BOARD MEETING

DATE: WEDNESDAY 12 DECEMBER 2012
TIME: 10.30AM
VENUE: TREASURY CORPORATION OF VICTORIA
SPRING ROOM, LEVEL 12
1 COLLINS STREET, MELBOURNE

AGENDA

PRELIMINARIES

1. Welcome and Apologies
2. Declaration of Interests
3. Confirmation of Minutes of 11 October 2012
4. Business Arising/Action Items
5. Correspondence

REPORTS

6. Chair’s recent activities
7. MDs recent activities
8. CEO’s recent activities

ITEMS FOR DECISION

10. Potential VicWater Study Tour
11. Risks associated with not insuring dams
12. Outcomes from November Council Workshop
13. VicWater Task Group Terms of Reference Review
14. Intelligent Water Networks – Program Manager position
15. Revision of the Rules of the Association

ITEMS FOR DISCUSSION

16. VicWater Leadership Awards – Update
17. Water Law Review – Governance paper - Update
18. Red Tape Reduction project - Update

GENERAL BUSINESS

- Reminder – alternate Directors
- Feedback from CMA’s on proposal for group associate membership

Lunch: 12.15pm at Cecconi’s Cantina, 61 Flinders Lane, Melbourne

Next Meeting: Thursday 14th February, TCV Melbourne
UNCONFIRMED MINUTES
BOARD MEETING
11 OCTOBER 2012
9.00AM
GWMWATER
BOARD ROOM
11 McLACHLAN STREET
HORSHAM

Present:
Mark Lawlor (Chair) Goulburn Valley Water
Joanne Anderson North East Water
Peter Quinn Goulburn Valley Water
Paul Clark Melbourne Water
Harry Peeters (alternate) Southern Rural Water
Geraldine Gentle (alternate) South East Water
Tony Wright VicWater

In Attendance:
April Jenkins (Minutes) VicWater

Apologies
Doug Shirrefs South East Water
Terry Burgi Southern Rural Water

PRELIMINARIES

1. Welcome and Apologies

The meeting was opened at 9.00am with both the new and alternate Board members welcomed and the above apologies acknowledged.

2. Appointment of VicWater Chairman

Recommendation: It is recommended that the Board elect one of the Directors to serve as Chairman of the Association for 2012/2013.

Joanne Anderson nominated Mark Lawlor for the role of Chairman of the Association for the 2012/13 period; the nomination was seconded by Peter Quinn and consequently carried. Mark indicated that he was grateful for the opportunity and thanked the Board for their confidence.

3. Declaration of Interest

The Chair asked if there were any declarations of interest, none were declared.
4. **Confirmation of Minutes of 9 August Board Meeting**

**Recommendation:** That the Minutes of the VicWater Board meeting held on 9 August 2012 be accepted as a true and accurate record of the meeting.

*Moved: Joanne Anderson  Seconded: Harry Peeters  Carried*

**Recommendation:** That the Confidential portion of the Minutes (distributed separately) of the VicWater Board meeting held on 9 August 2012 be accepted as a true and accurate record of the discussion.

*Moved: Joanne Anderson  Seconded: Harry Peeters  Carried*

**Action:** The Confidential portion of the Minutes of the VicWater Board meeting held on 9 August 2012 be marked Confidential and filed accordingly.

Mark Lawlor and Paul Clark with input from Tony Wright incorporate appropriate metrics in the CEOs performance plan to align with the outcomes sought in the Association’s Business Plan.

5. **Business Arising/Action Items from 9 August Board Meeting**

Most items were either completed or reported on in a Board paper, with clarity on the following:

♦ Mark and Tony are still to meet with the Office of Living Victoria to discuss potential funding for the Sustainability Scholarship Award.

6. **Correspondence**

The correspondence was noted as presented with Tony providing the following update:

♦ Work is continuing with the Minister on the Open Drinking Water Catchment Guidelines with the release date likely early November. A workshop was held with representatives from a number of water corporations and Councils. Due to a select representation, feedback was provided to Government that consultation should be broadened. The Board discussed the issue and associated risks and outcomes, agreeing that it continues to be a priority for the industry to work with Councils to implement the Guidelines.

♦ The Board noted that Tony’s appointment to the Infrastructure Reference Panel provides a modest remuneration for attendance at each meeting. Tony indicated he would donate any fees received through participating in the Reference Panel to WaterAid.

**REPORTS**

7. **Chair’s recent activities**

*Mark Lawlor*

The Chair’s activities have mainly been discussions with Tony on strategic VicWater matters.

8. **MD’s recent activities**

*Peter Quinn*

The last MDs forum was held in Bendigo and aligned with the WIOA Conference and included the main Conference dinner. The forum was very well attended and extremely successful. There were presentations regarding; real time data monitoring being used at Yarra Valley Water; IWN stage 3 funding; recent DSE issues/changes and the Water Law review. Other discussion items included the FAL; Open Catchments; Contiguous Boundaries; NCC; VicWater Leadership Awards; Smart
Water Fund; regular meetings with the Minister and regional MDs and reinvigoration of the industry OHS benchmarking project.

The Board noted and made further comments on:

- **VicWater Leadership Awards** – the number of applications is likely to be linked to how the message is supported by the MD and whether staff are encouraged to apply.

- **Industry OHS benchmarking project** – to ensure the data is consistent and in turn meaningful it is important to have all businesses using the same definitions and metrics.

**Action:** The VicWater Leadership Award will be raised at the December MDs forum.

VicWater to explore the potential for the data coming out of the industry OHS benchmarking project to be used to negotiate better work cover premiums.

9. **CEO’s recent activities**

Tony provided further comment on the following activities:

- **NCC** – this week water corporation representatives met to develop a common understanding and position in the use of the ESCs NCC model. A number of water corporations are reporting negative NCC's, zero rates or sometimes very high rates when using the model, depending on their assumptions.

- **New Director Training** – VicWater are working with DSE on this again this year with the training planned for November. Feedback from previous attendees has provided some valid suggested changes to the agenda/format.

- **Agile Philosophy Presentation Melbourne Water** – this presentation proposed a way of implementing large IT projects; being an incremental development method as a way of mitigating “go live” risk at the end of large IT projects.

10. **Financial Report**

The Chair asked if the Board had any questions regarding the financial report presented. The notes attached to the financial report addressed the differences from year to date budget to actual figures. The only additional points being that a Conference sponsor was lost due to widespread government funding constraints and Tony provided a brief overview of the Smart Forms project.

**Recommendation:** That the Board notes the August 2012 Financial Report

**Noted**

**ITEMS**

11. **Draft Chairs and Council meeting agendas – November 2012**

The Board discussed the meeting agendas; providing the following advice:

- **For the Chairs forum** – the presentation should be around a review of the Director Appointment process. Ask Michael Wheelahan to present on it, also asking him to provide some clarity on who the new DSE contact is and length of Board terms.

Move the Red Tape Review to the first item under General Business to be addressed by both Tony Wright and Mark Lawlor. The Board specified that the Chairs forums should run from 11.00am–12.30pm with the Board providing input into the agenda to ensure this time is of value to the group.
For the Council meeting – it has been suggested to include a facilitated session at a Council agenda to maximise the collective knowledge in the room. The Board discussed and agreed with the suggestion.

Council representatives will be asked ahead of the meeting to provide 4 or 5 high priority items affecting their business that they would like VicWater to focus its resources on.

The facilitated session will be used to determine a collective list of industry priorities, these priorities would then feed into VicWater’s planning process.

This approach will ensure that VicWater is focusing its resources appropriately on the priorities of its members.

The Water Law Review update should be kept at a high level, outlining the key issues.

Action: VicWater to modify the Chairs and Council agendas in line with the Board’s advice and direction.

12. 2013 Board and Council meeting dates

The Board discussed the options for the regional Board meetings with the following outcomes. The two 2013 regional Board meetings are to be held in Bairnsdale and Warrnambool. The Bairnsdale meeting is to be a co-hosted event with both East Gippsland Water and Southern Rural Water, with a half day allowed for the tour to ensure that assets from both businesses are visited. If possible the Wannon Water tour should include examples of the roof water harvesting project and the project using goldfish to clean sewerage ponds.

Recommendation: That the Board discuss the meeting schedule for 2013 and recommend any appropriate changes. Approved

Action: VicWater will distribute details of the 2013 Board and Council meeting dates to all members.

13. VicWater Bank Accounts - Signatories

The Board approved the inclusion of Mark Lawlor (as Chair) and Paul Clark (as nominated director) who will both be added as signatories to the VicWater Bank accounts.

Recommendation: That the Board:
1. Approve the removal of Harry Peeters and Terry Larkins as signatories to the VicWater Bank Accounts. Approved
2. Nominate and approve the inclusion of a current director of the VicWater Board to be a signatory to the VicWater Bank Accounts. Nominated and approved
3. Approve the inclusion of the VicWater Chair as a signatory of the VicWater Bank Accounts. Approved

14. Productivity Project Brief

The Board discussed and approved the below recommendations; highlighting that working groups should explore ways to realise efficiency gains, reduce red tape and prevent future regulatory creep.

This year South East Water ran a very successful Technology Innovation workshop that all water businesses were invited to (70 attendees). This format could be broadened to a regular event which VicWater are happy to coordinate for the industry. This issue will also be discussed at the
next Sustainability Task Group meeting with the aim of developing an industry discussion paper about how to share R&D that leads to innovation and efficiency.

Paul Clark offered Melbourne Water resources to look at drafting papers for each of the issues identified in the VicWater submission to the Minister around “Red Tape, Unnecessary Requirements and Efficiency Opportunities”.

This would include consultation within the water sector on the VicWater positions developed with Melbourne Water’s assistance; South East Water also indicated they would be happy to support this type of initiative.

**Action:** VicWater to work with the Mark Lawlor (STG) and metropolitan water corporations to develop a new event which seeks to share technologies and efficiencies with the wider industry (might be an extension of the Sustainability Seminar).

VicWater to seek comment from the wider industry around the Red Tape issues identified, with Melbourne Water to take the industry comment and draft papers for each of the issues. These papers will then be provided back to Tony to seek industry approval/comment.

VicWater to present an update to the VicWater Board in December on the development of the Project.

**Recommendation:** That the Board approves:

1. The formation of a Planning and Reporting Processes small working group to assess, prioritise red tape reduction opportunities and assist VicWater to raise the opportunities with the relevant stakeholders. This work would be completed by the end of December 2012. **Approved**

2. The expansion of the model to the areas of regulatory processes, policy and general water management processes, diversion and allocations if the trial proves to be an effective model. **Approved**

3. The outcomes from the red tape reduction small working groups to be reported to the Board. **Approved**

15. **CMA Membership**

Several Board members highlighted a number of risks associated with the recommendations, however, after discussion the Board agreed to support them. They did however note that it is imperative that, assuming the proposal is accepted, it does not dilute the value to the existing VicWater membership base.

**Action:** VicWater to approach the Victorian CMAs about the proposed group associate membership, without committing any specific allocation of VicWater’s internal resource to service their membership.

VicWater to present a paper at the December Board meeting on the feedback from the CMAs on the proposal for the group associate membership.

VicWater to work to strengthen the relationship with the Victorian Catchment Management Council with the aim of them becoming a VicWater associate member.

**Recommendation:** That the Board approves the following:

1. VicWater offer a group associate membership rate of $40,000 pa to be spread across all CMA associate members. **Approved**

2. New member’s fees to be prorated from the date they join VicWater. **Approved**
3. That VicWater, subject to all CMA’s becoming associate members, employ a part-time resource to service the associate members. **Approved**

4. That this offer is made for this and the next financial year and is reviewed in 2013/14 for effectiveness and value to VicWater and the CMAs. **Approved**

5. That the group rate is escalated inline with any overall membership increases in fees for the next financial year. **Approved**

16. **Local Government Employees Health Plan**

The Board discussed and supported the below recommendation, noting that Tony should make it clear that VicWater is neither endorsing or advocating for the industry to join the Plan but rather just seeking to raise awareness.

**Recommendation:** That the Board authorise the CEO to write to VicWater members raising awareness of the opportunity to join the Local Government Employee Health Plan. **Approved**

17. **2012/2013 Auditor Appointment**

The Board discussed and approved the revised recommendation below; noting that the difference in what is stated in the Rules and what is done in practice should be rectified. That the Rules should be revised to give the Board the responsibility of appointing the Auditor each year with the Council advised of the Board’s appointment.

**Recommendation:** That the Board recommend that the Council appoint LDAssurance as the Association’s Auditors for the 2012/13 financial year at the November Council meeting. **Approved**

18. **Annual Conference**

The Board discussed the Conference feedback report, agreeing and acknowledging that the VicWater staff did an excellent job and that the alignment of the speakers in the morning on day one was extremely strong. The attendance was very good and the venue worked well. The major learning’s for Tony were around the benefit that some presenters might gain from some coaching; the need for more formal/fixed breaks between stream presentations; the connectivity issue for the app and providing more value on the program to the rural sector.

Tony briefly outlined an idea to change the streams to master classes/workshops as well as providing more space for other small group meetings (like the Audit & Risk Committee Chairs discussion). It was also noted that any changes need to be made in a way that continues to make the conference relevant to the majority of attendees (Directors 51%) and should not diminish the networking value of the event.

**Recommendation:** That the Board notes the summary of the conference performance and approves:

1. The next conference is held in Melbourne. **Approved**
2. The date of the conference being the 12 – 13 September 2013. **Approved**
3. Subject to satisfactory negotiations that the preferred venue is the Langham Hotel. 

19. VicWater Leadership Awards - Update

The Board noted the development of the Leadership Development Award, acknowledging that it was a terrific opportunity. The Award has been presented to and is being supported by the MDs and will be tabled again at the December forum. Tony also acknowledged Graham Holt from Central Highlands Water (ex Thames Water) for providing the links.

20. Smart Forms project

The Board noted the information provided in the Board paper, acknowledging that it was a terrific project that will result in a number of industry efficiencies. Tony outlined the issue that he is working to resolve with BV around the cost structure, aiming to better align the costs between BV and the Smart Forms project.

GENERAL BUSINESS

- **December Board meeting date (scheduled for Thursday 6th)** – all Board members noted this date and the fact that it would include a Christmas lunch following the meeting.
  
  **Action:** VicWater to invite Harry Peeters, Terry Larkins and John Wilkinson to the Board lunch on 6 December.

- **VicWater communications** – it was highlighted that sometimes these communications do not travel down within the organisation to other interested individuals in a timely manner. As such it was highlighted that it would be beneficial if water industry staff and directors could register their interest in receiving particular VicWater communications directly.
  
  **Action:** VicWater to explore ways in which water industry staff and directors can register interest in receiving specific VicWater communications.

- **Buffer zones** – this issue was raised by a Board member, with further discussion to take place at the December MD forum. If is felt that there is an opportunity to get a collective view on the issue.

- **Chair Catchment Task Group** – the Board need to approve the new Chair, Tony indicated that he would be seeking out of session approval for this appointment as he had not yet received endorsement from the candidate’s Managing Director. The Board supported this approach.
  
  **Action:** Tony to circulate a paper out of session seeking the Board’s approval to appoint the Chair of the Catchment Task Group.

- **Study Tour** – one Board member articulated the value that an industry study tour for Chairs and MDs can provide, creating strong and enduring relationships within the touring group and excellent opportunities for learning’s. It was proposed that VicWater coordinate a study tour in 2013. The Board discussed possible sites, noting the need for strong points of relevance with the Victorian environment, suggesting: private water businesses in England and France or possibly Poland because of their reuse of biosolids. Tony has received a proposal from Peter Robinson to facilitate a study tour.
  
  **Action:** Tony to distribute the study tour proposal to Board members and present a paper on the issue at the December Board meeting.
Add an item to the November Chairs forum around “Potential 2013 VicWater Study Tour”.

The Chair closed the meeting at 11.20pm.

**NEXT MEETING** – Thursday 6 December 2012.

Chair

/  /
## Item 4: Items from Previous Board Meeting

### Background

The following table identifies the status of action items identified in the minutes of the 11 October 2012 Board meeting:

<table>
<thead>
<tr>
<th>Item</th>
<th>Issue</th>
<th>Responsibility</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carried over</td>
<td>Schedule a review of the Association’s strategic vision for after the release of Living Victoria.</td>
<td>Tony Wright</td>
<td>Pending</td>
</tr>
<tr>
<td>Carried over</td>
<td>Review VicWater’s member’s needs in respect to the current communication methods, with an aim of developing a Communications strategy.</td>
<td>VicWater</td>
<td>Underway</td>
</tr>
<tr>
<td>Carried over</td>
<td>Consider how to best communicate the opportunities that exist around strategic purchasing throughout the industry.</td>
<td>VicWater</td>
<td>Pending</td>
</tr>
<tr>
<td>Carried over</td>
<td>Present a paper at a future Board meeting on the opportunity to reduce the Association’s financial reporting requirements in the annual report.</td>
<td>VicWater</td>
<td>Pending</td>
</tr>
<tr>
<td>Carried over</td>
<td>Organise a meeting with Office of Living Victoria to discuss potential funding for the Sustainability Scholarship Award project being run by Jamie Ewart.</td>
<td>Tony Wright / Mark Lawlor</td>
<td>Meeting has been scheduled.</td>
</tr>
<tr>
<td>4.</td>
<td>The Confidential portion of the Minutes of the VicWater Board meeting held on 9 August 2012 be marked Confidential and filed accordingly.</td>
<td>VicWater</td>
<td>Completed</td>
</tr>
<tr>
<td>4.</td>
<td>Incorporate appropriate metrics in the CEOs performance plan to align with the outcomes sought in the Association’s Business Plan.</td>
<td>Mark Lawlor / Paul Clark / Tony Wright</td>
<td>Pending</td>
</tr>
<tr>
<td>8.</td>
<td>Add VicWater Leadership Award to the December MDs forum agenda.</td>
<td>VicWater</td>
<td>Completed</td>
</tr>
<tr>
<td>8.</td>
<td>Explore the potential for the data coming out of the industry OHS benchmarking project to be used to negotiate better work cover premiums.</td>
<td>VicWater</td>
<td>Pending – participation in benchmarking is a subject at the next MD’s meeting</td>
</tr>
<tr>
<td>Item</td>
<td>Issue</td>
<td>Responsibility</td>
<td>Status</td>
</tr>
<tr>
<td>------</td>
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</tr>
<tr>
<td>11.</td>
<td>Modify the Chairs and Council agendas in line with the Boards advice and direction.</td>
<td>VicWater</td>
<td>Completed</td>
</tr>
<tr>
<td>12.</td>
<td>Distribute details of the 2013 Board and Council meeting dates to all members.</td>
<td>VicWater</td>
<td>Council meeting dates distributed. Board meeting dates yet to be locked in.</td>
</tr>
<tr>
<td>14.</td>
<td>Work with the Mark Lawlor (STG) and metropolitan water corporations to develop a new event which seeks to share technologies and efficiencies with the wider industry (might be an extension of the Sustainability Seminar).</td>
<td>VicWater</td>
<td>Discussed at the Immerse 2 workshop and supported by the MD’s present.</td>
</tr>
<tr>
<td>14.</td>
<td>Seek comment from the wider industry around the Red Tape issues identified, with Melbourne Water to take the industry comment and draft papers for each of the issues. These papers will then be provided back to Tony to seek industry approval/comment.</td>
<td>VicWater</td>
<td>Meeting scheduled to commence the reporting review project; meeting has been scheduled with Melbourne Water on the 7th December 2012.</td>
</tr>
<tr>
<td>14.</td>
<td>Present a paper at the December Board meeting on the development of the Productivity project.</td>
<td>VicWater</td>
<td>Refer to agenda</td>
</tr>
<tr>
<td>15.</td>
<td>Approach the Victorian CMAs about the proposed group associate membership, without committing any specific allocation of VicWater’s internal resource to service the membership.</td>
<td>VicWater</td>
<td>Approach made awaiting response.</td>
</tr>
<tr>
<td>17.</td>
<td>Revise the Rules of the Association after the November Council meeting to reflect the fact that the Auditor is appointed by the Board each year with the Council informed of the Board’s appointment.</td>
<td>VicWater</td>
<td>Completed</td>
</tr>
<tr>
<td>General Business</td>
<td>Invite Harry Peeters, Terry Larkins and John Wilkinson to the Board lunch on the 12th December.</td>
<td>VicWater</td>
<td>Completed</td>
</tr>
<tr>
<td>General Business</td>
<td>Explore ways in which water industry staff and directors can register interest in receiving specific VicWater communications.</td>
<td>VicWater</td>
<td>Completed</td>
</tr>
<tr>
<td>Item</td>
<td>Issue</td>
<td>Responsibility</td>
<td>Status</td>
</tr>
<tr>
<td>----------------------</td>
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</tr>
<tr>
<td>General Business</td>
<td>Circulate a paper out of session seeking the Board’s approval to appoint the Chair of the Catchment Task Group.</td>
<td>Tony Wright</td>
<td>completed</td>
</tr>
<tr>
<td>General Business</td>
<td>Distribute the study tour proposal to Board members</td>
<td>Tony Wright</td>
<td></td>
</tr>
<tr>
<td>General Business</td>
<td>Present a paper on a Study Tour at the December Board meeting.</td>
<td>VicWater</td>
<td>Refer to agenda</td>
</tr>
<tr>
<td>General Business</td>
<td>Add an item to the November Chairs forum around “Potential 2013 VicWater Study Tour”.</td>
<td>VicWater</td>
<td>Completed</td>
</tr>
</tbody>
</table>
**Item 5: Correspondence**

**Background**
Items of significant correspondence are included for the Board’s information.

### Correspondence In

<table>
<thead>
<tr>
<th>Correspondent</th>
<th>Subject</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Phillips</td>
<td>Submission to the Reformed Zones consultation</td>
<td>For information</td>
</tr>
<tr>
<td>Peter Walsh MLA</td>
<td>Water Law Review</td>
<td>For information</td>
</tr>
<tr>
<td>D D R Pearson</td>
<td>Audit Act 1994, s16(3) – Proposed Audit Report Water Entities: Results of the 2011-12 Audits</td>
<td>For information</td>
</tr>
<tr>
<td>Mr David Koch, MLC</td>
<td>Inquiry into Rural Drainage in Victoria</td>
<td>For information</td>
</tr>
<tr>
<td>Piers Clark</td>
<td>VicWater Leadership Award – Work Experience with Thames Water</td>
<td>For information</td>
</tr>
<tr>
<td>Shayne La Combre</td>
<td>Plumbing Industry Commission Engagement with VicWater</td>
<td>For information</td>
</tr>
<tr>
<td>Peter Walsh MLA</td>
<td>Planning Permit Applications in Open, Potable Water Supply Catchment Areas</td>
<td>For information</td>
</tr>
</tbody>
</table>

### Correspondence Out

<table>
<thead>
<tr>
<th>Correspondent</th>
<th>Subject</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bruce Hammond</td>
<td>Appointment to East Gippsland Water’s Managing Director</td>
<td>For information</td>
</tr>
<tr>
<td>Dr Conall O’Connell</td>
<td>Exposure Draft of the Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012 and associated changes to the</td>
<td>For information</td>
</tr>
<tr>
<td><strong>Recommendation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>That the correspondence be noted.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
17 October 2012

Mr Tony Wright
Chief Executive Officer
Victorian Water
Suite 1, Level 6
2 Collins Street
MELBOURNE VIC 3000

Dear Mr Wright

Thank you for your submission to the Reformed Zones consultation. Your submission has been registered as submission number 118174.

You should be aware that your submission may be made publicly available, including publishing your submission on the Department’s website. Your submission may remain on external servers, even after your submission is removed from the Department’s website.

If your submission is made public and it is on behalf of an organisation, the organisation’s name will be published. If you wish to change this privacy status or have other enquiries please contact Mr Jim Papadimitriou, Acting Assistant Director, Statutory Systems on (03) 9947 1221.

Please also note that it is your responsibility to obtain any necessary consent should your submission include any matters that may affect a third party’s right to privacy, intellectual property or copyright.

Submissions are collected by the Department for the sole purpose of administering the consultation process. However requests for information held by the Department can be made by any person through a Freedom of Information Request.

Yours sincerely

John Phillips
Acting Director
Planning and Building Systems
17 October 2012

Mr Tony Wright
Chief Executive Officer
Victorian Water Industry Association
Suite 1, Level 6 2 Collins St
Melbourne VIC 3000

Dear Mr Wright

WATER LAW REVIEW

As you may be aware, earlier this year I announced that a review of Victoria’s water legislation would be undertaken. Work has since progressed, and I am writing to provide you with an update on the scope, timing and process for this review.

Scope of the review

While the current Act has served Victoria well, it is now 23 years old, has been subjected to incremental change, and is cumbersome and hard to follow in parts. Although the review is intended to be comprehensive, it is my belief that the fundamentals of the current Act remain sound. As such, it is my intention for the review to build on these fundamentals rather than start from scratch.

Further, the Victorian Coalition Government has policy initiatives, such as Living Melbourne, Living Victoria, where there is a need to confirm that the Act is sufficiently modern to enable their delivery and it is an opportune time to determine whether any changes are required in light of the Commonwealth Water Act 2007 and the Murray-Darling Basin Plan in a way that provides certainty to, and protects the interests of, Victorian water users and environmental managers.

With this in mind, the objective of the review is to develop a streamlined, modern and logical Act that:
- provides for integrated and sustainable water management and use in Victoria;
- gives effect to the Government’s water policies, such as Living Melbourne, Living Victoria; and
- provides for the implementation of the Murray-Darling Basin Plan, whilst maintaining the integrity of Victoria’s entitlement regime.

I also am pleased to inform you that I have established an expert panel with significant legal and practical experience in the water sector to guide the review. Panel members are: John Adams (Chair); John Wilkinson; Stuart Gemmell; Eamonn Moran; Russell Cooper; and Robert Sadler.
- John Adams has over 50 years experience providing legal advice at Dawes and Vary Pty Ltd, including 35 years providing legal advice to the water sector. John assisted in the development of the original Water Act in 1989.

- John Wilkinson has more than 30 years experience in the water sector, including as Managing Director of Western Water. John was also involved in the development of the original Water Act in 1989 and, more recently, worked with the Department of Sustainability and Environment on the 2012 governance amendments.

- Stuart Gemmill has 40 years experience in the rural water industry, including working for the former State Rivers and Water Supply Commission and for Goulburn-Murray Water on corporate and business strategy.

- Eamonn Moran has been involved in legislative drafting for over 35 years, including eight years as Victoria’s Chief Parliamentary Counsel. Eamonn was involved in the drafting of the original Water Act in 1989.

- Russell Cooper has held Managing Director roles with Goulburn-Murray Water, SUEZ/Degremont (Australia/NZ) and South East Water.

- Robert Sadler is a practising barrister specialising in water law, with over 25 years experience in the water industry. Robert was previously Chief Executive of Central Highlands Water.

Collectively, I believe this panel is well equipped to provide considered advice to ensure the review delivers a practical and well thought through legislative framework for water management in Victoria.

**Timing and process**

At this stage, it is my intention to ensure a Bill is introduced into Parliament in the first half of 2014. To achieve this, I have asked the expert panel to help identify potential improvements to the Act that will be tested with key stakeholders over the coming months to get a clear idea of the required changes by the first half of 2013.

The Department of Sustainability and Environment will provide updates on the review on its website ([www.water.vic.gov.au](http://www.water.vic.gov.au)) and will contact key stakeholders to seek feedback on proposed improvements to the Act when I receive and consider advice from the panel.

However, in the meantime, if you have any questions about the review that you would like the panel to consider, please write to WaterLawReview.AdvisoryPanel@dse.vic.gov.au. Alternatively, you can contact Will Guthrie, Group Director, Water Law and Planning, Department of Sustainability and Environment on (03) 9637 8814 or by email (Will.Guthrie@dse.vic.gov.au).

I look forward to your constructive input into the review process.

Yours sincerely

[Signature]

**PETER WALSH MLA**
Minister for Water
24 October 2012

Mr T Wright
Chief Executive Officer
Victorian Water Industry Association
Suite 1, Level 6
2 Collins Street
Melbourne VIC 3000

Dear Mr Wright

Audit Act 1994, s16(3) – Proposed Audit Report
Water Entities: Results of the 2011–12 Audits

In accordance with Section 16(3) of the Audit Act 1994, I enclose extracts of the proposed report on Water Entities: Results of the 2011-12 Audits. This report is expected to be tabled in Parliament in November 2012.

Consistent with section 16(3)(b) of the Act, you are invited to provide submissions or comments for inclusion in the report. If you wish to do so, please provide your response by no later than 12pm on 1 November 2012. I would appreciate if a scanned copy of your signed response is emailed to Travis Derricott at travis.derricott@audit.vic.gov.au.

Under the Audit Act 1994, you are responsible for protecting the confidentiality and security of this information. As the proposed report is intended for tabling in Parliament, any unauthorised disclosure would be a breach of the Act.

Should you require any further information please contact Travis Derricott, the Director responsible for this report on 8601 7063.

Yours sincerely

[Signature]

for D R Pearson
Auditor-General
3.8 Performance reporting developments and future audit approach

Recognising the growing importance of performance reporting to public sector resource management and accountability, and in response to our 2010–11 report, a performance reporting working group was established during 2011–12. It has responsibility for developing a contemporary framework that facilitates the inclusion of relevant and appropriate financial and non-financial indicators in the sector's future performance reports.

The working group, led by the Department of Sustainability and Environment (DSE), comprises representatives from DSE, the Department of Treasury and Finance, VicWater and the water entities.

A project plan was developed and the working group has met five times since November 2011.

The working group has identified and summarised the performance indicators currently reported on by the water entities, whether they be to internal or external stakeholders. Three discussion papers were prepared and considered by the working group during the year. These were:

- performance reporting in other jurisdictions
- performance reporting and financial performance indicators utilised by utility businesses in the private sector
- criteria for selection of performance indicators.

The working group proposed a timeframe for completing key tasks taking into account the water industry's corporate planning process, to allow entities time to set targets and gather data for any new indicators. The intention is that the framework and indicators will apply to the first year of Water Plan 3, which covers the period from 2013–14 to 2018–19.

Figure 3D sets out the proposed timeframe for the completion of the key tasks.
4.3 Financial position

Asset Revaluation and Depreciation Guidelines Working Group

The four metropolitan water entities recorded infrastructure assets at fair value for the first time in 2009–10, with the fair value of infrastructure assets determined using an income approach. The regional urban and rural water entities transitioned to fair value at 30 June 2011. The fair value of their assets was determined using a depreciated replacement cost approach.

Both approaches comply with Australian Accounting Standard AASB 116 Property, Plant and Equipment. The variation in approach is driven by an entity’s designation as ‘for-profit’ or ‘not for profit’ for financial reporting purposes.

As a result of difficulties experienced during the 2010–11 revaluation of infrastructure assets, a Victorian water industry working group has been formed. Its focus is on long-lived water infrastructure assets and asset revaluation impacts on depreciation. Its purpose is to determine the best method for allocating economic value to long-lived infrastructure assets and developing guidelines for the revaluation of all assets.

The working group includes representatives from:

- VicWater
- Metropolitan sector water entities
- Regional urban sector water entities
- Rural sector water entities
- the Department of Sustainability and Environment
- the Department of Treasury and Finance.

The working group has proposed time frames for completing tasks as set out in Figure 4D.

<table>
<thead>
<tr>
<th>Task</th>
<th>Timing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prepare draft guidance on useful lives for use in the industry.</td>
<td>March 2013</td>
</tr>
<tr>
<td>Test and analyse impacts of assumptions on depreciation.</td>
<td>September 2013</td>
</tr>
<tr>
<td>Consult with the water industry.</td>
<td>October 2013</td>
</tr>
<tr>
<td>Obtain water industry agreement and finalise guidelines.</td>
<td>December 2013</td>
</tr>
<tr>
<td>Working group endorses and government agencies approve guidelines.</td>
<td>February 2014</td>
</tr>
<tr>
<td>Implement guidelines.</td>
<td>July 2014</td>
</tr>
</tbody>
</table>

*Source: Victorian Auditor-General’s Office.*

The time frames are subject to change pending consultation with the water industry.
5.2 Financial sustainability

Regulating the price of water

Since 1 January 2004 the Essential Services Commission has been responsible for regulating and approving the price each water entity may charge its customers for the supply of water and the provision of sewerage services.

Under the regulatory regime, the regulated asset value (RAV) rather than the statutory asset value (SAV) is used for determining the total revenue required by an entity based on efficient costs.

The SAV is the value of assets reported by an entity within its audited financial report. The RAV was set as at 1 July 2004 with reference to the operating cash flow generated by the businesses, with the values adjusted each year by the ESC to allow for capital investment by the businesses to the extent that the ESC is satisfied that it is efficient expenditure. The RAV is lower than the SAV as assets that existed prior to 1 July 2004 were assigned a zero or low regulatory asset value.

The RAV is reflected in the price that a water entity can charge its customers. As a result, a large depreciation expense not recovered through prices, is carried by a number of entities.

The revaluation of infrastructure assets in recent years significantly increased the value of assets reported within the financial reports of the 19 entities. It also increased the difference between RAVs and SAVs and magnified the shortfall between the price levied and the revenue required to meet efficient operating costs.

Accordingly, the difference between the RAVs and the SAVs is a key factor in the operating losses reported by a number of the regional urban and rural water entities. This issue is just one to be considered by the recently formed Water Industry Financial Sustainability Working Group. The working group intends to develop a discussion paper that identifies and prioritises the financial sustainability issues facing the industry for consultation with the industry and other key stakeholders.
24 October 2012

Mr Steve Bird
Executive Officer
Victorian Water Industry Association
Suite 1, Level 6
2 Collins Street
Melbourne  Vic  3000

Dear Mr Bird

RE: INQUIRY INTO RURAL DRAINAGE IN VICTORIA

The Environment and Natural Resources Committee has commenced an inquiry into rural drainage in Victoria. A profile of the Committee’s membership is attached.

According to the terms of reference the Committee is required to investigate matters relating to rural drainage in Victoria, (but not including irrigation drainage or regional urban and metropolitan drainage) with particular reference to:

(1) the historical basis for the establishment and operation of former drainage schemes including management arrangements;

(2) the status of rural drainage across Victoria, including effectiveness, regulation, ownership, responsibility and maintenance on both public and private land;

(3) the benefits of rural drainage for both productive land and environment together with community expectations for rural drainage programs;

(4) the impacts of rural drainage, including on other land holders and the environment including waterways, wetlands, flora, fauna and water quality;

(5) options for improved rural drainage management across Victoria, including regulation, institutional and funding arrangements, operation, responsibility and maintenance on both public and private land; and

(6) the Committee’s report on the Inquiry into flood mitigation infrastructure in Victoria.

Given that your organisation is a key stakeholder in relation to rural drainage, the Committee would like to invite you to make a submission to this inquiry. Submissions are due by Friday 21 December 2012.

Submissions and evidence taken at public hearings will form the basis of the Committee’s report to the Parliament of Victoria. The government is expected to respond to the recommendations in the report within six months of it being tabled.
Please send your submission to:

Executive Officer
Environment and Natural Resources Committee
Parliament House
Spring Street
East Melbourne Vic 3002 or by email: enrc@parliament.vic.gov.au

Submissions are treated as public documents unless confidentiality is requested and granted.

If you require any further information, please contact the Committee’s Executive Officer, Dr Greg Gardiner, on (03) 8682 2803 or email enrc@parliament.vic.gov.au

The Committee would very much welcome your participation in the inquiry.

Yours sincerely

[Signature]

Mr David Koch, MLC
Chair

Enclosures:  Environment and Natural Resources Committee profile
Making a written submission to a parliamentary inquiry
The Committee Inquiry Process

The committee inquiry process falls into five distinct stages:

1. The Committee advertises its Terms of Reference and calls for submissions. The Committee also writes to people and organisations with specialist knowledge relevant to the inquiry.

2. The Committee gathers information, including fact and opinion found in submissions and presented in public hearings. It also conducts an extensive literature review.

3. The Committee considers the arguments, evidence and data it has gathered. Findings and recommendations are then agreed upon.

4. The Committee tables a report, including its recommendations, in the Parliament. These reports are also available to the public.

5. The Government gives careful consideration to Committee reports and recommendations. The Government, through the relevant Minister, is required to provide the Parliament with a response to the Committee’s recommendations, within six months of the report being tabled.

Please note – the Environment and Natural Resources Committee does not have legislative or regulatory powers. The Committee makes recommendations. It is the Minister’s responsibility to address the Committee’s recommendations or findings.

For more information on current inquiries and how you can contribute, please visit the Committee’s website at: www.parliament.vic.gov.au/enrc, or contact the Committee Secretariat on (03) 8682 2803.
ABOUT PARLIAMENTARY COMMITTEES

Parliamentary Committees consist of small groups of Members of Parliament, from all political parties, and independents, who are appointed to conduct investigations into specific issues in more detail. These investigations are called inquiries and allow for a more thorough investigation of a subject matter.

The work of Committees strengthens the parliamentary process as they undertake important functions which cannot be performed in the two Chambers. Government accountability is also enhanced, as Government and public service activities are subject to a Committee’s examination.

Public Inquiries

Inquiries are undertaken under the authority of section 33 of the Act. Terms of reference may be referred to the committee by:

- resolution of the Council or the Assembly; or
- order of the Governor-in-Council.

Committees may also inquire into and report to Parliament on any annual report or other document relevant to its functions and which has been laid before either House of Parliament.

ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

The powers and responsibilities of the Environment and Natural Resources Committee are determined by the Parliamentary Committees Act 2003 (section 10). The functions of the Committee are:

To inquire into, consider and report to the Parliament on any proposal, matter or thing concerned with:

(a) the environment;
(b) natural resources;
(c) planning the use, development or protection of land.

The Committee has five members drawn from the Legislative Council and the Legislative Assembly. It includes representatives of the Liberal, Labor and National Parties.

Contributing to a Committee Inquiry

The Environment and Natural Resources Committee welcomes input into inquiries.

Please see over for how to get involved with the inquiry process.
Parliamentary Privilege

A submission to a committee becomes a committee document once the committee formally decides to accept it as a submission. A committee may decide not to accept a submission as evidence if it is not relevant to the terms of reference, or is offensive. Unless you have requested that the submission remain confidential (see below), it is normally published after the committee has received and examined it and authorised its publication.

Once the committee has authorised the release of a submission, any subsequent publication of it by the committee is protected by parliamentary privilege. This means that what you say in your submission cannot be used in court against you or anyone else.

Parliamentary privilege only extends to submissions that are published by the committee. If a submission is published in another form or for another purpose, that publication will not be protected by parliamentary privilege. This means that you should not reproduce the submission in another format or context. You can, however, refer others to your submission on the committee’s website, or advise them to contact the committee direct.

It is against parliamentary rules for anyone to try to stop you from making a submission by threats or intimidation. It is also a breach of these rules for anyone to harass you or discriminate against you because you have made a submission, and Parliament can take action against this behaviour.

Confidentiality

If you wish to have your submission kept confidential, please say so clearly at the top of the submission or in a covering note, explaining why you want it to be kept confidential. If you want part of the submission to be confidential, please put that part on a separate page. The committee will consider requests for confidentiality, but cannot make promises in advance. If you have concerns about confidentiality, please discuss these with the committee’s executive officer before you make a submission.

Public hearings

Under certain circumstances, the committee might wish to discuss a matter further with the author of a submission. If this occurs, the committee will contact you to discuss your appearance at a public hearing. For more information about appearing at a public hearing, see Giving Evidence at a Public Hearing.

January 2008
Victoria’s joint investigatory committees welcome submissions as sources of evidence, information and opinion. These notes provide a number of suggestions on how you might prepare and present a submission.

**Who may make a submission?**

Any person or organisation can make a submission to a committee. Individuals, community groups, private organisations, representatives of government departments and agencies and anyone else interested in an inquiry currently before the committee are encouraged to make a submission.

**Terms of reference**

Before preparing your submission, it is important that you read the inquiry’s terms of reference carefully, as your submission must be relevant to the committee’s inquiry. The committee advertises its terms of reference, calls for submissions and identifies a due date for submissions in daily newspapers and on its website. If an issue is of obvious local concern, advertisements will also be placed in regional and district newspapers. If you do not have a copy of the terms of reference, please contact the committee’s office.

**Preparing a submission**

It is most important that your submission addresses all or part of the terms of reference. You do not have to comment on every aspect of the terms of reference, nor are you confined to just one aspect. Your submission may contain factual information, opinion or both. You may wish to draw the attention of the committee to something relevant to the inquiry. You may choose to emphasise solutions to the matter or issue before the committee. This is entirely your choice. Your submission will be welcomed by the committee provided it is relevant, not frivolous or offensive in nature, and addresses the terms of reference.

**Submission format**

There is no specific method for organising or presenting a submission. Your contribution can take the form of a letter, a short summary paper or a longer research document. You can include relevant data in appendices or incorporate them in the body of the text. It is important that the structure, argument and conclusions of your submission are clear.

There are certain technical conventions that the committee asks you to observe, where possible:

**Hard copy or electronic submissions**

You can send your submission in hard copy, or electronically. If you send it in hard copy, a typed document on A4 paper is preferred. If this is not possible, a handwritten submission is acceptable; please ensure that your handwriting is legible.

**Verification of your details**

Please sign the submission. Sign on behalf of yourself, or on behalf of the organisation you are representing. If you are representing an organisation, please indicate your position in the organisation. If relevant, specify at what level the submission has been authorised: branch, executive, president, sub-committee, executive committee, national body, etc. If you are sending your submission electronically, please provide your name, and relevant contact details (such as address or phone number).

**Electronic submission**

You can provide your submission electronically, by email or on CD/DVD. Microsoft Word or PDF are the preferred formats. Submissions sent by email must not exceed eight megabytes in size. If you have any questions about the suitability of your file format/size, please contact the committee office.

**Supplementary material**

You may wish to support your submission with other forms of material, such as a video, photographs or objects. Please contact the staff of the committee if you plan to do this, so that appropriate arrangements can be made. This can be on a loan or donation basis. Any material borrowed by the committee will be returned on completion of the inquiry.

**Language of submissions**

Submissions form part of the committee’s proceedings, and help inform the committee about matters relevant to the investigations. Most submissions are made public by the committee, and may be published on the committee’s website. Submissions should be relevant, not contain offensive language or remarks, and should not be frivolous or vexatious. A committee can choose not to accept a submission if the committee feels it breaches any of these guidelines.

**Sending your submission**

You can post your submission to:

[Committee name]
[Inquiry title]
Parliament of Victoria
Spring St
EAST MELBOURNE VIC 3002

If you would like to email or fax your submission, check the inquiry webpage via www.parliament.vic.gov.au/committees, or phone 03 8682 2875, to obtain the correct email address or fax number.
Tony Wright  
Chief Executive Officer  
Victorian Water Industry Association  
Suite 1, Level 6  
2 Collins Street  
MELBOURNE  
Victoria 3000  
Australia  

2nd November 2012  

Dear Tony,  

VicWater Leadership Award - Work Experience with Thames Water  

Further to previous correspondence, I am pleased to confirm Thames Water is happy to participate in the above.  

We will offer a 3 month placement to the Leadership Award winner including a range of exciting and vibrant work experience within our Commercial Directorate, based in Reading, starting from April 2013 (or at a suitable date to be agreed between Thames Water and the candidate).  

Victoria Water Industry Association will cover the cost of travel to the UK, salary and accommodation expenses and will make arrangements for any required Visas.  

Thames Water will make arrangements for travel whilst in the UK (i.e. a car or other suitable transport).  

We will confirm further details in due course. In the meantime, we look forward to welcoming the Leadership Award winner in April 2013.  

Regards,  

[Signature]  

Piers Clark  
Commercial Director  
Thames Water Utilities Limited
31 October 2012

Mr T Wright
Chief Executive Officer
Victorian Water Industry Association Inc.
Suite 1, Level 6
2 Collins Street
MELBOURNE VIC 3000

(Via email: vicwater@vicwater.org.au)

Dear Mr Wright

Plumbing Industry Commission Engagement with Vic Water

The Plumbing Industry Commission (PIC) is a Victorian Government statutory authority responsible for administering the licensing and registration system for plumbing practitioners and promoting and enforcing standards across Victoria. The PIC promotes safe, healthy and sustainable outcomes for all Victorians, through an efficient and effective plumbing regulatory system.

The PIC also works proactively with a broad range of stakeholders, including the Victorian water businesses, to ensure the integrity of the water supply and wastewater systems are protected.

We believe that there may be significant opportunities for information sharing on matters of mutual interest with Vic Water as the peak industry association for Victoria's water businesses.

We would be interested to engage with the Vic Water Board members and the Managing Director to discuss the role of the PIC and identify areas for collaboration.

We look forward to the opportunity to meet to discuss this further. My Executive Assistant, Marilyn Padgett, can be contacted on telephone (03) 9618 9181 to arrange a meeting at a convenient time.

Yours sincerely,

Shayne La Combre
Director
Minister for Water

Ref: DSE084309
File: CS/07/3198

Mr Tony Wright
Chief Executive Officer
Victorian Water Industry Association Inc.
Suite 1, Level 6
2 Collins Street
MELBOURNE VIC 3000

Dear Mr Wright,

PLANNING PERMIT APPLICATIONS IN OPEN, POTABLE WATER SUPPLY CATCHMENT AREAS

Thank you for your letter dated 7 August 2012 regarding the draft revised guidelines for my consideration and for presenting the draft guidelines to stakeholders at the information forum on 2 October 2012.

The forum was an opportunity to discuss any concerns or issues with the revised guidelines. Please see the attached minutes from the forum that outline the key issues raised.

A key outcome identified at the forum was the opportunity to strengthen the relationship between water corporations and local councils to implement these guidelines. I look forward to water corporations working together with local councils to implement the key aspects of the guidelines including:

- clarifying responsible water corporations for referral matters;
- determining priority areas in catchments;
- preparing catchment policies; and
- preparing Domestic Wastewater Management Plans.

The guidelines have been further refined following the discussion in early October and on the basis of written feedback.

I expect to release the revised guidelines before the end of the year. The Department of Sustainability and Environment will continue to work with you to prepare for the launch and facilitate the implementation of the guidelines.

13 NOV 2012

Privacy Statement
Any personal information about you or a third party in your correspondence will be protected under the provisions of the Information Privacy Act 2000. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Manager Privacy, Department of Sustainability & Environment, PO Box 500, East Melbourne, 3002.
Thank you again for your continued efforts in preparing the draft revised guidelines.

Yours sincerely

PETER WALSH MLA
Minister for Water

Encl.
INFORMATION FORUM
Draft Guidelines for Planning permit applications in open, potable water supply catchment areas

DRAFT MINUTES – Information Forum
2 October 2012 - 1 – 3pm
Level 16 Conference Room, 1 Spring St Melbourne

Attendees: Minister for Water (Chair), Ms Monica Morona (Office of The Hon Peter Walsh MLA), Cr. Pat Toohey (Moorabool Shire Council), Mr Satwinder Sandhu (Moorabool Shire Council), Mr Tom Lowe (Moorabool Shire Council), Mr Michael Wheelahan (DSE), Ms Dawn Bray (Mansfield Shire Council), Mr Matt Parsons (Murrindindi Shire Council), Mr Aaron van Egmond (Hepburn Shire Council), Mr Johan Louw (Mount Alexander Shire Council), Mr Simon Hollis (Towong Shire Council), Mr Ben Morris (Municipal Association of Victoria), Mr Robert Belcher (Western Water), Mr Anthony O’Brien (Central Highlands Water), Mr Bruce Hammond (Goulburn Valley Water) Dr Michael Ackland (Department of Health), Mr David Sheehan (Department of Health), Mr Gavin Hanlon (Goulburn-Murray Water) Ms Liz Johnston (DSE), Mr Tony Wright (Vic Water), Mr Jeff Rigby (Coliban Water),

Apologies: Peter Johnston (Macedon Ranges Shire Council)

Agenda Item 1: Welcome and introductions (The Hon Peter Walsh, Minister for Water)

The Minister for Water welcomed the attendees and introduced the forum. The Minister provided the background for the review of the guidelines, noting that VicWater has provided advice to the Minister that has been taken into account in revising the guidelines. The Minister noted that the attendees were provided with a copy of the revised guidelines and that the intended outcome of the forum was to provide a direction to take the guidelines forward.

Agenda Item 2: Overview of the Draft Guidelines (Tony Wright, CEO Vic Water)

Mr Wright presented an overview of the review of the Guidelines for Planning permit applications in open, potable water supply catchment areas (See Attachment 1). The key points he made were:

- The proposal to replace the guidelines with a practice note would not be sufficient to retain the catchment protection afforded by the guidelines.
- The guidelines should be retained but there was an opportunity to improve them and provide clarity around roles and responsibilities.
- VicWater formed a working group to review the guidelines. In reviewing the guidelines the working group considered opportunities to allow development that would not threaten public health, threaten water quality and yield, create unnecessary financial burdens on the community, and create pressures for high cost interventions later.
- Implementation of the guidelines would require the guidelines to retain their current status, strong relationships between water corporations and relevant councils, a recommended method to calculate rates of density, and an appropriate Domestic
INFORMATION FORUM

Draft Guidelines for Planning permit applications in open, potable water supply catchment areas

Wastewater Management Plan (DWMP) and engagement of landowners on a consistent position.

Agenda Item 3: Discussion – chaired by the Hon Peter Walsh, Minister for Water

The Minister sought the views of local council and water corporations on how to take the guidelines forward. Key issues raised:

- Mr Ben Morris (MAV) queried the consultation approach to the revised guidelines, questioning why councils were outside the process. Mr Wright responded that they were not set up for broad scale consultation, but that they had consulted with MAV, and taken on board MAV’s comments.

- The role of agriculture contributing to water quality was raised. The need for the guidelines and the legal status of the guidelines in the Planning and Environment Act was raised.

- The Minister for Water indicated that there would be guidelines and that the focus of discussions should be on how to progress on that basis.

- There was considerable discussion led by Moorabool Shire Council representatives around the onus placed on local councils in the guidelines, in particular the expectation on Councils to justify budget for the implementation of a DMWP, and the role of water corporations in deeming whether councils DWMPs are satisfactory before granting a permit. The science behind the cumulative impact was also queried, and concerns were raised that the guidelines don’t manage catchments.

- There was a query around legal advice sought. Mr Wright advised that Norton Rose were asked to consider whether the draft revised guidelines were consistent with the precautionary approach. Mr Morris suggested that local councils do not have the legal ability to monitor septic systems. Ms Bray (Mansfield) asked that MAV seek legal advice on behalf of councils around powers of councils to manage septic tanks.

- Further discussion ensued around the role of councils in developing a DMWP. Mr Wheelahan and Ms Morona (Ministers office) pointed to the auditor general’s report about the role of councils in developing a DWMP. Mr Wheelahan also noted that the Public Health and Wellbeing Act provided the legal ability for council to deal with nuisance issues.

- Dr Michael Ackland (Acting Chief Health Officer) pointed to the role the guidelines have in managing public health. He noted that he was satisfied that the guidelines provided an important set of working principles to work from.

- Ms Bray was keen to ensure that existing working relationships with Goulburn-Murray Water were not impacted as a result of the revised guidelines and work being undertaken by VicWater to provide a consistent approach to assessing catchment housing density. She noted that localised solutions should be adopted.

- It was noted that the revised guidelines provide discretion and flexibility for implementation that requires water corporations to work closely with local councils.

- Mr Parsons (Murrundindi) and Ms Bray suggested that to progress with the implementation of the guidelines trust and relationships with water corporations would need to be developed. Mr Parsons suggested that a priority risk based approach to
application of the guidelines should be developed. Water corporations should agree on these areas with their relevant councils to prioritise resource allocation.

- Mr Rigby noted that Coliban Water has commenced the preparation of a catchment policy for its area, with the aim of providing transparency on conditions of planning permits. It was suggested that any work being undertaken in relation to catchment policies or DMWP should be shared to minimise the potential burden for councils.

- Mr Sullivan was keen to ensure that Moorabool’s views on the guidelines were on the record, that Moorabool is not happy with the approach taken to the guidelines.

**Action 1:** MAV to seek legal advice on matters relating to powers of local councils’ to manage septic tanks

**Action 2:** Water corporations to work with local councils to establish working arrangements and build relationships with council representatives to implement the guidelines.

**Action 3:** Water corporations to share with local councils any work that is being undertaken on catchment policies and Domestic Wastewater Management Plans.

**Agenda item 4: Close**

The Minister for water closed the meeting at 3pm.
26 October 2012

Mr Bruce Hammond
Managing Director
East Gippsland Water
Bhammond@egwater.vic.gov.au

Dear Bruce,

Re: Appointment to East Gippsland Water’s Managing Director

On behalf of VicWater and the VicWater Board I would like to congratulate you on your recent appointment to the position of East Gippsland Water’s Managing Director. We wish you the very best in the role, which commences early December and look forward to working with you into the future.

Please feel free to contact me at any time if you would like to discuss how VicWater can assist or support East Gippsland Water in any areas.

Yours sincerely

Tony Wright
Chief Executive Officer
Dear Dr O'Connell

Re: Exposure Draft of the Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012 and associated changes to the Agricultural and Veterinary Chemicals Code

Thank you for the opportunity to comment on the proposed changes to the Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012 (Cth) and the associated changes to the Agricultural and Veterinary Chemicals Code. This response represents the views of Victorian Water Industry Association’s (VicWater) Catchment Task Group.

VicWater is the peak industry association for water businesses in Victoria and contributes to and influences the development and implementation of Government policies relating to water and wastewater services within Victoria. All 19 Government owned businesses are members of VicWater. In addition, Corangamite and West Gippsland Catchment Management Authorities hold associate membership status.

VicWater’s vision is to lead an innovative water industry that drives sustainable water management and creates partnerships that focus on the needs of the community, stakeholders and the environment.

VicWater members have responsibility for the supply of safe and trusted potable and ‘alternative’ water, the supply of raw untreated water to agriculture across the State from waterways and via man-made channels, management of environmentally sensitive waterways, and treatment and disposal of sewage to a standard that minimises its impact to freshwater and marine environments managed by the State of Victoria. As such, the services provided by VicWater members, and the guidelines, regulations and commercial arrangements that directly impact the provision of those services, play an important role in determining the quality of Victoria’s water environment and the avoidance of water-related human health and environmental impacts.
Agricultural and veterinary (AgVet) chemicals are a significant source of water pollution that challenge the capacity of VicWater members to deliver safe and trusted services and high-quality environmental outcomes as they:

- may add significantly to treatment costs in some instances;
- are a threat to the environment and public health if not carefully regulated and managed; and
- can erode public confidence in the provision of services if not carefully regulated and managed.

VicWater members and their customers benefit when the Australian Pesticides and Veterinary Medicines Authority (APVMA) and Victorian partner agencies transparently demonstrate that risk assessments and regulation associated with the use of AgVet chemicals is best-practice. Further, this has the additional indirect benefit of facilitating the development of evidence-based environmental and water consumption/exposure guidelines, commercial agreements, regulations and planning control mechanisms. Water corporations that use such chemicals to maintain capacity in the water delivery systems have been applying the existing risk based approach to their usage. They are keen to maximise effectiveness and minimise the risks associated with applying any chemicals, especially in waterways.

VicWater is therefore strongly supportive of the proposed changes to the Amendment Bill and the associated changes to the Agricultural and Veterinary Chemicals Code, in particular the following:

<table>
<thead>
<tr>
<th>Proposed amendment</th>
<th>Likely benefit to VicWater members, consumers of its services, and the Victorian freshwater and marine environment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Codification and legal entrenchment of the APVMA risk based framework</td>
<td>Improves use and labelling of AgVet chemicals</td>
</tr>
<tr>
<td>Strengthening of re-registration processes, including capacity for mandatory review</td>
<td>Flow-on improvements to environmental and consumption/exposure guidelines and associated control instruments for AgVet chemicals</td>
</tr>
<tr>
<td>Improved capacity to use overseas data, evaluations and norms</td>
<td>Improves the ability of VicWater members to effectively undertake risk communication in relation to AgVet chemicals</td>
</tr>
<tr>
<td>Improved monitoring and enforcement capacity</td>
<td>Improves transparency and efficiency in the regulation of AgVet chemicals (promotes each of the above benefits)</td>
</tr>
<tr>
<td>Provide for the APVMA’s annual operational plan and the annual report to include prescribed matters (including about the status of reconsiderations and performance related matters)</td>
<td></td>
</tr>
</tbody>
</table>

VicWater notes that the success of the amendments, if enacted, will depend on continuing adequate funding of APVMA and Victorian partner agencies to ensure best-practice risk assessment of AgVet chemicals and fidelity to the new laws.

Finally, VicWater would welcome further opportunity to work collaboratively with APVMA in the development of any subordinate legislation that provides for clearer and more risk-

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1 Including contemporary scientific and technical standards that relate to AgVet chemicals and the criteria that apply under various international conventions.
based use rules and labelling instructions consistent with international best practice – for example, which take account of the availability of suitable analytical methods and the significant risk variation existing between potable and non-potable water supply catchments, and other defined variations in the sensitivity of the receiving environment.

Yours sincerely

[Signature]

Tony Wright
Chief Executive Officer
Hi Matt

Again, thank you for the opportunity to make comment on the draft Separation Distance Guidance Paper.

You have already received initial comments from the Industry through the workshop held on Thursday 4 October.

Since the workshop I have received some further comments and have included these as red text in the attached spreadsheet.

I am also of the understanding that some businesses will be providing comments direct to you as they relate to their business.

If you needed further information, please do not hesitate to contact me.

Thanks
Sasha McDonald
Project Manager

Victorian Water Industry Association
<table>
<thead>
<tr>
<th>Key Topic Area</th>
<th>Vic Water Industry Feedback</th>
<th>EPA Action</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section</strong></td>
<td><strong>Theme</strong></td>
<td><strong>Classification</strong></td>
</tr>
<tr>
<td>4</td>
<td>Scope of Guideline</td>
<td>There is some concern that these Guidelines may be used to limit expansion of an existing facility which, for historical reasons, is subject to encroachment of sensitive land uses into the required separation distance. The consequence of preventing a wastewater treatment plant from expanding on an existing site is the requirement for expenditure of considerable community funds to relocate an established WWTP. It is proposed that, in the case of expansion of an existing facility, the Guidelines should only be applied in a way that allows identification of the best overall triple bottom line outcome.</td>
</tr>
<tr>
<td>5</td>
<td>Policy basis</td>
<td>Inclusion of a new section 5.3 which explains the policy issue in terms of energy conservation – in general the achievement of smaller buffer distances involves the expenditure of extra energy in the wastewater treatment process.</td>
</tr>
<tr>
<td>5.2</td>
<td>VPP</td>
<td>While it is clear of the link to VPPs the need for local government to adopt the guidelines is essential for their application. Support needs to be included in the guideline for the application of Overlays within Municipal Planning Schemes that apply the appropriate separation distances. EPA should support in principle the amendment of the Victorian Planning Provisions and planning schemes to incorporate Environmental Significant Overlays to include both use and development of land. Interpolated buffers being used to determine the boundaries of Environmental sensitive Overlays (ESO) should be incorporated into planning schemes. The protection of the separation distance is a critical strategic aspect to all WWTPs and that information should be readily and proactively available to all potential land purchasers and/or developers as to these separation distances. The state and local planning frameworks are the preferable vehicle for communicating this information. In this way, the separation distance ultimately is subject to a public planning process by which the relative merits of land development, strategic land use demand and community asset protection can be scrutinised, determined and formalised.</td>
</tr>
<tr>
<td>6</td>
<td>Separation distances and why they are needed</td>
<td>In Section 6.1, add that maintenance activities can increase odour emissions, especially for plants with a high level of odour control (where, for example, covers must be removed for maintenance of equipment located under these covers).</td>
</tr>
<tr>
<td>8</td>
<td>How to measure separation distance</td>
<td>Method 1 Risk</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Opportunity</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Method 2a Risk</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Opportunity</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Method 2b Risk</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Activity Area Alternative</td>
</tr>
</tbody>
</table>

(key text continues)
EPA should develop a Practice Note for determining separation distances using the Odour Modelling Process. The Practice Note needs to stipulate time-frames, quality and quantity of data (i.e. wind data); available modelling methods (Ausplume, Calpuff); and consideration of Odour Unit thresholds.

Separation distances should be determined by appropriate modelling and should also take account of the forecast growth and the project life of the WWTP site, which may be in excess of 50 years.

Decisions regarding appropriate separation distances should be made with regard to the whole-community’s cost/benefit rather than merely the amenity of a sensitive receptor near a sewage treatment facility. This is due to the fact that odour control and/or alternative treatment systems at sewage treatment facilities can be expensive, and are paid for by the entire community.

Believe that there is justification for the inclusion of all methods as water reclamation plant situations will vary greatly across the state. Method 1 must be available to utilise in order to protect the integrity of a WRP that have been or are in danger of being overrun by development growth as seen in many communities that have experience high growth rates, Bendigo being an example. The integrity of a plant has a higher value to a broader community than the ability to provide development opportunities on adjacent land.

Similarly method 3 must be available to provide for instances when individuals in a rural setting may be adversely impacted by a regimented distance to boundary application. Suggestion: there must be an ability to apply multiple separation distances to a WRP based on specific odour situations and specific WRP settings.

Any applications to change separation distances should be required to use the modeling protocol set out in Schedule C of SEPP AQM.
<table>
<thead>
<tr>
<th>9.2 Considerations for site-specific variation</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Risk</strong></td>
<td>• Section 9.2- end of paragraph 1 ‘...would be less than assumed in this Guideline’&lt;br&gt;• What is assumed in this guideline? Does not specify</td>
</tr>
<tr>
<td><strong>Risk</strong></td>
<td>• Field always talks about ‘risk’ why is it only consequence here?</td>
</tr>
<tr>
<td><strong>Risk</strong></td>
<td>• Can only argue based on those criteria</td>
</tr>
<tr>
<td><strong>Alternative</strong></td>
<td>• Clarity around severity of ‘upset’ condition needs more definition&lt;br&gt;- How do you define the ‘upset’ condition publicly&lt;br&gt;- Assessment should allow for future needs and growth&lt;br&gt;- water is a utility and public service and the ability to&lt;br&gt;- More explicit opportunities and limitations are required for Table: 5, Section 10.1&lt;br&gt;- Should note that circumstances should be ‘exceptional’ to allow variation to recommended separation distances- where ‘exceptional’ is defined</td>
</tr>
<tr>
<td><strong>Opportunity</strong></td>
<td>• Generally good&lt;br&gt;- Would set a precedence</td>
</tr>
<tr>
<td>N/A Making Decisions for Site-Specific Variation Public</td>
<td></td>
</tr>
<tr>
<td><strong>Opportunity</strong></td>
<td>Generally good&lt;br&gt;- Would set a precedence</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>10.1 Sewage separation Distance</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Risk</strong></td>
<td>• “Less than” symbol in Table 5: Separation Distances for sewage treatment plants (in metres) implies a step approach rather than interpolation&lt;br&gt;- Does not protect scenarios where plants have an an existing compromised buffer&lt;br&gt;- Does buffer distance intend to achieve no odour or reduced impact during a non-routine event? How is this measured?&lt;br&gt;- Topography not included in buffer distances</td>
</tr>
<tr>
<td><strong>Alternative</strong></td>
<td>• Include retic network&lt;br&gt;- Include pump station&lt;br&gt;- Change licence conditions to exclude properties within separation distance</td>
</tr>
</tbody>
</table>

*Vic Water*
| Alternative | EPA should replace numbers in Table 5: Separation Distances for sewage treatment plants (in metres)  
- Graph can be used to demonstrate interpolation  
- Timeline for loading projections | Vic Water |
| Alternative | How do biosolids fit in storage and transport?  
- Modify Table 5: to include biosolids in storage and transport | Vic Water |
| Alternative | New technology impacts MBR and HRAL plants may allow for decrease in separation distances | Vic Water |
| Alternative | Odour is not as simple as a circle on a plant. Plume modelling is more appropriate.  
Table 5 should be amended to address this | Vic Water |
| Alternative | Section 10.1 should be revised to include 'new development around existing treatment plants' | Vic Water |
| Alternative | Planning Opportunities (Beyond scope)  
- Planning controls to trigger section 55 referral  
- Impact of change of planning controls  
- Council are responsible for providing longer term projections and need to look better into future  
- Separation distances should appear on planning scheme plans in the same way as land subject to inundation (Overlay)  
As expressed in the workshop, the provided table does not provide a smooth enough transition between population values. A linear graph would potentially provide greater clarity for determination of appropriate setbacks.  
There is a need for greater clarification around how the population value is to be determined or what it should be based on.  
Suggestion: Replace current table form with a linear graph showing a smoother transition. Values are determined through population equivalent calculations, hydraulic flow or BOD.  
All Water Corporations should be allowed to utilise the interpolated distances until such time as more detailed assessment is justified. | Vic Water |
• Who makes the decision that the odour modelling needs to occur and when table 5 may be used? (Panel, EPA, Water Corporation etc). The need to carry out extensive modelling may not be justified for low risk situations.
• If the necessary 3-5 year timeframe is not accommodated to allow for the collection of site specific data (including wind data where this is not available) for upset condition odour modelling, then EPA needs to support an interim arrangement to allow the Water Corporation to deal with immediate development encroachment pressures until such time as odour modelling based on a reliable data set can be undertaken. This interim arrangement should be based on the use of table 5.
• An expert in the field needs to work in collaboration with EPA to further develop the guidelines for odour modelling. This could be in the format of a Practice Note.
• How are increases in treatment plant capacities managed?
• The Duration or ‘life’ of buffer zones should be indicated.
• How are buffer distances to be managed in terms of community engagement where buffer distances extend onto private lands?
• A Procedure or criteria to define separation distance following determination of modelled odour contours is required. This could be a practice note. There also needs to be consideration given to what is an appropriate odour contour for upset conditions. Should it be 1 OU, 2OU or 4OU? Should a different odour unit be specified for a different upset condition frequency, etc?
• Experienced consultants should be used to assess buffer distances where “agents of change” are assessing buffer distances. This should be considered within the EPA guidelines.
• How will “agents of change” gain access to the raw data (such as site specific wind data and odour complaint data) to determine the separation distances under EPA’s proposed method?
• The buffer distances associated with the disposal of secondary effluent seem conservative; we suggest the buffer distances in the reuse guideline apply.
• There is one possible small discrepancy that should be confirmed and adjusted regarding spray irrigation on disposal sites (section 10.1 table 5 = 200m, whereas section 7.1.2 = 100m)?
• The table for treatment plants to be expanded to cover a wider range of treatment plants (mechanical/biological is a bit general), also need on-site sludge handling to be addressed.
• There are a large number of sewage treatment assets and processes not listed by Table 5. Given the impracticability of making the list exhaustive, Melbourne Water suggests that, if a separation distance is challenged by either an agent of change or a water business, a site specific risk assessment accounting for the potentially unique systems/assets on each site is the most appropriate means of assessing the appropriate separation distance around a sewage treatment facility.
The decisions regarding whole community cost/benefit should be made on a site by site basis considering appropriate risks of abnormal operation and weather conditions. This is particularly true for those plants with greater capacity than those listed with Table 5 of the draft Guidelines. At present the Guidelines do not provide useful guidance for Melbourne Water’s Eastern and Western Treatment Plants. Further guidance on a site specific, risk based process for larger plants would improve the utility of the Guidelines for Melbourne Water. The Guidelines are silent on the sewerage transfer system. Throughout the transfer system there are numerous vent stacks which help to ventilate the sewerage system, and control corrosion of the system. Some guidance on these components of the system would be desirable, noting, as per the points above, that decisions should be made on a site-by-site, whole community cost/benefit basis.

### Compatible Land Uses

<table>
<thead>
<tr>
<th>Risk</th>
<th>Consistency of term between planners and EPA (Particularly VPP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Risk</td>
<td>Lack of specification about what is considered in a sensitive use classification allows for open interpretation</td>
</tr>
<tr>
<td>Alternative</td>
<td>Should be determined by</td>
</tr>
<tr>
<td>Alternative</td>
<td>How often SU is used</td>
</tr>
<tr>
<td>Alternative</td>
<td>How long SU is used for</td>
</tr>
<tr>
<td>Alternative</td>
<td>How many people use it</td>
</tr>
</tbody>
</table>

### Interface Land Use

| Risk | Need to specify that the listed uses are an indication of possible activities and not an absolute. They should be considered at the start of the discussion process but the final choice should follow case-by-case consideration |
| Risk | Compatibility needs to be grounded e.g. scientific and logical |
| Risk | Poor discussion process around determining interface land use = industry is excluded and bad choices made. This guideline needs to stress the importance of case-by-case evaluation and full engagement. |
| Risk | Retail facility needs to be listed in one of the categories as it is a reoccurring issue. |
| Risk | The table should not exclude industries which are co-reliant e.g. water treatment facility and a sewage plant. |
| Risk | How will the table address the change of operation for an interface development overtime (especially where industry is not consulted) e.g. display home to residential home? |
| Risk | What happens when an interface development complains about odour? Loss of licence? Or is it an accepted risk of having a development in the interface zone? |
| Opportunity | Clear application of land use |
| Alternative | The appropriateness of the odour should be considered when determining interface use e.g. sewage smell in a supermarket or food hall vs. in a farm. |
| Alternative | There should be a defined buffer around the activity determined by ESO? |
Water corporations endeavour to generate the greatest value for the community through appropriate use of the land holdings around its treatment facilities, while also accounting for the risks of inappropriate development in those land holdings. Consequently, more clarity is requested in the section describing compatible uses (Section 11). Notably, the Guidelines should provide greater clarity about how a sensitive receptor is defined and classified, and how the guidelines account for changing land uses over time. For example, display homes will eventually house people permanently, making them incompatible to lie within the separation distance of a sewerage treatment facility.

- We agree with the approach to identify suitable interface land uses but believe this needs to be a negotiated outcome without making definitive assessments within the guideline. Zoning of land will not necessarily prevent inappropriate land uses.
- There is a considerable need for a consistent definition and acceptance of appropriate interface land uses between local government and the water corporation.
- Suggestion: We support the retention of the traffic light symbolism however we believe there needs to be greater emphasis on land uses being negotiated to ensure least likelihood of odour affecting the amenity of a land use.

<table>
<thead>
<tr>
<th>Appropriate application of table to industry</th>
<th>Risk</th>
<th>Opportunity</th>
<th>Alternative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Risk</td>
<td>• can be regimented and suggest that any of these interface uses are appropriate for any industry</td>
<td></td>
<td>Can facilitate the speed of decisions</td>
</tr>
<tr>
<td></td>
<td>• How will the table address the difference from one site to the next?</td>
<td></td>
<td>Can have separate tables that group industries by buffer distance or offensiveness of odour e.g. interface land used for a spray painters would be different from a landfill.</td>
</tr>
</tbody>
</table>

Vic Water
22 November 2012

The Honourable Ryan Smith MP  
Minister for Environment and Climate Change  
Level 17  
8 Nicholson Street  
EAST MELBOURNE   VIC   3002

Dear Minister Smith


Thank you for the opportunity to comment on the Draft Victorian Waste and Resource Recovery Policy (the draft policy). This response represents the views of the Victorian Water Industry Association’s (VicWater) Sustainability Task Group. VicWater is aware that some of its members will be making separate submissions on specific issues as they relate to their business.

VicWater is the peak industry association for water businesses in Victoria and contributes to and influences the development and implementation of Government policies relating to water and wastewater services within Victoria. All 19 Government owned businesses are members of VicWater. In addition, Corangamite and West Gippsland Catchment Management Authorities hold associate membership status.

VicWater endorses the Government’s desire to deliver a new waste and resource recovery policy that will make Victoria a national leader. However, in doing so, we want to emphasise the need to consider the whole waste/resource cycle including hazardous industrial wastes, such as liquid trade wastes. Disregarding trade waste goes counter to the intent in the policy to improve co-ordination throughout the waste management system (1.12), and the proposed vision for statewide integration of waste management and resource recovery (2.1).

Further, the draft policy has little or no acknowledgement of the role of the water industry in Victoria’s whole waste/resource management cycle. To ensure a robust waste and resource recovery policy with no unintended future consequences it is imperative that the roles of all waste management stakeholders of Victoria, including the water industry, are considered through the review process.
The following points highlight the water industry's key areas of concern with the Victorian Government's draft policy:

- It is essential that the capacity of sewerage networks and treatment systems are considered when making waste disposal policy decisions to ensure that variations in waste loads can be planned for and managed accordingly.
- Whole-of-life cost to the community and environment must be considered in the development of waste policies and frameworks. In particular, there needs to be economic means for customers to dispose of solid wastes.
- Long term strategies for management of biosolids need to be considered when seeking a solution for organic wastes, particularly when opportunities for co-mingling organic wastes to maximise efficiency for resource recovery are considered.
- On page 20 it is implied that carbon liability for a facility only applies for organic wastes to landfills. Schedule 3 Part 6 Source 1 Item 1(n)(i) of the National Greenhouse and Energy Reporting Regulations 2008 requires that greenhouse gas emissions from composting of organic wastes are included in the matters to be identified. Diversion of organic waste from landfill for resource recovery may therefore have the perverse outcome of shifting carbon liability to another facility, impacting on the commercial viability of the resource recovery activity.
- Illegal dumping of trade waste to sewer, or variations in trade waste loads can significantly impact on the performance of Waste Water Treatment Plants, with detrimental impacts on odour emissions, greenhouse gas emissions, energy consumption and quality of water discharged to the receiving environment. These variations in load may simply be an unintended consequence of programs to reduce solid prescribed waste generation or water consumption. The role of the water industry must therefore be considered to achieve the Strategic Direction of minimising the environmental and public health impacts of the broader waste management system (5.2), and transparency of the price of waste management (5.3).

VicWater acknowledge and appreciate the opportunity to provide comment on the draft policy however, as mentioned above, we consider that further stakeholder engagement is required and we would welcome further opportunity to provide input to this review process.

Please feel free to contact me should you have any questions.

Yours sincerely

Tony Wright
Chief Executive Officer

cc: The Hon Peter Walsh, Minister for Water
21 September 2012

The Hon Matthew Guy MP
Minister for Planning
Department of Planning and Community Development
GPO Box 2392
MELBOURNE VIC 3001

Dear Minister Guy

Re: Department of Planning and Community Development – Discussion Paper – July 2012 - VicWater response

Please find enclosed VicWater’s comments on the Department of Planning and Community Development’s (DPCD) Discussion Paper on Reforming Victoria’s Planning Zones – July 2012. Our response represents the views of VicWater’s Catchment Working Group (the Working Group). VicWater is aware that some of its members will be making separate submissions on specific issues as they relate to their business.

The Working Group endorses the Government’s desire to move to a more responsive, contemporary and resilient planning system. However, in doing so, we want to emphasise the need for a planning system which continues to involve water corporations in relevant planning processes and decisions, and which operates to protect water quality, thereby protecting public health, particularly in relation to the quality of drinking water supplies.

It should be recognised that the planning process is the only opportunity for water corporations to influence the nature of development within their service areas. However, the consequences of planning decisions have a significant impact on a water corporation’s operation and the cost of services to customers, primarily by increasing the treatment requirements to achieve safe drinking water.

The following points highlight the water industry’s key areas of concern with DPCDs Discussion Paper:

- Changes to the minimum lot size provisions (i.e. reduction from 8 ha to 2 ha in the Rural Living Zone and allowing Council’s to change the 40 ha minimum provision in the Farming Zone; also, removing or reducing lot size provisions in the Township Zone):
This creates an expectation amongst landholders and developers that they have the ability to develop or subdivide land providing it meets the minimum lot size requirement. Adequate information must be provided to advise stakeholders that other requirements need to be addressed or satisfied when considering potential developments, not just the minimum lot size requirements. This includes catchment water quality provisions identified within the planning scheme.

○ Removing restrictions to subdividing land:
  ○ There are concerns that removing restrictions to subdividing rural land would compromise the protection of water quality by leading to increased cumulative development. Water quality is compromised if changing land use and development accumulates risks due to:
    ▪ Density of dwellings with on-site wastewater/septic tank treatment systems; or
    ▪ Intensity of agricultural, commercial, industrial and other human activity which brings increased impacts of chemicals, nutrients, solids and pathogens including those contributed by stormwater runoff from impervious areas, roofs, paving and roads.
  ○ Removing these restrictions would also result in considerably increased challenges through VCAT.

♦ Impact of proposed changes in planning zones on the application of the Guidelines for Planning permit applications in open, potable water supply catchment areas (the Guidelines):
  ○ It is important that the planning requirements specified in the Guidelines take precedence over the changes highlighted for "improved rural zones". Further, this precedence needs to be made very clear to stakeholders to avoid conflict in interpretations.

♦ We also emphasise the importance of consultation with relevant water supply authorities (where changes impact on water supply catchments) as there may be consequences for water quality risk management, which may potentially adversely impact water supply system operations and maintenance activities.

On another note, we are aware of the change to the referral authority process specified in the Planning and Environment Amendment (General) Bill 2012, which underwent a second reading in the Victorian Legislative Assembly on Thursday 30 August 2012.

Specifically, the Industry has concerns with the proposed changes to the definitions specified under Part 4 – Amendments relating to referral authorities. As an industry, we want to ensure that this amendment would not have a negative impact on the ability of water corporations to participate in the planning process and that their status as a referral authority is retained. The current role of water corporations as referral authorities supports the protection of water quality necessary to safeguard public health.
VicWater and the Working Group acknowledge and appreciate the consultation process being undertaken by the DPCD and thank you for the opportunity to respond to the paper. Please feel free to contact me should you have any questions.

Yours sincerely

Tony Wright
Chief Executive Officer

CC: The Hon Peter Walsh, Minister for Water
    The Hon David Davis, Minister for Health
Item 8:  CEOs Report – Recent Activities

This paper is prepared to inform the Board of any current strategic matters for consideration; the recent major activities and issues for the Chief Executive Officer; the main activities for the VicWater staff and to provide an update on each of the VicWater Task Groups.

1. Strategic Matters

The following are the key strategic issues for VicWater in the coming months:

- Facilitating the Water Industry Participation and response to the Water Law Review.
- Incorporating results from the water industry environmental scan/review into the VicWater Business Plan and Action Plan.
- Approval and finalisation of the Open Drinking Water Catchment Guidelines
- Participation in the Smart Water Fund Immerse II Workshop
- Finalising the 2013 calendar of VicWater activities.
- Establishment of the reporting red tape reduction small working group.
- Developing a closer working relationship with the MAV on areas of common concern, such as the Water Law Reform, Fire Services Levy and VicTrack licence agreements.
- IWN and MD proposal for VicWater to employ a Program Manager for the IWN project (Board Report included in these papers).
- Request for VicWater to assess the opportunity for self-insurance of head works assets – GMW.

2. Main Recent VicWater Activities

- New Director Training
- Smart Forms User Group
- New Customer Contributions – development sector consultation, meetings with ESC and workshops to develop an industry understanding and approach to the development and implementation of NCC’s
- Legal Compliance Manual – review and new manual developed and distributed to members.
- Water Law Review working group – facilitated meetings and presentations to the MD’s forum and VicWater Council meeting.
- Asset Revaluation Depreciation Guidelines working group – facilitated meetings
- Water Industry Financial Sustainability working group – facilitated meetings
- DSE Performance Reporting – facilitated meetings
- Waterway Management Strategy partner information session
- Domestic Onsite Wastewater Management group – facilitated meetings
- VicWater Leadership Development Award – promoted and applications received
- VicWater website review (due by the end of the year)
- VicWater Council meeting
- Chairs forum
IWN Risk Workshop – participated and facilitated the workshop on behalf of the IWN Steering Committee.

MDs forum – facilitated meeting

Finance Issues Steering Committee meeting

Catchment Task Group meeting

Water Efficiency Task Group meeting

Training Seminar

OH&S Seminar and steering group meeting

Dams Seminar and working group meeting

Preparation for:

- Sustainability Task Group meeting (December)
- Victorian Water Educators Forum (Jan/Feb)
- Payment Card Industry Data Security Standards (PCIDSS) workshop (February)
- Audit & Risk Committee Chairs workshop (February)
- Financial and Sustainability Seminars

Developing an industry position on the proposed change in Fire Services Technical Standards by a Standards Australia review. The current proposed changes is not supported by the Victorian Water sectors as they are unnecessarily costly and restrictive.

3. VicWater Submissions

VicWater facilitated an industry response:

- EPA Draft Guideline – Recommended Separation Distances for Industrial Residual Air Emissions (see correspondence);
- Federal Government’s Department of Agriculture, Fisheries and Forestry - proposed changes to the Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012 (Cth) and the associated changes to the Agricultural and Veterinary Chemicals Code (see correspondence);
- DPCD’s discussion paper on Reforming Victoria’s Planning Zones (see correspondence); and
- Draft Victorian Waste and Resource Recovery Policy (see correspondence).

4. Task Groups – Update

**Catchment Task Group (CTG)**

The CTG had their first meeting on Monday 17 September. In line with the Group’s Terms of Reference, the Group consists of ten members who represent Regional and Metropolitan Water Corporations, Victorian Catchment Management Authorities, Department of Sustainability and Environment, Department of Health and the Environment Protection Authority.

Since the Group’s first meeting, VicWater has appointed Dr Dharma Dharmabalan of Coliban Water as Chair of the Group. Recent activities of the Group include:

- Feedback on the MAV Model Domestic Wastewater Management Plan.
- Provided a submission to the Victorian Government’s Department of Planning and Community Developments Discussion Paper on their Planning Reform Process.
Provided a submission to the Federal Dept of Agriculture and Fisheries Better Regulation of Agricultural and Veterinary Chemicals Fed Govt Bill - October 2012.

The next meeting of the CTG is scheduled for Monday 10 December.

**Sustainability Task Group (STG)**

The Sustainability Task Group met on 11 October 2012 at Melbourne Water. At this meeting, the Group received a presentation from Erik Ligtermoet on the work being done by Melbourne Water in relation to their Eco-Footprint Tool. At the meeting it was also agreed that the Group would progress a piece of work to identify gaps in sustainability policy, which includes innovation gaps, and feed this back to the Industry.

The next meeting of the STG is scheduled for Thursday 13 December.

**Finance Issue Steering Committee (FISC)**

There have recently been some changes to the membership of the FISC Group. Members of the FISC are now:

- Graeme Jolly, GVW (Chair)
- Mark Burke, Melbourne Water
- Jeff Walton, South East Water
- Tony O’Driscoll, G-MW
- John Bergin/Loris Davis, LMW

The FISC Group’s next meeting is on Thursday 15 November 2012.

The FISC group continue to provide input into the work being done by the Asset Revaluation Depreciation Guidelines Working Group and the DSE/DTF Financial Sustainability Working Group.

**Victorian Water Educators Network and Task Group (VWETG)**

The VWETG have not met since the last Board meeting. However, National Water Week was held from 21 – 26 October and the VicWater CEO presented the state level poster competition prize packs to children from South East Water’s, Yarra Valley Water’s, Western Water’s and Central Highlands Water’s regions. [Click here](#) to view this year’s 1st and 2nd place posters.

There is a subgroup of the full VWETG that are finalising the program for the 2013 Victorian Water Educators Forum which will be held at the RACV Healesville Country Club on Thursday 31 January and Friday 1 February 2013. It is planned to send the program out to the Victorian Water Educators Network before the end of the year.

**Water Efficiency Task Group (WETG)**

The Water Efficiency Task Group met on Monday 22 October. At this meeting the Group undertook a scheduled review of their Terms of Reference. The Group also agreed that they would monitor progress with the Water Efficiency Labelling and Standards Scheme and Standards Australia as it is understood that both bodies would be releasing draft updates to their scheme/standards for comment before Christmas. It was agreed that the Group would respond to both drafts once they are released.

The next meeting of the Group will be in February 2013.
**Training Consultative Committee**

The VicWater Training Seminar was held at Goulburn-Murray Water’s Training Centre in Tatura on 28 November. Presenters included Susan Peisley from Government Skills Australia in Adelaide and Jennifer James, the Executive Officer of the NSW Public Sector ITAB. There was also a presentation by Rowena Allen, the regional Training Facilitation Manager from the Department of Education and Early Childhood Development.

VicWater is currently developing a Discussion Paper on the Future Role of the VicWater ITAB and this paper will be discussed at the Seminar.

On the morning of the 28th November a workshop for trainers and assessors on newly developed national training and assessment resources was held at the same venue.

**Occupational Health and Safety Task Group**

The Annual Occupational Health and Safety Seminar was held at Melbourne Water on 13 and 14 November. Included in the program was:

- Victorian Water Industry Benchmarking Report & Update
- Training Requirements for Water Industry & RTO's
- Lone Worker App – South East Waters Experience
- OHS Software – Sydney Waters ‘Safety Net’ Program
- Melbourne Waters Certificate IV in Safety leadership

**Dams Working Group**

VicWater and DSE held a very successful Seminar on Dam Safety facilitated by Dr David Bowles from the US on 22 October. There were over thirty participants at the Seminar at the Metropole Hotel in Fitzroy.

The Seminar was followed by a short meeting of the Dams Working Group.

**Biosolids Task Group (BTG)**

The Group met on the 26 September 2012 where they undertook a scheduled review of their Terms of Reference and discussed their strategic plan.

The final meeting of the BTG for 2012 is still to be confirmed. It is intended that this meeting be dedicated to the development of their strategic plan.

**Smart Forms User Group (SFUG)**

The Smart Forms User Group consists of representatives from all water businesses involved with the Smart Forms project. These are:

- Barwon Water
- East Gippsland Water
- Western Water
- Central Highlands Water
- Coliban Water
- Gippsland Water
- Goulburn Valley Water
- Lower Murray Water
- North East Water
- South Gippsland Water
- Wannon Water
- Goulburn Murray Water

The Group meet on a quarterly basis to work through issues, share learnings and to discuss any improvements which can be made in relation to the Smart Forms.
5. **CEO’s Activity Summary (main issues)**

- Met with Norton Rose regarding Open Drinking Water Catchments and attended a breakfast with the Chief Scientist of the UK where the UK’s climate change and energy policy was discussed.
- Attended TCV Economic Lunch – annual review of TCV’s activities and the economic outlook for government funding activities in the future.
- Facilitated and attended a Risk workshop for the IWN Project
- Met with the Smart Water Fund CEO, Christine Cussen to develop a proposal for a study into water sector innovation and the development of an innovation benchmark.
- Attended a meeting of the Enforcement and Compliance working group
- Met with Alastair McPhee from DLA Piper regarding Director Training
- Attended an event to inform the Victorian Climate Change Adaptation Plan
- Met with Jeff Rigby and Paul O’Brien regarding the ITAB review
- Met with representatives from Standards Australia regarding areas for improving industry standards and the introduction of new standards.
- Attended a SACS lunch where Gavin Hanlon (MD GMW) presented on the challenges during his first 12 months as MD and the challenges GMW experienced in driving structural and cultural change whilst sustaining business as usual operations.
- Met with representatives from Sugar Australia regarding the lack of take up for a new product they had developed for wastewater treatment.
- Attended a Riparian Rights meeting where I provided an update on the water sectors position regarding open drinking water catchment guidelines and the progress towards implementing the recommendations from the stock in waterways committee (chaired by the VicWater CEO)
- General catch up with the ESC CEO, David Heeps to discuss issues such as productivity dividends, forecast demand for water plans and pathways to new NCC prices where there are significant changes from current levels.
- Presentation of Yarra Valley Water, Western Water, Central Highlands Water and South East Water NWW state level prize packs (5 in all) to various locations around the state
- Met with various DSE representatives and Minister’s advisors as required
- Attended the Savewater! Awards Dinner
- Met with Petar Tepsic (AECOM) regarding new approaches to asset management.
- Met with Ian McKenzie regarding extending the local government health plan to the water sector.
- A number of meetings with representatives from MAV on various issues, such as VicTrack licence agreements, implementation of the Fire Services Levy, their experience in shared services arrangements, open drinking water catchments, health link and insurance.
- Meeting and information session regarding the impact of the Associations Incorporation Reform Act 2012 with the Department of Justice.
- A number of meetings regarding onsite domestic wastewater management
- Met with the Auditor General regarding KPIs for the water sector
Met with Geoff Vincent regarding the VicWater Council meeting
Met with Rodney Dedman, DoH regarding a range of issues from proposed changes in the risk approach or drinking water supply, stock in water ways and concerns regarding OLV’s proposal that rainwater tanks be compulsorily connected to hotwater services.
A number of meetings with representatives from DSE regarding Director Training.
A number of meetings with representatives from the ESC regarding various issues – water plan and NCC’s
A number of internal staff meetings regarding the website review, office redesign, performance appraisals, VicWater communications and action plan
Redesigned the electronic document management structures which are now implemented with a stepped improvement in effectiveness.
A number of communications with Thames Water regarding the VicWater Awards exchange.
Attended VicWater Chairs forum and Council meeting
Attended IWA Executive meeting, conference and dinner
Attended a 2-day Immerse II workshop and dinner
A number of meetings regarding the Intelligent Water Networks project
Attended VicWater MDs forum
Attended a Catchment Task Group meeting
Chaired the Stock in waterways working group meeting
Attended Melbourne University of ½ days over a one week period – final Master subject.
Reviewed and provided advice on DSE Press Releases on Open Drinking Water Catchments
Worked with Dr Robert Kay to develop a funding proposal to the Smart Water fund on water sector innovation.
Provided advice to GMW on a FOI application that potentially captured a VicWater communication.

Presented for the Information of the Board

Background

The report for the 2011/2012 financial year to the end of October 2012 is provided for the information of the Board.

Issues

1. The attached report includes comments on the main variations.
2. There are no other significant financial issues that should be brought to the attention of the Board.

Recommendation

That the Board notes the October 2012 Financial Report.
### Profit & Loss Report for the Period Ending 31 October 2012

**Income**

<table>
<thead>
<tr>
<th>Note</th>
<th>Description</th>
<th>YTD Actual</th>
<th>YTD Budget</th>
<th>YTD Variation</th>
<th>Annual Budget</th>
<th>Annual Forecast</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Interest Received</td>
<td>11,711</td>
<td>15,600</td>
<td>-25%</td>
<td>43,000</td>
<td>40,000</td>
</tr>
<tr>
<td>1</td>
<td>Member Subscriptions</td>
<td>620,757</td>
<td>635,339</td>
<td>-2%</td>
<td>635,339</td>
<td>635,339</td>
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<tr>
<td>2</td>
<td>Conferences (including sponsorship)</td>
<td>246,768</td>
<td>212,444</td>
<td>16%</td>
<td>359,675</td>
<td>384,675</td>
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<tr>
<td>3</td>
<td>Projects General</td>
<td>176,991</td>
<td>57,000</td>
<td>211%</td>
<td>57,000</td>
<td>191,241</td>
</tr>
<tr>
<td>4</td>
<td>Sale of Assets</td>
<td>45</td>
<td>-</td>
<td></td>
<td>-</td>
<td>45</td>
</tr>
<tr>
<td>5</td>
<td>Sale of manuals and reports</td>
<td>-</td>
<td>-</td>
<td></td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>6</td>
<td>Sundry Income</td>
<td>1,277</td>
<td>-</td>
<td></td>
<td>1,277</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Training Grants</td>
<td>5,000</td>
<td>5,000</td>
<td>0%</td>
<td>5,000</td>
<td>5,000</td>
</tr>
<tr>
<td></td>
<td><strong>Total Income</strong></td>
<td><strong>$1,062,549</strong></td>
<td><strong>$925,383</strong></td>
<td><strong>15%</strong></td>
<td><strong>$1,100,014</strong></td>
<td><strong>$1,257,577</strong></td>
</tr>
</tbody>
</table>

**Expenses**

<table>
<thead>
<tr>
<th>Note</th>
<th>Description</th>
<th>YTD Actual</th>
<th>YTD Budget</th>
<th>YTD Variation</th>
<th>Annual Budget</th>
<th>Annual Forecast</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Office and Administration Expenses</td>
<td>106,484</td>
<td>84,996</td>
<td>25%</td>
<td>157,400</td>
<td>186,067</td>
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<tr>
<td>5</td>
<td>Office Rental</td>
<td>17,500</td>
<td>22,500</td>
<td>-22%</td>
<td>58,500</td>
<td>58,500</td>
</tr>
<tr>
<td>6</td>
<td>Consultants and Contractors</td>
<td>175,816</td>
<td>75,904</td>
<td>132%</td>
<td>163,640</td>
<td>289,840</td>
</tr>
<tr>
<td>7</td>
<td>Venue Hire and Catering</td>
<td>118,004</td>
<td>95,000</td>
<td>24%</td>
<td>180,500</td>
<td>180,500</td>
</tr>
<tr>
<td>8</td>
<td>Salary Related Expenditure</td>
<td>173,867</td>
<td>177,308</td>
<td>-2%</td>
<td>521,974</td>
<td>521,974</td>
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<tr>
<td>9</td>
<td>Depreciation</td>
<td>6,778</td>
<td>6,000</td>
<td>13%</td>
<td>18,000</td>
<td>20,350</td>
</tr>
<tr>
<td>10</td>
<td>Loss on Sale of Assets</td>
<td>-</td>
<td>-</td>
<td></td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td><strong>Total Expenses</strong></td>
<td><strong>$598,449</strong></td>
<td><strong>$461,708</strong></td>
<td><strong>30%</strong></td>
<td><strong>$1,100,014</strong></td>
<td><strong>$1,257,231</strong></td>
</tr>
</tbody>
</table>

**Net Profit/(Loss)**

<table>
<thead>
<tr>
<th>Description</th>
<th>YTD Actual</th>
<th>YTD Budget</th>
<th>YTD Variation</th>
<th>Annual Budget</th>
<th>Annual Forecast</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Profit</td>
<td>$464,100</td>
<td>$463,675</td>
<td>0%</td>
<td>$0</td>
<td>$346</td>
</tr>
</tbody>
</table>

### Year-to-Date Cash Flow (est. on an accrual basis)

<table>
<thead>
<tr>
<th>Description</th>
<th>YTD Actual</th>
<th>Annual Forecast</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opening Cash</td>
<td>$690,139</td>
<td>$1,161,017</td>
</tr>
<tr>
<td>Cash Receipts</td>
<td>$1,050,838</td>
<td></td>
</tr>
<tr>
<td>Interest</td>
<td>$11,711</td>
<td></td>
</tr>
<tr>
<td>Cash Payments</td>
<td>$591,671</td>
<td></td>
</tr>
<tr>
<td>Closing Cash</td>
<td>$1,161,017</td>
<td>$572,928</td>
</tr>
</tbody>
</table>

### Estimated Cash Flow Budget to 30 June

<table>
<thead>
<tr>
<th>Description</th>
<th>YTD Actual</th>
<th>Annual Forecast</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opening Cash</td>
<td>$1,161,017</td>
<td></td>
</tr>
<tr>
<td>Plus Budget Income</td>
<td>$174,631</td>
<td>$57,121</td>
</tr>
<tr>
<td>Less Budget Expenditure</td>
<td>$626,306</td>
<td>$645,210</td>
</tr>
<tr>
<td>Capex (30 June)</td>
<td>$29,000</td>
<td></td>
</tr>
<tr>
<td>Closing Cash (30 June)</td>
<td>$680,342</td>
<td></td>
</tr>
</tbody>
</table>
Notes (Differences Budget to Actual - Year to Date)

1. This is below budget due to the loss of Wimmera CMA as an Associate Member, and the budget included two additional Associate Members.

2. Actual Conference Sponsorship was below budgeted by 8.6% ($3,000) but conference registrations exceeded budget by 3.7% ($6,054)
   This includes invoices raised for the savewater Awards ($25,0000) paid on behalf of regional water businesses

3. This includes invoices raised for the Smart Forms Project ($10,6951) and NCCs consultation ($14,250) paid on behalf of industry.
   Transfer of IWN funding was $7,880 higher than budgetted

4. Includes sponsorship of savewater awards ($25,000) for which reimbursement has been received from regional water businesses and National Water Week costs ($5,000) that has been reimbursed by DSE

5. Budget figure includes amount of $5,000 for office painting, but this was was not carried out until November

6. Payment for the Smart Forms Project of $106,950 and NCCs Consultation ($14,250) has now been made, but these were not included in the budget and it will be reimbursed by industry and be offset in Special Project Income. Preparation of NCC Calculator not budgetted for ($5,000)

* Changed Annual Forecast information will be shown in bold and italics.
Item 10: Potential VicWater International Study Tour

Background
VicWater has arranged and coordinated an international study tour (IST) once in the last seven years, the last one was in 2009. Attendees were MD and Chairs of Water Corporations.

The benefits of an IST are significant in a range of areas, such as:
- Learning about different technology and work practices;
- Learning about different policy and political environments;
- Learning about different commercial models;
- Learning about different communities, social models and engagement practices/strategies;
- Developing international networks; and
- Creating networks amongst attendees.

Triggering the discussion was a draft letter from Mr Peter Robinson offering to work with VicWater to set up an IST in the UK to view some MWH projects and meet senior regulators on emerging issues that are likely to be relevant to the Australian water sector.

The opportunity for VicWater to conduct an IST was raised at the Chairs only forum, the benefits of these tours was recognised; however there was concern at the timing with the significant price increases proposed in the current water plans and the state election in 2014.

There was also discussion that the participants should really be chairs/directors who were likely to remain directors for some time in order to gain full value from the IST.

It was suggested that the IST could coincide with some international water conference.

There was strong support from the attendees at the Chairs only forum that 2015 would be a good time to undertake the next IST.

Issues

1. IST’s provide a fantastic learning and networking opportunity for participants.
2. IST’s are consistent with VicWater’s objective to provide its members with opportunities for education and training.
3. The timing and perception of VicWater activates need to be considered in the context of building shareholder relationships.
4. Aligning the location with international water conferences and locations where there were opportunities to learn about emerging water sector issues that were likely to be relevant to Australia should be a priority.
5. It takes considerable time to plan an IST – we estimated that at least 12 months would be required to develop an IST, especially as VicWater does this infrequently.

Recommendation

That the Board approve the development of an international study tour for the 2015 calendar year and that the IST be arranged so it can include the opportunity to attend a major international water conference or forum as part of the itinerary.
Item 11: Risks associated with not insuring dams

Background
The MD of GMW has provided to VicWater a copy of an internal memorandum which contains an analysis of their major and minor dam insurance policies. A copy is provided in confidence and is attached to this report.

The issue is that when the policies exclusions, maximum payout provisions, specific conditions and excess payments are considered the ability to make a claim and the value of the insurance is questionable.

There are a number of water corporations with headwork’s responsibilities that take a range of approaches to insurance.

GMW has requested that VicWater undertake some work to explore the costs, benefits and risks from not insuring (self-insuring) and then (depending on the outcome of the analysis) make representation to the appropriate political and departmental decision makers.

Issues

1. This may represent an opportunity for significant savings with little impact on the current risk position of water corporations (needs to be analysed).

2. Understanding the current risks and proposed risks will be critical in assessing the value of the proposal.

3. The project would need to be managed in the context of current commitments, should any significant budget be required to fund consultants etc. this would be sourced from participating water corporations.

4. The analysis can be included as part of a range of productivity improvements to be assessed in the first half of 2013.

5. The initial assessment would focus on bringing together key water sector personnel to develop an understanding current practice across the sector and risk positions before considering the most appropriate approach to analysis.

6. Understanding the Governments risk appetite will be an essential component of the analysis.

Recommendation

That the Board approves the inclusion of a major and minor headwork’s insurance review as a productivity improvement project in 2013.
Memorandum

To: Managing Director
Cc: General Manager Corporate Services

From: Manager Corporate Risk

Subject: Corporate Insurance – Dams/Storage Policy Review

Date: 24 October 2012 Ref: 3488893

Purpose/Issue:
To summarise G-MW’s insurance policy for Major Dams (asset value $160M and above) and Minor dams (less than $160M asset value). Particular focus has been given to Major dams and the limits of liability and key exclusions of a claim that would negate payment of a claim should G-MW require this facility.

Note: for insurance purposes, the definitions of Major and Minor Dams are based simply on asset value and have no relation to ANCOLD’s criteria for defining Large Dams.

Background:
G-MW obtained the majority of its corporate insurance products for the 2012/13 year through insurance broker Marsh Pty Ltd (Marsh), in partnership with 13 other Water Authorities. Public Liability and Professional Indemnity cover were sourced through MAV Insurance. The total cost of G-MW’s insurance premiums for 2012/13 was $3.37M; Major dams accounted for $1.3M of this figure (40% of the total cost) and Minor Dams cost an additional $370K (11% of the total cost). In total the recurrent funding required to insure all G-MW dams cost $1.71M, which represents 51% of the total cost of insurance.

When compared to 2011/2012, the premium cost for Major Dams increased by 5% and that for Minor Dams by 3%. 

Discussion:
G-MW’s Major Dams policy is a shared policy which covers (Eildon, Cairn Curran, Hume, Dartmouth, Waranga Basin and Eppalock) and Blue Rock Dam, which is an asset of Southern Rural Water and to a lesser extent Gippsland Water (bulk entitlements rights). G-MW’s 6 Major Dams have a total asset value of $2.9B and with the inclusion of Blue Rock Dam, the combined asset value covered by the Major Dams policy is $3.2B. G-MW’s two largest dam assets are Dartmouth ($940M) and Eildon ($890M).

For the Major Dams policy there is a maximum limit of liability of $1B for any one loss or series of losses linked to one event to a maximum of 1.5B. There is also a $5M deductible for each claim made.

Like the Major Dams policy, G-MW shares insurance coverage for Minor Dams (total asset value for G-MW of $888M) with Grampians Wimmera Mallee (total asset value $551M), Southern Rural (total asset value $789M), Central Highlands (total asset value $162M) and Central Gippsland (total asset value $57M).

The maximum limit of liability any single loss for Minor Dams is $285M if there are a series of losses linked to that event, then the maximum payout for that series of events is capped at $410M.

Deductibles for Minor Dams range from $375K for pipes, tunnels etc not forming part of the headwork structure to $2M for all other losses. Some of G-MW’s key Minor Dams include Tullaroop (asset value $153M) and Yarrawonga Weir (asset value $120M).

A series of sub-limits of liability apply to both policies, with some of the key events including:
Material Damage:
- Accidental Damage - $50M
- Removal of Debris - $30M
- Extra cost of reinstatement - $15M
- Contractual agreements - $1M

Consequential loss:
- Gross Profit - nil
- Additional increase cost of working - $50M

The basis of settlement for any potential claim is cost of reinstatement; that is, replacing an asset with one of equal condition to that lost during an event but not better than its condition when new (this also takes into account any asset upgrades and or improvements made since the original design and construction of the asset).

Some of the key exclusions which apply to both policies include:
- Physical loss, destruction of or damage as a result of fire, lightning, thunderbolt or wind
- Any happening connected with war, insurrection
- Physical loss, destruction of or damage occasioned by or happening through wear and tear, gradual deterioration or developing flaws
- Physical loss, destruction of or damage occasioned by or happening through error or omission in design plans or specification or failure in design
- Physical loss, destruction of or damage occasioned by or happening through normal settling, seepage, shrinkage or expansion in buildings or foundations, walls pavements, roads and other structural improvements creeping, heaving and vibration
- Physical loss, destruction of or damage occasioned by or happening through faulty material or faulty workmanship
- Physical loss, destruction of or damage occasioned by or happening through incorrect siting of buildings consequent upon
  - Error in architectural design or specification
  - Faulty workmanship
  - Non compliance with necessary permits issues by Government, public or local authorities
- Physical loss, destruction of or damage occasioned by or happening through spontaneous fermentation or heating or any process involving the direct application of heat
- Physical loss, destruction of or damage occasioned by or happening through fraudulent or dishonest acts
- Physical loss, destruction of or damage occasioned by or happening through accessibly by persons other than G-MW employees to our computer system via data communication media
- Physical loss, destruction of or damage occasioned by or happening through erosion, subsidence, earth movement or collapse
- Physical loss, destruction of or damage occasioned by or happening through bomb threat, hoax, extortion – any act of terrorism

The policy outlines the stipulations around a flood event which would be considered a valid claim; only if the flood is of a magnitude which exceeds the design flood level of the dam at the time of construction or subsequent modification. Where any potential blockages to the spillway from flood related debris or material lead to the water level stored in the dam increasing above the design flood level then the flood has deemed to have also exceeded the designed flood level.

Analysis:

Considering the extensive list of policy exclusions, a successful claim under either policy would be restricted to an event that:
- Caused a structure to fall and which was outside the original design considerations for the asset,
- Was not due to:
  - certain force majeure events listed as exclusions
In reality this means one of three possible scenarios, only two of which could be considered realistic:

- **Scenario 1**: A flood event that exceeds the designed flood level of the dam. In this scenario, it would be G-MW’s responsibility to prove that any loss was due to the flood event and that none of the various exclusions mentioned above applied.
- **Scenario 2**: An earthquake that exceeds the designed capacity of the structure. Once again, the onus of proof will fall on G-MW to demonstrate that the loss was caused by the event.
- Finally although very improbable, some type of black swan (a highly improbably and unforeseen event that has a high impact) event occurs, however this could potentially be inferred by the insurer as accidental damage or loss, resulting in a reduction of payment to the limit of liability of $50M.

In the case of any serious event such as those outlined above, G-MW would seek the services of its own independent loss adjuster, this additional cost would factored into the overall cost of making a claim along with the required deductible.

Consultation with several other Water Authorities which own dams has determined that there are varying levels of insurance established. For example:

- After reviewing its insurance requirements, Barwon Water has decided not to insure any of their reservoirs or service basins, due to premium costs and rely solely on their dam safety program to mitigate risk to the structures. Barwon Water acknowledges however, that they have no cover for business interruption loss that would result from any damage to this infrastructure.
- Goulburn Valley Water (GVW) has also opted not to insure its Minor Dams or storages.
- East Gippsland Water has taken a similar approach to Barwon and GVW in that their Minor Dams are not insured outside of infrastructure inclusions as part of their Industrial Special Risk policy.
- No Water Authority has ever made a claim on their Dams Insurance Policy.

**Author:**

[Signature]

**Endorsed by:**

[Signature]

Martin Krzywak  
MANAGER CORPORATE RISK

Russell Parker  
GENERAL MANAGER CORPORATE SERVICES

**Approved by:**

[Signature]

Gavin Hanlon  
MANAGING DIRECTOR
Item 12:  VicWater Council strategic planning workshop

Background

At its meeting on 15 November 2012, the Victorian Water Industry Association Council (VicWater Council) conducted a strategic planning workshop facilitated by Mr Geoff Vincent, principal of Vincent Project Management and Consulting.

The objectives of the workshop were to:
1. Review and confirm the VicWater vision and mission statements
2. Review and confirm the purpose and style of VicWater as an organisation
4. Determine the key deliverables, primary focus areas and priorities for 2013-14.

The basis for workshop discussions was the 2012-13 VicWater Business Plan.

Issues

1. Vision and Mission

Discussion centred on the VicWater vision statement, with council members commenting that the Vision needed to be more concise and more precise. In particular, the VicWater strapline – Innovation, Cooperation and Sustainability was considered to more accurately reflect the organisation’s direction than the current vision. However, VicWater’s role as the primary advocate for the water industry in Victoria also needed to be expressed in the Vision.

Discussion on the Mission statement embraced the concepts of leading collaboration (rather than cooperation) within the industry and exerting influence, particularly regarding Government policy development.

Workshop output: That the VicWater Vision statement be revised so as to concisely express the organisation’s direction as the Victorian Water Industry’s peak advocacy body, complemented by the Mission of leading collaboration within the industry and influencing Government policy.

2. Style and purpose

Discussion firstly focused on organisational style, particularly VicWater’s public profile and its relationship with the media. Council members were firmly of the view that the Victorian water businesses themselves were the public face of the industry, not VicWater. In that regard, the organisation should concentrate on establishing close working relationships with key stakeholders.

Further discussion considered VicWater’s position with respect to its competitors and allies. Firm views were again expressed that, although there were many potential competitors to VicWater (including VECCI, AIG, VCOS, ACOSS, IWA, AWA, WSAA) many of these organisations could be potential allies through whom VicWater could garner support through performance and collaboration, rather than confrontation. Thus, rather than define VicWater’s point of difference from these other organisations, VicWater should concentrate on avoiding competition by establishing effective working relationships with like organisations. A case in point considered at the meeting was a potential alliance with the Smart Water Fund to encourage innovation in the Victorian water industry.

Primary alliances were seen as those with the Department of Treasury and Finance, the Department of Sustainability and Environment and other interstate water bodies.

Workshop output: That VicWater build its reputation and profile as a respected, competent and professional organisation through close working relationships with its key stakeholders, and strategic alliances with like organisations, acting as spokesperson on industry-wide issues with an apolitical stance.
3. **Strategies**

To assist in understanding the current social, political and economic environment in which VicWater operates, Councillors were invited to assess and comment on any changes to the business environment, both current and emerging, to that detailed in the 2012-13 Business Plan.

It was observed that the economic environment of high debt was likely to change with reduced borrowings resulting in reduced capital expenditure. This would likely increase the risk of privatisation. It was postulated that one response to this risk could be greater use of public private partnerships to provide essential infrastructure.

It was also noted that Government was reducing direct service delivery and policy development capacity. Consequently, it might be expected that Government would look to supplement its reduced capacity through other means, such as direct engagement of stakeholders in policy development and service delivery.

As monopoly providers of water services in Victoria, VicWater and its members could reasonably expect greater involvement in these areas.

In order to frame appropriate strategies to achieve the organisational Vision and Mission within this emerging business environment, Councillors were invited to describe what success would look like for VicWater. Rather than focus on outcomes, Councillors concentrated their comments on process, opportunities and outputs. Thus **success** was described as:

- Being listened to by Government
- Being approached by Government departments and regulators early in policy development
- Pulling together and aligning a consistent, coordinated and collaborative voice for the Victorian water sector
- Strengthening and deepening the VicWater brand by providing a successful annual conference

**Workshop output:** That VicWater incorporate the following **strategies** in the 2013-14 Business plan:

- Focusing on the needs of stakeholders through collegiate networking, knowledge sharing and providing support to VicWater task groups
- Developing water industry professionalism, by improving the financial and human resources required to fully undertake VicWater’s functions
- Recognising increasing Government reliance on indirect means of providing policy development and services
- Avoiding controversy whilst maintaining availability and service delivery to members

4. **Outcomes and priorities for 2013-14**

To implement the strategies, Councillors were invited to identify the critical outcomes for VicWater in 2013-14. Twelve outcomes were identified and ranked according to importance and priority.

**Workshop output:** There was clear consensus that four key **outcomes** should be sought. In priority order these were:

1. That VicWater was trusted by the Minister for Water
2. That VicWater was an active participant in the successful revision of the Water Act
3. That there were significant improvements in water industry efficiency through reduced duplication in compliance reporting and other bureaucratic processes
4. That the Annual Conference was well attended and successful.

Four further outcomes receiving considerably less priority support than the top four included:

- That VicWater engages with the Office of Living Victoria on behalf of the Minister for Water to ensure that the water industry view and Living Victoria/Living Melbourne programs are aligned and harmonised.
- That VicWater influences the 2014 election policies of the major parties to secure continued support for the water industry.
- That Task Groups be reviewed for relevance and effectiveness.
- That VicWater review its constitution and structure.

The remaining four outcomes identified received no support as priorities:

- Make members businesses work better through task groups, conferences, etc.
- Use advocacy to protect the Minister for Water and the Government from futile pursuits.
- Public education.
- Increase resources to industry education & training.

5. **Immerse II Workshop**

On the 22nd and 23rd of November a workshop was held with Metro MD’s, Metro Executive, the Western Water MD, Goulburn Valley MD, key stakeholders, CEO Smart Water Fund and myself to identify the direction and priority for the water sector to assist the Smart Water Fund clarify its directions for its next planning cycle.

The outcomes from this workshop identified the following priorities for the Smart Water Fund:

- Delivering improved customer value through service innovation and improved customer insights.
- Working with OLV to realise the enhanced liveability objectives of OLV through demonstration sites and improved urban planning.
- Innovative use of assets through improved planning, modernised design standards and smart technology.
- Strategic people management to improve staff selection and development throughout the employment life cycle.
- Improving productivity through red and green tape reduction.
- Understanding and developing innovation frameworks for the water sector.

There is strong alignment from the outcomes of the VicWater Council meeting workshop and the outcomes from the Immerse II workshop.

**Recommendation**

**That the Board**

1. **Schedule the revision the VicWater Vision and Mission statements using the VicWater Council strategic workshop discussion as a guide.**
2. **Adopt the outputs of the VicWater Council strategic workshop as the basis for the development of the 2013-14 Business Plan.**
Item 13: Terms of Reference – template review

Background

- In February 2010, the Board agreed that a generic Terms of Reference (TOR) be developed for the VicWater Task Groups to ensure that the Groups operate in accordance with the Board's directions and that proper reporting arrangements are in place.
- Subsequently, the Task Groups are required to develop a TOR using the generic document as the starting point.
- Clause 17.1 of the generic document specifies that the TOR be reviewed at least every 3 years to ensure that the document is kept relevant and/or to ensure that the group continues to deliver the prescribed outcomes.
- To progress this, we have undertaken an internal review of the generic TOR document.

Issues

1. Through the VicWater internal review of the generic TOR document, it is recommended that several clauses be amended to support more streamlined and efficient functioning of the VicWater Task Groups.
2. Attachment 1 identifies the changes, including the reasoning behind each change.
3. If the Board accept the changes in Attachment 1, VicWater will amend the TOR of all operating VicWater Task Groups so that they reflect the updated generic document.

Recommendation

That the Board approve the changes to the generic Terms of Reference document.
<Task Group Title>

Terms of Reference

1. Title
The name of the group shall be <Task Group>.

2. Objectives
The <Task Group> and its associated actions should be inline with the VicWater’s Business Plan, the industry’s Strategic Vision and the overall improvement of the Victorian water industry. Where appropriate the <Task Group> should focus its work around policy development with recommendations or position papers presented to the VicWater Board for approval.

3. Purpose
To serve as a steering committee on <Task Group related issues>, including (but not limited to) influencing government on the development and implementation of <Task Group related> policy, providing advice to industry on current practices or proposed policies, and coordinating comments from the industry.

4. Tasks to be Completed
♠ <Identify tasks to be completed by the Task Group>

5. Timeframe

5.1. This is an ongoing group.

5.2. VicWater CEO in conjunction with the <Task Group> Chairperson, in conjunction with Committee members, to determine the frequency, location, duration and format of meetings held by the <Task Group> during the year.

6. Membership

6.1. A group of up to ten <Task Group related officers/managers> are to be selected to represent all sectors of the industry. This number can be exceeded when the complexity of the issues being considered requires increased representation. Increases must be approved by the VicWater CEO and recorded in the <Task Group> minutes.

6.2. The members shall be appointed with a view of achieving a balance of geographic, gender, experience and skills. The members should have:
   a) No personal financial interests in the <Task Group> decisions;

Comment [SM1]: It seems appropriate that the appointed Chairperson and Task Group members determine this
b) A working knowledge of the issues that directly relate to the operational, commercial, environmental and social impacts of the water industry and water businesses; and

c) A broad understanding of the policy direction and objectives of government in relation to water.

6.3. Members appointed to the <Task Group> are required to maintain links with relevant agencies and/or groups (eg. <insert relevant agencies/groups>) and to ensure that they are aware of future developments that may impact on the objectives of the <Task Group>.

6.4. In addition to the appointed membership, the <Task Group> is empowered to invite various other people or groups of people from relevant government, industry, environmental or community organisation’s to provide assistance as appropriate. Those additional people providing assistance are not members of the <Task Group>.

7. Membership Nomination/Election

7.1. A member of the <Task Group> may resign by giving notice in writing to the <Task Group> Chairperson of his/her intention to resign and the date on which the resignation will take effect.

7.2. Methods of recruiting <Task Group> members:
   a) An employee of a water business can approach the VicWater representative or any <Task Group> member to indicate interest in <Task Group> membership; or
   b) An individual can be approached by a representative of the <Task Group> to gauge their level of interest in becoming a <Task Group> member; or
   c) A call for nominations for <Task Group> membership.

7.3. In all of the above, the individual interested in <Task Group> membership must obtain their Managing Director’s endorsement, or General Manager’s endorsement with the Managing Director’s support, to be a part of the <Task Group>.

7.4. The final decision for acceptance of an individual as a member of the <Task Group> is made by the VicWater CEO, in conjunction with the <Task Group> Chairperson.

7.5. Once accepted as a member of the <Task Group>, the individual will be provided with a copy of the Terms of Reference and sign.

7.6. Members are appointed on the <Task Group> for a period of three (3) years. Members who wish to continue at the end of their term may re-nominate for positions on the <Task Group>.

7.7. Where the number of nominations for membership exceeds the available places, the VicWater CEO, in conjunction with the <Task Group> Chairperson, shall consider the nominations and select the successful members.

7.8. Casual vacancies can be filled as they arise.

8. Membership Expulsion

8.1. A member of the <Task Group> may cease to be a member of the <Task Group> if they:
   a) Fail to attend three consecutive meetings without providing apologies; or
   b) Breach confidentiality conditions as set out in the Terms of Reference.

8.2. The final decision on membership expulsion will be made by both the <Task Group> Chairperson and the CEO of VicWater.

Comment [SM2]: Some businesses have indicated that it is difficult to obtain their MDs formal endorsement. It is considered that in these cases it is appropriate that the GM provide the formal endorsement (on behalf of the MD).

Comment [SM3]: It is considered an unnecessary administrative burden for the Task Group members to sign the TOR.
9. **Quorum**

9.1. Any scheduled <Task Group> meeting must have a quorum for it to be a confirmed meeting.

9.2. The quorum will be represented by, at minimum, four of the total number of <Task Group> members.

9.3. A <Task Group> member is able to send a proxy or representative in their place and this person will count towards the quorum.

10. **Decision Process**

10.1. It is expected that the majority of decisions by the <Task Group> will be done by consensus. However, if that cannot be achieved the following will be followed:

   a) Questions or calls for a decision shall be made by the members present.
   b) All members present will make one vote, with the majority ruling.
   c) In the case of an equal result, the <Task Group> Chairperson will exercise a second or casting vote.

11. **Chairperson**

11.1. To assist in coordination of the <Task Group>, it is appropriate that the VicWater Board appoint a <Task Group> Chairperson with consideration to any recommendation made by the VicWater CEO.

11.2. The Board will be notified by the VicWater CEO of any decision to appoint a Chairperson at the next scheduled Board meeting.

11.3. The <Task Group> Chairperson will preside as Chairperson at each meeting of the <Task Group>.

11.4. If the Chairperson is absent from a meeting, the members present will elect one of their number to preside as Chairperson for that meeting.

12. **Chairperson Nomination/Election**

12.1. When the <Task Group> requires a new Chairperson to be appointed, all water business Managing Director's will be notified of the vacancy and asked to nominate a suitable applicant.

12.2. The VicWater CEO will then make the final decision on who will be appointed to the position, with consideration to any recommendations made by the VicWater CEO.

12.3. The <Task Group> Chairperson is appointed for a period of three (3) years. At the end of their three year term, a review will be done by the VicWater CEO.

13. **Executive support**

13.1. The responsibility for recording, preparing and disseminating agenda, minutes and all other communications arising from the <Task Group> and their meetings will be completed by the VicWater representative.

13.2. The minutes will be sent to the <Task Group> Chairperson prior to being sent to the wider <Task Group> group to ensure that they are a correct and accurate record of the meeting.
13.3. All <Task Group> materials (agendas, minutes and other communications) should be kept centrally by the VicWater representative.

13.4. VicWater coordinates and services meetings with other administrative support provided as needed.

13.5. The VicWater representative will not be considered as one of the 10 members presiding in the <Task Group>.

14. Reporting relationships

14.1. The VicWater CEO provides an interface between the operations of the <Task Group> and the VicWater Board.

14.2. The <Task Group> is to provide a written report annually to the VicWater Board; the timing of this report will align with the VicWater Annual Report and will record the actions and achievements for the year.

14.3. Where the CEO considers that a task group is no longer of relevance to VicWater’s priorities and objectives, the CEO will advise the VicWater Board and the final decision to conclude a Task Group will be made by the VicWater Board.

14.4. The <Task Group> will report to the VicWater Board and VicWater Council on activities considered and undertaken as appropriate.

15. Communications

15.1. Where appropriate information will be included in VicWater publications and will be shared with other relevant groups identified by the <Task Group>.

16. Confidentiality

16.1. Members of the <Task Group> must understand the importance of privacy and confidentiality.

16.2. Confidential information requires special treatment and protection and it must not be used to advantage any <Task Group> member or business or disadvantage the Victorian Government.

16.3. Members of the <Task Group> with access to confidential information must ensure it remains confidential, and at all times act in accordance with legislation and policies relating to dealing with private information.

17. Amendments

17.1 These Terms of Reference will be reviewed at least every 3 years by the <Task Group> in conjunction with the VicWater CEO to ensure that the document is kept relevant and/or to ensure that the group continues to deliver the prescribed outcomes.

17.2 Any amendments to the Terms of Reference must be endorsed by the VicWater CEO and then approved by the VicWater Board.
Item 14:  Intelligent Water Networks – Program Manager position

Background
The Intelligent Water Networks (IWN) Program of work is a collaborative program involving VicWater, the Department of Sustainability and Environment (DSE) and the Victorian water corporations.

A Strategy Group (6 Managing Director’s of Water Corporations, Executive Director DSE and CEO VicWater) oversees the development of the Program on behalf of the VicWater Council and an IWN Reference Group plan, manage and develop the Program.

The IWN Program has been in progress for three years and in this time two out of four planning stages have been delivered. Stages 1 and 2 were strategic planning stages. Stage 3 (this contract) is proof of principle / proof of concept trials while Stage 4 will be larger scale pilots. Stage 3 and 4 are to be implemented through the Water Plan 3 period which spans from July 2013 to June 2018.

As we enter Stage 3 of the IWN Program the governance and project management structure of the project has been reviewed and approved through the steering committee and the Managing Directors Forum.

Through this review it has been identified that there is a need for a full time program manager who works with the various project managers from water corporations to assist in project development and program oversight to ensure critical IWN issues, such as ownership of intellectual property are managed consistently and appropriately.

The program manager would also assist in the development of business cases for various trials and facilitate performance reporting to stakeholders.

Water Corporations have agreed to provide funding to cover the costs of employing a program manager for the IWN project.

The Managing Directors and the IWN Steering Committee have requested that VicWater recruit and employ the program manager for a period of 12 months.

The total remuneration package for this position is expected to be in the order of $110,000 pa.

Issues
1. There is no budget for this role in the 2012/13 financial year, however the direct costs of employment will be covered by a separate contribution from regional and metro urban water corporations.
2. VicWater assumes the employment risks for the position.
3. Under VicWater’s delegations the CEO can is authorised to:
   “Engagement of staff within the approved organisation structure for all positions where annual remuneration is up to $85,000;”
4. VicWater will be absorbing some on-costs as part of this arrangement as the manager would be based in VicWater’s Offices.

**Recommendation**

That the Board approve the employment of an IWN Program Manager on a 12 month contract with a maximum total remuneration package of $110,000 pa provided the direct costs of employment are fully funded by participants in the IWN project.
Item 15: Association Statement of Purpose and Revised Rules

Background

In February 2012 the Board was advised of a number of proposed amendments to the Associations Statement of Purpose and Rules. The recommendation was that the changes to rules be delayed until the Associations Incorporation Reform Act 2012 commenced as there were a number of other possible changes that would be required when the model rules were released.

The Associations Incorporation Reform Act 2012 has now commenced and the Department of Consumer Affairs has released a set of Model Rules to guide incorporated associations.

Both the new Act and the Model Rules have been reviewed and a number of further changes are now required.

Attached are the proposed revised rules of the association.

Issues

1. Any amendment to the Rules of the Association need to be formally accepted by the VicWater Council and a Notice of Motion must be distributed in advance to the members in accordance with Clause 21 – Alteration of Rules and Statement of Purpose.

2. Attachment 1 lists the changes that are proposed and have been previously discussed with the Board and highlighted at subsequent VicWater Council meetings.

3. Attachment 2 lists the changes that are required following the introduction of the Associations Incorporation Reform Act 2012.

4. A draft copy of the revised Rules incorporating the amendments is attached for information.

5. If the Board agree to the amendments in attachment 1 and 2 all the changes will need to be recommended to the Council for adoption.

6. If the amendments are adopted by the Council the revised rules will then need to be endorsed by the Deputy Registrar of Incorporated Associations.

Recommendation

It is recommended that the Board adopt the proposed changes to the Associations Rules and recommend the amendments for adoption by the VicWater Council.
Victorian Water Industry Association

Attachment 1

Changes to the Association’s Rules

1. **Clause 2.1.** Remove the Vision Statement and insert the version adopted by the Board in June 2011.

2. **Clause 3.1.** Remove the Mission Statement and insert the version adopted by the Board in June 2011.

3. **Clause 6.1 iv.** Add the words ‘and the Chairman of the Board’ at the end of the sentence. At present the Rules do not provide for the election or nomination / appointment of a Chairman other than the election of the Board Chairman. Over recent years normal practice has been that the Board Chairman is also the Council Chairman. The Rules should reflect that practice.

4. **Clause 14.2.** After the word Member on the third line insert ‘or by email to such representative or secretary’. At present a lot of communication with members is done through email and the Rules need to include that as one of the approved methods of communication.

5. **Clause 16.2 iv new clause enabling the Board to appoint the auditor and advise the council of the appointment.**

6. **Clause 16.3 vi.** Reword the Clause to read ‘One representative to be the current Chair of the Managing Director’s forum, elected in even numbered years by all of the Managing Director’s Group’. There has been considerable discussion regarding the need to ensure that at least one Board member of the VicWater Board is a current Managing Director. In recent years it has happened that the Chair of the MD’s group is also a member of the VicWater Board and, as a way to ensure that continues in the future it is recommended that the ‘Other or Open’ position be removed and replaced with the elected Chair of the MD’s Group. Naturally, arrangements will need to be made to align the election process so it is filled in accordance with Clause 12.3 vi.

7. **Rule 16.6 amended to allow a member to have more than one Board representative where the second Board representative is the elected representative from the Managing Director’s Group.**

8. **Removal of the CEO as a member of the Board to clarify the roles more clearly.**

9. **Clause17.3.** After the word deliver on the first line add ‘or email’. This is another amendment to the form of communication.

10. **Schedule 1(f).** In the first line delete ‘the Council’ and insert ‘a’. In the last line above the signature delete the words ‘and I am a nominated Council member for that water business’. The nomination to Board positions is detailed in the Rules and includes the ability of people to nominate themselves. The Rules also state that ‘Only Chairs, Board Members, Chief Executives or Executives of member businesses are eligible...’. The current wording of Schedule 1 (f) limits the nomination to Council members only.

11. **Schedule 3.** Remove the following businesses First Mildura Irrigation Trust, Glenelg Water, Portland Coast Water and South West Water and insert Wannon Water.

12. **Changed numerous references to Board Member (VicWater Board) to Director – to avoid confusion with members of the association.**
Changes proposed following the introduction of the Associations Incorporation Reform Act 2012 and associated Model Rules

1. **The Statement of Purpose** (previously a separate section) is now incorporated under Rule 5 Powers.

2. **Rule 6** – Interpretation.
   a. 6.1 ii Annual General Meeting inserted
   b. 6.1 iii Annual Subscriptions inserted
   c. 6.1 iv Board Meeting inserted
   d. 6.1 iiix Director inserted
   e. 6.1 xix Register inserted
   f. 6.1 xx Registrar inserted
   g. 6.1 xxiii The Act updated

3. **Rule 20.3 iv** updated to specify what must be recorded in the minutes.

4. **Rule 21** amended to remove the need for a Public Officer and including the requirement for the CEO to perform the duties specified in the Act to be performed by the Secretary.

5. **Rule 22** Conflict of Interest inserted. This clause also introduces the term ‘material personal interest’.

6. **Rule 31** amended to the address of the Secretary if the principle office has not been specified.

7. **Rule 33** Grievance Procedures. Minor amendment to the wording.
RULES OF THE ASSOCIATION

VICTORIAN WATER INDUSTRY ASSOCIATION INCORPORATED

[Insert date of Approval by Council]
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1. NAME

1.1 The name of the incorporated association is Victorian Water Industry Association Inc.

2. VISION

2.1 To lead an innovative water industry that drives sustainable water management and create partnerships that focus on the needs of the community, stakeholders and the environment.

3. MISSION

3.1 To be a vigorous and respected advocate for Victorian water businesses in their interaction with government, their agencies and the community.

4. OBJECTIVES

4.1 To provide services (information, resources, publications, events etc.) that will help members to build shareholder value;

4.2 To act as a focal point for members and government in dealing with key policy issues;

4.3 To be a forum for members to discuss and to decide a collective approach to issues, practices and policy development;

4.4 To increase community understanding of water issues and policies;

4.5 To foster good working relationships and effective communication with Commonwealth, State and Local Governments, their agencies and other influential organisations;

4.6 To promote the provision of education and training in areas relevant to the water industry.

5. POWERS

5.1 Solely to further the purposes set out above the Association shall have power:

i To sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any other part of the property and rights of the Association;

ii To take any gift or property or donation of monies, whether subject to any special trust or not, for any one or more of the purposes of the Association provided always that in case the Association shall take or hold any property or monies which may be subject to any trust the Association shall only deal with the
same in such manner as is allowed by law having regard to such trust.

iii To print and publish any directory, newsletter, periodical, book or leaflet that the Association may think desirable for the promotion of its purposes; and

iv To do such other things and carry out such other activities as are incidental or conducive to the attainment of the purposes and the exercise of the powers of the Association.

v The Association may only exercise its powers and use its income and assets (including any surplus) for its purposes.

6. INTERPRETATION

6.1 In these rules, unless the contrary intention appears:

i Alternate Representative shall mean a substitute representative appointed by a Member as hereinafter provided.

ii Annual General Meeting means a meeting of members convened in accordance with Rule 11.

iii Annual Subscriptions means the annual fees payable by each category of member as determined by the Council under Rule 8.

iv Associate Member means an associate member of the Association.

v Association means the Victorian Water Industry Association Inc. or its successors or assignees.

vi Board means the board of management of the Association.

vii Board Meeting means a meeting of the duly elected Board.

viii Business Plan means the annual business plan of the Association.

ix Chairman shall mean the Chairman of the Association and the Chairman of the Board.

x Chief Executive Officer means the person employed in that role by the Board.

xi Council shall mean the body of appointed Representatives of Members.

xii Council Meeting means a meeting of the Council members.

xiii Director means a member of the Association Board elected under Rule 16. References to Directors of member businesses are specifically stated that way.

xiv Financial Year means each period of 12 months ending on 30 June.

xv General Meeting means a meeting of representatives of the Members and Associate Members of the Association.
6.2 Words or expressions contained in these rules will be interpreted in accordance with the provisions of the Interpretation of Legislation Act 1984 and the Act as in force from time to time.

6.3 The words “he, him or his” shall also mean “she, her or hers” and vice versa.

7. MEMBERSHIP

Members and Associate Members

7.1 Membership of the Association is open to water businesses within the State of Victoria.

7.2 Associate Membership of the Association is available to any corporate body or organisation, which, in the determination of the Board, has an interest, allied to the water industry and whose admission to associate membership would, in the opinion of the Board, benefit the Association.

7.3 Applications for Associate Membership will be dealt with in the same manner as provided in these Rules for applications for Membership with any necessary modifications.

7.4 An application for Membership or Associate Membership of the Association:

i will be made in writing in the form set out in Schedule 1(a) or 1(b); and
will be lodged with the Chief Executive Officer of the Association.

7.5 As soon as is practicable after the receipt of an application, the Chief Executive Officer will refer the application to the Board.

7.6 Upon an application being referred to the Board, the Board will determine whether to approve or to reject the application.

7.7 When an application has been approved by the Board, the Chief Executive Officer will, with as little delay as possible, notify the applicant in writing that it is approved for membership of the Association and request payment within the period of 28 days after receipt of the notification of the sum payable under these rules as the first year's annual subscription.

7.8 The Chief Executive Officer will, upon payment of the annual subscription referred to in Rule 7.7 enter the applicant's name in the register of members kept by him and, upon the name being so entered, the applicant becomes a member of the Association.

7.9 If the Board rejects an application for Membership or Associate membership, the Chief Executive Officer must, as soon as practicable, notify the applicant in writing that the application has been rejected.

7.10 A right, privilege, or obligation of a water business by reason of its membership of the Association:
   i is not capable of being transferred or transmitted to another water business or person; and
   ii terminates upon the cessation of its membership whether by dissolution or resignation or otherwise.

Representation

7.11 Each Member is required to nominate an individual Representative who shall become a member of the Council and shall attend, in the Member’s name, annual general meetings, general meetings, Council meetings, special Council meetings, and any forums arranged by or in conjunction with the Association.

7.12 Each Associate Member may be represented at annual general meetings, general meetings and any forums arranged by or in conjunction with the Association.

7.13 Each Member and each Associate Member may, by notice in writing to the Chief Executive Officer in the form as set out in Schedule 1(c) appoint any Director, member or officer of such body as its Representative or Alternate Representative and may by a like notice revoke or change such representation in the form as set out in Schedule 1(d).

7.14 Any such Representative or Alternate Representative shall forthwith cease to hold office as a Representative or Alternate Representative if:
   i he or she dies;
   ii the Member resigns by notice in writing delivered to the Chief Executive Officer of the Association; or
iii he or she ceases for any reason to be a Director, member or officer of the Member that made the appointment.

8. ANNUAL SUBSCRIPTION

8.1 The Council at a Council meeting will approve the annual subscription fee for Membership and Associate Membership of the Association.

8.2 The Board will recommend to the Council the amount of each subscription fee.

8.3 The membership subscription fee is exclusive of any goods and services tax payable in accordance with the A New Tax System (Goods and Services) Act, and each Member will be liable for the payment of any goods and services tax resulting from this Act.

8.4 The recommendation of the Board must be communicated to the Council at least seven clear days prior to the Council meeting at which the Council is required to give the approval referred to in Rule 8.1.

8.5 Unless provision is otherwise made by the Council, the annual subscription fee shall be due and payable on the first day of July each year.

8.6 Failure to pay the annual subscription fee within two months of the date referred to in Rule 8.5 may, at the discretion of the Board, result in the cancellation of a Member's membership or an Associate Member's associate membership of the Association.

9. REGISTER OF MEMBERS

9.1 The Chief Executive Officer will keep and maintain a register of Members in which will be entered the full name, address and date of entry of the name of each Member and Associate Member.

9.2 The register will be available for inspection by Members at the registered office of the Association during business hours.

10. RESIGNATION OF MEMBERS AND ASSOCIATE MEMBERS

10.1 A Member or Associate Member that has paid all moneys due and payable by it to the Association may resign from the Association by giving one month’s notice in writing to the Chief Executive Officer of its intention to resign and upon the expiration of that period of notice, the Member or Associate Member will cease to be a Member or Associate Member (as the case may be).

10.2 Upon the expiration of a notice given under Rule 10.1, the Chief Executive Officer will make in the register of Members an entry recording the date on which the Member or Associate Member ceased to be a Member or Associate Member (as the case may be).

11. ANNUAL GENERAL MEETING

11.1 The Association will convene an annual general meeting of the Members no more than five months after the end of the Financial Year.
11.2 The annual general meeting will be held on a date determined by the Board.

11.3 The annual general meeting will be so specified in the notice convening it.

11.4 The ordinary business of the annual general meeting will be:
   i to confirm the minutes of the previous annual general meeting;
   ii to receive from the Board reports upon the transactions and principal activities of the Association during the preceding financial year;
   iii to confirm the result of the election of Directors of the Board; and
   iv to receive and consider the financial statements submitted by the Association in accordance with the Act.

11.5 The annual general meeting may transact special business of which notice is given in accordance with these rules.

11.6 The annual general meeting will be in addition to any other general meetings that may be held in the same year.

11.7 A report of the proceedings of the Annual General Meeting together with all statements of accounts prepared as hereinafter provided shall be printed and a copy forwarded to each Member and Associate Member.

12. THE COUNCIL

12.1 Policy directions for the Association will be set by the Council constituted as provided in Rule 7.11.

12.2 The Council shall:
   i ensure that the interests of all Members and sectors are served by the Association;
   ii review policy directions, endorse the Business plan and monitor its implementation;
   iii provide a strong industry presence through participation in forums and conferences arranged by the Association;
   iv debate and vote on special business at Council meetings and the Annual General Meeting;
   v endorse the outcomes of elections for Board positions; and
   vi approve annual subscription fees and decide on an annual honorarium to be made available to the Chairman.

13. COUNCIL MEETINGS

13.1 The Council will meet at least twice a year.
13.2 At any time the Chairman of the Association or the Board may call a special Council Meeting.

13.3 Upon the application in writing by not less than one quarter of the total number of Members and delivered to the Chief Executive Officer, the Board must call a special Council Meeting.

14. CONVENING OF COUNCIL AND GENERAL MEETINGS

14.1 Notice in writing setting out the business to be transacted and the date time and place of meetings shall be given to all Members and Associate Members:

i at least twenty-one clear days before the date fixed for the annual general meeting; and

ii at least seven clear days before the date fixed for any other Council or general meeting.

14.2 Any such notice may be given to any Member or Associate Member by delivering it to the Representative of, or the secretary of, such Member or Associate Member or by email to such representative or secretary or by putting it into the post in a prepaid envelope addressed to such Representative or secretary at the office of such Member or Associate Member and any notice so posted shall be deemed to have been given at the expiration of twenty-four hours after the time of posting.

14.3 The accidental omission to give notice, or the non-receipt of any such notice by any Member or Representative, shall not invalidate the proceedings of any meeting to which it relates.

14.4 All meetings of the Association shall be held on such date and at such time and place as the Board or in its default the Chairman shall determine.

14.5 When a Member wishes to bring any matter before the Association or desires any action to be taken it may submit to the Chief Executive Officer a statement thereof in writing and unless the same relates to business to be dealt with at an annual general meeting or a special Council meeting, the time for the holding whereof has already been fixed under these Rules, the Chief Executive Officer shall:

i place the subject on the business paper for the next meeting of the Board; or

ii if he or she thinks the same of sufficient urgency, place the subject on the business paper for the next meeting of such other task group as he or she may think appropriate.

14.6 The Board shall examine all such matters that are forwarded by a Member for submission to a meeting and if it considers any such matter not within the ambit of the purposes of the Association it may exclude it from the business paper for that meeting.

14.7 If the Board decides that any matter brought before it is of sufficient urgency it may act thereon in its discretion.
15. PROCEEDINGS AT COUNCIL AND GENERAL MEETINGS

Chairman

15.1 The Chairman will preside as chairman of all Council and general meetings of the Association.

15.2 If the Chairman is absent from a Council or general meeting, the Representatives present will elect one of their number to preside as chairman at the meeting.

Quorum

15.3 No item of business will be transacted at a Council meeting or general meeting unless a quorum of Members entitled under these rules to vote is present during the time when the meeting is considering that item.

15.4 At any Council meeting, annual general meeting or general meeting of the Association the number of Representatives equal to the next whole number greater than one quarter of the total number of Members shall form a quorum for the transaction of the business.

15.5 For the avoidance of doubt, a Member is deemed to be present at a meeting if the Member’s Representative or Alternate Representative is present or if a proxy appointed by the Member in accordance with Rules 15.23, 15.24 and 15.25 is present.

Adjournment of a meeting

15.6 If within half an hour after the appointed time for the commencement of a scheduled meeting, a quorum is not present, the meeting will stand adjourned to the same day in the next week at the same time and (unless another place is specified by the Chairman at the time of the adjournment or by written notice to members given before the day to which the meeting is adjourned) at the same place and if at the adjourned meeting the quorum is not present within half an hour after the time appointed for the commencement of the meeting, the meeting will be dissolved.

15.7 If any meeting is convened upon the requisition of Members and a quorum is not present within half an hour after the appointed time for the commencement of the meeting, the meeting will be dissolved.

15.8 The Chairman of a meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time and place to place, but no business will be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

15.9 Where a meeting is adjourned for 14 days or more, a like notice of the adjourned meeting will be given as in the case of a general meeting.

15.10 Except as provided in Rules 15.6 and 15.9, it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.
Voting at a Meeting

15.11 Questions shall be decided by a majority of the votes of the Representatives present.

15.12 In the case of an equality of voting on a question, the chairman of the meeting is entitled to exercise a second or casting vote.

15.13 Upon any question arising at a meeting of the Association, a Member is entitled to a single vote, exercised by the Representative or Alternate Representative or proxy of the Member.

15.14 The Representative or Alternate Representative who may also deliver a proxy vote in accordance with Rules 15.23, 15.24 and 15.25 will give all votes personally on behalf of a Member.

15.15 Associate Members are not entitled to vote at any meeting or election.

15.16 The Chief Executive Officer is not entitled to vote at any Council or General meeting or election.

15.17 A Member is not entitled to vote at any general meeting if any moneys due and payable by it to the Association have been in arrears for more than sixty days.

15.18 A question arising at a meeting of the Association will be determined on a show of hands unless before or on the declaration of the show of hands a poll is demanded.

15.19 A declaration by the Chairman that a resolution has been carried or carried unanimously or carried by a particular majority or lost, shall be entered in the Minute Book of the Association and will be held to be evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

15.20 If at a meeting a poll on any question is demanded by not less than three Members, it will be taken at that meeting in the manner that the chairman of the meeting may direct and the resolution of the poll will be deemed to be a resolution of the meeting on that question.

15.21 A poll that is demanded on the election of a Chairman of the meeting or on a question of an adjournment will be taken forthwith and a poll that is demanded on any other question will be taken at such time before the close of the meeting as the Chairman of the meeting may direct.

15.22 No business transacted at any meeting at which a quorum is present shall be invalid in consequence only of there being some defect in the appointment of any Representative or Alternate Representative present thereat, nor on account of any informality or irregularity in the proceedings to which attention is not called at the time, provided that such want of formality or regularity does not materially affect the result of such proceedings.
Appointment of a Proxy

15.23 Any Member that will not be represented at a meeting is entitled to appoint a proxy by notice given to the Chief Executive Officer prior to the commencement of the meeting in respect of which the proxy is appointed.

15.24 The notice appointing the proxy will be in the form set out in Schedule 1(e).

15.25 A proxy must be a Representative or Alternate Representative of another Member

16. BOARD OF MANAGEMENT

16.1 A Board of Management called the Board constituted as provided in Rule 16.3 will manage the affairs of the Association.

16.2 The Board:
   i will control and manage the business and affairs of the Association;
   ii shall overview the development of the Business Plan and present the completed plan to the Council for endorsement;
   iii may, subject to these rules, the Regulations and the Act, exercise all such powers and functions as may be exercised by the Association other than those powers and functions that are required by these rules to be exercised by Council;
   iv will appoint appropriately qualified Auditors and shall advise the Council of the appointment;
   v may delegate such powers, save for the power to delegate; and
   vi subject to these rules, the Regulations and the Act, has power to perform all such acts and things as appear to the Board to be essential for the proper management of the business and affairs of the Association.

16.3 The Board shall consist of:
   i One representative from Melbourne Water nominated in odd numbered years, by Melbourne Water;
   ii One representative from the Metropolitan sector elected in even numbered years, by the nominated representatives of the Metropolitan sector Members;
   iii One representative from either Goulburn Murray Water or Southern Rural Water, elected in odd numbered years; by the nominated representatives of the Regional sector members;
   iv One representative from the Regional Sector elected in odd numbered years, by the nominated representatives of the Regional sector Members;
v One representative from the Regional Sector elected in even numbered years, by the nominated representatives of the Regional sector Members;

vi One representative to be the current Chair of the Managing Director’s forum, elected in even numbered years by the Managing Director’s Group;

Only Chairs, Board Members, Managing Directors or Executives of member businesses are eligible to be elected onto the Board.

16.4 The Directors of the Board shall elect one of their number to serve as Chairman of the Association.

16.5 In the event that Melbourne Water, or both Goulburn Murray Water and Southern Rural Water is not a financial member of the Association, the position of the Board designated to be filled by a representative from these businesses shall be filled by a representative of any other business, to be elected by all other members, provided that no member shall have more than one representative on the Board.

16.6 No Member shall take up more than one position on the Board except for the representative appointed in accordance with Rule 16.3 xi who is a representative of the Managing Director’s Group and not a representative of a specific Member.

16.7 The Directors of the Board shall hold office for a two-year term, until the completion of the election at the next annual general meeting two years after their appointment when they shall retire but shall be eligible for re-election up to a maximum of four consecutive years in office.

16.8 Subject to a resolution of Council, a Board Director will be eligible to extend the number of consecutive years of office beyond four years.

17. PROCEEDINGS AT BOARD MEETINGS

Convening Meetings

17.1 The Board shall hold meetings at such times and in such manner as it may from time to time decide and in default as the Chairman shall decide.

17.2 Any Director of the Board may in writing request the Chairman to convene a special meeting of the Board and on receipt of such a request the Chairman or in his or her default the Chief Executive Officer shall appoint a time and date for holding the meeting.

17.3 The Chief Executive Officer shall deliver or email or post to each Director of the Board a notice of every meeting, and of the business to be transacted thereat, at least seven days before the designated meeting date.

17.4 In the event of an urgent situation the Chairman may call a meeting of the Board with less than seven days notice, and any decision shall be ratified at a subsequent Board meeting.
Chairman

17.5 The Chairman will preside as chairman at each meeting of the Board.

17.6 If the Chairman is absent from a meeting, the Directors present will elect one of their number to preside as chairman at the meeting.

Quorum

17.7 No business shall be transacted at any meeting of the Board unless there is a quorum of at least four voting Directors present.

Adjournment of Meetings

17.8 If within half an hour after the appointed time for the commencement of a meeting, a quorum is not present, the meeting will stand adjourned to the same day in the next week at the same time and (unless another place is specified by the Chairman at the time of the adjournment or by written notice to Directors given before the day to which the meeting is adjourned) at the same place and if at the adjourned meeting the quorum is not present within half an hour after the time appointed for the commencement of the meeting, the meeting will be dissolved.

17.9 The chairman of a Board meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time and place to place, but no business will be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

17.10 Where a meeting is adjourned for 14 days or more, a like notice of the adjourned meeting will be given as in the case of the general meeting.

17.11 Except as provided in Rules 17.8 and 17.10, it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

Voting at Meetings

17.12 Upon any question arising at a meeting of the Board, each Director is entitled to a single vote, and questions shall be decided by a majority of the votes of the Directors present.

17.13 In the case of an equality of voting on a question, the chairman of the meeting is entitled to exercise a second or casting vote.

17.14 A question arising at a meeting of the Board will be determined on a show of hands unless before or on the declaration of the show of hands a poll is demanded.

17.15 A declaration by the Chairman that a resolution has been carried or carried unanimously or carried by a particular majority or lost, shall be entered in the Minute Book of the Association and will be held to be evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

17.16 If at a meeting a poll on any question is demanded, it will be taken at that meeting in the manner that the chairman of the meeting may direct
and the resolution of the poll will be deemed to be a resolution of the meeting on that question.

17.17 A poll that is demanded on the election of a chairman of the meeting or on a question of an adjournment will be taken forthwith and a poll that is demanded on any other question will be taken at such time before the close of the meeting as the chairman of the meeting may direct.

17.18 The Chief Executive Officer may participate in debate but is not entitled to vote at any Board meeting.

17.19 No business transacted at any meeting at which a quorum is present shall be invalid in consequence only of there being some defect in the appointment of any Director present, nor on account of any informality or irregularity in the proceedings to which attention is not called at the time, provided that such want of formality or regularity does not materially affect the result of such proceedings.

18. ELECTIONS

Returning Officer

18.1 Every election shall be held before a Returning Officer and the Chief Executive Officer shall be the Returning Officer provided he or she is available to carry out the duties of that office.

18.2 If at any election the Chief Executive Officer is not so available then the Board shall appoint another person to be Returning Officer for that election.

18.3 The Returning Officer shall conduct any election in the manner prescribed hereinafter and shall be authorised to appoint persons to assist and make arrangements for facilities necessary to carry out those duties in an efficient manner.

18.4 In the event of the Returning Officer being required to make a casting vote for any election, the casting vote shall be determined by lot in the presence of at least two witnesses.

Board Directors

18.5 The relevant sector or member representatives as listed in Rule 16.3 shall elect Directors of the Board.

18.6 Any person eligible for election to a Board position may nominate him or herself or be nominated by a like person within the relevant sector.

18.7 Any nomination of a candidate for a Board position shall be delivered to the Returning Officer by the closing date as stipulated in Schedule 2, in the form of the relevant nomination paper in Schedule 1(f), or to like effect, stating the name in full of such candidate together with the other particulars required by and in the said form.

18.8 If only one eligible person is nominated for election to a specific Board position, as he or she shall be declared elected by the Returning Officer.
18.9 If the number of persons so nominated for a specific Board position exceeds one, a postal ballot for that position shall be held as hereinafter provided in Schedule 2.

Declaration of the Poll

18.10 Immediately following the counting of the votes for each position on the Board, the poll will be declared by the Returning Officer and the outcome communicated to all Members.

18.11 Results of all elections will be announced at the Annual General Meeting of the Association for due confirmation by voting Members.

Vacant Positions on the Board

18.12 For the purposes of these Rules, the office of Chairman or a Director of the Board shall become vacant if:
   i. there is no nomination for a position as listed in Rule 16.3;
   ii. the water business with which the Chairman or a Director is associated ceases to be a Member of the Association;
   iii. the Chairman or Directors ceases for any reason to be a Chairman, Directors or officer of the water business with which he/she was associated; or
   iv. the member has, by advice in writing given to the Chief Executive Officer, resigned his or her office, in which case such resignation shall take effect from the time it was received by the Chief Executive Officer.

18.13 If the office of Chairman becomes vacant, however occurring, the Board may elect one of their number as replacement Chairman who shall hold office until the completion of the election at the next annual general meeting.

18.14 Any other Board vacancy however occurring, subject to the provisions of Rule 16.3, may be filled by the Board, in consultation with the relevant sector, by the appointment of a like person to fill the vacated office and any person so appointed shall hold office until the completion of the election at the next annual general meeting when he or she shall retire but shall be eligible for election subject to Rules 16.7 and 16.8.

Provision for Alternate Board Director to attend a meeting of the Board.

18.15 Each Sector or specific business represented on the Board shall nominate to the Chief Executive Officer of VicWater an alternate Board Director for each Board representative from their Sector or specific business.

18.16 The nominated alternate Board Directors shall be advised in writing to the Chief Executive Officer of VicWater.

18.17 In the event that a Board Director is unable to attend a meeting of the Board, that Board Director may request that the Chief Executive Officer of VicWater and the Chairman of the Board invite the alternate Board
18. An alternate Board Director shall have the same rights and obligations for the meeting they attend as other Board Directors.

18.19 In the event that the Chairman of the Board is unable to attend a meeting, the provisions of Rule 17.6 shall continue to apply.

19. TASK GROUPS

19.1 The Board may from time to time establish single purpose task groups for such periods of time as it may think fit and alter or discontinue the same.

19.2 The Board, or the Chief Executive Officer by delegation, taking into account offers from Representatives, shall appoint the members, being Directors or officers of Members or Associate Members or others as appropriate, of such task groups.

19.3 Each task group so appointed shall perform such duties and exercise such powers as may from time to time be directed by the Board and shall report to the Council or Board as and when required by the Board.

19.4 Each such task group shall meet from time to time and may adjourn from place to place and may regulate its proceedings as it thinks fit.

20. CHIEF EXECUTIVE OFFICER

20.1 The Board shall from time to time appoint a Chief Executive Officer of the Association on terms and conditions as mutually agreed. The Chief Executive Officer shall report directly to the Board.

20.2 Subject to any delegation or direction that may from time to time be given to him/her by the Board, the Chief Executive Officer is accountable for the day-to-day running of the organisation in accordance with the approved Business Plan.

20.3 The Chief Executive Officer shall:

i be responsible for the employment of officers, employees and advisers as may be necessary to transact the business and carry out the purposes of the Association;

ii receive and answer all correspondence, and give proper notice of all such meetings and of the business to be transacted thereat, keep in his/her custody or under his/her control all books, documents and securities of the Association and do all other things as may from time to time be directed by the Board;

iii submit to each annual general meeting a report in writing summarising the principal activities of the Association;
iv keep minutes of the resolutions and proceedings of each general meeting, Council meeting and Board meeting and the minutes must record the following:

- the names of persons present at such meetings;
- the business considered at the meeting;
- any resolution on which a vote is taken and the result of the vote;
- Any material personal interest disclosed under Rule 22.

v carry out whatever tasks are necessary to ensure that the Association complies with all relevant State and Commonwealth laws and statutes;

vi collect and receive all moneys due to the Association and make all payments authorised by the Association;

vii ensure that correct accounts and books show the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association and remit regular financial reports to the Board; and

viii cause the accounts of the Association to be made up as at 30th day of June in each year in such manner as to give a true and fair view of the receipts and expenditure of the Association during the year and ensure that accounts are produced annually and audited by a qualified auditor and submitted to the annual general meeting.

21. SECRETARY

21.1 The Chief Executive Officer must perform any duty or function required under the Act to be performed by the secretary of an incorporated association and will be responsible for lodging documents for the Association with the Registrar.

22. CONFLICT OF INTEREST

22.1 A committee member who has a material personal interest in a matter being considered at a committee meeting must disclose the nature and extent of that interest to the Committee.

22.2 The member:

i. must not be present while the matter is being considered at the meeting; and

ii. must not vote on the matter.

22.3 This rule does not apply to a material personal interest:

i. that exists only because the member belongs to a class of persons for whose benefit the Association is established; or

ii. that the member has in common with all, or a substantial proportion of, the members of the Association.
23. **FINANCIAL ARRANGEMENTS**

23.1 The Board may from time to time invest moneys of the Association in the name of the Association in such securities as are by law allowed for in the investment of Trust Funds.

23.2 The Board shall ensure that appropriate instruments of delegation are in place to provide for the timely and efficient management of the Association’s resources.

23.3 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by two authorised signatories from a panel as decided from time to time by the Board except where responsibility is otherwise delegated in accordance with Rule 23.2.

24. **COMMON SEAL**

24.1 The common seal of the Association will be kept in the custody of the Secretary.

24.2 The common seal will not be affixed to any instrument except by the authority of the Board and the signatures of the Chief Executive Officer and one other member of the Board will attest the affixing of the common seal.

25. **EXPENSES OF MEMBERS**

25.1 The Council may approve an allowance of such an amount as it thinks fit to the Chairman for personal use during the term of office.

25.2 Board members may be reimbursed for relevant out-of-pocket expenses as approved from time to time by the Board.

26. **ALTERATION OF RULES**

26.1 The Council, the Board or a Member may initiate changes to these Rules.

26.2 Any Member that proposes an amendment to the these Rules shall provide written particulars to the Chief Executive Officer at least twenty-eight clear days before the Council meeting at which the proposed changes would be considered.

26.3 The Chief Executive Officer shall inform Members in writing of any proposed amendment to the Rules not less than twenty-one clear days before a Council meeting at which the proposed amendment will be considered.

26.4 Subject to the foregoing, these Rules may be amended by a resolution passed by a majority of not less than three-fourths of Members.

26.5 Any Schedules or Attachments affixed to the Rules may be altered from time to time by a resolution of the Board passed by not less than five voting Board Directors.
26.6 The Chief Executive Officer shall inform all Members in writing of any proposed amendment to a Schedule not less than seven clear days before a Board meeting at which the proposed amendment will be considered.

27. NOTICES

27.1 A notice may be served by or on behalf of the Association upon any Member either personally or by sending it by post or email to the Member at its address shown in the Register of Members.

27.2 Where a document is properly addressed prepaid and posted to a person as a letter, the document will, unless the contrary is proved, be deemed to have been given to the person at the time at which the letter would have been delivered in the ordinary course of post.

28. DISPOSAL OF ASSETS

28.1 In the event of the winding up of the Association, the remaining assets after satisfying all debts and liabilities of the Association shall, subject to Rule 28.2 be dealt with or disposed of in accordance with a special resolution of the Members.

28.2 If upon the winding-up of the Association there remains any property whatsoever the same shall not be paid or distributed amongst the Members of the Association nor to any profit making body, but shall be given or transferred to some other organisation having similar objects to the Association and which shall prohibit the distribution of its income and property amongst its members as may be approved by the membership.

28.3 The income and property of the Association shall be applied solely towards the promotion of the objects of the Association, and no portion thereof shall be paid or transferred directly or indirectly, by way of dividends, bonuses or otherwise howsoever by way of profit or gain to the Members, except by way of bona fide compensation for services actually rendered to the Association or by way of reimbursement for authorised expenses incurred on its behalf.

29. CUSTODY OF BOOKS

29.1 Except as otherwise provided in these Rules, the Chief Executive Officer will keep in his or her custody or under his or her control all books, documents and securities of the Association.

29.2 Subject to reasonable notice to the Chairman or the Chief Executive Officer copies of the books referred to above must be made available to Members to inspect at the office of the Association during business hours.

30. SOURCE OF FUNDS

30.1 The funds of the Association will be derived from annual subscriptions, grants, donations and such other sources as the Council determines.
31. REGISTERED ADDRESS

31.1 The principal office of the Association will be at the place determined by the Board from time to time.

31.2 If the Board has not determined an address to be the registered address – the postal address of the Secretary.

32. DISCIPLINE, SUSPENSION AND EXPULSION OF MEMBERS

32.1 Subject to these Rules if the Board is of the opinion that a Member or Representative of a Member has refused or neglected to comply with these rules or has otherwise acted in a manner that is prejudicial to the Association the Board may:
   i Suspend that Member from membership if the Association; or
   ii Expel that member from the Association.

32.2 A resolution of the Board to expel or suspend a member in accordance with 30.1 does not take effect unless:
   i A meeting of the Board is held not earlier than fourteen days and not later than twenty-eight days after the decision to expel or suspend the Member is made; and
   ii The expelled or suspended Member is given 14 days notice of the meeting setting out the resolution of the Board and the grounds on which it was based; and
   iii The Member is given the opportunity to be heard at the meeting; and
   iv The Board confirms its decision to expel or suspend the Member.

33. GRIEVANCE PROCEDURES

33.1 The grievance procedure set out in this rule applies to disputes under these Rules between-
   (a) a member and another member; or
   (b) a member and the Association.

33.2 The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.

33.3 If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.

33.4 The mediator must be-
   (a) a person chosen by agreement between the parties; or
   (b) in the absence of agreement-
      (i) in the case of a dispute between a member and another member, a person appointed by the committee of the Association; or
(ii) in the case of a dispute between a member and the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).

33.5 A member of the Association can be a mediator.

33.6 The mediator cannot be a member who is a party to the dispute.

33.7 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.

33.8 The mediator, in conducting the mediation, must--

(a) give the parties to the mediation process every opportunity to be heard; and

(b) allow due consideration by all parties of any written statement submitted by any party; and

(c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.

33.9 The mediator must not determine the dispute.

33.10 If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.
SCHEDULE 1: MODEL FORMS

a Application for Membership
b Application for Associate Membership
c Registration of representatives
d Change of representation
e Appointment of a proxy
f Nominations for Board Directors
APPLICATION FOR MEMBERSHIP OF THE
VICTORIAN WATER INDUSTRY ASSOCIATION INC.

Trading name of applicant _____________________________________________________

Address: ____________________________________________________________________
____________________________________________________________________________

____________________________________________________

For the purposes of the Rules of the Association, the applicant nominates the individuals described
below as its Representative and Alternate Representative:

Representative
Name __________________________
Position ________________________

Alternate Representative
Name __________________________
Position ________________________

Signature on behalf of applicant business
____________________________________________________________________________

Position __________________________  Date __________________________

Please return to: Chief Executive Officer
Victorian Water Industry Association
Suite 1, Level 6
2 Collins Street
Melbourne VIC 3000
APPLICATION FOR ASSOCIATE MEMBERSHIP OF THE
VICTORIAN WATER INDUSTRY ASSOCIATION INC.

Trading name of applicant __________________________________________________________

Address: _______________________________________________________________________

______________________________________________________________________________

desires to become an Associate Member of the Victorian Water Industry Association Inc. and in the
event of its admission as an Associate Member, agrees to be bound by the Rules of the Association
and pay such fees as are decided by the Association from time to time.

For the purposes of the Rules of the Association, the applicant nominates the individuals described
below as its Representative and Alternate Representative:

**Representative**

Name ____________________________

Position ____________________________

**Alternate Representative**

Name ____________________________

Position ____________________________

Signature on behalf of applicant organisation __________________________________________

Position __________________________________________ Date

Please return to: Chief Executive Officer
Victorian Water Industry Association
Suite 1, Level 6
2 Collins Street
Melbourne VIC 3000
Schedule 1(c)

Victorian Water Industry Association Inc

Registration of Representative and Alternate Representative to the Council of the Victorian Water Industry Association

Name of Business ___________________________________________________________, being a duly admitted member of the Victorian Water Industry Association, nominates the following individuals as Representative and Alternate Representative for the Year __________________ in accordance with the Rules of the Association.

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<th>Representative</th>
<th>Alternate Representative</th>
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<td>Partners Name:__________________________________</td>
<td>Partners Name:______________</td>
</tr>
</tbody>
</table>

This form should be delivered to the Chief Executive Officer of the Victorian Water Industry Association prior to the commencement of the general meeting or election in respect of which the representation becomes effective.
Schedule 1(d)

Victorian Water Industry Association Inc

CHANGE OF REPRESENTATIVE OR ALTERNATIVE REPRESENTATIVE

It is hereby notified that (name of Member business) ____________________________________________

hereby revokes the appointment of ________________________________________________________

as Representative/Alternate Representative and nominates ______________________________________

to fill this position until further notice.

Contact details for the new Representative/ Alternate Representative are:

Name:  _____________________________________________________

Position:  _____________________________________________________

Address for correspondence:

_____________________________________________________

_____________________________________________________

Fax:  _____________________________________________________

Phone/s:  _____________________________________________________

Mobile:  _____________________________________________________

Email:  _____________________________________________________

Signature  _________________________________

Position  _________________________________

Date    _________________________________

This form should be delivered to the Chief Executive Officer of the Victorian Water Industry Association prior to
the commencement of the general meeting or election in respect of which the change of representation
becomes effective.
Victorian Water Industry Association Inc.

APPOINTMENT OF PROXY

(Name) _________________________________________________________________________

of (Member Business) _________________________________________________________________________

being a duly nominated Representative of a Member of the Victorian Water Industry Association Incorporated, hereby appoint the person named hereunder as my proxy to vote on my behalf at the meeting of the Victorian Water Industry Association to be held on (date) and at any adjournment of that meeting.

Name of proxy: _______________________________________________________________________

who is the appointed Representative for _______________________________________________

The proxy is authorised to:

☐ vote in favour of the following resolutions:

_______________________________________________________________________________
_______________________________________________________________________________

☐ vote against the following resolutions

_______________________________________________________________________________
_______________________________________________________________________________

☐ vote as he/she sees fit on any matters not listed above.

Signature _______________________________________________________________________

Date __________________________________________________________________________

This form should be delivered to the Chief Executive Officer prior to the commencement of the general meeting in respect of which the proxy is appointed.
Schedule 1(f)

Victorian Water Industry Association Inc

NOMINATION FOR BOARD DIRECTOR

I, ______________________________ being a representative of ________________________________

______________________________

a water business which is a financial Member of the Victorian Water Industry Association

do hereby nominate ________________________________ as a candidate for election as Board

Director of the Victorian Water Industry Association

Signature ________________________________

and I, the above named ________________________________ do hereby consent

to such nomination and I declare that I am a Board member or officer of ________________________________

______________________________ which is a financial Member of the Victorian Water

Industry Association.

Signature ________________________________

Date ________________________________

Nominations must be lodged by 4:00pm, on ___________ to

The Returning Officer

Victorian Water Industry Association

Suite 1, Level 6

2 Collins Street

Melbourne VIC 3000
SCHEDULE 2: ELECTION PROCEDURES

1. General

1.1 Elections to the Board of the Association will take place by postal vote in accordance with Section 14 of the Rules.

1.2 At the commencement of the election process, the Returning Officer will prepare and circulate a schedule of dates relating to each stage of the election process.

1.3 There will be a period of five working days between the call for nominations and the closing date for nominations.

1.4 There will be seven working days between the posting out of ballot papers and the closing date for the return of postal votes.

2. Constituents

2.1 The constituents who can be nominated for and vote for each position shall be in accordance with 12.3

3. Election of Chairman

3.1 The Board shall, at the first ordinary meeting of the Board following the AGM, elect one of their number as Chairman, to serve until the first ordinary meeting after the next AGM. A Board Director elected as Chairman will be eligible to be re-elected for a second consecutive term of twelve months, but thereafter shall be ineligible to serve another consecutive term.

4. Election of Board Directors

4.1 Nominations for the Board positions designated in 12.3. (in the years they fall vacant) will be called no later than twenty-eight working days before the Annual General Meeting.

4.2 The closing date for nominations shall be twenty-one working days before the Annual General Meeting.

4.3 In the event of a ballot being necessary for any position, the Returning Officer shall on the day of the closing date for nominations determine by lot the order in which the name of each candidate is to appear on the ballot paper and send to each constituent, a ballot paper setting out the name of each candidate and his/her respective water business.

4.4 The postal ballot material will include an internal and external envelope suitably prepared so that all eligible voters may preserve the anonymity of their vote.
4.5 Each constituent shall be required to vote by circling ONE preferred candidate.

4.6 Each voter shall ensure that the ballot paper so marked reaches the Returning Officer no later than close of business on the designated closing date which shall be fourteen working days before the Annual General Meeting.

4.7 At the expiration of the voting period, the Returning Officer shall count the votes and the person receiving the greatest number of votes (including the casting vote of the Returning Officer if required) shall be declared by the Returning Officer to have been elected to the particular Board position.
SCHEDULE 3: WATER BUSINESSES BY SECTOR
(As at 24 February 2005)

3.1 Metropolitan Sector
City West Water Limited
Melbourne Water Corporation
South East Water Limited
Yarra Valley Water Limited

3.2 Regional Sector
Barwon Water
Central Highlands Water
Coliban Water
East Gippsland Water
Gippsland Water
Goulburn Valley Water
Goulburn Murray Water
Grampians Wimmera Mallee Water
Lower Murray Water
North East Water
Southern Rural Water
South Gippsland Water
Wannon Water
Western Water
Westernport Water
Item 16: 2013 VicWater Leadership Awards

Background
The 2013 VicWater Leadership Awards were advertised over recent months and we are extremely happy with both the number of nominations (8) and the calibre of the nominees. Nominations were received for:

- Damian McMurrich, Barwon Water
- Sarah Johnston, East Gippsland Water
- Claire Preston, Melbourne Water
- Lincoln Eddy, Southern Rural Water
- Jocelen Griffiths, Wannon Water
- Les McLean, Western Water
- Kylie White, Westernport Water
- Maarten De Beurs, Yarra Valley Water

Issues

1. There is a need to form a Board sub-committee which will be responsible for appropriately reviewing the nominees and to put forward a recommendation for the winner which will be presented for endorsement at the February Board meeting.

2. It would be suggested that the sub-committee should be made up of Board members that are able to meet in Melbourne in January and that do not have a nominee from their business (this would exclude Terry Burgi and Paul Clark).

Recommendation

That the Board determine the members of a sub-committee that will be responsible for reviewing the Leadership Award and schedule appropriate time in January to ensure a winner is recommended at the February Board meeting for approval.
Item 17: Water Law Review – Governance paper - Update

Background
At the last meeting of the VicWater Water Law Review Task Group (1 November 2012), participants were provided with an overview of the key governance proposals being considered under the Water Law Review (see Attachment 1 for paper tabled at the Task Group meeting).

Issues
1. Key proposals in the paper:
   - Clarifying procedural requirements for removing board directors. The Public Administration Act 2004 provides that board directors be given seven days notice and an opportunity to respond before removal from office. The Water Law Review proposes to clarify that this procedure applies to water corporations.
   - Enabling the appointment of an administrator in the absence of a board.
   - Options for improving the probity and conflict of interest requirements applicable to directors of the water corporations, such as directors being required to leave the room during discussions where they have identified a conflict of interest.
   - Options for introducing a more logical and comprehensible structure to the Act by reviewing the sequence and grouping of governance provisions.
   - Qualification and appointment process for the appointment of directors of boards of water corporations. Subject to the Minister’s feedback – the Water Law Review will consider opportunities to clarify qualifications for board members in the Act.
   - There is also an option to simplify sections 92, 93 and 94 of the Water Act 1989. Sections 93 (sustainable management principles for water corporations) and 94 (business objective for water corporations) could be replaced with a simple objective based on the “triple bottom line approach” now widely accepted in the business community such as:
     “A water corporation has the objective of acting efficiently in accordance with commercial practice and in an environmentally sustainable manner.”

   DSE’s Water Group intend to prepare and circulate a more detailed paper on water corporation objectives for further discussion with the VicWater Task Group at a later date.

   - Through the Task Group Water businesses have provided initial comments on the paper to DSE’s Water Group. These were considered by the Water Law Review Advisory Panel at their meeting on 22 November 2012.
   - DSE has also recently updated their website to include information on the Water Law Review. The website allows interested parties to provide comments to the panel (final date to do this is 21 December) http://www.water.vic.gov.au/governance/water-law-review

Recommendation
That the Board note the key proposals relating to governance matters in the attached paper.
Agenda Item 5 - WATER LAW REVIEW VICWATER TASK GROUP

General Governance matters

PURPOSE

1. To provide an overview of the key governance proposals being considered under the Water Law Review (see attached detailed background paper).

ISSUES

2. The Water Law Review provides an opportunity to clarify and improve water corporation governance arrangements. Key proposals include:
   - Clarifying procedural requirements for removing board directors. The Public Administration Act 2004 provides that board directors be given seven days notice and an opportunity to respond before removal from office. The Water Law Review proposes to clarify that this procedure applies to water corporations.
   - Enabling the appointment of an administrator in the absence of a board.
   - Options for improving the probity and conflict of interest requirements applicable to directors of the water corporations, such as directors being required to leave the room during discussions where they have identified a conflict of interest.
   - Options for introducing a more logical and comprehensible structure to the Act by reviewing the sequence and grouping of governance provisions.
   - Qualification and appointment process for the appointment of directors of boards of water corporations. Subject to the Minister’s feedback – the Water Law Review will consider opportunities to clarify qualifications for board members in the Act.

3. The Water Law Review also provides an opportunity to review the water corporations’ objective and principles. There is an option to simplify sections 92, 93 and 94 of the Water Act 1989. Sections 93 (sustainable management principles for water corporations) and 94 (business objective for water corporations) could be replaced with a simple objective based on the “triple bottom line approach” now widely accepted in the business community such as:
   “A water corporation has the objective of acting efficiently in accordance with commercial practice and in an environmentally sustainable manner.”

4. The Water Group, DSE proposes to prepare and circulate a more detailed paper on water corporation objectives for further discussion with the VicWater Task Group.
BACKGROUND

5. Governance is concerned with the regulatory framework and practices that are put in place to ensure that an organisation is run in a way that achieves its objectives in an effective and transparent manner. Given the scale and importance of the services provided by Victoria’s 19 water corporations, it is important that the sector is well governed.

6. The Water Act 1989 provides general provisions around the governance structure of water corporations (establishment, re-organisation, water corporation objectives, planning and reporting, boards and directors, etc).

RECOMMENDATION

7. That the VicWater Task Group:
   - Discuss and raise any concerns or issues with the key proposals relating to governance matters in the attached document.
   - Identify any further matters for consideration by the VicWater Task Group in relation to governance matters.
DETAILED BACKGROUND - WATER CORPORATIONS GENERAL GOVERNANCE ISSUES

Introduction

This paper considers the following main issues:-
1. options for simplifying sections 92, 93 and 94 of the Water Act 1989;
2. options for the appointment of directors of boards of water corporations;
3. options for improving the probity and conflict of interest requirements applicable to directors of the water corporations;
4. options for reordering the provisions for establishing and restructuring water corporations.

Background

In 2005 to 2006, DSE undertook a substantial review of the Governance provisions in the Water Act 2006. This review was aimed at updating and streamlining these provisions to accord with best practice governance. Major reforms were enacted in the Water (Governance) Act 2006. These reforms included a complete re-write of Part 6 of the Act. Highlights of these reforms included-

- all non-metropolitan water authorities with water, sewerage or irrigation functions under the Act are re-constituted as statutory water corporations;
- all water corporations are to have a board of directors appointed by the Minister;
- the role of board of directors is specified in the Act;
- directors may be appointed for any period of time up to 4 years;
- pecuniary interest disclosure requirements are specified in the Act;
- the process for restructuring water corporations is specified in the Act in a more simplified form than that in the Act in 1989;
- the relationship with the public entity governance provisions of the Public Administration Act 2004 is specified in the Act. (Attachment 1 explains how this relationship works.)

As a result of the proclamation of commencement of the Water Amendment (Governance and Other Reforms) Act 2012 on 1 July 2012, the water corporations constituted under the Water Act 1989 now comprise Melbourne Water Corporation, City West Water, South East Water and Yarra Valley Water, the regional and rural water corporations.

Given the passage of time and experience with the governance provisions, and the fact that they now apply to the three Melbourne metropolitan retailers, it is timely to review these provisions.

As result of the Water Amendment (Victorian Environmental Water Holder) Act 2010, the Victorian Environmental Water Holder is constituted under separate sections of the Water Act 1989 and is not subject to the same governance provisions as the water corporations. The governance provisions of the Victorian Environmental Water Holder will be discussed in a separate paper.

1. Options for simplifying sections 92, 93 and 94 of the Water Act 1989

Section 92 sets out some general functions, powers and duties of water corporation-
1. Each water corporation has the functions, powers and duties conferred on it by or under this or any other Act.
2. In addition to any other functions conferred on a water corporation by or under this or any other Act, a water corporation has the functions of—
   (a) investigating, promoting and conducting research into any matter relating to its other functions, its powers and its duties; and
   (b) educating the community about its functions.
3. Schedule 3 has effect with respect to Melbourne Water Corporation.
Section 92(2) was introduced into the Act by the Water (Governance) Act 2006 to replace some functions of water corporations that in Parts 8, 9 and 11 of the Act that were very similar. Section 92(2) was intended to reduce the volume and duplication in the Act. However, it appears that the provisions to be deleted in Parts 8, 9 and 11 were not in fact fully repealed—these are sections 163(1)(d) and (e), 173(d)(e), and 221(d).

It is also questionable as to whether the matters in section 92(2) need to be expressed as separate functions at all. There are sufficient powers to carrying out these activities under section 123 of the Act, which provides that a water corporation has power “to do all things that are necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions, including any function delegated to it”.

Section 92(3) (and Schedule 3) refers to some specific roads in Corio and Werribee within the Werribee Sewerage Treatment farm. Whether this provision is still needed should be discussed with MWC.

**Recommendations**

It is recommended that sections 92(2), 163(1)(d) and (e), 173(d)(e), and 221(d) be repealed.

The need for continuing with section 92(1) in its current form will be discussed with Parliamentary Counsel during drafting of the new Act. It may be sufficient for the Act to simply state that the functions, powers and duties of a water corporation include any functions, powers and duties conferred on it by or under any other Act. Such a statement would work with the continuation of section 123.

The continued need for section 92(3) and Schedule 3 should be discussed with MWC.

**Water corporation objective and principles**

Section 93 was introduced in 2006 to replace various sections of the Act which had simply stated that the Authority must have regard to the need to perform its functions in an environmentally sound way. Section 93 contains five “sustainable management principles” that each water corporation must have regard to. This section is fairly long winded but was intended to introduce some environmental sustainable development principles for water corporations. The five principles could be summarised as “the need to ensure that its functions are performed in an environmentally sustainable manner”.

Section 94 was introduced in 2006 to include a simple commercial business objective for water corporations. An issue has been raised as to whether this objective is still relevant. As an example of how an objective specific for water corporations may be better expressed, the Productivity Commission has recommended the following:

“delivering water, wastewater and stormwater services in an economically efficient manner so as to maximise net benefits to the community”\(^1\)

However, in this example the Productivity Commission specifically recommended this objective be applied to the entire urban water sector.\(^2\) Similarly with the Living Melbourne, Living Victoria (LM,LV) vision and objectives\(^3\), there is a question as to where the appropriate place to locate these matters

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\(^1\) [http://www.pc.gov.au; Australian Productivity Commission Australia’s Urban Water Sector (2011)]

\(^2\) Ibid 70

\(^3\) See: Vision and Objectives under Living Melbourne, Living Victoria Implementation Plan is; A smart and resilient water system for a liveable, sustainable and productive Melbourne.

Achieving this vision will require an integrated, resilient water system that is planned and managed to:

- support liveable and sustainable communities
- protect the environmental health of urban waterways and bays
could be in the Act – Should these be under the provisions for water corporation objectives, in the preliminary purposes of the Act, or Water Corporation’s Statement of Obligations?

Sections 93 and 94 could be replaced with a simple objective based on the “triple bottom line approach” now widely accepted in the business community such as;

“A water corporation has the objective of acting efficiently in accordance with commercial practice and in an environmentally sustainable manner.”

It is acknowledged that the two objectives of efficiency and environmental sustainability may sometimes be in conflict. However, it is not unusual for a diverse organisation to have to balance competing objectives and the water corporation boards would need to make balanced judgements on these objectives in a reasonable manner.

**Recommendation**
It is recommended that the Vic Water Task Group consider the proposal to develop a single balanced objective and note that the Task group will be further engaged in the development of the objective.

**Procedural requirements for removing board directors**

The Act is currently not prescriptive about the procedure for the removal of board directors. The relevant Minister has the option to use the provisions under the Public Administration Act 2004, so that the Minister may, after giving the director 7 days notice to respond, decide to remove a director from office. A question is whether this provision in the Public Administration Act 2004 should be specified in the Water Act to clarify that this process must be followed by the Minister for Water.

**Power to appoint an administrator**

The Minister’s power to appoint an administrator is limited to where a board does not follow a Ministerial direction under section 307. There are other circumstances where it may be prudent to appoint an administrator. For example, if an entire board resigns and new directors cannot be appointed in a timely fashion. This may occur if no one is willing to be appointed.

The appointment of an administrator may provide access to skills and ensure public confidence when a board has resigned or been removed.

• provide secure water supplies efficiently
• protect public health
• deliver affordable essential water services.
Streamlining requirements for submitting primary returns, declaring conflicts of interest, participating in decision-making in the event that a pecuniary interest has been declared, and maintaining a register of pecuniary interests

Part 6 of the Water Act 1989 generally sets out far more prescriptive and onerous requirements for disclosing pecuniary interests than those in section 81(1)(f) of the Public Administration Act 2004 which only requires the board to have certain policies and procedures in place. However, the Water Act does not require the absence from a meeting of a director who has a material conflict of interest in a matter while the board is considering the matter. Section 109 of the Water Act permits a director who has disclosed a pecuniary interest in a matter under discussion at a board meeting to remain in the meeting during consideration of the matter, while prohibiting the director from voting or being present during a vote on the matter. Section 33DJ of the Water Act, in contrast, provides that once a Commissioner of the Environmental Water Holder has disclosed an interest, he or she must not take part any further in any decision on the matter unless the Minister directs otherwise. There is an opportunity to re-align these provisions.

Requirements relating to submitting primary returns, declaring pecuniary interests and maintaining a register of pecuniary interests could also be updated and improved. Where identical requirements in sections 113 to 114 are outlined in accompanying regulations, sections of the Act can be repealed to remove duplication.

Where appropriate it is also proposed to increase the penalties in the pecuniary interest provisions of Part 6 as these have not been revised for some time.

Recommendation
It is recommended that section 109 of the Water Act be amended so that once a director of a water corporation has disclosed an interest, he or she must not take part any further in any decision on the matter unless the Minister directs otherwise.

Other Issues

It is proposed to amend section 88 to remove the ability to abolish a water corporation on the basis of a petition from a majority of customers. Section 88(2)(a) provides for customers to petition to abolish a water corporation. A petition of this kind has never been presented to any Minister and is considered to be unlikely to occur.

It is also proposed to review the corporate planning requirements in sections 247 and 248 to address which aspects of the corporate plan should be made ‘publicly available’ and therefore available for inspection.

This proposal anticipates that water corporations will continue to be held accountable through the usual Government corporate planning processes. Water corporations and their boards of directors are also subject to the following;

DTF legislation and policies;
- the Financial Management Act 1994;
- the Borrowing and Investment Powers Act 1987;
- and may be brought under the State Owned Enterprises Act 1992;
- The Centralised Treasury and Investment Policy;
- The Treasury Management Guidelines;
- The Corporate Planning and Performance Reporting Requirements of GBEs policy.
State Services Authority - policies under the Public Administration Act—

- Directors Code of Conduct;
- Delegation and matters reserved for the Board;
- Conflicts of interests and duties;
- Director’s Liability, Indemnity and Insurance Policy;
- Governance Structures and Policies.

As part of the process for preparing drafting instructions, there is an opportunity to review the sequence and grouping of provisions in sections 87 to 106 be reviewed to introduce a more logical and comprehensible structure to the Act. This will involve grouping like sections together, such as those relating to the managing director of a water corporation.

An issue raised through the most recent board appointment process is whether the Minister should appoint the deputy chairperson to help with targeted succession planning.

**Recommendation**

That the VicWater Task group identify any concerns on the issues discussed above.
The application of the Public Administration Act 2004 to the governance of water corporations

There have been a few issues raised about the application of the Public Administration Act. This attachment considers and seeks to address these concerns.

Section 86 in Part 6 of the Water Act 1989 specifically applies Part 5 of the Public Administration Act 2004 to water corporations so that they are deemed to be public entities established after the commencement of the operation of Part 5 of the Public Administration Act 2004 (despite the fact that some water corporations were originally established before that date).

The intention of this provision was to apply a consistent set of governance laws to all water corporations no matter when established. In the absence of this provision, under section 77 of the Public Administration Act 2004, that Act would have automatically applied to any water corporations established after that commencement date, but not to water corporations established prior to that date. This would have lead to a very confusing outcome for directors of water corporations.

Part 5 of the Public Administration Act 2004 sets a governance floor for all public statutory entities. This ‘floor’ can be supplemented by specific provisions in another Act. That is, under section 76(2) of the Public Administration Act 2004, if a provision of a specific Act, such as the Water Act 1989, sets a standard which is more stringent than that set in Part 5 of the Public Administration Act 2004, the specific Act standard prevails.

Section 76(2), taken together with section 77 of the Public Administration Act 2004, makes it a complicated exercise to determine what standard for corporate governance applies to a water corporation. In 2006, it was considered that section 86 of the Water Act 1989 would make this task easier by ensuring that the same set of standards apply no matter when the corporation was constituted.

The amended provisions in Part 6 of the Water Act 1989 were carefully designed, having regard to section 76(2) of the Public Administration Act 2004, to only supplement rather than duplicate Part 5 of the Public Administration Act 2004.

It is not workable to repeal Part 6 of the Water Act 1989 and simply rely on Part 5 of the Public Administration Act. There are only a few instances of overlap or inconsistency between the two sets of provisions. Where there is an apparent overlap- for example in the case of conflicts of interests and removal of directors from office- the standard set in the Public Administration Act 2004 is not very high and the applicable Water Act standard appears to be far more appropriate for substantial bodies delivering services to wide areas in the State with very substantial assets. The following table attempts to demonstrate why this is the case.

<table>
<thead>
<tr>
<th>Public Administration Act 2004 Part 5 section No.</th>
<th>Relevant Water Act 1989 section No.</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>79 Duties of directors</td>
<td>95 (4) and 96</td>
<td>Sections 79 and 95(4) and 96 need to be read together. The Water Act sections supplement the general duties of directors in section 79 of the Public Administration Act 2004 which applies to directors of all water corporations because of section 86 of the Water Act 1989.</td>
</tr>
<tr>
<td>80 Duties of chairperson</td>
<td>No equivalent in Water Act</td>
<td>Section 80 of the Public Administration Act 2004 sets the standard duty for chairpersons of water corporations.</td>
</tr>
<tr>
<td>Duties of the board of a public entity</td>
<td>Some specific requirements regarding corporate plan disclosure in sections 247 to 251. Specific voting provisions in section 120. Sections 108 to 115 of the Water Act set a much more onerous standard for disclosure of pecuniary interests including criminal penalties.</td>
<td>Some Specific Water Act provisions supplement the Public Administration Act 2004 because they are more stringent. The requirements are therefore contained in section 81 of the Public Administration Act 2004 and sections 120, 108 to 115, and 247 to 251 of the Water Act 1989.</td>
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<tr>
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</tr>
<tr>
<td>Public entity not to make loans to directors</td>
<td>Nothing specific in the Water Act except for general pecuniary interest requirements.</td>
<td>PAA sets the standard and applies to water corporations.</td>
</tr>
<tr>
<td>Sub-committees</td>
<td>Sections 122C and 122D of the Water Act set out much more detailed provisions on this subject.</td>
<td>Water Act sets the standard and applies to water corporations instead of section 83 of the PAA.</td>
</tr>
<tr>
<td>Subsidiaries</td>
<td>Section 127 of the Water Act has wider powers and more prescriptive powers to enter into commercial ventures with the approval of the Minister.</td>
<td>Water Act sets the standard and applies to water corporations instead of section 94.</td>
</tr>
<tr>
<td>Accountability of the Minister for the public entity and of the board to the Minister</td>
<td>No direct equivalent in the Water Act.</td>
<td>The PAA sets standard</td>
</tr>
<tr>
<td>Injunction applications by the Minister in respect of breaches by directors</td>
<td>No direct equivalent in the Water Act.</td>
<td>Section 86 of the PAA applies to water corporations</td>
</tr>
<tr>
<td>Public entity or Minister may bring proceedings against a director who profits by breaches of duties</td>
<td>No direct equivalent in the Water Act.</td>
<td>Section 87 of the PAA applies to water corporations</td>
</tr>
<tr>
<td>Power to remove or suspend directors</td>
<td>Section 101 of the Water Act sets a more stringent standard. A director can be removed from office at any time without any reason.</td>
<td>The Water Act 1989 sets the standard and applies to water corporations instead of section 89. Section 89 of the Public Administration Act provides that it does not limit a power or duty under another Act. This means that section 101 sets the standard as it allows a director to be removed for any reason not just the reasons in section 89.</td>
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</tr>
<tr>
<td>92</td>
<td>Power to make public entities subject to specified whole of government policies</td>
<td>See the Minister’s direction power in section 307 of the Water Act.</td>
</tr>
<tr>
<td>93</td>
<td>Requirement to provide financial information</td>
<td>See sections 247 to 251 and 307 of the Water Act</td>
</tr>
<tr>
<td>94</td>
<td>Requirement to provide non-financial information to the Premier</td>
<td>See sections 247 to 251 and 307 of the Water Act</td>
</tr>
<tr>
<td>95</td>
<td>Documents required to be kept by standard entities</td>
<td>No direct equivalent in the Water Act</td>
</tr>
</tbody>
</table>
**Item 18: Red Tape Reduction - Update**

**Background**
The Board approved the formation of small short lived working groups to commence evaluating and proposing solutions to the identified red tape reduction initiatives by Water Corporations earlier in the year.

The first call for nominations resulted in six nominations from across the sector.

The working group is being facilitated by Mr Paul O’Brien (VicWater) with my assistance and comprises the following people:

- Satish Sridharan, Business Performance Lead, South East Water.
- Vicki Pinder, Manager of Regulation, Western Water
- Brendan Warman, Finance Compliance Officer, Lower Murray Water
- Damian O Doherty, Manager Regulation, Wannon Water
- Lincoln Eddy, GM Finance, Southern Rural Water
- Lynley Keene, Manager Commercial Services, Gippsland Water

We are aiming to have the first group meeting prior to Christmas with a view of completing the analysis over January and February.

The commencement of the group was slightly delayed due to competing commitment.

**Issues**

1. This approach is a trial to see if a small group approach is effective in progressing the realisation of red tape reduction opportunities previously identified by water corporations.

2. Timing of this work with Water Plan regulator engagement and other VicWater and Industry activities have delayed the commencement of the group by around four weeks.

3. Discussions are being held with Melbourne Water on their capacity to assist VicWater in the efficiency reviews.

**Recommendation**

*That the Board notes the progress in the Red Tape Reduction project.*