

Department for Water
Policy and Urban Water Division
GPO Box 2834
Adelaide SA
5001



Submitted by email to:
waterforgood.consultation@sa.gov.au

18 January 2010

Re: Water Industry Bill

Dear Sir/ Madam

Please find attached a copy of Conservation SA's submission on the Water Industry Act discussion paper.

Conservation SA welcomes the opportunity to comment on water management to ensure that the Bill effectively covers the growing and changing water industry as it responds to the challenge of continued growth in a changing climate.

If you have any questions regarding this contribution please contact Te Raehira Wihapi on 8223-5155 or via email:
teraehira.wihapi@conservationsa.org.au

Yours sincerely

A handwritten signature in black ink that reads "Tim Kelly".

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Conservation Council SA

Exposure Draft of the Water Industry Bill

18 January 2010

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The **Conservation Council of South Australia Inc (Conservation SA)** is the peak conservation body for South Australia, representing over 50 of the State's environment and conservation organisations.

Conservation SA is an independent non-profit, non-party political, community based organisation that provides resources, advice, and representation for the SA environment movement and leads many of the key conservation campaigns in SA.

Conservation SA is known for its success in developing long-term community development, education and on-ground environmental restoration programs.

Conservation SA regularly liaises with Local, State and Federal Governments, Government agencies, media, educational institutions, Non-Government Organisations (NGOs), unions, industry, business and other groups on matters relating to environmental and social justice.

As a community organisation, much of what Conservation SA achieves is through a large network of skilled volunteers – from all walks of life – for its office, on-ground, governance and campaign activities.

Conservation SA is committed to a healthy environment for South Australia.

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Executive Summary

The **Conservation Council of South Australia (Conservation SA)** is the peak environment and conservation body in South Australia. It represents over 50 member groups and water conservation is a key policy area for Conservation SA and many of its member groups.

Conservation SA has considered the Water Industry Act discussion paper and has provided comments on the following major areas of concern:

- Tangible environmental examples required
- Climate change and environmental protection
- Issues with industry regulation
- Fragmented approach to water management.

A number of specific comments on various issues raised in the document have also been made. We have called for:

- Clarity on which aspects of the environment the Bill seeks to protect and any significant aspects of environmental protection that the Bill does not seek to cover (which may be covered under other legislation)
- A dedicated function under the administrative arrangements to underpin the standard setting for the protection of environmental matters and linkages with other state requirements and programs
- The Regulator to play a key role in defining and ensuring specific sustainability and water conservation standards of retailers and those providing other services prescribed by the regulation.

In Part 3 (Administration) of the Bill we recommend a number of additions.

Introduction

Water conservation is a key issue for South Australians. Water management in the state is at the crossroads. With widespread community momentum supporting water conservation, there is an opportunity to propose ecologically sustainable water supply options and regulate industry's use of water to reduce demand.

Conservation SA envisages a future where our use of water remains within sustainable limits, we have achieved super-efficiency and it has become standard practice to reuse all available water as many times as possible. We seek to achieve a society that has alleviated the current pressure on natural systems, minimises adverse environmental impacts and recognises the environment as a priority stakeholder with rights to water.

In line with our previous submission on the Water Industry Bill, Conservation SA has concerns regarding how economic regulation will impact upon water consumption in the state. We do not believe that introducing competition to the water market will result in economic forces that reduce demand and encourage consumers to use less water. Nor do we believe that this philosophy will adequately encourage the use of ecologically sustainable sources such as wastewater and stormwater.

Conservation SA believes that applying a competitive market to water without clear environmental standards will potentially undermine the capacity to switch to ecologically sustainable supplies of water.

Further, Conservation SA believes that the adoption of more reform measures may further fragment and confuse the water sector. Water management in the state is in need of reform. However the proposals of the Bill do not go far enough to address the underlying causes of our fragmented water management and planning and what needs to be done to achieve the most sustainable outcomes.

If these reforms proceed, then pricing measures need to be in place that encourage the provision of low energy stormwater and wastewater services at lower cost to customers and provides incentives for these markets to develop.

General comments

Tangible environmental examples required

The explanatory paper ambitiously states that the Bill will provide "the legislative framework to support a contemporary and emerging water industry by promoting efficiency, competition and innovation, while protecting the interests of consumers, public health and **the environment**", and that "the Bill establishes a licensing regime for water industry entities, including private operators, to ensure the ongoing protection of public health, **the environment** and consumers".

However, the Bill is not clear on which aspects of environmental protection will be covered, and which not covered by the Bill or standards set by the regulator. For clarity, the Bill should describe the general aspects of the environment that would be covered such as prevention of pollution, environmental flows, and life cycle greenhouse performance.

At this stage it appears that there are **no tangible requirements** under this proposed Act to protect the environment beyond what is already required by law. There is some limited mention of using the Save the Murray Fund to:

“implement programs and measures to—

(i) improve and promote the environmental health of the River Murray;
Or

(ii) ensure the adequacy, security and quality of the State's water supply from the River Murray...”

The “or” indicates there is no guarantee of what proportion of the fund will go towards improving or promoting the health of the River Murray.

The Bill should describe how it would ensure ongoing protection of public health, the environment and consumers with clear and unambiguous statements that can be implemented through the Act or regulations.

Recent confusion regarding the Commonwealth Water Act 2007 highlights the need for legislation to be prepared in a way that avoids holistic green statements with insufficient detail as to what they will mean in practice.

Climate change and environmental protection

Requirements to adapt to climate change and meet the aspirations of South Australia's Tackling Climate Change Strategy and climate change legislation (which applies to SA Water through its Sector Agreement) should be reflected in this Bill in a similar way to other health related and technical standards.

It is also important that there be consistency in environmental performance where third party access is being considered, to ensure fairness and consistent greenhouse performance (such as a commitment to renewable energy) across the industry.

Issues with industry regulation

Conservation SA strongly supports retaining SA Water under Government ownership. There are, however, concerns about the ability of competitive markets to reduce water usage and promote increased use of ecologically sustainable water supply options. Currently, pricing allows flexibility to ensure cheaper consumer prices that encourage uptake of reuse of wastewater compared to other water sources. It is unclear whether price regulation will be applied to different sources of water (drinking water, stormwater and recycled wastewater), and how a competitive market could encourage the use of more sustainable water sources. The philosophy surrounding this requires public debate before it becomes state policy.

There also appear to be no provisions to introduce higher water costs to discourage excessive water consumption, especially from sources with known or potential environmental consequences such as Murray water and the desalination plant in the Gulf. We are concerned that competition could reduce prices for water and hence increase usage.

A competitive market will have increased pressures with everyone trying to get their 'slice' of the market. We could end up with several desalination plants within a region, unnecessarily harming ecosystems.

Pricing of water must consider the environmental cost of extraction, treatment and the associated waste if the state is to have an ecologically sustainable supply of water for the population.

Fragmented approach to water management

In an earlier submission we made on the Water Industry Bill we commented that water management needed to be approached in a highly integrated way. It is not clear if this Bill will do that.

For example in the past, the Department for Water (previously DWLBC), Natural Resource Management (NRM) Boards, SA Water, Local Government and the Environment Protection Authority (EPA) all played roles at various scales in relation to water monitoring, oversight, planning, delivery of infrastructure, stormwater management and/or provision of public water supply and waste management. This complicated and fragmented structure denied any of its component bodies the clear oversight of the State interest in water management. Will this Bill achieve integration?

Further, this Bill proposes Regional Supply and Demand (RSD) plans and it is unclear how the intended hierarchical relationship and links between RSD planning and Water Allocation Planning (WAP) will correlate. Water supply and demand planning is a sub-set of water resource management planning, so logically the two processes should occur concurrently or be integrated into one process. Given that some NRM Boards will have recently adopted or be about to adopt Water Allocation Plans, when RSD planning is initiated in those NRM regions, the RSD plan can be developed in the context of the existing

WAP. At the next review of the WAP and in other NRM regions, the two planning processes should be integrated.

Further fragmentation of water management in the state will not assist in addressing the underlying problems of the state's water management system.

It is understood that other legislation accounts for irrigation licensing, but the State Government also has a key role to play in irrigation regulation - if not in price-setting, then at least in the application of specific licence requirements relevant to South Australia's water resource, eg mandating various practices such as drip irrigation versus channel, overhead or flood irrigation. Irrigation is a key issue in water conservation and it needs much more attention at both the state and Basin-wide level. The same is true of groundwater extraction from aquifers in the Mt Lofty Ranges and the state's mound springs.

Specific suggestions addressing the proposed Bill

1. Describe which aspects of the environment the Bill seeks to protect and any significant aspects that the Bill does not seek to cover.
2. There should be a dedicated function under the administrative arrangements to underpin the standard-setting for the protection of environmental matters and linkages with other state requirements and programs.
The standards that the regulator sets should include commitments to water conservation, renewable energy and broader sustainability measures (eg carbon neutrality in the case of the Adelaide Desalination Plant, as described in its Environmental Impact Statement) by those providing retail and other services.
3. Under Part 3 (Administration) of the Bill we recommend the following additions (in red and underlined):

Section 68—Special legislation not affected

Nothing in this Act affects the exercise of any power, or the obligation of a water industry entity to comply with any direction, order or requirement, under the Emergency Management Act 2004, Environment Protection Act 1993, Essential Services Act 1981, Fire and Emergency Services Act 2005, the Public and Environmental Health Act 1987, or the Climate Change and Greenhouse Emissions Reduction Act 2007.

Section 92—Consultation between agencies

- (1) The following agencies must, insofar as they share common interests, consult with each other in connection with the operation and administration of this Act:
 - (a) the Commission;
 - (b) the Technical Regulator;
 - (c) the Minister's Department;
 - (d) the Health Department;
 - (e) the Environment Protection Authority;
 - (f) the Department of Premier and Cabinet – Sustainability and Climate Change Division.

Conclusion

In conclusion, Conservation SA does not support introducing economic regulation or competition to the water sector, where the regulation does not at the same time define much better environmental protection and sustainability standards, including for supporting renewable energy and in the case of the Adelaide Desalination Plant, carbon neutrality (as described in its Environmental Impact Statement).

Conservation SA does not support the further fragmentation of planning that may result from introducing competition to the water market. It serves to undermine efforts in water conservation and may result in increased consumption rather than reducing demand.

Conservation SA does not support greater competition leading to unnecessary duplication of water infrastructure and associated increased costs.

it is paramount that guiding principles are put in place that ensure water pricing reflects the life cycle environmental cost of the resource and the environmental cost of the resulting wastewater. At the same time as providing lower prices for stormwater and re-use of wastewater for consumers, there needs to be incentives for markets to establish and provide these services in an efficient manner.