

Inquiry into developing an access regime for water and sewerage services

Public hearing
15 July 2009



What is 'access' to infrastructure?

- Infrastructure access is the use of infrastructure facilities owned by another business.
- Access seekers need access to infrastructure to be able to deliver water and sewerage services to their customers.
- 'Access' does not refer to:
 - producing, or being supplied with, water (or recycled water) or
 - discharging or receiving sewage.

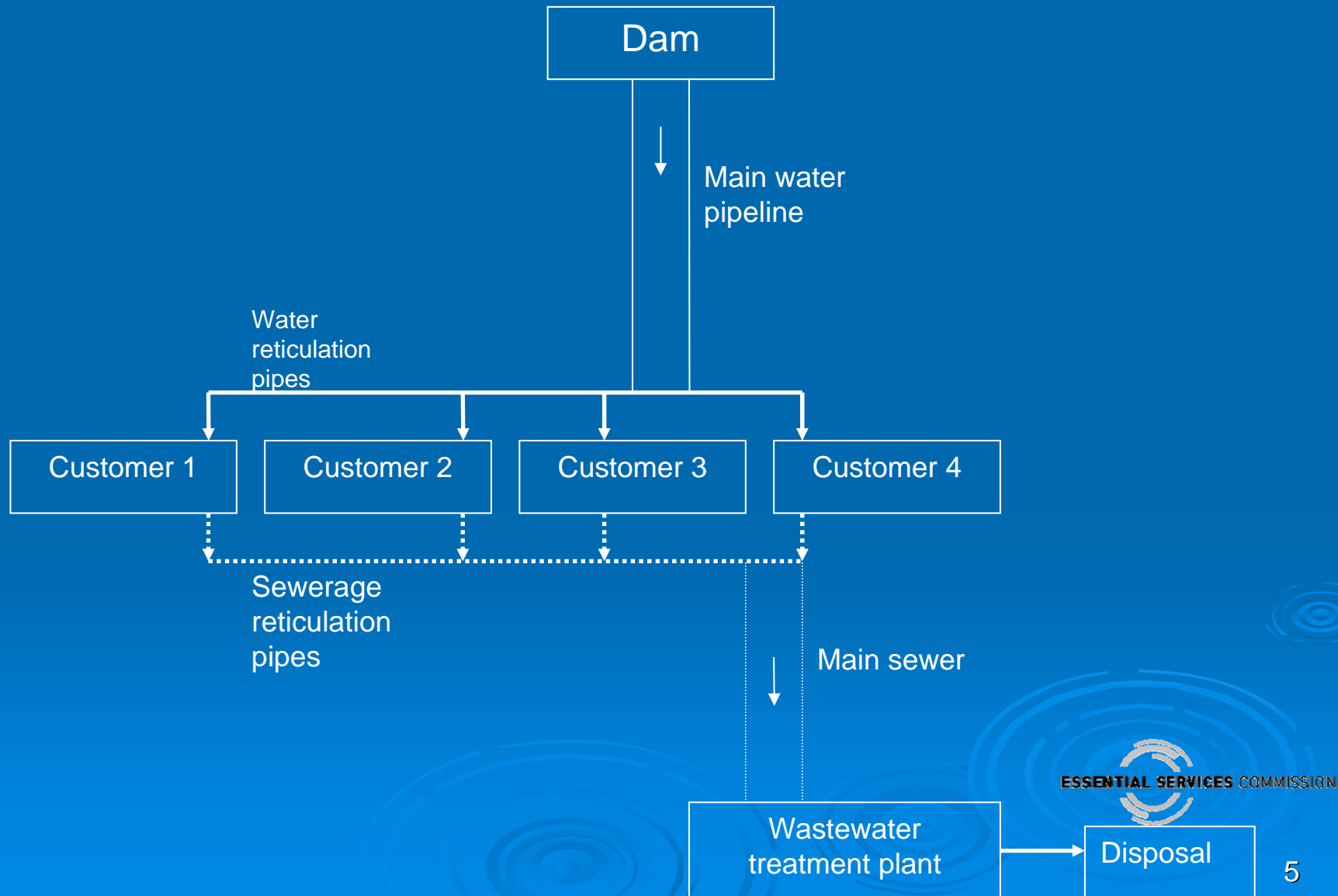
What is an access regime?

- A set of arrangements to facilitate sharing use of natural monopoly infrastructure
 - where it would be inefficient to duplicate infrastructure facilities
- Does not cover purchase of water in pipes and storages or extraction of sewage from sewers
 - New or revised arrangements governing the use of water and wastewater resources and production of water (incl. recycled water) may be needed to support an access regime

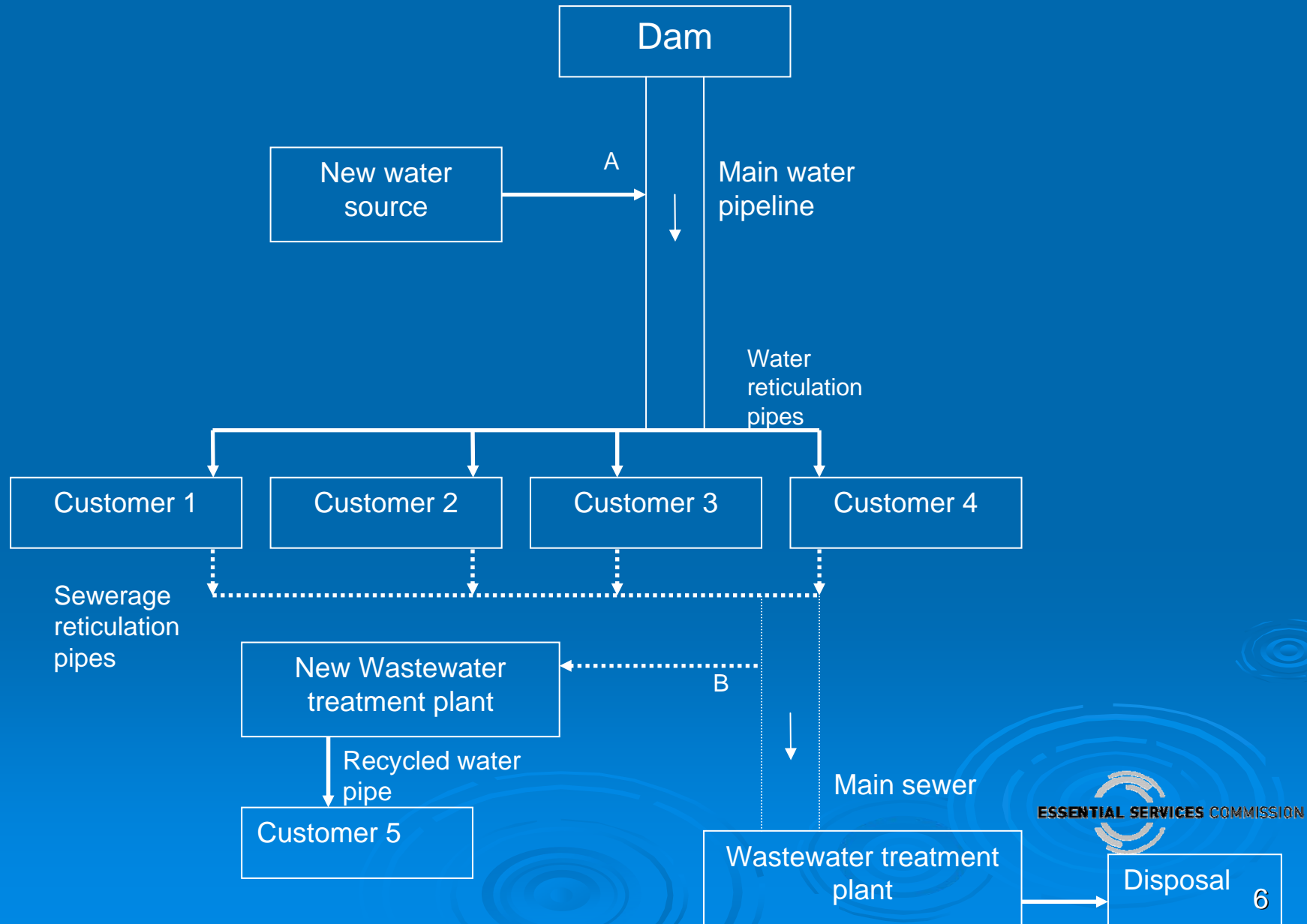
Benefits of an access regime

- Promote competition that benefits customers through greater innovation, efficiency, supply security and choice
- Facilitate access negotiations between infrastructure providers and access seekers
- Extend customer protection, health and safety, water quality and environmental obligations to access seekers

Diagram of water and sewerage service provision



Two examples of infrastructure access



Key issues

- What infrastructure services should be covered?
- How should effective negotiations be promoted?
- How should disputes be resolved?
- How should access prices be set?
- What functions should be ring fenced?
- How do we maintain health, customer protection and environmental standards?

Proposed approach

- An extensive work program will be needed to establish a state-based access regime tailored to Victorian circumstances.
- The Commission has recommended staged implementation
 - Initial arrangements – ‘access commitments’
 - Enactment/amendment of legislation/regulations
 - Refinement of arrangements as better information and experience is obtained
 - Application for certification

Timetable for the inquiry

2008

20 Nov Announcement of inquiry

2009

20 Feb Release of issues paper

4 May Public meeting

5 June Release of draft report

15 July Public meeting

27 July Submissions due

28 Sept Final report to Minister for Finance

Format for today's hearing

- Coverage of an access regime
- Negotiation framework and dispute resolution
- Access pricing
- Ring fencing and functional separation
- Health and safety, water quality, and environmental and customer protection
- Other issues
- Questions

Coverage

- Entire state of Victoria
- Natural monopoly infrastructure facilities that cannot be economically duplicated
 - Water and sewage transport services
 - Wholesale meters
 - Water storage services, eg. dams
 - Rural water transport services

Declaration of specific services

- Recommended declaration of services satisfying the declaration criteria and most likely to be subject to access requests
- Businesses to make 'access commitments' for nominated infrastructure
 - Public consultation process
 - Assessment and approval by Commission
- Commission to prepare guidance on making 'access commitments'

Coverage of greenfields infrastructure investments

- Some access regimes provide for non-coverage declarations or ‘access holidays’
- Greenfields infrastructure investments may be subject to greater risk
- Alternatives to exemption from coverage, eg. rate of return used in access pricing

Coverage - questions

- Should the entire state of Victoria be covered by the regime?
- Should retail meters be covered?
- Should large storages, eg. dams, be covered?
- Do tradable delivery shares provide adequate access to rural infrastructure?
- What specific infrastructure services should be included in 'access commitments'?
- How should greenfields infrastructure investments be treated?

Negotiation framework

- Based on a negotiate/arbitrate model
- Framework will facilitate and reduce costs of applications and negotiations.
- Additional provisions may be required when negotiation and power asymmetries exist

Draft Recommendations

- Negotiation protocols including minimum information requirements

Negotiation framework - issues

- What negotiation protocols should be included in the framework?
 - Minimum information requirements
 - Standard terms and conditions
 - Application time frames
 - Rules for prioritising access
 - Application fees
- Are there other elements that should be included?

Dispute resolution

- When negotiations are unsuccessful, binding arbitration by an independent body
- Draft Recommendation - Binding arbitration by an independent arbitrator, with appeals provisions including:
 - limited merits review and
 - Judicial review
- Issues
 - Should the Commission be arbitrator?
 - Merits review processes?
 - Timeframes for dispute resolution processes?

Access pricing

- The first step in determining access prices should be negotiation between the access seeker and water business.
- Regulatory guidance to provide framework for determining access price through negotiation process
- Principles for access price contained in Competition Principles Agreement
- Access prices should allow:
 - efficient new entrants to participate in the water industry
 - allow existing water businesses to recover the cost of providing access

Access pricing methodologies

- Cost of service approach:
 - based on the cost incurred by the water business to provide access
- Retail minus approach:
 - based on existing price for a 'bundled' retail service
 - discount is applied to the retail price to reflect the service components not provided.
- Comparison of pricing methodologies:
 - The two approaches are equivalent conceptually.
 - In practice, the two approach may provide different prices:
 - Key considerations in choice of methodology:
 - › administration costs
 - › cost concept (short run or long run marginal cost)
 - › potential for cherry picking

Access pricing recommendations

Other matters

- Greenfield investments
- Structure of access prices
- Implications for current regulatory framework

Recommendations

- The Commission will provide regulatory guidance on pricing principles and calculation methodologies in the implantation stage
- Retail minus approach to be used for infrastructure where regulated retail price exists. Cost of service approach to be used for infrastructure where the costs can be easily identified.
- Water businesses to identify the infrastructure where each methodology will apply.

Ring fencing

- Separating certain business units or services from other units within a business
- Purpose is to identify costs of providing infrastructure facilities subject to access
- NCC requirement to maintain separate accounts for each service subject to access
- Implemented in other jurisdictions, including water industry in NSW, and other industries including electricity, gas and rail

Ring fencing approach

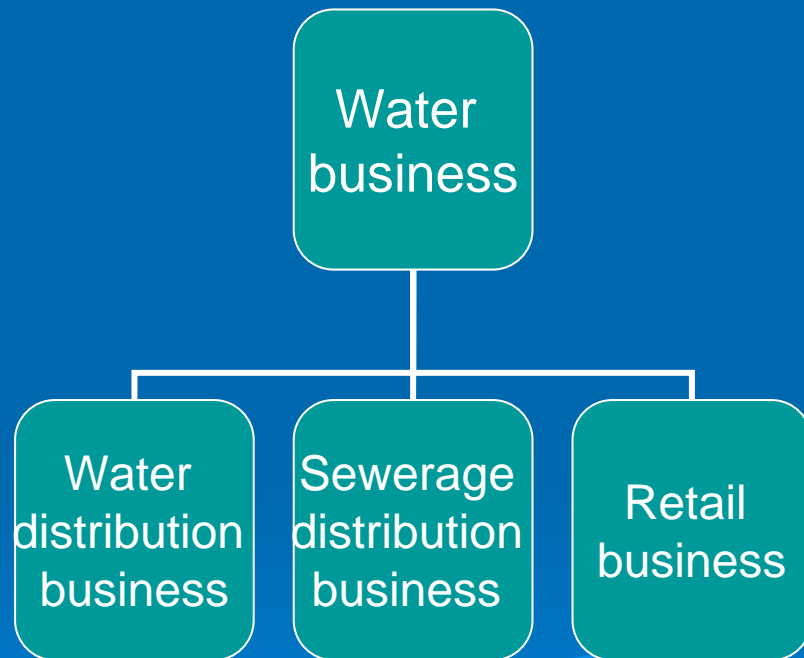
Financial separation

- Financial ring fencing of infrastructure services subject to access

Functional separation

- physical separation of business units which operate infrastructure facilities could be subject to access
- transfer pricing between business units would provide indicative access pricing

Functional separation for metropolitan retail business



Ring fencing guidelines

- Guidance on implementation and compliance with ring fencing requirements. To include:
 - Financial and functional separation
 - Competitive neutrality
 - Information sharing
 - Timing

Protection of health, customers and the environment

- Review of legislation to ensure no gaps in coverage and that the relevant regulator has sufficient powers to require compliance
 - existing legislation and regulations will need to be extended to cover new entrants
- Recommended that the Government takes appropriate measures to ensure that new service providers are subject to the
 - *Environment Protection Act 1970*
 - *Safe Drinking Water Act 2003*
 - *Occupational Health and Safety Act 2004*

Licensing

- Commission has recommended the establishment of functional licensing regime
 - Licences to be granted by the Commission
 - Commission to establish guidelines to assist applicants
 - Licensees will need to have financial and technical capacity to perform the relevant services
- Licensees will need to comply with
 - relevant Codes, such as Customer Service Code
 - operational and technical requirements
 - information provision
- Licence
 - could be revoked for breaches of obligations
 - exemptions could be granted for specialist service providers

Customer protection

- New Service Providers will need to
 - comply with Customer Service Code
 - join EWOV scheme
- In providing distribution services operators will need to
 - have the technical capacity and resources to provide the service
 - comply with detailed infrastructure operating plans
- In the event of retail competition
 - providers will need to comply with marketing and transfer arrangements
 - Establish a Retailer of Last Resort scheme

Other issues

- Role of the Commission
- Supporting measures – to facilitate effective access and participation
- System coordination and management
- Other issues?

Any other questions or
comments?