ACT Government

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MINISTERIAL BRIEF

Environment, Planning and Sustainable Development Directorate

To:	Minister for Water, Energy and Emissions Reduction	Tracking No.: 21/65548
Date:	18 September 2021	
From:	Executive Group Manager, Environment, Heritage and Water	
Subject:	Water Abstraction Charge – criteria to guide future expenditure	
Critical Date:	4 October 2021	
Critical Reason:	Routine	

- DDG, Environment, Water and Emissions Reduction 18/09/21

Recommendations

That you **note** the information contained in this brief.

Noted / Please Discuss

Shane Rattenbury MLA 14/12/21

Minister's Office Feedback

Background

1. On 14 July 2021, you discussed current issues related to the Water Abstraction Charge (WAC) with officials from the Environment, Planning and Sustainable Development Directorate. You requested further information on these issues and advice on a set of criteria that could guide expenditure of WAC revenue consistent with its objectives.

Water Abstraction Charge

2. The WAC was introduced in 2000, under the repealed *Water Resources Act 1998*. It replaced the previous charge, termed the Environmental Works Charge, that was imposed by the water utility (previously ACTEW) to fund environmental activities.
3. The WAC is intended to recover catchment management costs, and to reflect the environmental cost of the extraction of water and the value of water as a natural resource (scarcity value). It is intended to send a price signal to consumers about the true costs of water to encourage efficient water use and investment in water saving devices.
4. Section 107 of the ACT *Water Resources Act 2007* (the Act) (Determination of Fee) permits the Minister to determine fees for the Act; refer to https://www.legislation.act.gov.au/di/2021-71/.
5. The Act does not specify the intended cost basis of the WAC. The WAC is set by the Government through an annual determination indexed by 3% as per the decision in the 2016-17 Budget. In the 2020-21 financial year, the WAC was increased by 1.75% (with rounding) in alignment with the wage price index.
6. All holders of an ACT Licence to Take Water issued under the Act are required to pay the WAC to the ACT Government. Icon Water passes the WAC on to individual households and businesses.
7. In 2019-20, revenue from the WAC was $34.867M. Treasury estimate WAC revenue for 2020-21 is $31.121M.

National Water Initiative (2004)

8. Principles for cost recovery for water planning and management are set out in the National Water Initiative (NWI) Pricing Principles, agreed by Council of Australian Governments.
9. Through the NWI, governments agreed:
    a. to identify and attribute costs associated with water planning and management, including costs underpinning water markets, accounting and measurement frameworks, and performance monitoring and reporting
    b. charges to be attributed to water access entitlements are to exclude activities undertaken for the Government (for example policy development, Ministerial and Parliamentary services)
    c. charges will be linked as closely as possible to the cost of activities or products
    d. annual public reporting on cost recovery for planning and management will include the total cost of planning and management, and the proportion of the total costs attributed to water access entitlement holders and the basis upon which this proportion is determined.
10. The NWI Pricing Principles are used within Attachment A to set the framing for the

proposed criteria to guide WAC revenue expenditure, discussed below.

Water Act 2007 (Cwlth)

11. The NWI Pricing Principles are legislated within Schedule 2 of the *Water Act 2000* (Cwlth) (the Water Act) giving them effect within the Murray-Darling Basin.
12. The Water Charge Rules (2010) is a legislative instrument under the Water Act that sets out the enforceable requirements, including a Schedule of Charges that specify the circumstances in which a levy is applied.
13. The Water Act charges the Australian Competition and Consumer Commission (ACCC) with monitoring regulated water charges and compliance with water charge rules.

Issues

14. The revenue received through the WAC is reported through the Annual Report for the Chief Minister, Treasury and Economic Development Directorate. However, reporting does not detail the expenditure of WAC revenue for specific costs associated with water planning and management activities.
15. The attribution of revenue to water planning and management has previously occurred as part of an end-of-financial year reconciliation. There is no process for the prioritisation, planning or assignment of budget directly associated with the WAC revenue.
16. In 2003, the Independent Competition and Regulatory Commission (ICRC) investigated the appropriateness of the WAC and the methodology for determining the charge within the ACT. The report recommended the following principles to maintain the constitutionality of the charge:
    - that the quantum of the charge should reflect discernible and measurable costs to government (and therefore the community),
    - discernible and measurable costs can include social and environmental as well as economic costs, and
    - the charge should not be levied for revenue raising purposes.
17. The ACCC annual Water Monitoring Report (2019, 2020) highlights a significant gap between the revenue and expenditure on water management activities reoccurring since 2015. In 2018, the disjuncture between expenditure and revenue was reported by the ACT Commissioner for Sustainability and Environment.

Criteria to guide WAC revenue expenditure

18. Guiding the assignment of revenue from the WAC could be supported by a set of criteria aligned with the objectives of the Act and drawn from the NWI Pricing Principles. A proposed criteria set is provided at Attachment A.
19. An additional criterion could be added that promotes community involvement in the delivery of priority water management activities through a small grants program. The resourcing requirements for delivering a grants program would require further consideration.
20. The hypothecation of WAC revenue has not been supported previously by Government. A

budget process for the assignment of forecasted revenue does not require revenue to be hypothecated but enables a structured prioritisation of WAC revenue expenditure aligned with Government priorities and supporting recurrent funding needs.

21. Full disclosure of expenditure allows for the Government and public to assess the appropriateness of funded activities and the degree of cost recovery. Disclosure could be supported by a Schedule of Charges (under the Water Charges Rule 2010 (Cwlth)) and enhanced reporting.

22. Enhanced reporting on the expenditure of WAC revenue provides public validation of the purpose for the charge and assurance of value for money. The reporting obligation could be reinforced through enhanced water governance arrangements and reflects government agreement under the NWI.

23. Periodic review of the cost-effectiveness of the WAC for achieving improvements in water management is a key accountability measure, recognised under the NWI and Water Act. The ICRC or other independent entity could provide this function. The independent review and reporting requirements could be instituted under a future review of the ACT Water Resource Act.

Financial Implications

24. Setting criteria that specify the nature of expenditure for WAC revenue will affect assumptions within the Government's Budget, particularly where this results in an increased level of expenditure proportionate with the costs for water planning and management activities. The quantified impact on the Government's budget has not been assessed.

Consultation

Internal

25. Nil.

Cross Directorate

26. Nil. However, further development of a criteria set will require cross-Directorate consultation.

External

27. Not required.

Work Health and Safety

28. There are no work health and safety implications related to matters raised in this brief.

Benefits/Sensitivities

29. The development of a process that provides for the assignment of WAC revenue specific for water planning and management activities will be widely supported across government and external parties, including those levied by the WAC. This will provide opportunity to address issues of recurrent funding for water and catchment management and promote new initiatives.

30. Not instituting changes in the assignment of WAC revenue risks further negative review from the ACCC in their annual review of water charges and other periodic reviews.

31. Increasing the expenditure of WAC revenue for its intended purpose could form part of a

management response by Government on the State of the Lakes and Waterways investigation being conducted by the Commissioner of Sustainability and Environment and intended to conclude in February 2022.

Communications, media and engagement implications

32. There are no media implications arising from matters raised in this brief.

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Attachments

Attachment A Proposed criteria for expenditure of Water Abstraction Charge revenue