



MG Estates PL

Supplementary Submission On  
Coliban Water's  
Negotiating Framework for New Customer Contributions

29 May 2023

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Kate Symons  
Chairperson, Essential Services Commission  
(Via Engage Victoria website)

Dear Commissioners

**COLIBAN WATER's proposed Negotiating Framework for New Customer Contributions (NCCs)**

On 25 May 2023 we were notified in writing by Coliban Water that it has agreed to commence negotiations with MG Estates around New Customer Contributions (NCC's) in accordance with Coliban Water's framework currently with your Commission for review and determination.

While it is good news that Coliban Water has responded positively to our request for a Negotiated NCC, there is a need to establish sound "ground rules" to facilitate good faith negotiations. We did note at a Coliban Water engagement session on Monday 15<sup>th</sup> May the statement in question time from Coliban that a negotiated NCC would not be cheaper than a standard NCC. We are surprised that Coliban Water can arrive at this opinion without having undertaken an in good faith negotiation in relation to any future negotiated NCC discussion.

Our analysis of Coliban Water's negotiating framework submitted to you as Attachment 6 on 18 May 2023, is that it requires changes to make it a comprehensive framework.

Our recommendations are that the framework needs to include:

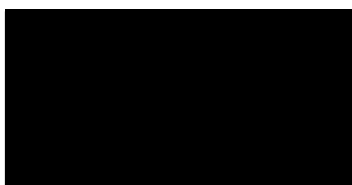
1. A statement that Negotiated NCCs are the default basis of calculating NCCs, and Standard NCCs will apply for administrative ease in some cases. For example, Coliban Water might decide that any subdivision of less than "X" lots will be required to pay a Standard NCC.
2. A statement that it is a land owner or developer's right to seek a Negotiated NCC, not for it to be at the sole discretion of Coliban Water.
3. Removal of an error – the current framework states Negotiated NCCs apply in addition to Standard NCCs, whereas our understanding of the Commission's material is that it is one or the other.
4. Dispute resolution - better practice might be to offer a disaffected land owner or developer an escalation process before referral to VCAT. This might be a) referral to more senior officers within the organisations of both parties and b) referral to a mutually agreed independent arbiter. A choice of one or both or neither of these processes could save both parties time and money.
5. Provide a link to a public copy of Coliban Water's long-term (20+ years) strategic servicing plans that are consistent with the latest planning schemes and precinct plans, to assist with identification and timing of back-bone infrastructure and sequential versus leap-frog development.
6. A statement on guiding pricing principles that are to be used, those being soundly based on Water Law, Planning Law, VCAT precedents and the Water Industry Regulatory Order. This should include any principles for the consideration of infrastructure other

than pipes, such as pumping stations, re-treatment facilities, rising mains, pressure reduction, network monitoring equipment etc. In particular:

- a. What are “reticulation” assets for which a developer is responsible? Pipe size alone should not be the sole criterion as there are pipe depth and onsite versus offsite issues to consider as well as non-pipe infrastructure.
  - b. What are “headworks/tail works” assets and how are costs apportioned to existing customers and future customers? Together with treatment plants, consideration needs to be given to back-bone infrastructure such as balancing tanks, transfer water mains, main and trunk sewers, and rising mains
  - c. What are “shared” assets and how are costs apportioned to existing customers and future customers?
7. Inclusion of a statement on how reimbursements will be administered.
  8. Inclusion of a statement on how the cost of assets are apportioned to growth when there are multiple drivers. Also how costs allocated to growth are further apportioned to new customers (as opposed to climate change, for example). (We note that the Board of Coliban Water has endorsed some cost allocation principles, so these should be included in the published framework)
  9. Inclusion of a statement on the treatment of sunk costs and any conditions precedent for their inclusion in any NCCs applied. This should include a statement on how Coliban Water will ensure fair treatment between developers and between pricing periods.
  10. Inclusion of a statement on the calculation of net revenues and net costs included in NCC calculations, and how any postage stamp pricing of service and usage charges is accommodated.
  11. Inclusion of a statement on the treatment and explicit exposure of any geographic cross-subsidies and who pays (new customers only or the whole customer base).
  12. Inclusion of a statement on the treatment of the uncertainty inherent in these inputs and calculations how the uncertainty will be accommodated.

The Commission's guidance material and explanatory notes on NCCs provide useful check-lists for the topics on which Coliban Water should publicly state its position within its Negotiating Framework for NCCs.

Yours sincerely



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