

NEW CUSTOMER CONTRIBUTIONS - Summary of Submissions on the Draft Guidance Note, October 2013

TABLE 1. SUMMARY OF ISSUES RAISED IN THE ESSENTIAL SERVICES COMMISSION'S CONSULTATION ON ITS NEW CUSTOMER CONTRIBUTION DRAFT GUIDANCE NOTE, OCTOBER 2013 (CONSULTATION CLOSED ON 15 NOVEMBER 2013), AND THE COMMISSION'S RESPONSES.

Issue (Draft Guidance Note section)	Organisation	Substantive point being made	Commission's comments, response
Defining an NCC service (s1.1, s1.5)	City West Water	The Guidance Note should define an NCC services as follows: "the infrastructure and associated activities required to increase services to a serviced property"	The relevant regulated services are those provided under Division 6 of Part 13 of the Water Act Any NCC service definition should align with the statutory wording, so cannot be limited only to where there is an increased service to an existing serviced property We have amended the Guidance Note to describe the services by reference to the Water Act text This does not preclude the water businesses from using a more user-friendly definition in their communications.
Application of Standard NCC or Negotiated NCC (s1.3)	Barwon Water UDIA	Negotiated NCCs would also apply for new connections in areas outside those designated as eligible for Standard NCCs That the guidance note creates an incorrect impression that Standard NCC will be more common than Negotiated NCC	Agreed Wording in section 1.3 of the Guidance Note has been amended There is only one business that does not have Standard NCCs No change is proposed
Incremental costs (s2.1)	UDIA	Need to clarify whether the relevant period should align with 'growth planning' or 'asset use horizons'	Agreed - Both should be considered Wording in section 2.1 of the Guidance Note changed from 'or' to 'and'
Calculating incremental financing costs (s2.4)	Barwon Water Gippsland Water	Observe that, from a whole of business perspective, there are unlikely to be additional revenues earned earlier	Noted – no change required to Guidance Note

Negotiating protocol terminology (s3.2)	Gippsland Water	Unclear why the term 'Negotiating Protocol' is used Differs from earlier references to a 'Negotiating Framework'	At one point during development of the NCC framework, it was contemplated that the Commission would approve a formal negotiating framework instrument The Commission's final decision instead allows the water businesses to develop appropriate arrangements that are not subject to formal Commission approval The shift in terminology reflects this change
Commission role in dispute resolution (s3.5)	UDIA	Supports ESC review of water business conclusion on 'fair & reasonable'	The Commission has offered to provide non-binding guidance on the NCC framework. It is the role of VCAT to test 'fair and reasonable' (see section 2.6 of the Guidance note) Water businesses and developers however should follow the steps for dispute resolution outlined in s2.6 of the Guidance note, and avoid referral to VCAT
Development Servicing Plan terminology (s3.6)	Gippsland Water Barwon Water	Different water businesses use different terminology for such plans (notably, some refer to 'Infrastructure Sequencing Plans') Distinguish five yearly DSPs from Capital Investment Plans, updated more frequently	Text will be added to the Guidance Note (section 3.4) to describe a development servicing plan (and alternate terminologies), i.e. describing it as a water business's publicly available plan that: <ul style="list-style-type: none"> describes the expected timing and sequencing of developments and infrastructure provision – at a point in time can be used as a basis for deriving standard NCC during price reviews Section 3 of the Guidance Note offers suggestions – not requirements – for industry and developers to progress. Additional text at the beginning of Section 3 will make this clearer.
Status of Development Servicing Plans (DSP) (s3.6)	Barwon Water Barwon Water UDIA	A DSP is a 'point in time' plan developed and used by a water business to derive Standard NCCs as part of price reviews Annual reviews of DSPs would necessitate annual reviews of Standard NCCs Strongly support annual consultation and updates to DSPs – should be compulsory	Noted The explanation in the Guidance note will be expanded. The intention is not to renew standard charges <u>each</u> year. Standard NCC are approved to apply for the whole regulatory period. If Standard NCC becomes significantly outdated, then connection arrangements should be negotiated until the next regulatory period. The Commission cannot compel this after its determinations. This could be considered in the next price review.
Pioneer developer issues (s3.7)	Barwon Water	Guidance Note offers no administratively simple workable solution Simple solutions are for the pioneer developer to: <ol style="list-style-type: none"> fund bring forward charges without reimbursement, or negotiate with other developers to agree a contribution 	The Water Act requires connection arrangements to be fair and reasonable The simple solutions suggested do not reflect the statutory requirements and NCC pricing principles It is not the intention of the NCC framework or Guidance note to be prescriptive, so no change is proposed.

	UDIA	Notes lack of clarity or certainty about mechanisms for reimbursement	See comments above
Increased capacity (s3.8)	Gippsland Water	Terminology used may lead to future arguments over requirements and payment for 'incidental capacity'	Noted – Wording in section 3.6 of the Guidance Note has been amended
		Wording in the Guidance Note differs from the final decisions	
	UDIA	Express preference for second option, with first option to be deleted	Observations in 3.6 are simply suggestions, and not binding on the water businesses. Introductory wording to section 3 will make this clearer
Cost sharing (s3.8)	Wannon Water	It may help to refer to Water Act provisions that allow for cost sharing 'schemes'	Agreed– assuming the 'scheme' refers to a charge levied under s268 of the Water Act.
Lack of certainty for developers (whole document)	Graeme Draffin, Land Quest Pty Ltd	<p>The underpinning decisions on NCCs do not give developers sufficient clarity on what fees apply, what category of works a developer has to pay for, or on who bears the costs where work benefits other land owners</p> <p>The water business has too much power to set prices, terms and conditions</p> <p>Small developers are not in a position to negotiate with water businesses</p>	<p>Past arrangements, though simpler for developers, did not achieve the statutory and WIRO objectives for new connections (i.e. cost reflective, sending locational signals, and fair and reasonable)</p> <p>Standard NCC where feasible will give greater certainty and the documentation produced by each water business will define categories of assets.</p> <p>Where standard arrangements are not feasible, then consistent with the Water Act, the developer and water business will negotiate to agree arrangements</p> <p>In a negotiation, the water business is bound to apply the pricing principles to arrive at arrangements that are fair and reasonable, and cost reflective</p> <p>The negotiating position of small developers is improved by additional dispute resolution options that have been introduced</p>

