



NSW Government

Department of Water & Energy

Director

Water Markets Section

Department of the Environment, Water, Heritage and the Arts

Our ref: DG09/148

Your ref: 2009/421

By email: water.regs@environment.gov.au

27 March 2009

Dear Sir or Madam,

I refer to the letters dated 27 February 2009 regarding development of regulations under the *Water Act 2007* from Gayle Milnes, Assistant Secretary, Water Development Branch, Department of the Environment, Water, Heritage and the Arts (DEWHA) to Ms Michelle Wood, Acting Manager Policy in the Department of Premier and Cabinet and I. I have been asked to respond on behalf of Ms Wood.

Thank you for the opportunity to comment on the draft *Water Amendment Regulations 2009*, and for the opportunity to discuss these regulations with DEWHA on 18 March 2009. Our comments on the regulation are made in the context of that discussion and the detailed explanation of the regulation you provided as part of it.

The draft Regulation raises no issues for NSW and is supported because it addresses some gaps in the regulation of bulk water charges under the *Water Act 2007 (Cth)*. It should ensure that all persons in New South Wales within the Basin who are currently charged bulk water charges will be subject to the Commonwealth's regulatory framework.

We acknowledge that the draft Regulation is unable to address the gaps identified by the ACCC in their January 2009 position paper on water charge rules for water planning and management charges, specifically that these charges will only apply to those already being charged by a jurisdiction. The ACCC position paper notes that the scope of activities for which costs are recovered through charges vary considerably, observing that the Queensland Government recovers very little of their water planning and management costs and South Australia and Victoria do not have any discrete water planning and management charges.

The ongoing failure of States to implement cost recovery or appropriate water charges as envisaged by the National Water Initiative creates significant impediments to competitive neutrality in water charges to the extent that the current *Water Act 2007 (Cth)* does not facilitate the creation of an even playing field. New South Wales urges the Commonwealth to consider what action could be taken to achieve competitive neutrality for water charges.

Yours sincerely

David Harriss

Deputy Director General, Water Management Division