



# Responses to interested parties on the Draft New Customer Contributions Framework

## Purpose

This paper provides our responses to key issues raised in submissions and consultation forums on the *Draft New Customer Contributions Framework*. This paper:

- summarises the main issues raised by interested parties
- explains how we intend the *New Customer Contributions Framework* to operate
- explains how interested parties' feedback has informed changes to the final *New Customer Contributions Framework*.

## Responding to interested parties' key issues

Issue	Interested parties	Our response
<b>Achieving sufficient clarity on asset gifting arrangements</b>	JMP Developments	<b>How we intend the framework to operate</b>
Some interested parties submitted that the draft framework:	Coliban Water	Our framework requires all aspects of asset gifting including those cited in these submissions to be transparently specified in water businesses' connection policies.

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<ul style="list-style-type: none"> <li>• did not sufficiently address how gifted assets with excess capacity (i.e. capacity above that needed for the relevant development, also referred to as upsized assets by some) should be treated or specify the approach to calculating rebates</li> <li>• did not clarify whether requesting gifting of assets outside of a development boundary is permissible, and if so, any conditions for doing so</li> <li>• would benefit from guidance distinguishing reimbursable shared works from rebates for upsized gifted assets.</li> </ul>	<p>Townify</p> <p>David Heeps</p> <p>Some developer forum attendees</p>	<p>When we review water businesses' proposed connection policies, we will assess:</p> <ul style="list-style-type: none"> <li>• how comprehensively those arrangements have been specified</li> <li>• whether they meet the requirements of the <i>Water Act 1989</i>, our NCC pricing principles, and our guidance requirements.</li> </ul> <p>The commission's process will review, compare and approve, or require amendments to water businesses' proposed connection policies. Where the commission is concerned about the transparency, fairness or reasonableness of a water business' proposed arrangements for asset gifting, it can use its information request and draft decision process to address that concern. If considered appropriate, the commission can also substitute standardised arrangements at that time.</p> <p>Once the commission approves a business' connection policy, the definitions, thresholds, gifting and rebating arrangements in the approved policy will become part of the approved method for setting NCC prices as a prescribed service.</p> <p>This allows the NCC framework to achieve comprehensive, transparent and binding arrangements for asset gifting and rebating without the commission prescribing a common approach to all water businesses.</p> <p><b>Key sections of the framework</b></p> <p>The requirements in section 5.1 of our framework are intended to guide transparent, fair and reasonable practice to prevent issues of asset misclassification or inadequate consideration of incremental benefits or rebating.</p>
<p>A common theme was a desire for greater prescription in the final</p>		

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framework paper including defining categories of assets and asset gifting thresholds and procedures.		<p>The clarifications in sections 4.2 and 4.3 explain circumstances where we expect costs and benefits to water businesses associated with asset gifting to be accounted for.</p> <p><b>The final NCC framework</b></p> <p>The final NCC framework has maintained our approach of not prescribing asset thresholds, definitions or approaches for rebates or reimbursements.</p> <p>The final framework has elaborated on sections dealing with gifted assets in the consideration of incremental costs, incremental benefits and connection policy requirements. These seek to clarify the treatment of rebates paid on upsized or shared gifted assets where they involve design or capacity requirements that are greater than the standalone solution for servicing just that development.</p> <p>The commission will also work with industry to develop case studies to aid understanding.</p>
<p><b>Clarifying that negotiated NCCs can be higher or lower than standard NCCs</b></p> <p>Submissions identified the risk of our draft framework being interpreted as intending that standard NCCs are a binding cap on negotiated NCCs (i.e. that a negotiated outcome should not</p>	<p>Townify</p> <p>Coliban Water</p> <p>South East Water</p> <p>Some developer forum attendees</p>	<p><b>How we intend the NCC framework to operate</b></p> <p>Our framework sets out that negotiated NCCs can be higher or lower than standard NCCs depending on the circumstances of the connections being negotiated and should be used where they meet the Water Act's relative cost-benefit requirements.</p> <p>A negotiation can be instigated by either the developer or water business where it meets the NCC framework requirements.</p> <p><b>Key sections of the framework</b></p> <p>Section 3.2 defines each NCC type.</p>

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exceed the maximum standard NCC).		<p>Section 4.1 clarifies circumstances for using negotiated versus standard NCCs.</p> <p><b>The final NCC framework</b></p> <p>We have set out in sections 3.2 and 4.1 that negotiated NCCs can be higher or lower than standard NCCs depending on the circumstances of the connections being negotiated and can be instigated by either party.</p> <p>The commission will approve standard NCCs not “max standard NCCs”.</p>
<p><b>Accounting for perceived challenges in applying locational standard NCCs in regional areas</b></p> <p>Some interested parties were concerned that requiring cost reflective locational differentiation of standard NCCs for some regional water businesses may result in barriers to development in some towns or impede State housing policy.</p>	<p>North East Water</p> <p>Coliban Water</p>	<p><b>How we intend the framework to operate</b></p> <p>Our framework remains a propose-respond framework whereby water businesses propose the eligibility criteria for any standard NCC. Eligibility can be based on location, customer size, or other connection characteristics, or a combination of these. These must be transparently stated and then used when demonstrating framework compliance.</p> <p>Water business should apply our NCC pricing principles to the collective customer group specified in their proposed eligibility criteria. Regardless of there being variation in the costs and benefits across different locations within that eligibility, if the water business can show that cost variances are within the efficient price bounds or the variances are likely to be immaterial, those standard NCCs would be capable of approval under our framework.</p> <p><b>Key sections of the framework</b></p> <p>Section 4.4 clarifies how standalone and avoidable costs should be considered and can be estimated when demonstrating compliance.</p>

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		<p><b>The final NCC framework</b></p> <p>We have elaborated in section 4.4 on how the standalone and avoidable cost compliance demonstration should apply when demonstrating this for proposed standard NCCs.</p>
<p><b>Clarifying water businesses' responsibilities for funding growth infrastructure</b></p> <p>Some developers considered our framework should more explicitly clarify that water businesses' obligations for funding growth in shared assets do not depend on whether those assets had been forecast in the price review period.</p>	<p>JMP</p> <p>Developments</p> <p>Some developer forum attendees</p>	<p><b>How we intend the framework to operate</b></p> <p>Where investments were not forecast within a regulatory period or were forecast later than the connection request necessitates, investment bring-forward charges are available to address the financing consequences for water businesses.</p> <p>Apart from when charging bring-forward financing costs, whether required assets had been forecast in the price review period does not alter water businesses' growth investment funding obligations.</p> <p>Water businesses must meet the Water Act requirements to charge only based on net costs and benefits. This applies irrespective of whether the growth was foreseen in a business' price submission, involves shared system assets, or only dedicated development connection assets.</p> <p><b>Key sections of the framework</b></p> <p>Section 4.2 explains the incremental costs water businesses can include when charging NCCs to meet our NCC pricing principle on incremental cost.</p>

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		<p>Section 5.1 states the water business's arrangements for fees and charges (including calculation method), asset gifting and rebates, and approach to bring forward costs are required to be included in its connection policy, which is justification of how the business is funding NCCs.</p> <p>Section 5.2 states businesses must provide development servicing plans for each standard NCC, describing the expected timing and sequencing of development and infrastructure delivery. This can transparently support bring-forward cost justification when required.</p> <p><b>The final NCC framework</b></p> <p>As water businesses' funding obligations for growth assets arising from customer connections are determined by the Water Act and do not vary based on our revenue determinations, we have not varied our final framework for this issue.</p>
<p><b>Refining, defining and administering disclosure requirements</b></p> <p>Some businesses suggested:</p> <ul style="list-style-type: none"> <li>integrating the proposed NCC annual reporting into the existing commission performance reporting</li> </ul>	<p>South East Water</p> <p>Greater Western Water</p> <p>JMP</p> <p>Developments</p> <p>David Heeps</p>	<p><b>How we intend the framework to operate</b></p> <p>We will integrate NCC disclosures into the annual water performance reporting.</p> <p>The NCC disclosures data will be audited and reported annually in the water performance report. To permit auditing, the disclosed audit points must be set out in a legal instrument – the water price review determinations (with data point definitions). We will do this in our future determinations.</p> <p>It is already an obligation on water businesses to report the number of Freedom of Information (FOI) requests in their annual report at an aggregate level.</p>

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<p>framework to minimise administrative burden</p> <ul style="list-style-type: none"> <li>further defining reporting measures.</li> </ul> <p>Some stakeholders proposed additions to our disclosures list for:</p> <ul style="list-style-type: none"> <li>the number of connection-related FOI requests</li> <li>the number of cases referred to independent commercial resolution, and the number of requests for internal review.</li> </ul>		<p><b>Key sections of the framework</b></p> <p>Section 8 of our framework states the nature and process of reporting we will require.</p> <p><b>The final NCC framework</b></p> <p>We have updated section 8 of our final framework to clarify that:</p> <ul style="list-style-type: none"> <li>the disclosures will be supported by definitions and measurement requirements in our determinations for each water business</li> <li>NCC disclosures will be administered through the annual performance reports.</li> </ul> <p>The final framework expands the dispute disclosure metrics to include the:</p> <ul style="list-style-type: none"> <li>number of disputed connections elevated to senior management</li> <li>number of disputed connections elevated to independent commercial resolution</li> <li>number of Victorian Civil and Administrative Tribunal cases related to connections</li> <li>number of terminated connection negotiations.</li> </ul>
<p><b>Clarifying Water Act requirements</b></p> <p>Disagree with the reference that a negotiated NCC is the default.</p>	Coliban Water	<p>The Water Industry Act, the Water Industry Regulatory Order made under that Act, and ultimately the Essential Services Commission Act confer certain powers on the commission for the regulation of developer charges.</p> <p>Section 268 of the Water Act operates alongside the lawful interventions made by the commission under its water price review function as established by the Water Industry Act, the WIRO and the ESC Act.</p>

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		<p>A negotiated charge is provided for under s268 of the Water Act. A standard charge is constructed by the commission and provided for under the WIRO and water price review guidance.</p> <p>The framework paper has removed references to negotiated NCCs as being the default.</p>