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**By email:** [waterinformation@environment.gov.au](mailto:waterinformation@environment.gov.au)

Cameron Le Maitre  
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Dear Cameron

### **National Water Initiative pricing principles - Consultation Regulation Impact Statement**

Consumer Action Law Centre (**Consumer Action**) is pleased to provide comments on the National Water Initiative pricing principles - Consultation Regulation Impact Statement (**RIS**) including the pricing principles themselves.

Our comments on the RIS and the pricing principles largely reflect those submitted in our response to the targeted consultation process held in December 2008. While we appreciate the adoption of some minor recommendations from our submission in this latest iteration, we remain strongly concerned that there is no recognition of water's role in meeting fundamental human needs and thus, the need to ensure that non-discretionary water use by individuals be priced affordably.

We note in the introduction to the pricing principles the reflection that 'the NWI pricing principles do not limit the ability of governments to address equity issues related to the provision of water services', and we also agree that other consumer protection arrangements can be addressed separately to the pricing principles. However, pricing itself is a central issue, apart from other consumer protections, and the affordability of essential household water use must be tackled.

We are deeply concerned that the pricing principles fail to acknowledge or protect the importance of water and its role in the community as an essential service. While we recognise that water is defined differently by water users, depending on the context of its use, and that this places varying values on water, affordable access to water is a right of all Australians as human beings. It must be a fundamental principle that no consumer should forego access to water due to an incapacity to pay.

We continue to be concerned that the government's approach is increasingly to use pricing as a major tool to control demand. While this may be a valid policy tool for major water

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users, it does not operate in the same manner with regard to residential household water use. Water is essential for basic human survival as well as basic living standards and social participation needs. Pricing controls can force demand below essential use levels, for example for basic hygiene purposes, and/or they can put pressure on other aspects of a household's budget, such as rent, food, energy and medical expenses. Water for essential use must be kept at affordable levels with, at minimum, a safety net of pricing for essential residential use. We also note that, in the absence of consideration of these issues, it is possible that the pricing principles will breach the human rights requirements existing in some jurisdictions and proposed nationally, such as the right to life.

The inclusion of core social equity considerations in the water pricing principles will guide governments in their approach to water planning and regulation and importantly, to review and update concession arrangements in line with the largely inevitable price rises facing consumers.

We set out our concerns with each of the sections of Principles below.

## **A. Principles for urban water tariffs**

### *Principle 1 : Cost recovery*

There is no qualification on the NWI definition used here that the costs listed which are recoverable should be *efficient* such costs. The principle should state that cost recovery should be limited to efficient costs – otherwise the principles do not do their job of acting as proxies for the discipline that a competitive market would impose. This concept is accepted under the set of principles applying to recovering the costs of water planning and management activities, where principle 3 states explicitly that having identified planning and management costs to be recovered from water users, the corresponding activities should be tested independently for cost-effectiveness.

### *Principle 2: Tariff structures*

We are concerned about the inclusion of notes allowing for variations to a two-part tariff structure. These notes imply that smart water meters are being considered by the Federal and State and Territory governments. Such significant changes should not merely be added into the pricing principles without proper consultation on the policy issues underlying them and a robust cost benefit analysis<sup>1</sup>.

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We note that it should not be simply assumed that smart meters would have similar benefits in relation to water services as electricity services. Water and electricity are different commodities, delivered to consumers by different means, and consumers use water and electricity in very different ways. Extensive work would need to be undertaken to determine whether there were any overall benefits from smart water meters, including, as noted in the RIS, because we do not understand the elasticity of demand for water as yet.

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### *Principle 3: Cost reflective tariffs*

The note attached to Principle 3 mentions block tariffs for environmental or equity reasons. We strongly urge the Department to include these considerations of equity and sustainability in the principle itself, and also in Principle 2, to ensure they are considered at each decision point and frame the overall manner in which water tariffs are set. Such considerations are now core elements in designing modern, best-practice urban water pricing.

### *Principle 4: Setting the service availability charge*

We remain concerned that this principle simply provides for the fixed charge component of any water tariff to be set to recover revenue needs not already covered by the variable charges component of the tariff, being the water usage and developer charges. This provides no guidance as to the appropriate balance between fixed and variable charges in seeking to recover required revenue.

Being a fixed charge, the service availability charge is inherently regressive in that it does not take account of different users' income receipts and consumption behaviour. The same fixed charge will necessarily represent a larger proportion of a low-income household's budget than a higher income household's budget and, further, low-income (and other) households cannot reduce this cost by adjusting their behaviour. It is therefore inappropriate to simply set the service availability charge in line with business interests once usage charges have been determined and ignore its effect on different households. We understand that a fixed charge can provide some guaranteed revenue certainty, which is attractive to water businesses, but this principle should be amended to provide that the service availability charge should be set with regard to its own independent considerations, not simply to recover the revenue shortfall following collection of usage charges and developer charges.

Further, we understand that the service availability charge may vary among customers or customer classes based upon different considerations. However, we note again that variations in fixed charges between different customers has the potential to erode the value of concessions which tend to be set to apply consistently within a single jurisdiction. We therefore strongly recommend that the principle include a note that if service availability charges vary between customers or customer classes, the value of concessions in the relevant area must be fully considered and adjusted in accordance with any variations in water charges under this principle, to prevent the value of concessions being eroded or devalued due to price differences.

We do support the principle in so far as it allows for the fixed charge to be set at a higher level for major water users than for residential users on, for example, equity grounds. This would appropriately reflect the different ability of each of these customer classes to manage water prices and the risk of price increases.

### *Principle 5: Pricing transparency*

While we strongly support embedding transparency and accountability in the Principles, we do not support enabling the setting of urban water tariffs through a process that is merely 'subject to public scrutiny'. As we stated previously, the emphasis should be on proactively

seeking and considering public comment as is captured by the reference to a 'process which seeks and takes into account public comment'. Enabling the alternative of mere 'public scrutiny' could allow tick-a-box consultation, where the requirement for public engagement is satisfied by manifestly inadequate processes, such as the posting of principles on a website, which could even be after the fact.

*Principle 6: Over recovery of revenue*

We agree with the principle that where water usage charges lead to over recovery of costs the relevant revenues should be redistributed to customers. We support the principle that revenues should be redistributed to customers as soon as practicable, for example in the next price determination period.

*Principle 7: Differential water charges*

Again, we remain concerned that water charges differentiated across different customers, including according to geographic location, could result in the erosion of the value of concessions for some customers, as outlined in our discussion against Principle 4 above. We recommend again that a note be included stating that concessions should be adjusted in light of any pricing decisions made in accordance with this principle.

## **B. Principles for recovering the costs of water planning and management activities**

*Principle 4: Cost allocation*

We support the clarification of the meaning of impactor pays. However, in our view the principle does not make clear how the impactor pays approach works here. For example, it seems unclear if costs be allocated between different water user classes as well as between users and the government, and if the approach is able to take into account to what extent water users are the taxpayers funding the government's costs.

*Principle 6: Community Service Obligations*

We support the transparent reporting of shortfalls between total costs recovered and total revenue required. However, we strongly reject that this means jurisdictions should be required to reduce or eliminate subsidies or Community Service Obligations (**CSO**) as a matter of course. Rather, subsidies and CSOs are matters of broader policy that governments retain responsibility for considering and implementing (or not). This principle oversteps the bounds of the role of pricing principles. The pricing principles should ensure that pricing, including any subsidies, are transparent, explicit and justified, but they should not presume to supplant the role of government, in consultation with its community, deciding whether or not CSOs are desired.

## **C. Pricing principles for recycled water and stormwater reuse**

*Principle 1: Flexible regulation*

We question why this principle is included at all. It provides that 'flexible regulation' is to be preferred because it is more cost-efficient, unless it turns out that other regulation is more cost efficient. First, this seems to merely state the obvious - that the most efficient outcome should be sought. We do not therefore see why any particular form of regulation should be

stated as being preferred, unless another is better. The principle should merely support the best outcome. Indeed, this is the approach in the other sets of principles. Secondly, it assumes that a particular form of regulation will automatically be more likely to be most efficient, which we suggest reflects a commonly stated view but is not necessarily borne out by evidence.

We generally understand the purpose of the pricing principles, however, until the principles include recognition of the key concern that the pricing of non-discretionary water usage by households must be affordable, we cannot support the principles.

Should you have any questions, please contact Janine Rayner of our Centre on 03 9670 5088.

Yours sincerely

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