the regulation to also address this issue. Alternatively, it may be necessary to identify and exclude from coverage specific infrastructure that may primarily be used for urban supply.

I note that DEWHA states in its consultation paper that one reason for extending the application of the Act through the regulations is that water users will benefit from regulatory protection over a wider range of water charges. I would like to draw your attention to the arrangements in place in Victoria which provide for the Essential Services Commission of Victoria to regulated the charges that Victorian water users pay for water. Thus, Victorian customers would receive protection from any potential monopolistic behaviour by Victoria's water authorities even in the absence of this regulation.

Thank you for the opportunity to comment on the draft regulations.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Downie', written over a horizontal line.

DAVID DOWNIE
General Manager, Office of Water