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To whom it may concern,

Re: Economic Regulation of the South Australian Water Industry - Draft Advice

As the peak conservation body for South Australia, the Conservation Council of South Australia (Conservation Council SA) welcomes the opportunity to comment on the Economic Regulation of the South Australian Water Industry - Draft Advice.

Conservation Council SA is an independent, non-profit and strictly non-party political organisation representing over 50 of South Australia's environment and conservation organisations and their supporters. Conservation Council SA has developed a comprehensive view of environment policy in "South Australia in a Changing Climate: A Blueprint for a Sustainable Future"¹ This document sets out, at a strategic level, policy positions in six key environmental areas, including water, and planning and development issues.

In early 2010, the Conservation Council commented on the Draft Bill and expressed concerns that despite discussion that the Bill would provide a "licensing regime for water industry entities, including private operators, to ensure the ongoing protection of public health, **the environment** and consumers", there was no content in the Bill that would provide any protection of the environment beyond what was already required through other legislative frameworks. Indeed in the case of SA Water, the Conservation Council SA was concerned that the Bill would instead restrict actions that contribute to protecting the environment to a *narrower* range of compliance measures than has previously been undertaken.

The Conservation Council SA has not seen any strengthening of environmental aspects in the Draft Bill to date, and remains deeply concerned that if enacted, the Bill will cause a reduction in the environmental activities carried out by SA Water and other industry participants.

¹ <http://www.conservationsa.org.au/blueprint.html>

In its current form, the proposed economic regulation approach is set to replicate the dis-integration of environmental improvement from water industry planning activities in a similar way to the approach applied to the electricity sector. In relation to the climate impacts of the electricity, there is widespread agreement that carbon pricing alone cannot transition Australia to a low carbon future and that other measures will be needed. However the economic regulation currently applied to the electricity sector and via the Australian Energy Market Commission is hindering its transition to sustainable low emissions renewable energy production and grid improvements to support renewable energy development.

Such an approach for the water industry would also cause environmental harm as so many of the requirements for protecting and enhancing the environment are not adequately covered by other legislation or regulations. A sustainable water future can only be tackled by maintaining a sustainability-focussed approach to planning and operations.

Environmental impacts and improvement programs not adequately covered by existing regulation cannot simply be determined between SA Water and its customers. It is therefore suggested that ESCOSA outline in its advice, a dedicated section of how environmental standards (beyond legal compliance) will be determined, and how communities and the conservation sector may have input into determining these standards on a regular basis.

Some examples of areas that are perceived to be at risk include but are not limited to:

- **Tackling climate change**

Commitments to climate change adaptation and mitigation (which apply to SA Water through its Sector Agreement) should be reflected in the Bill in a similar way to other health and technical standards. It is also important to have consistent environmental performance standards to ensure fairness across the industry.

SA Water has responsibilities to deliver on its Climate Change Sector Agreement and the Government's carbon neutral commitment for the Adelaide Desalination Plant as described in the conditions of approval, the EIS and EIS Response. These existing commitments should form part of the environmental performance standards within the economic regulatory framework.

- **Recycling, desalination and other sustainability programs**

The water industry in South Australia has been a leader in delivering innovative large and small scale water recycling projects. These activities not only require capital investment, they should also be integrated with the efficient use of water and energy, and support for renewable energy. The

regulatory framework should not in any way impede the coupling of energy efficiency or renewable energy support (capital or operating initiatives) with such programs.

- **Seagrass recovery**

Through its licence conditions, the EPA has required SA Water to reduce the levels of pollution discharged to Adelaide's metropolitan coastal waters. Promising research results suggest large areas of seagrass could be re-established if a base substrate is provided for the natural recruitment of seagrass species.

The EPA compliance approach has been to regulate the level of pollution discharged to SA Water, yet the most recent Metropolitan Adelaide Coastal Waters Study highlights the need to invest in continued research in seagrass re-establishment and the identification of "Seagrass Ready Areas".

The compliance approach may see SA Water continue to invest hundreds of millions of dollars into more energy intensive treatment options to comply with EPA improvement programs whilst failing to contribute to potentially more cost effective outcomes beyond its facilities. If the objective is re-establishing seagrasses where pollution levels have already been substantially reduced, then the economic regulation should support investment by SA Water to accelerate this work as a capital project for lower costs and a better outcome overall.

- **Revegetation**

For many years SA Water has been running programs for revegetation in catchment areas for multiple benefits. Whilst this work is not a legal requirement, it delivers value for money in contributing to improved catchment water quality and demonstrating best practice catchment management. The activity also contributes to South Australia's Strategic Plan targets of supporting no species loss and reducing/sequestering greenhouse gas emissions. Should the standards relating to these desired outcomes fail to be properly identified through the economic regulation process, these activities could be wound back significantly.

Continued activity in revegetation by SA Water could also serve to enhance larger regional scale biodiversity projects such as Naturelinks. SA Water may be eligible to apply for biodiversity funding under the Clean Energy Future Plan for efforts to contribute to broader regional collaborative projects. However this grant program and others stipulate that to be eligible, activities must be additional to legal or regulatory obligations. If the Bill or regulations do not adequately define SA Water's revegetation obligations, it will make it

very difficult for the organisation to access federal funding for additional activities which, as stated above, ultimately benefit South Australia.

- **Weed control programs**

Outcome based standards for weed control are not applied to SA Water. Some areas of SA Water land are heavily infested with weeds, yet the compliance-only approach may see a worsening of weed infestations.

Specific Suggestions relating to the ESCOSA advice on the Water Industry Bill

The Conservation Council does not agree that in the area of sustainability, there can be "a clear distinction between outcomes that are driven by Government Policy and outcomes driven by SA Water" (p.86). Indeed when planning for infrastructure, including pollution reduction programs, recycling and desalination, an integrated approach is required. Where South Australia's Strategic Plan already defines priorities such as reducing greenhouse gas emissions and contributing to no species loss, we suggest that ESCOSA advice support these as priorities for SA Water.

It is both impractical and impossible to segregate the cost of environmental priorities driven by Government from those set by SA Water when planning how to efficiently manage environmental outcomes with new infrastructure projects. Designing and including energy efficiency, energy recovery and renewable energy into infrastructure and project contracts can best be achieved when SA Water can incorporate sustainability and addressing these priorities into its core business role.

The ESCOSA Draft Advice also reads that:

"In addition to those internalised costs, a better understanding is needed of the external costs of water and sewerage particularly the environmental costs. Limited work has been undertaken in this area in the past, and the Commission believes that more can be done to identify and incorporate those costs into prices in the future (P. 96).

The Conservation Council SA is of the firm view that many externality costs are now well known and can be valued in terms of the cost of avoidance, cost of mitigation, and the cost of contributing to SA Strategic Plan priorities. SA Water has considerable experience in managing its land reserves, greenhouse gas emissions, marine impacts and other environmental impacts where it also has good knowledge of environmental externalities. It is simply unacceptable to suggest that a "better understanding is needed of the external costs of water and sewerage, particularly the environmental costs" before these externalities can be addressed as a part of economic regulation.

The case of contributing to the SA Strategic Plan no species loss target provides a good example where it is not necessary to place a financial value on losing any particular species, because South Australia already has a target to lose no species.

The role of SA Water in managing its land holdings and carrying out its activities is to play its part in preventing species loss.

To clarify that environmental activities will continue to be important within the economic regulatory framework, agree on the environmental standards that will apply and the process to determine these standards, we suggest that the ESCOSA advise that:

- **Division 2 – Functions of the Technical Regulator**
The functions of the Technical Regulator include the role of developing environmental standards in connection with the water industry with respect to state priorities. We suggest that the Bill better describes the role of the Technical Regulator in facilitating the development of the environmental standards, and ensuring that there is an open and transparent process involving the conservation sector in determining these standards, particularly those not covered under existing regulatory frameworks.
- **Part 7 – Technical and Safety Issues**
 - Amended section to read: *Technical, Safety **and Environmental** Issues.*
 - **Standards** -Environmental requirements and standards should be incorporated within the text of the Standards sub-sections (various places in this section and in other sections of the Bill)

In conclusion, the Conservation Council SA does not support economic regulation that would reduce water industry investment in environmental protection and sustainability. Standards and investment in environmental performance should certainly not be less than in previous years and should in fact be improved given South Australia's pressing need to attain sustainability, adapt to climate change and prepare for a larger population.

I would be happy to discuss our submission in more detail and can be contacted on ph 08 8223 5155 or tim.kelly@conservationsa.org.au if you have any questions or follow-up in relation to this letter.

Yours sincerely



Tim Kelly
Chief Executive