



**Government
of South Australia**

TRS19D3178

Hon Stephen Mullighan MP
Member for Lee
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Dear Mr Mullighan

APPLICATION UNDER THE *FREEDOM OF INFORMATION ACT 1991*

I refer to your application made under the *Freedom of Information Act 1991* (FOI Act), dated 12 November 2019.

Your application seeks access to:

“All minutes, briefings and correspondence titled ‘Budget and Performance – SA Water: Water and Sewerage Charges – Approval Process’ as described on the Objective document management system, between 23 February 2019 and 12 November 2019.”

The legislative prescribed timeframe to determine this application has expired and is now deemed to have refused you access to all documents relevant to your application. I refer to my letter dated 19 November 2019 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 1 document was identified as answering the terms of your application.

I refuse you access in part to 1 document; a copy of which is enclosed.

Document Refused in Part

This briefing contains information which, if released, would disclose details concerning a deliberation or decision of Cabinet. I therefore determine this exempt pursuant to clause 1(1)(e) to the FOI Act.

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 *Freedom of Information Act 1991*.

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 Vicky Cathro on 8226 9769.

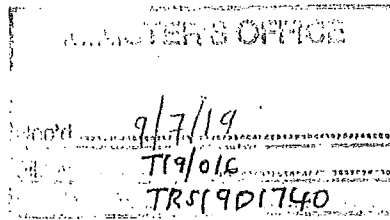
Yours sincerely



Hon Rob Lucas MLC
Principal Officer

14 March 2020

MINUTE



MINUTES forming ENCLOSURE

Doc No A1196029

To The Treasurer

SA WATER: WATER AND SEWERAGE CHARGES – APPROVAL PROCESS

Timing: ROUTINE

Recommendations/Issues: It is recommended that you:

- Note the information below regarding the arrangements with SA Water for the setting of retail water and retail sewerage prices. This information was requested at our meeting of 1 July 2019; and

- [REDACTED]

Noted

A handwritten signature in black ink that reads 'Rob Lucas'.

Hon Rob Lucas MLC
Treasurer

13/7/19

Key points:

Legislative and other prescriptions

- The *Water Industry Act 2012* (the Act) provides ESCOSA with the power to set water and sewerage prices subject to Pricing Orders published by the Treasurer (s 3c, 7a and 35 of the Act). Your Pricing Order (Issued 28 October 2018) specifically restricts ESCOSA from establishing revenue controls based on customer class or location (effectively pricing).
- Section 36 of Act requires water and sewerage prices to be gazetted prior to 30 June each year.
- There are no other specific legislative provisions that further govern the setting of SA Water prices.

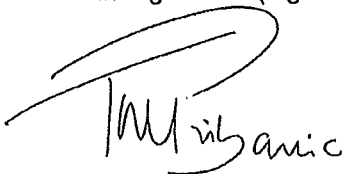


Setting water and sewerage prices

- By convention, SA Water's pricing has been set by the government of the day and adopted by SA Water. This has usually occurred at the beginning of a new regulatory period to provide customers with a clear price path for the four year period.

- [REDACTED]

- We consider this SA Water's intention for the next regulatory period and its rationale for engaging with the Government now to explore pricing options. It is keen to ensure the Government is aware of all options for pricing reform and has time to consider a range of issues that it may want to address as part of the next regulatory pricing period.
- Whilst it possible that the SA Water Board may not agree with the pricing arrangements approved by the government, the Board is likely to only raise concerns where it considers the new arrangements impact the long term viability of the corporation. Section 14(1) of the *Public Corporations Act 1993* requires a Board to protect the long term viability of the corporation and the Crown's financial interest in the corporation.
- While it is unlikely that the Board will raise financial viability concerns with the Government approved future water price arrangements, as you are aware, section 6 of the *Public Corporations Act 1993* enables the Minister to issue a direction to SA Water. Previous section 6 Directions to SA Water require SA Water to undertake certain pricing arrangements (e.g. state-wide pricing).



Tammie Pribanic
EXECUTIVE DIRECTOR
BUDGET AND PERFORMANCE

8 July 2019

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