

Mr Adam Wilson
CEO
Essential Services Commission of South Australia
GPO Box 2605
Adelaide SA 5001

Email: escosa@escosa.sa.gov.au

6 November 2020

Dear Mr Wilson,

RE: SA Water Regulatory Determination 2020: Monitoring and Evaluating Performance

The South Australian Council of Social Service (SACOSS) is the peak body for the community services sector in South Australia, with an interest in the efficient delivery of essential services to communities across the state. We would like to thank the Essential Services Commission of South Australia (ESCOSA) for the opportunity to provide input into the consultation on implementing the final decisions relating to monitoring and evaluating SA Water's performance during 2020-24, contained in SA Water's Regulatory Determination 2020 (RD20).

During the regulatory determination process, ESCOSA acknowledged the widespread stakeholder feedback that SA Water be held to account for delivering on the requirements set through RD20. In response to this feedback, ESCOSA determined to review the monitoring, reporting and evaluating framework that applies to SA Water, with a view to ensuring greater public scrutiny of SA Water's performance. Specifically, ESCOSA indicated the new reporting arrangements would require 'SA Water to account (to the Commission and publicly) for the commitments that it has made to customers under its RBP and for delivering **the outcomes required under the consumer protections** established through this regulatory determination'¹(our emphasis).

ESCOSA's final decision was that for the regulatory period from 2020-2024, SA Water will provide public reports on its:²

- performance against the service standards in the Code, on a quarterly basis
- performance in delivering on network reliability and water aesthetics improvements
- performance during major service interruptions or significant performance events, shortly after those events, and
- progress in achieving the outcomes it has committed to deliver in its final regulatory business plan, on an annual basis.

¹ ESCOSA, SA Water Regulatory Determination 2020-24, Final Determination, Statement of Reasons, p.259
<https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200611-Water-SAWRD20-FinalDetermination-StatementOfReasons.pdf.aspx?Embed=Y>

²ESCOSA, SA Water Regulatory Determination 2020-24, Final Determination, Statement of Reasons, p.259
<https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200611-Water-SAWRD20-FinalDetermination-StatementOfReasons.pdf.aspx?Embed=Y>

In addition, ESCOSA determined that ‘SA Water will also be required to develop, and publicly report on, its longer-term asset management plans and expected expenditure profile, on a rolling annual basis’.

ESCOSA is now consulting on its proposed changes to the reporting and monitoring framework. The consultation paper states the purpose of the proposed framework is to:³

*‘provide an appropriate level of independent oversight of SA Water’s ongoing progress in developing, monitoring, evaluating and reporting on how its **operational and longer-term investment decisions are delivering benefits to its customers, stakeholders and its owner**. SA Water will be expected to publicly explain its service, expenditure and investment performance outcomes.’ (Our emphasis).*

It is worth noting that delivering ‘customer benefits’ (lower prices) may not necessarily align with delivering ‘owner benefits’ (increased revenue). Under the SA Water Charter, the Government, represented by the Minister for Environment and Water and the Treasurer, is the owner of SA Water (acting for and on behalf of the people of South Australia).⁴ SA Water’s Board is ‘accountable to the Minister and the Treasurer for the sound management and stewardship of the Corporation and its assets, for and on behalf of its owners’.

The Board's key responsibilities under the Charter are to achieve continued performance improvement and to manage SA Water **to protect the Government's financial interests**. ESCOSA’s primary objective under the *Essential Services Commission Act 2002* is to protect **the long-term interests of South Australian consumers** with respect to the price, quality and reliability of essential services. Therefore, in relation to customers and owners, there are potentially two different and competing interests to consider when evaluating SA Water’s longer-term investment decisions. What benefits SA Water’s owners, may not necessarily benefit its customers (and vice versa). In these circumstances, SACOSS supports ESCOSA in pursuing its primary statutory objective of protecting the long-term interests of South Australian water consumers.

As outlined in the consultation paper, ESCOSA’s proposed performance monitoring framework will initially focus on four areas:

- service standards with performance targets⁵ (an existing requirement)
- expenditure and revenue outcomes (an existing requirement)
- key investment areas (a proposed enhancement), and
- long-term asset management and planning (a proposed enhancement).

ESCOSA will no longer report on SA Water’s performance data on a quarterly basis. Instead, ESCOSA will focus on annual reporting of longer-term trends and systemic issues. ESCOSA will retain the existing Significant Performance Event reporting framework for relevant matters.⁶ SACOSS understands SA Water will still be required to report to ESCOSA on all indicators contained in *Water Industry Guideline No. 2*, in

³ ESCOSA, SA Water Regulatory Determination 2020: Monitoring and evaluating performance: Consultation on implementing the final decisions, October 2020, p.4

⁴ SA Water Charter – ‘Our Charter’, clause 6.2, <https://www.sawater.com.au/about-us/how-we-operate/our-customer-contract>

⁵ See the Service Standards contained in Schedule 1 to the Water Retail Code: Major Retailers MR03, 1 July 2020, pp48-53, <https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200701-Water-RetailCode-MajorRetailers-MR03.pdf.aspx?Embed=Y>

⁶ ESCOSA, SA Water Regulatory Determination 2020: Monitoring and evaluating performance: Consultation on implementing the final decisions, October 2020, p.7

accordance with the required time-frames,⁷ and SACOSS strongly supports continued robust monitoring by ESCOSA of all SA Water's regulatory obligations.

Service standards and performance targets

SACOSS supports the proposed public reporting of SA Water's compliance with service standards and performance targets. Currently, SA Water publishes a performance scorecard on its website which measures how SA Water is tracking against water service, sewerage service and customer service targets. However, SACOSS considers the current information published in the performance score card is insufficient for stakeholders to fully understand SA Water's obligations, and therefore its relative performance. For example, on the 'Water Service Performance' Page,⁸ SA Water provides graphs demonstrating its performance against 'target timeframes', but there is no explanation of what those timeframes are. SACOSS considers further detail about SA Water's service standards and targets would make the information on its performance against those standards and targets more meaningful. Performance data published by the Australian Energy Regulator lists the performance indicator and then the retailer's performance against that indicator, and we would support a similar approach by SA Water.

SACOSS is extremely concerned about the absence of public reporting requirements relating to SA Water's consumer protection obligations in the proposed framework. *Water Industry Guideline No.2.* requires SA Water to report quarterly on:

- Proforma OP2.1 - Restrictions and legal action for non-payment
- Proforma OP2.2 - Financial measures

These reporting requirements are linked to SA Water's consumer protection obligations contained in the *Water Retail Code: Major Retailers.*⁹ As it stands, the proposed framework only contemplates SA Water publicly reporting quarterly on its performance in meeting the annual service standards and performance targets that are contained in the Water Retail Code. These service standards cover aspects of customer service, responsiveness to service issues, service restoration and timeliness of connections. It is important to point out that service standards are not the same as consumer protections. As outlined above, ESCOSA's final decision was to require SA Water to account for delivering the outcomes required under the consumer protections in the Code. SACOSS considers the main reporting requirements that relate to the consumer protections contained in the Code are those dealing with 'restrictions and legal action for non-payment' and 'financial measures', as outlined below:

OP2.1 -Restrictions and legal action for non-payment

- Number of water restrictions applied for non-payment of water bill:
 - Total residential customers
 - Customers on a financial hardship program
 - Customers receiving a concession
 - Total non-residential customer
- Number of water restrictions applied for non-payment removals at the same premises in the same name within 7 days of restrictions applied for non-payment of water bill:
 - Total residential customers
 - Customers on a financial hardship program Customers receiving a concession

⁷ ESCOSA, Water Regulatory Information requirements - Major Retailers: Water Industry Guideline No. 2, September 2020 <https://www.escosa.sa.gov.au/ArticleDocuments/21554/20201002-Water-RegulatoryInformationRequirementsGuidelineNo2-Major-Retailers.pdf.aspx?Embed=Y>

⁸ See: <https://www.sawater.com.au/about-us/our-vision-and-strategy/our-performance-scorecard/water-service-performance>

⁹ ESCOSA, Water Retail Code – Major Retailers, 1 July 2020 <https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200701-Water-RetailCode-MajorRetailers-MR03.pdf.aspx?Embed=Y>

- Total non-residential customers
- Number of legal actions undertaken for non- payment of water or sewerage (including CWMS):
 - Total residential customers
 - Customers on a financial hardship program
 - Customers receiving a concession

OP2.2 – Financial measures

- Total number of residential customers participating in a financial hardship program as at the end of the quarter
- Number of residential customers who entered the financial hardship program during the quarter
- Average amount of bill debt (all services combined) for residential customers participating in a financial hardship program as at the end of the quarter (\$)
- Number of residential customers who successfully exited the financial hardship program during the quarter
- Total number of flexible payment plans operating as at the end of the quarter:
 - Residential
 - non-residential
- Total number of residential customers receiving a water concession as at the end of the quarter
- Total number of residential customers receiving a sewerage concession as at the end of the quarter

It is essential that stakeholders have visibility of SA Water’s compliance with protections from restriction for non-payment, hardship measures and payment plans. These reporting requirements are indicators of the levels of financial stress experienced by SA Water customers, and can provide meaningful insights into debt accumulation and supports offered. Ideally, SACOSS would like to see additional indicators included in Guideline No.2 covering debt levels of all customers (outside of hardship programs), which would indicate the number of customers struggling to pay their bills who have not received adequate supports.

Relevantly, the weekly COVID-Dashboards¹⁰ published by the Australian Energy Regulator enable stakeholders to track trends during this challenging time. From these reports, we know there is a significant increase in customers’ energy debt, with no corresponding increase in payment plan customers or hardship customers. This data raises concerns around whether customers are being provided with the supports they need to stay connected to their energy supply and reduce household debt. The Australian Energy Regulator has responded to the issues identified through the data, by focussing its efforts on ensuring retailers are offering sustainable payment plans and supports.¹¹

SACOSS considers requiring SA Water to publicly report on service standards alone will not lead to greater transparency and accountability around SA Water’s compliance with its consumer protection obligations under the Water Retail Code. We strongly submit ESCOSA should extend SA Water’s public quarterly reporting requirements to include the indicators contained in OP2.1 and OP2.2. We are also keen to engage further with ESCOSA on introducing additional reporting indicators around debt and restriction.

Key Investment Areas

SACOSS strongly agrees with ESCOSA that consumers and stakeholders are looking for ‘increased public transparency and accountability from SA Water in relation to its expenditure and the extent to which that expenditure delivers the outcomes promised’.¹² SACOSS strongly supports greater transparency around SA Water’s investment decisions and the achievement of identified outcomes to benefit consumers.

¹⁰ See: AER’s Weekly COVID-19 dashboards <https://www.aer.gov.au/retail-markets/performance-reporting/weekly-retail-market-dashboards-covid-19>

¹¹ See AER’s Statement of Expectations No.3 and press release: <https://www.aer.gov.au/news-release/aer-extends-covid-19-energy-customer-protections>

¹² SA Water Regulatory Determination 2020: Monitoring and evaluating performance, p.4

ESCOSA's final decision in RD20 was to require SA Water to publicly report on its progress towards achieving the outcomes identified in its regulatory business plan (RBP). The consultation paper is seeking feedback on the following key investment areas identified in RD20:

- network reliability
- water quality improvements, and
- reducing overflows of sewage to the environment.

In SA Water's RBP (Our Plan), proposed capital expenditure was categorised under the following headings:¹³

- Proposed expenditure to sustain reliable services (Table 4 in Our Plan)
- Proposed expenditure to improve services (Table 5 in Our Plan)
- Proposed expenditure to enable growth (Table 6 in Our Plan)
- Summary IT capital and operating expenditure (Table 8 in Our Plan)

SACOSS is seeking confirmation from ESCOSA that **all** of the proposed expenditure outlined in the above categories in Our Plan (and allowed in RD20), fits within the proposed key investment areas of 'network reliability' and 'water quality improvements' identified by ESCOSA.

SACOSS is also particularly keen to ensure the expenditure proposals included in RD20 as a result of the Ministerial Direction¹⁴ fall within the proposed key investment areas, and are publicly reported on by SA Water. The operational and capital expenditure SA Water has been directed to fund for the projects identified in the Ministerial Direction have not undergone the independent economic scrutiny required by the *Essential Services Commission Act*. Consumers need to be confident the expenditure for these projects is prudent, efficient and in consumer's long-term interests.

The consultation paper states that 'forecasts for timing of expenditure and delivery of outputs included in the business cases [in Our Plan] will form the baseline for the Commission's future assessments, with SA Water responsible for identifying and explaining the reasons for any variations from this baseline'.¹⁵ In terms of using the RBP as a baseline, SACOSS notes there is a discrepancy between the amount of expenditure proposed for certain projects in SA Water's RBP, as compared with the identified amount in the Ministerial Direction¹⁶ (and therefore the amount allowed in RD20). For example:

- the amount proposed for Metropolitan Water Quality Improvement in SA Water's RBP was \$124m, whereas the amount identified for the project in the Ministerial Direction was \$155m,
- the amount of expenditure identified for the regional non-drinking water quality improvement in SA Water's RBP was capex of \$37m and opex of \$4.8m, whereas the Ministerial Direction identified capex of \$40.5m and opex of \$5.3m.

We are unsure whether this is due to differences in nominal or real amounts of expenditure, but are seeking confirmation from ESCOSA that the business case baseline identified for reporting, including the timing of expenditure in the RBP, includes the allowed amount in RD20 as opposed to the amount proposed in the

¹³ SA Water Our Plan 2020-24 see: https://www.sawater.com.au/data/assets/pdf_file/0018/421056/SA-Water-Our-Plan-2020-24.pdf

¹⁴ <https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200611-Water-DirectionsUnderSection6PublicCorporationsAct1993-GazetteNotice.pdf.aspx?Embed=Y>

¹⁵ ESCOSA, SA Water Regulatory Determination 2020: Monitoring and evaluating performance: Consultation on implementing the final decisions, October 2020, p.11 <https://www.escosa.sa.gov.au/ArticleDocuments/21558/20201007-Water-SAWRD20-MEP-ConsultationPaper.pdf.aspx?Embed=Y>

¹⁶ *Direction to the South Australian Water Corporation Pursuant to Section 6 of the Public Corporations Act 1993* <https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200611-Water-DirectionsUnderSection6PublicCorporationsAct1993-GazetteNotice.pdf.aspx?Embed=Y>

RBP (if there is a discrepancy). We are also seeking clarity from ESCOSA on how investments required by the Ministerial Direction that (as far as SACOSS is aware) were not proposed in the RBP (like the Tea Tree Gully Community Wastewater Management System) will be monitored and evaluated under the proposed framework.

Increased public transparency and accountability

SACOSS strongly supports measures that will result in greater transparency and accountability around SA Water's performance and expenditure. As noted in SACOSS' recent *Discussion paper on Equitable Access to Clean Water and Sanitation for All South Australians*, 'the lack of robust, fit for purpose, publicly available data and information has been consistently noted as a barrier to meeting commitments under frameworks such as the National Water Initiative (NWI) and the UN Sustainable Development Goals (SDGs)'.¹⁷ SACOSS considers this current review represents an opportunity for SA Water to provide a more complete picture of its performance, including against the commitments made by the State Government to the principles contained in the *National Water Initiative*¹⁸ (NWI) and other national agreements.

Under the *Water Act 2007 (Cth)*¹⁹, the Bureau of Meteorology is tasked with 'collecting, holding, managing, interpreting and disseminating Australia's water information,' and 'providing regular reports on the status of Australia's water resources and patterns of usage of those resources'.²⁰ These reports satisfy 'the commitments made by States and Territories under the NWI to report publicly and independently on the performance of water utilities'.²¹

Currently, SA Water provides information on indicators relating to pricing, finance, assets and water resources to the Bureau of Meteorology on an annual basis. The Bureau then prepares the *National Performance Report: urban water utilities* which compares the performance of water companies across Australia.²² As has been noted by ESCOSA, the Bureau's National Performance Report should be read together with ESCOSA's reporting requirements, in order to obtain a complete picture of SA Water's performance.²³ SACOSS considers it may therefore benefit stakeholders if SA Water could publish all relevant performance reporting data together in one location on its website. We understand this may not be within scope of this review, but consider (at the very least) a link to the Bureau's *National Performance Reports* should be included at the same location on SA Water's website as the performance scorecard.

Relevantly, the Productivity Commission's most recent *National Water Reform Inquiry Report*²⁴ highlighted the risk of the 'slow erosion of reforms' due to general non-compliance with the NWI and 'broader questions about the effectiveness of state-based compliance and enforcement regimes, (which) risk undermining the benefits of water reform'.²⁵ The *National Water Reform Report* made numerous recommendations and findings, including:²⁶

¹⁷ SACOSS, Towards equitable access to clean water and sanitation for all South Australian: Discussion Paper, 17 August 2020 see: <https://www.sacoss.org.au/towards-equitable-access-clean-water-and-sanitation-all-south-australians-sacoss-discussion-paper>

¹⁸ Intergovernmental Agreement on a National Water Initiative see: <https://www.agriculture.gov.au/sites/default/files/sitecollectiondocuments/water/Intergovernmental-Agreement-on-a-national-water-initiative.pdf>

¹⁹ *Water Act 2007 (Cth)* see: <https://www.legislation.gov.au/Details/C2017C00151>

²⁰ See sections 120(a) and 120(b) of the *Water Act 2007 (Cth)*

²¹ See Intergovernmental Agreement on a National Water Initiative, Clauses 75-76.

²² Australian Government, Bureau of Meteorology: National performance report 2018–19: urban water utilities, p.10 see: http://www.bom.gov.au/water/npr/docs/National_Performance_Report_2018-19_urban_water_utilities_updated.pdf

²³ <https://www.escosa.sa.gov.au/industry/water/regulatory-reporting/regulatory-performance-reports>

²⁴ Productivity Commission, National Water Reform, Inquiry Report no. 87, Canberra, 19 December 2017, p. 14 see: https://www.pc.gov.au/data/assets/pdf_file/0007/228175/water-reform.pdf

²⁵ Productivity Commission, National Water Reform, Inquiry Report no.87, 2017, p.14

²⁶ Productivity Commission, National Water Reform, Inquiry Report no.87, 2017, pp. 27-43

- **Recommendation 6.5:** *To promote competition by comparison, Australian, State and Territory Governments should ensure that performance monitoring data are publicly reported for providers of all sizes and subject to independent scrutiny.*
- **Recommendation 10.1:** *Australian, State and Territory Governments should recommit to a renewed National Water Initiative through COAG by 2020, which should maintain the achievements in water entitlements and planning, water markets, water accounting and compliance, water pricing and institutional reform, knowledge and capacity building, and community engagement delivered by the current National Water Initiative as **the key foundations underpinning sustainable water resource management and efficient infrastructure service delivery.***

SACOSS considers it is important for ESCOSA to consider the proposed framework's focus on increased public transparency and accountability in relation to 'key investment areas' and 'long-term asset management and planning', in the broader context of the State Government's commitments to the:

- *Intergovernmental Agreement on a National Water Initiative 2004 (NWI)*²⁷
- *National Urban Water Planning Principles 2008*²⁸
- *National Water Initiative Pricing Principles 2010*²⁹
- *National Water Quality Management Strategy 2018*³⁰

As far as is possible, bringing together publicly available information relating to the State Government's national water commitments, as well as ESCOSA's performance requirements, will assist with raising community awareness and scrutiny of water planning and investment decisions, promoting stakeholder engagement and potentially leading to greater customer input into the regulatory determination process for 2024-28.

Thank you in advance for consideration of our submission. If you have any questions in relation to this submission, please contact Georgina Morris at georgina@sacoss.org.au or 8305 4214.

Yours sincerely,



Ross Womersley
Chief Executive Officer

²⁷ Intergovernmental Agreement on a National Water Initiative 2004, See:

<https://www.pc.gov.au/inquiries/completed/water-reform/national-water-initiative-agreement-2004.pdf>

²⁸ National Urban Water Planning Principles 2008 See: <https://www.agriculture.gov.au/water/urban/policy-reform-urban-water/planning-principles>

See also the *Review of the National Urban Water Planning Principles* (2013-2014) undertaken by the Australian Government Department of the Environment during 2013-14 in consultation with the states and territories. The review was in response to recommendations by the Productivity Commission, the National Water Commission and Infrastructure Australia: <https://www.agriculture.gov.au/water/urban/policy-reform-urban-water/review-national-urban-water-planning-principles>

²⁹ Natural Resource Management Ministerial Council endorsed the [National Water Initiative](https://www.agriculture.gov.au/sites/default/files/sitecollectiondocuments/water/national-water-initiative-pricing-principles.pdf) (NWI) pricing principles on 23 April 2010. <https://www.agriculture.gov.au/sites/default/files/sitecollectiondocuments/water/national-water-initiative-pricing-principles.pdf>

³⁰ Australian Government Initiative, Water Quality Australia: National Water Quality Management Strategy Charter, 2018, See: <https://www.waterquality.gov.au/sites/default/files/documents/nwqms-charter.pdf>