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Scope of work for the Independent Competition and Regulatory Commission (ICRC): Review of the pricing methodology for determining the ACT Water Abstraction Charge

Context

In August 2022, the ACT Executive agreed to a program of priority reform activities for the management of the ACT's water. This included improving accountability and transparency of current funding arrangements, including the Water Abstraction Charge (WAC), a regulatory water charge for potable and non-potable water levied by the ACT Government.

The WAC was introduced in 2000 under the now repealed Water Resources Act 1998 (ACT) to recover catchment management costs and to reflect the environmental costs from water abstraction and the value of the water as a natural resource. The methodology for setting the charge was reviewed by the ICRC in 2003, resulting in the current framework where the WAC is based on a pricing framework consisting of three key components:

- the cost recovery for expenses incurred by the ACT Government in maintaining water catchments;
- the environmental costs associated with the consumption of water in the ACT; and
- the scarcity value of water as a resource that holds significant value across the broader community.

Originally, the WAC was applied equally to both potable and non-potable water sources. However, in 2006, the WAC was separated into the potable WAC and non-potable WAC. The non-potable WAC was set at 50 per cent of the potable WAC, in recognition of its lower value.

In 2021, Treasury published a report into non-potable water pricing. The Minister for Water, Energy and Emissions Reduction has requested that the Government's response to the report take into consideration the outcomes of the review into the pricing methodology of WAC prior to being finalised.

In 2022, the Environment Planning and Sustainable Development Directorate (EPSDD) received advice from a consultant on the appropriateness of current WAC reporting, that the cost components of the current WAC are inconsistent with eligible costs in the Water Charge Rules. The consultant's report, attached to this Scope of Work, raised several issues that warrant further consideration.

The ACT has entered into a series of intergovernmental agreements since the current framework for the WAC was recommended by the ICRC in 2003. They include a fundamental principle that the WAC should not exceed the cost to the Government in ensuring delivery of the water, while also taking into account water planning and management costs, capital costs and environmental externalities.

The rate of the WAC was also increased by 120 per cent in 2006-07, during a time of drought, before rules on cost recovery were in place. The WAC has subsequently been indexed annually (by the Wage Price Index) without a re-rating to ensure the WAC is cost reflective.

Despite changes to the ACT's obligations arising from new intergovernmental agreements, the WAC has not been reviewed to ensure it remains fit for purpose and adheres to these agreements.

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Scope of work

This work is to be undertaken under section 12 of the Independent Competition and Regulatory Commission Act 1997 (the Act).

The ICRC will be required to develop advice and recommendations on an appropriate methodology for setting the Territory's fees and charges for water, through an assessment of the method it developed in 2003 to calculate an appropriate WAC and methods used in other jurisdictions. In providing its advice on an appropriate future methodology, the ICRC should include explanatory material to describe the methodology proposed to derive the Charge, and any associated issues and recommendations identified during the investigation process.

The methodology must be compliant with the [Water Act 2007](#) (Cwlth), [Water Charge Rules 2010](#) and [National Water Initiative Pricing principles](#) and have regard to delivering against the Territory's water policy outcomes:

- Recover the cost for water planning and management while avoiding perverse or unintended outcomes for community (affordability) and the environment ([National Water Initiative Pricing Principles](#), p 2, para 3(v); p 12, para 7).
- A sustainable water supply used efficiently ([ACT Water Strategy, 2014-2044](#), p 2, 4, 34)¹.

The ICRC should provide advice in the form of a final report, including any findings and recommendations, to the Treasurer and the Minister for Water, Energy and Emissions Reduction.

The issues identified below are considered to be relevant to developing advice in review of the current pricing methodology and proposition of any revised methodology.

Key issues to be considered

1. Consider the Water Abstraction Charge (WAC) for potable and non-potable water and determine:
 - a. If the current WAC rate and individual components that comprise the pricing methodology for the WAC are compliant with the Water Act 2007 (Cwlth), with its [water charging objectives and principles](#), [Water Charge Rules 2010](#) and [National Water Initiative Pricing principles](#); and
 - b. If the Charge is effective in supporting the Territory's water policy outcomes.
2. Consider alternative methods taken by other Australian jurisdictions regarding:
 - a. the applicability of these methods, or elements of these methods, to setting water charges for the stated water policy outcomes in the ACT;
 - b. relevant prior considerations by the Urban Water Sub-Committee (National Water Reforms) on water charge methodology, particularly regarding environmental externalities and water scarcity; and
 - c. any other economic considerations deemed to be informative relative to setting water charges.
3. Based on findings in 1 and 2, recommend a methodology for setting the Territory's fees and charges for potable water and non-potable water that:
 - a. considers the appropriateness and feasibility of including environmental externalities and water scarcity in fees and charges for water take, its effectiveness

¹ Note: this outcome is also designed to be achieved through other water policies and regulation.

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- for achieving the water policy outcome, and the implications to water affordability or the like from such an inclusion;
- b. include provision(s) which ensure transparency and accountability in price setting and reporting, particularly to assist in setting out all components of the water charges;
 - c. provide a suitable process for the periodic review of the methodology to ensure that charges meet their intended purposes, with the ICRC to advise on an appropriate cadence for reviews that ensure the charges remain cost reflective and continue to meet water policy outcome; and
 - d. considers any other economic matters to ensure a robust methodology.
4. Test the method to assess financial impact on water users by:
- a. applying the proposed pricing method to derive a hypothetical water charge for the 2023-24 financial year and comparing it with the WAC applied in 2023-24; and
 - b. applying the method to derive the potable and non-potable water charge for the forward 2024-25 financial year.

Deadline for provision of Advice: 29 February 2024