



WATER SERVICES  
ASSOCIATION OF AUSTRALIA



# WSAA SUBMISSION

Security of Critical Infrastructure Bill

November 2017

Enquires

Critical Infrastructure Centre

3-5 National Circuit

Barton ACT 2600

enquires@cicentre.gov.au

**RE: “Exposure Draft of the Security of Critical Infrastructure Bill” 2017**

Thank you for the opportunity to provide comment on the Exposure Draft of the Security of Critical Infrastructure Bill 2017.

I confirm that this submission can be made available in the public domain.

WSAA welcomes the opportunity to discuss this submission further. Please contact Mr Greg Ryan, Manager Utility Excellence on 03 8605 7611.

Yours sincerely



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## About WSAA

The Water Services Association of Australia (WSAA) is the peak body that supports the Australian urban water industry. Our members provide water and sewerage services to over 20 million customers in Australia and New Zealand and many of Australia's largest industrial and commercial enterprises. WSAA facilitates collaboration, knowledge sharing, networking and cooperation within the urban water industry. The collegiate approach of its members has led to industrywide advances to national water issues.

WSAA welcomes the opportunity to provide a submission to the Attorney General's Department, Critical Infrastructure Centre on the Exposure Draft of the Security of Critical Infrastructure Bill" 2017.

## The current water industry position

The WSAA members would like to raise a number of concerns with the consultation process and level of detail in the exposure draft.

On 28 March 2017 WSAA provided response to the CIC in relation to their discussion paper entitled "Strengthening the National Security of Australia's Critical Infrastructure". The first point in that response paper was that the CIC should not make state jurisdictions change current measures without appropriate consultation. It is disappointing that the first point at which the water utilities have been involved in the Security of Critical Infrastructure Bill is with the release of this consultation draft. Earlier involvement in the process could have resolved many of the questions and issues that have been raised by our members and resulted in a more robust document. It is hoped that any future work by the CIC involving the water industry will involve early and more complete engagement.

A further point raised in our March submission was that there is a strong focus on the completion of risk assessments, but little mention of the effectiveness of control frameworks identified. It is disappointing to see that effectiveness appears to remain an absent component of the exposure draft. In the consultation discussion there has been mention of a process for determining credible risks and dispute resolution. However, there is scant documentation of these concepts in the exposure draft. The level of detail of the risk assessment, the scope, and the approach to establishing action are also unresolved.

In addition, there is no acknowledgement of the differences in State jurisdictions regarding water utility management, regulation and Federal engagement. This is exacerbated by a lack of clarity about the dispute resolution process between the CIC, State Governments, water utilities and their regulators. These differences range from a wait and see approach to the current exposure draft to regulators appearing to be unwilling to enter discussions on cost implications that could arise from a CIC risk assessment. Clarity on how these issues will be addressed is important to the water utilities likely to be involved in any disagreements.

We remain concerned at the risk of unfunded, federally advised outcomes ('directed' or otherwise) which may arise from an external security risk assessment process. These

outcomes may be outside the water organisations normal and regulatory risk management frameworks, and licensed levels of service delivery, and further, could be outside the usual State or Territory budgetary and funding prioritisation approvals processes.

It is asserted that the cost estimates provided in the commentary to the Exposure Draft are significantly lower than are likely to be encountered. Discussions with a number of our members indicate that certain actions could result in costs that are orders of magnitude greater than the current CIC documentation suggests. There is concern regarding the absence of information to support 'the Register' processes and the real potential that additional unfunded resourcing will be required to monitor external contractual relationships, beyond pre-existing contract arrangements. Further discussion on this item is needed.

The Water sector notes that whilst overseas interests do not ordinarily 'own' Australian water infrastructure assets - there are extensive pre-existing contracting and PPP(Public Private Partnership) contract arrangements for operations and maintenance of specified assets, and also the operational service delivery of specified business operation sections. It remains unclear as to whether all, some, or none of these will be captured by this legislation.

Separately, the criteria for establishing critical water infrastructure (100,000 property connections) appears to be quite arbitrary. It does not appear to have adequately considered the difference in roles between water wholesaler and retailer businesses. The criteria also takes no consideration of system redundancy and resilience, which differs for each utility around the country. Nor does the criteria consider the criticality of downstream users on the economy – which can include industries as diverse as power companies and yeast manufacturers.

The water industry requests a greater level of 'up front' engagement with the CIC in any future work involving the sector. We would also request the ability to provide input and develop clarity for each of the areas of concern outlined here. Please contact Greg Ryan, Manager Utility Excellence on (03) 8605 7611 or [greg.ryan@wsaa.asn.au](mailto:greg.ryan@wsaa.asn.au) to discuss further.