

Attachment 1

Comments from the South Australian Department of Water, Land and Biodiversity Conservation (DWLBC) on draft regulations under section 4(1) and 91(1)(d) of the Water Act 2007.

Draft regulations under section 4 (1)

DWLBC has no particular concerns regarding the proposed regulation broadening the scope of the bulk water charges under section 4(1) of the Water Act 2007.

It is noted that part of the rationale for this regulation is to avoid bulk water providers needing to identify costs applicable to infrastructure operators separately from costs applicable to other water users and to avoid bulk water service providers being subject to two separate regulatory regimes, potentially leading to inefficiencies and inconsistencies in pricing.

Draft regulations under section 91

The draft regulation under section 91 of the Act aims to expand the list of regulated water charges to include access and termination fees for drainage, irrigation, and stock and domestic supply services provided through infrastructure networks that are not primarily irrigation networks.

Access and termination fees have previously been defined as associated with an explicit or implicit entitlement to have irrigation water delivered, however this regulation broadens these concepts to apply to any fee or charge related to access to water service infrastructure (or services provided in relation to that access), including stock and domestic supply.

DWLBC acknowledges that, for operators of infrastructure networks not primarily used for urban water supply activities outside the Basin, there may be merit from an administrative viewpoint in having a single regulatory framework across all access-related fees and charges.

However, the proposed regulation potentially creates administrative issues for infrastructure operators that are primarily urban water suppliers outside the Basin and may be inconsistent with the intent of section 91 (3), which excludes urban water supply activities beyond the point at which the water had been removed from a Basin water resource.

For example, domestic and industrial users across South Australia that access SA Water's primarily urban water supply network but are located outside urban areas could be subject to water charge rules while domestic and industrial users within urban areas would not. This could require costs applicable to these users to be identified separately from costs applicable to other water users and would result in the application of two separate regulatory regimes depending on customer location (potentially leading to inconsistencies in pricing). It is noted that the processes by which prices for supplies from SA Water's primarily urban water supply network are set are already subject to independent review.

While the verbal advice from the Department of the Environment, Water, Heritage, and the Arts (DEWHA) indicates the initial regulatory requirements are likely to relate to the transparent disclosure of fees and charges and non-discriminatory pricing, future water charge rules may entail greater regulatory requirements that cannot be fully anticipated at the current time.

The issue could be simply addressed by a specific exclusion under section 4.10A (2) to specify that the prescribed fees and charges do not relate to stock, domestic and industrial water use from a network primarily used for urban water supply activities beyond the point at which the water has been removed from a Basin water resource.