

Chief Minister, Treasury and Economic Development Directorate

SENSITIVE

To: Treasurer

Minister for Water, Energy and Emissions Reduction

Tracking No.:
CMTEDD2023/4270

Date: 03/10/2023

From: EGM, Economic and Financial Group (CMTEDD)

DDG, Environment, Water and Emissions Reduction (EPSDD)

Subject: Referral to the Independent Competition and Regulatory Commission (ICRC) of the scope of work for advice on a methodology for setting water charges

Critical Date: 27/10/2023

Critical Reason: To ensure the scope of work is provided to the ICRC to allow work to commence as soon as possible.

- UT 16/10/23
- DUT 13/10/23

Recommendations

That you:

1. **Agree** to the proposed scope of work at Attachment A; and

Agree / Not Agreed / Please Discuss

Andrew Barr MLA

Agree / Not Agreed / Please Discuss

Shane Rattenbury MLA

2. **Sign** the proposed transmittal letter to the ICRC (at Attachment B).

Signed / Not Signed / Please Discuss

Andrew Barr MLA

SENSITIVE

Andrew Barr MLA  26/10/23

Minister's Office Feedback

Shane Rattenbury MLA  29/10/23

Minister's Office Feedback

Background

- 1. On 4 September 2023, you both agreed to the ICRC conducting a review into the methodology for setting the ACT Government's fees and charges for water (CMTEDD2023/3538).

Issues

- 2. This brief seeks your agreement to the proposed scope of work (at Attachment A), which requests the ICRC to:
 - a. Consider the Water Abstraction Charge (WAC) for potable and non-potable water, and determine whether the current WAC rate and framework adheres to intergovernmental agreements and is effective in supporting the Territory's water policy objectives;
 - b. Consider alternative methods taken by other jurisdictions, and assess their applicability to achieving the ACT's desired outcomes;
 - c. Recommend a methodology for setting the Territory's fees and charges for potable and non-potable water going forward, and appropriate review intervals for the methodology; and
 - d. Test the recommended method to assess its expected financial impact on potable and non-potable water users.
- 3. The draft scope of work requires the ICRC to provide its advice in the form of a final report, including any findings and recommendations to CMTEDD and EPSDD on a confidential basis by 29 February 2023.
- 4. The scope of work would be referred to the ICRC under Section 12 of the *Independent Competition and Regulatory Commission Act 1997* (the Act), which allows the ICRC to

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assist an agency, body or person 'by providing services within the commission's field of expertise and relevant to its function'.

- a. This approach will provide the ICRC with maximum time and flexibility to undertake this work, and draw on its expertise in providing advice on water pricing.
5. The draft transmittal letter to the ICRC's Senior Commissioner at Attachment B conveys both the scope of work and a recent review on the reporting of the WAC conducted for EPSDD by Slattery and Johnson.
 - a. As noted in CMTEDD2023/3538, this letter is to be issued by the Treasurer, in accordance with section 12 of the Act.

Next Steps

6. Once the scope of work has been issued, CMTEDD and EPSDD officials will offer to meet with the ICRC to clarify any questions on the scope work, and will provide input throughout the review process, where necessary.
7. Upon receiving the ICRC's final report, CMTEDD and EPSDD will jointly brief the Treasurer and Minister for Water, Energy and Emissions Reduction. This brief will assess the potential options raised, and seek agreement on a preferred approach to be subsequently brought forward for consideration by ERC/Cabinet as part of the 2024-25 Budget process.

Financial Implications

8. The work to be undertaken by the ICRC is expected to cost around \$100,000. The cost of the advice would be charged to the ACT Government under s12(5) of the *ICRC Act 1997*, which will be co-funded by CMTEDD (Treasury) and EPSDD.
9. We expect the ICRC to advise on the most appropriate method to set Government water charges for 2024-25 and beyond. This will assist CMTEDD and EPSDD to estimate the financial implications of adopting the ICRC's advice.

Consultation

Internal

10. Early engagement has occurred with EPSDD Legal Policy on legal issues arising from the Slattery and Johnson report. Legal advice may be sought by EPSDD on the outcome of the ICRC's review.
11. The scope of work was developed in conjunction with EPSDD and CMTEDD (Policy and Cabinet, and Treasury).

External

12. The ICRC is aware that the scope of work is being prepared, and that their advice will be required by 29 February 2024.

Work Health and Safety

13. Nil.

Benefits/Sensitivities

14. Should the review identify there has been an under or overcollection of fees, the Government will be able to consider the recommended and most appropriate course of action for any reconciliation with customers at that time.

15. The draft ACT Government’s response to the Non-potable Water Review recommends an independent review of price setting for non-potable water. The proposal for the ICRC to examine the methodology for setting the ‘water’ charge addresses this recommendation and moves towards solution setting. The Minister for Water, Energy and Emissions Reduction has requested that the Government’s response take account of the outcomes of the ICRC’s review prior to being finalised. Sensitivity in progressing and communicating the ‘review’ of ACT water charge methodology is advised.

Communications, media and engagement implications

16. No communications or media are proposed at this time. Any changes to the ACT Government’s water charges could be announced in the 2024-25 Budget.

Signatory Name:	Mitch Pirie	Phone:	6207 9481
	Fiona Wright		6207 9780
Action Officer:	Wei Wang	Phone:	6207 4586
	Ryan Breen		6207 8268

Attachments

Attachment	Title
Attachment A	Scope of Work – ICRC process to assist in the non-potable water review
Attachment B	Transmittal Letter to the ICRC
Attachment C	<i>Review on the reporting of the Water Abstraction Charge, Slattery and Johnson 2022</i>