

26 July 2007

Mr Simon Miller
Deputy Director-General
Department of Water and Energy
GPO Box 3889
SYDNEY NSW 2000

Dear Sir

*Comments on Consultation Paper prior to the drafting of Regulations
Water Industry Competition Act 2006*

I refer to your letter of 26 June 2007 regarding the Regulations Consultation Paper.

Services Sydney appreciates the invitation to provide a submission, but declines to do so for the following reasons.

In March 2004, Services Sydney applied for access to Sydney Water's sewerage system following several years of unsuccessful commercial dealings with Sydney Water and the NSW Government. Late in 2005 the Australian Competition Tribunal (**ACT**) declared access to the Sydney Water's SWSOOS, BOOS and NSOOS sewerage systems under Part IIIA of the *Trade Practices Act 1974 (Cth)* for a period of 50 years.

In December 2005 the Crown Solicitor gave the ACT a written undertaking that the Government would finalise and implement a State based access regime in 2006. This has not happened, as evidenced by this very consultation process.

Services Sydney spent most of 2006 in negotiations with Sydney Water regarding the terms of the access granted. The Company notified the Australian Competition and Consumer Council (**ACCC**) of a commercial dispute on 6 November 2006. On 22 June 2007, the ACCC provided its Final Determination. On 3 July 2007, Services Sydney lodged an application with the ACT for a review of the ACCC's Final Determination. Those proceedings are currently underway.

During this period, Sydney Water continued to plan its desalination system at Kurnell with supply to Waterloo/Erskineville. Services Sydney was led to believe that this was a 'last resort' option – only to be implemented when water storages reach 30% during a prolonged drought.

I understand that, despite this assurance, around 19 July 2007 (and with storage levels at 57%); Sydney Water executed contracts with constructors and technology providers for its system. The facility is being procured by the Corporation at uneconomical prices. The Government also has not tested the market in competition with Sydney Water for this major water purchase on behalf of consumers to ensure its cost-effectiveness.

The system will supply 1 out of every 6 litres consumed across the entire Sydney, Blue Mountains and Illawarra regions, and not the initial quantity of 1 out of 12 litres we were led to believe. It is also designed to effortlessly increase supply to 1 out of every 3 litres sold.

These quantities literally flood the major downstream bulk water market, effectively destroying the relevant sewerage services market and also our business.

Services Sydney places on the record its disappointment with the extensive delays (as you know) it experienced to obtain Licences for water and sewerage services.

This is despite the fact that it assumed that the Government would honor its December 2005 commitment to the Australian Competition Tribunal.

Services Sydney also again points out the double standard of allowing existing services providers above Warragamba Dam to continue discharging treated sewage into drinking water storages whilst prohibiting (by the proposed legislation) the provision of pure water sourced from sewage using world's best practice modern technology as planned by Services Sydney.

It is unfortunate that this continues to mislead consumers of the actual water supply situation in Sydney.

Given the circumstances outlined above, it would be inappropriate for Services Sydney to provide any further comment on the drafting of Regulations at this time.

Yours faithfully
Services Sydney Pty Ltd



John van der Merwe
Director