



**Government
of South Australia**

TRS20D2634

Hon Stephen Mullighan MP
Member for Lee
Unit 1, 62 Semaphore Road
SEMAPHORE SA 5019

Treasurer
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Tel 08 8226 1866
treasurer.dtf@sa.gov.au

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Stephen
Dear Mr Mullighan

APPLICATION UNDER THE *FREEDOM OF INFORMATION ACT 1991*

I refer to your application made under the *Freedom of Information Act 1991* (the Act), dated 6 August 2020.

Your application seeks access to:

"All minutes, briefings and correspondence titled 'Water Industry Licence Fees for 2020-21 to 2023-24' as described on the Objective document management system, between 9 April and 5 August 2020."

The prescribed legislative timeframe to determine this application has expired and is now deemed as refused access to documents relevant to your application. I refer to my letter dated 18 August 2020 where I sought additional time to make my determination.

The purpose of this letter is to advise you of my determination. An extensive search was conducted within this office. A total of 5 documents were identified as answering the terms of your application.

I grant you access in full to 2 documents; copies of which are enclosed.
I grant you access in part to 1 document; a copy of which is enclosed.
I refuse you access in full to 2 documents.

Documents Released in Full

Documents 2 and 4

Documents Released in Part

Document 1

Documents Refused in Full

Documents 3 and 5

Documents Released in Part

Document 1 is released in part as it contains information concerning a Cabinet deliberation. I therefore determine this exempt pursuant to clause 1(1)(e).

Documents Refused in Full

Document 3 is a written report to the Treasurer, prepared by ESCOSA dated November 2019.

Document 5 is a schedule for water licence fees to be charged by ESCOSA.

I advise that both documents are publicly available on the Department of Treasury and Finance website and have not been provided to you.

Exemptions

Clause 1 – Cabinet Documents

- (1) *A document is an exempt document—*
- (a) *if it is a document that has been specifically prepared for submission to Cabinet (whether or not it has been so submitted); or*
 - (b) *if it is a preliminary draft of a document referred to in paragraph (a); or*
 - (c) *if it is a document that is a copy of or part of, or contains an extract from, a document referred to in paragraph (a) or (b).*
 - (e) *if it contains matter the disclosure of which would disclose information concerning any deliberation or decision of Cabinet; or*
 - (f) *if it is a briefing paper specifically prepared for the use of a Minister in relation to a matter submitted, or proposed to be submitted to Cabinet.*

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information* (PC045), the Department of Treasury and Finance is now required to publish a log of all non-personal information released under the Act.

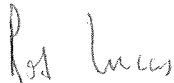
In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <https://dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit the website for further information.

As I am determining this application as Principal Officer, section 29(6) of the Act does not provide for an internal review. If you are dissatisfied with my determination you are entitled to exercise your rights of external review with the Ombudsman.

Alternatively, you can apply to the South Australian Civil and Administrative Tribunal. If you wish to seek a review, section 39(3) of the Act states you must do so within 30 calendar days of receiving the determination.

If you require any further information, please contact Ms Vicky Cathro, Ministerial Liaison Officer, by telephone on 8226 9769 or by email to vicky.cathro@sa.gov.au.

Yours sincerely



Hon Rob Lucas MLC
Principal Officer

5 December 2020

Att.

Schedule of Documents

TRS20D2634 - Water Industry Licence Fees for 2020-21 to 2023-24

Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause	Reason
1	30/04/2020	Briefing to Treasurer from Executive Director, Budget and Performance, DTF	4	Released in part	1(1)(e) - Contains information concerning deliberation or decision of Cabinet or Cabinet committee	
2	14/11/2019	Letter to Treasurer from ESCOSA	2	Released in full		publicly available on the Department of Treasury and Finance website
3		Attachment to Document 2 - Advice to Treasurer on Water Industry Licence Fees (November 2019)	8	Refused in full		
4	5/05/2020	Letter to ESCOSA from Treasurer	1	Released in full		
5		Attachment to Document 4 - Licence Fees for Retail Services from 1 July 2020	1	Refused in full		publicly available on the Department of Treasury and Finance website

RELEASE IN PART

MINUTES forming ENCLOSURE to

30/6/2020
20/014
to 20/01226

File T&F18/0800

Doc No A1297770

To The Treasurer

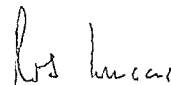
WATER INDUSTRY LICENCE FEES FOR 2020-21 TO 2023-24

Timing: ROUTINE

Recommendations/Issues: It is recommended that you:

- note under section 24(3) of the *Water Industry Act 2012* (the Act), you must take into account ESCOSA's advice when setting water industry licence fees;
- note that consistent with ESCOSA's advice (Attachments A and B) it is proposed to set licence fees from 1 July 2020 to recover agencies' prescribed costs totalling \$34.3 million for the period 1 July 2020 to 30 June 2024;
- approve, pursuant to the *Water Industry Act 2012*, the attached schedule for water industry licence fees for retail services to be charged by ESCOSA from 1 July 2020 (Attachment C);
- note that approval of the proposed licence fees will result in minor budget impacts which will be incorporated into the 2020-21 Budget;
- sign the attached letter to the Chief Executive, ESCOSA, advising of the licence fees from 1 July 2020 (Attachment D); and
- note that the new licence fee schedule will be published on the Department of Treasury and Finance's website following your approval.

Approved/Not Approved



Hon Rob Lucas MLC

Treasurer

4/5/2020

Key Points:

- The *Water Industry Act 2012* (the Act) provides a licensing regime for retail services for water and sewerage in South Australia, with ESCOSA as the licensing authority.
- Section 24(3) of the Act provides for the licence fees to be fixed as an amount that you consider to be a reasonable contribution towards prescribed costs incurred by the government to regulate the industry in the State.

- On [REDACTED] Cabinet [REDACTED]

- On 31 August 2019 you wrote to ESCOSA requesting advice as to whether or not activities that form the basis for prescribed costs are required under the Act.

ESCOSA report on prescribed costs

- On 14 November 2019, the Acting Chief Executive Officer, ESCOSA, wrote to you providing a report setting out the Commission's advice on this matter. The report (provided at Attachment A) advises that:
 1. ESCOSA considers that the government's proposed prescribed costs for the period 1 July 2020 to 30 June 2024 fall within the definition of prescribed costs for the purposes of section 24(8) of the Act; and
 2. these costs should be fully recovered through licence fees in a way that reflects regulatory effort.
- In the accompanying letter (provided at Attachment B), ESCOSA highlighted a number of matters. These matters, as well as DTF's comments, are provided below.
 - a) ESCOSA has not assessed whether the costs incurred are efficient and suggests that such a review would be beneficial in the future:
 - The government could consider an examination of agency costs prior to the commencement of work on the 2024-28 regulatory determination process, with any cost savings flowing through to customers from 1 July 2024.
 - DTF recommends that the government make a decision about the need for a review closer to the time and depending on agency costs at that stage.
 - b) consideration could be given to the use of ESCOSA's surplus cash balance of around \$1.6 million to fund part of ESCOSA's prescribed costs from 1 July 2020:
 - ESCOSA has previously retained the surplus cash to meet any unforeseen costs in the administration of the water industry (i.e. legal challenge or policy development) that may arise;
 - The use of the surplus cash to reduce licence fees would result in a budget deterioration of up to \$1.6 million over the next four years.
 - DTF does not consider it appropriate to use ESCOSA's surplus cash balance for this purpose.
 - c) the indexation applied to the proposed prescribed costs from 2020-21 could be lower consistent with standard indexation parameters for expenditure lines:
 - Costs submitted to ESCOSA were increased at 2.5% per annum consistent with standard budget indexation for supplies and services;
 - DTF has revised the indexation rate to 1.9% in 2020-21 to align with the government's approved indexation rate fees and charges for that year and maintained indexation at 2.5% from 2021-22. This indexation arrangement is consistent with the government's standard assumptions for future increases in regulatory fees and charges which reflect assumed increases in government costs.
 - The lower indexation rate reduces the proposed prescribed costs by approximately \$244,000 over four years.

d) the prescribed cost for the Consumer Advocacy and Research Fund (CARF) in 2020-21 should be realigned to be consistent with indexation of CARF provided for in the Act.

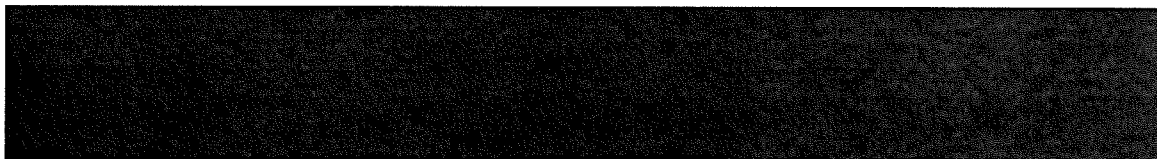
- DTF has revised the CARF budget to ensure indexation aligns with actual CPI (consistent with the act). This reduces the licence fee revenue and matching CARF expenditure by \$63,000 over four years.
- DEW has reviewed the actual costs it is incurring to undertake the activities that ESCOSA has confirmed are appropriate to be recovered through licence fees. DEW has revised its costs up by \$281,000 per annum (indexed) to more accurately reflect costs being incurred.

Prescribed costs and licence fees from 1 July 2020

- Following the abovementioned adjustments, total prescribed costs for the period 1 July 2020 to 30 June 2024 are \$34.3 million as summarised below.

	2020-21	2021-22	2022-23	2023-24	Total
	\$000s	\$000s	\$000s	\$000s	\$000s
ESCOSA	3 645	3 736	3 830	3 926	15 137
Treasury and Finance	382	391	401	411	1,585
Environment and Water	848	867	885	905	3,505
CARF	293	300	307	315	1,215
Office of the Technical Regulator (OTR)	3 101	3 179	3 258	3 340	12 878
Total⁽¹⁾	8 269	8 473	8 682	8 896	34 320

(1) Totals may not add due to rounding



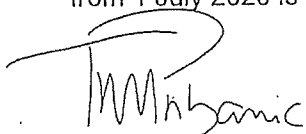
- Proposed annual licence fees for retail services to apply from 1 July 2020 are summarised below.

Licence	Total connections	Proposed		Savings	Savings	No of Utilities	Total Revenue
		Current Fee (RD16)	Fee (RD20)				
		\$	\$	\$	%	#	\$
Very small	Up to 100	230	200	30	13.0	18	3 600
Small	101 to 500	1 150	1 000	150	13.0	15	15 000
Medium	501 to 5 000	6 900	6 000	900	13.0	34	204 000
Large	5 001 to 50 000	24 150	21 000	3 150	13.0	4	84 000
Major (SA Water)	Greater than 50 000	9 500 000	8 272 500	1 227 500	12.9	1	8 272 500
Total revenue pa							8 579 100

- Consistent with ESCOSA's advice, the proposed licence fees have been set at a fixed amount per annum to recover the prescribed costs equally over the four year regulatory period.
- The proposed fees from 1 July 2020 are around 13% lower than the current water industry licence fees. For SA Water customers, this represents a saving of around \$1.2 million per annum.

Next steps

- In order to recover the above prescribed costs it is recommended that you approve and sign the attached schedule for water licence fees in accordance with section 24(3) of the Act (Attachment C). This will be published on the Department of Treasury and Finance's website.
- A draft letter to letter to the Chief Executive, ESCOSA, advising of the new licence fees from 1 July 2020 is also attached for your consideration (Attachment D).



Tammie Pribanic
EXECUTIVE DIRECTOR
BUDGET, ANALYSIS AND PERFORMANCE

30 / 4 / 2020

Contact Officer:	Peter Fitzpatrick
Telephone:	8429 0694
Email address:	peter.fitzpatrick@sa.gov.au

RELEASE



A1280820
ESCOSA

14 November 2019

The Hon Rob Lucas MLC
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escosa@escosa.sa.gov.au

Dear Treasurer

Water Industry Act, section 24(3) – Commission report on prescribed costs 2020-21 – 2023-24

Thank you for your letter of 31 August 2019, seeking advice from the Essential Service Commission (Commission) on the South Australian Government’s proposed prescribed costs for the purposes of setting water licence fees pursuant to section 24(3) of the Water Industry Act 2012 (Act).

Please find enclosed a written report setting out the Commission’s advice on this matter.

In preparing its advice, the Commission has assessed whether or not the activities that form the basis for prescribed costs are required under the Act. The advice has not examined whether or not the costs for these activities are efficient.

As the Commission stated in its previous advice in 2016 to the Treasurer pursuant to section 24(3) of the Act, it is the Commission’s view that a review into the efficiency of costs associated with undertaking activities prescribed under the Act would be beneficial. Such a review would require a detailed examination of all departmental costs for the relevant activities, including an assessment of any potentially overlapping functions between departments and agencies. The Commission notes the review of the Act currently being undertaken by the Department of Environment and Water may provide a timely occasion to assess the efficiency of the costs of administering the Act. It is the Commission’s view, as it incurs prescribed costs under the Act, that such a review should not be conducted by the Commission, but rather by an independent agency or consultant. The Commission could assist with scoping such a review.

The Commission would also like to highlight that, as at 30 June 2019, it had a \$1.6 million surplus for the purposes of undertaking relevant activities pursuant to the Act in its special deposit account. The Commission anticipates that this surplus is likely to increase to approximately \$2 million by 30 June 2020. Accordingly, the Commission does not require the full extent of the recommended proposed prescribed costs for the 2020-2024 period as set out in your letter of 31 August 2019. An option to reduce the Commission’s surplus would be for the Commission’s proposed prescribed costs to be reduced by the amount of the Commission’s anticipated surplus at 30 June 2020. This would materially reduce overall proposed prescribed costs, and allow licence fees to be further decreased.

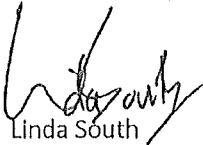
The Commission also suggests the Treasurer review the proposed 2.5 percent indexation rate applied to the recommended proposed prescribed costs of each agency. The Commission notes that the

proposed 2.5 percent indexation rate is not consistent with the indexation rate generally applied across the South Australian Government.

The Commission would also like to bring to your attention that the proposed prescribed costs for the Consumer Advocacy and Research Fund (CARF), established under section 87 of the Act, should be adjusted downwards based on an updated calculation using the most recent Consumer Price Index (CPI) published by the Australian Bureau of Statistics. The CARF was initially funded with \$250,000 in 2012, and pursuant to subsection 87(9) of the Act, must be adjusted '...on 1 July of each year (commencing on 1 July 2013) by multiplying that amount by a proportion obtained by dividing the Consumer Price Index for the immediately preceding March quarter by the Consumer Price Index for the March quarter, 2011.'¹ According to the Commission's calculations (using a forecast of the March 2020 CPI) the CARF funding for 2020-21 should be \$292,558, rather than \$307,743. The Commission suggests these CARF costs be realigned to reduce overall proposed prescribed costs.

I trust this information, and the attached report is of assistance to you in setting water licence fees. Should you wish to discuss these matters further, please contact me on (08) 8463 4443 or via email at linda.south@sa.gov.au.

Yours sincerely



Linda South

Acting Chief Executive Officer

¹ Subsection 87(10) of the Act states: '...Consumer Price Index means the Consumer Price Index (All groups Index for Adelaide) published by the Australian Bureau of Statistics.'

The Hon Rob Lucas MLC




**Government
of South Australia**

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ESCOSA A1280820

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Mr Adam Wilson
Chief Executive Officer
Essential Services Commission of South Australia
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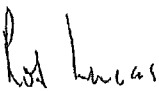
adam.wilson@escosa.com.au


Dear Mr Wilson

In accordance with Section 24(3) of the *Water Industry Act 2012*, I have fixed the annual water industry licence fees for retail services from 1 July 2020.

Please find attached the fees to be charged by the Essential Services Commission of South Australia.

Yours sincerely


Hon Rob Lucas MLC
Treasurer

5 May 2020

Att