



Our ref: WT 3995
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Mr Phil D'Costa
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Dear Mr D'Costa

Amendment to Water Corporation's Operating Licence 32

The Department of Water (DoW) is pleased to provide comment on the Water Corporation's proposed licence amendment in relation to extension on its operating areas to align with the State's controlled areas for potable and non-potable water supply and sewerage services.

The DoW recognises the administrative burden that licence amendments impose on the Water Corporation and the Economic Regulation Authority (ERA) and DoW supports full and transparent investigation of options for streamlining processes. There needs to be a balance between cost of regulation and its impact on the water industry as a whole.

However, the DoW recommends that the ERA decline this application to extend the Water Corporation's operating areas.

Operating areas under the *Water Services Licensing Act 1995* (Act) are designated areas of service for a water service provider within a controlled area. A licensee has an obligation to provide water services as a condition of its licence.

Consistent with this, current policy and practice is that an operating area should be equated to an area of service with a margin for growth to accommodate areas where the service provider envisages providing a service in a reasonable timeframe. This proposal would represent a substantial change to current policy, and is inconsistent with the licensing framework outlined by the Act.

It is not possible for the ERA to assess the impact on the public interest of expanding the Water Corporation's operating areas without information or assessment as to how and where services will be provided and the potential impacts this may have.

Well defined operating areas for a water service provider assist in ensuring that service provision will be better aligned with urban planning processes and with planning to ensure water supply security and adequate services.

Although operating areas are non-exclusive, where a service provider is the only provider licensed to supply an area, it can be perceived as the preferred service provider by developers. This increases competitive advantage over potential operators who have yet to declare a water service in the area.

It is also unclear how the financial and technical ability of a service provider to provide services can be assessed under section 23(a) of the Act when the geographical scale of services is not indicated. The Water Corporation's application has not addressed the issue of financial and technical capability.

A consultative approach to develop policy changes on operating areas is necessary prior to any reform to ensure that it will be consistent with the new legislation, that all potential issues have been identified and that reforms will be well accepted by the water industry.

If further investigation of policy issues related to operating areas demonstrated a case for policy reform, policy changes should be made in a way that transparently considers and addresses the implications for all current and potential licensees, not as an amendment to the licence of a single water service provider.

Further, if an intention to provide services were no longer to be the primary basis for determining operating area boundaries, the alternative basis for determining boundaries would need to be demonstrated as appropriate and applied transparently and consistently to all licences.

Yours sincerely


John Loney
Director, Strategic Policy and Water Services
1 July 2010