15 November 2024

Gerard Brody, Chairperson
C/O Water Team, Price Monitoring and Regulation Division,
Essential Services Commission
Level 8, 570 Bourke Street
MELBOURNE VIC 3000

Via email: water@esc.vic.gov.au

Dear Gerard,

Review of New Customer Contributions: Coliban Water's response

Thank you for the opportunity to provide feedback on the New Customer Contributions (NCC) framework. We have a vested interest in ensuring that the achievement of the objectives is balanced with the effort expended in devising and administering NCCs. With most towns in our service area nearing capacity, new growth requires Coliban Water to undertake significant step-change investments in water availability and treatment. Therefore, robust definitions of growth, equity for existing customers and methods to derive prices are important.

We support the current principles as described in the NCC framework. However, we encourage the Commission to consider alternate methods for achieving the objectives. The current method relies on water corporations identifying future capital expenditure on growth infrastructure, for which the inputs can be imprecise and uncertain. Applying this approach, we remain of the view that the Average Incremental Cost approach is a superior tool for deriving the NCC. There is an opportunity to streamline and improve the existing framework, process and definitions which would result in greater certainty for developers, water corporations and existing customers.

We encourage the Commission to consider significant reform rather than minor modifications to guidance. We recommend that the Commission undertake a State-wide study to inform the price point at which costs for new connections will influence developer behaviour. Recommendations from this study should align with the State Government Housing Policy whilst adhering to competitive neutrality. For example, a lower connection rate to meaningfully incentivise metropolitan infill development and a greenfield rate which ensures that existing customers do not subsidise developers.

We believe that other planning, financial and land availability issues are likely to affect the timing and location of development, and that there are different issues to consider across regional and metropolitan areas. Melbourne household incomes are, on average, 37% higher than regional Victoria. NCCs reduce the cost impact to existing customers, achieving a cost-of-living benefit for the disadvantaged and customers experiencing vulnerability. A State-wide, standardised approach to balancing the costs of growth between new and existing customers, adjusting for regional differences, will aid in reducing costs for customers in the long run.

Further to this cost-of-living benefit, it is essential to recognise that NCCs serve as a cash flow mechanism for water corporations. With low or zero NCCs, in a high growth expenditure environment, an increasing debt burden is placed on the water corporation and the State, as the balance of this investment is recovered via service and usage tariffs over the life of the asset.

For Coliban Water, lower or no NCCs results in worsened financial indicators, including a lower Interest Cover Cash ratio and Internal Financing Ratio. Coliban Water's financial sustainability must be a core consideration in resolving future NCCs given our vital role in underpinning our region's public and environmental health. Further, reform should demonstrably contribute to whole-of-government policy settings including the State's fiscal interests.

We look forward to working further with the Commission on this important matter.

Yours sincerely

Damian Wells
Managing Director

New Customer Contributions consultation response

15th November, 2024

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New Customer Contributions – Consultation Response

1. Introduction

In August 2024, the Essential Services Commission (the Commission) released a consultation paper that sought feedback on whether there is a need for the Commission to provide additional guidance or prescription to better align submission to the achievement of objectives in the New Customer Contributions (NCC) framework. Since 2013 the Commission has applied a principles-based NCC framework which aims to:

- send signals to developers about the costs of developing in different locations
- share the costs and benefits of growth between new and existing customers
- administer New Customer Contributions in a transparent way.

Subject to stakeholder feedback, the Commission does not propose to revisit these principles as part of this review. The Commission has sought feedback on specific issues encountered in the 2023 price review.

The following is an overview of Coliban Water's perspective and a specific response to issues raised.

2. Coliban Water's response

Our recent experience of compiling a submission on NCCs (2023) and ongoing administration of NCCs to development activity, is seen to be a costly and confusing process for multiple parties. Coliban Water is of the view that the wide-ranging nature of challenges in achieving the objectives of the NCC framework necessitates significant reform rather than minor modifications to guidance. These challenges are summarised below and explored in more detail in Section 2, followed by a response to implementation issues in Section 3. Challenges include:

1) **effectiveness of the principles**: development choice is primarily concerned with local amenity and availability of land, therefore the signals are ineffective.
2) **limited by inputs**: the collation of inputs required to inform the NCC is limited by the cost apportionment approach applied to historic and future investment activities and the ability to account for costs on a development or location-specific basis.
3) **conflict between the legislative and regulatory frameworks**: there remains a significant disconnect between the Regulatory Framework in respect of the provision of developer works (both reticulation assets and shared assets) and charges (including NCCs) and the provisions of the Water Act 1989 (Water Act) which are the legislative basis under which water corporations may seek the provision of developer works or levy charges, including NCCs.

Broadly, Coliban Water's response is centred around the following higher order objectives:

Administrative simplicity: make it simpler to understand and administer for the water corporation, developers, and end customers, and pass this efficiency benefit on as lower prices. We note that simplicity is a key issue for consideration in ICRC's current review of Icon Water's developer charges. Simplicity can be achieved by increasing standardisation and being more prescriptive.

Balance cost reflectivity with social policy interests: development must bear its true costs upfront and not be subsidised by existing customers, considering that 30% of Coliban Water's customers are eligible for some form of concession. Cost reflectivity between new and existing customers must also be aligned with social policy interests driven by State Government policy. Water corporations contribute to development decisions by engaging with local Councils via Managed Growth Strategies which ensures that growth challenges are considered for planning and rezoning decisions, providing certainty for developers and customers.

Avoiding cost prohibitive pricing outcomes: seek equity of growth in all areas, i.e. providing smaller geographic areas the same ability to attract development (in so far as this is aligned to government policy). This means avoiding outliers experienced by undertaking a cost-reflective, localised approach, to pricing NCCs.

2.1. Effectiveness of the principles

Coliban Water supports a revision of the NCC framework that delivers increased standardisation and prescription of contributions required by new customers. This will require some consideration of how effective the principles are in influencing developers and State Government with planning policy. The premise behind much of the feedback around the Commission's preference for localised pricing appears to align with the first principle, which is to send signals to developers about the costs of developing in different locations. Presumably, this principle should influence behaviour, discouraging developers from seeking to develop land in high-cost service areas.

We estimate that water and sewerage connection costs are in the order of 5-10% of total input costs to development. The primary cost is the value of the land itself, followed by costs associated with roads and drainage and connection to other services including telecommunications, gas and electricity. Whilst water and sewerage connection costs are not insignificant, any influence over local development decisions would be on the margin. Of greatest significance is the availability and authority to develop land as governed by local Council.

The Victorian State Government is pursuing a planning policy that encourages the majority of homes (70%) to be built in established areas, with the remainder to be delivered in designated growth areas. For the City of Greater Bendigo, the draft housing target is 37,500 new homes to be delivered by 2051. Councils will be incentivised to deliver these targets via partnerships. Consequences for not meeting these targets have not been specifically stated, although they could be both financial (e.g. reduced funding) or non-financial (over-riding Councils' planning rules/processes).

Whilst the principles of the NCC framework are well-positioned from an economic perspective, Coliban Water is of the view that this overlooks the social policy aspects that are far more influential in driving developer behaviour. Efficient water system and development outcomes are best achieved by maintaining close working relationships between Coliban Water and our nine regional Councils.

2.2. Limited by inputs

Due to the lack of prescription in the NCC framework, the various tools or methods required to calculate the NCC rely on uncertain and imprecise inputs. This includes:

Cost apportionment approach – both models rely on the business establishing a basis for differentiating proposed capital expenditure as growth driven, distinct from other primary investment drivers. The NCC framework does not provide prescriptive criteria or guidance for how water corporations should go about this. Coliban Water provided clarity on its Board-endorsed assumptions used in the draft decision response being either 100% growth, 0% growth or shared (multiple drivers). For shared expenditure, the business sought a logical approach to establish criteria to inform the growth proportion. Shared expenditure was apportioned for individual projects or programs based on a range of criteria that included:

- For network related capital programs, we adopted the relative geographical shares of water infrastructure.
- For renewals capital programs, the growth apportionment was based on the costs associated with the upsizing of assets and the construction of linking assets, on the basis that these expenditures were aimed at facilitating growth.
- For treatment capital programs, the growth apportionment was based on the costs of upsizing treatment assets to growth.
- For most works associated with the Bendigo Water Reclamation Plant (WRP), our apportionment was based on the cost of upsizing assets for growth. These costs were estimated based on the difference between the estimated renewals/replacement costs associated with current assets built to service existing customers and the costs associated with the WRP built to cater for both new and existing customers.
- For capital project expenditure associated with Health-Based Target water quality upgrades, we adopted a 10% apportionment. Given the primary driver for this expenditure is compliance, we adopted a precautionary approach that only apportioned half the growth rate to the project over a ten-year period (ten times 1%).
- For the remaining shared capital projects, we adopted a growth apportionment based on a simple ten-year extrapolation of historical growth rates at a town/system level as a proxy for the capacity share between new and existing customers. The rationale for this proxy was that we size our assets to cater for 10years of growth.

The apportionment of capital expenditure to investment drivers remains an imperfect science, that lends itself to professional judgement. This leads to unfounded observations of poor transparency. Standardisation of the cost apportionment approach in the NCC framework will reduce ambiguity and strengthen transparency.

Sunk costs – similar to the above cost apportionment challenge for growth expenditure, the Net Incremental Cost (NIC) model requires consideration of the sunk assets (past growth-related capital expenditure). The NIC model attempts to capture both past and future growth expenditure to avoid price fluctuations driven by step changes in growth investment. For this exercise, we extracted the written down value of assets built over the last 10 years by catchment area and service. The value of sunk assets associated with growth was determined by assuming that 80% of the asset value is related to growth in high growth areas and 25% of the asset value is related to growth in moderate growth areas. For the remaining areas we have assumed that 0% of the asset value is related to growth.

The ability to extract past investment information that can be interpreted for use in NCC pricing is limited by scope. The predominant purpose of an asset register is to provide management and operational information, and secondly to aid in financial valuation. A third requirement, to support NCC pricing decisions, (i.e. reporting past asset investments associated with growth drivers), is undeveloped in concept and will add significantly to the cost burden to a business.

Another challenge of using sunk costs is that within the scale relevant to regional Victoria, a shared asset sized for future growth may be needed up front, and only some development occurring in the short-term. This means that there's necessarily excess capacity within this asset. While there may be low marginal cost of further developing the area, it may still be subject to a higher NCC due to sunk costs. This issue is mitigated if the NCC is calculated on a broader basis (e.g. across a broader region or State), as these inconsistencies are smoothed across the region.

Planning horizon – both the AIC and the NIC models rely on estimated future capital expenditure that is well beyond the regulated pricing outlook of 5 years. The ability to estimate capital expenditure and the associated timing beyond 5 or 10 years is significantly diminished, yet the derivation of the NCC rate factors in a 20+ year time horizon.

Operating costs – the ability to distinguish operating costs on a localised basis is limited by management accounting practices. On Bendigo's urban fringe, where costs of servicing differ depending on whether the development is within the valley (gravity fed water and sewer) or outside (requiring costly pumping of sewage), inputs are aggregated at the system level for the Bendigo Network and the Bendigo Treatment Plants. The ability to assess cost-reflectivity on a locational basis is limited by the capture of costs, the lowest level being the district or system, not the specific development area within. Furthermore, Coliban Water has recent examples where material cost inputs (e.g. GMW source water) are becoming increasingly integrated making system operating costs more uniform and difficult to allocate on a locational basis.

2.3. Conflict between the legislative and regulatory framework

The reasoning outlined below has been sought directly from Russell Kennedy for the purpose of contributing a legal perspective. This perspective is intended to provide context and advice that aids in achieving administrative simplicity.

Background

The Water Act (1989) contained Part 13 (*Finance and Accountability*) Division 6 (*Owner Finance*). Sections 268, 269, 270 and 271 of the Water Act provide the power for an authority to impose charges for provision of the "present day cost" of works that are used or will be able to be used directly or indirectly in the provision of services.

Section 268(1) relates principally to water corporation instigated, compulsory water or sewerage schemes, which are now less commonplace.

Section 269 relates to the imposition of charges for the increased use of services (water or sewer).

Section 268(2) relates to subdivisions and allows:

> *"The Authority…by notice in writing, require the owner of the property to meet or contribute to the present day costs of any works that are used or will be able to be used directly or indirectly for the provision of services that will benefit the property…"*

Sections 268(2) and 269 are considered to form the legislative basis for NCCs.

Notably, Division 6 concerns itself with the payment of monies, not the conduct of works of any kind.

Prior to the introduction of the Regulatory Framework,[1] there was no clear legislative process by which a water corporation required a developer to do works in respect of any form of development, including subdivisions. Historically, such works were often carried out by the water corporation (or former water board or authority) and the

[1] With the *Water Industry Act 1994*, the Water Industry Regulatory Order, Negotiation Frameworks and Price Determinations.

developer was charged for the present-day costs of those works through the owner finance provisions of the Water Act.

Progressively, developers preferred – and water corporations agreed – to allow developers to do their own "developer works" and vest those works in favour of the water corporation. A method by which such works were imposed or agreed was a mix of conditions under planning permits, letters of offer and acceptance and then, in recent decades, by developer works "Deeds of Agreement".

There remains uncertainty around the proper mechanism with which to apply such requirements for works (as opposed to the payment of money).

There is significant doubt as to whether the owner finance provisions of the Water Act (which relate to the payment of money and not the provision of works) is a proper source for requiring works. This, therefore, makes it difficult when dealing with objections or the review of such requirements, including in the Victorian Civil and Administrative Tribunal (VCAT).

With the introduction of the Regulatory Framework and the Commission's role, it was advanced that section 145 of the Water Act entitled "*Control over Connections*" is the basis of the power upon which a water corporation imposes conditions in relation to the provision of developer works. Water corporations are now specifically required to make mention of section 145 in the *Negotiation Frameworks* and appeal provisions exist under section 145 which have been added to, apparently, allow reviews to VCAT in this respect.

Section 145, prior to the introduction of the Regulatory Framework, was not used this way. It was principally used for applications to connect individual lots, dwellings or even large developments to water supply and sewerage infrastructure. When the application for connection was made, it would usually be the case that the connecting works (including any developer works) were already complete. Our understanding is that, in addition to purported reliance on section 145 in relation to developer works, there is still then a subsequent necessity for individual lots to achieve connection, making application under the traditional section 145 conditions.

Letters of offer and acceptance, or Deeds of Agreements for developer works, continue to be utilised by water corporations and it is unclear as to whether section 145 provides a right of review in relation to such letters of offer or Deeds of Agreement.

NCCs – conflicting tests

Water corporations levy NCCs in accordance with their Price Determination.

With the passage of time, NCCs approved by the Commission are based on a complex assessment.

By way of example, there is a competing argument about location-based NCCs or "postage stamp" NCCs verses broad-based NCCs.

Also NCCs for authorities (including Coliban Water) are directed at "growth assets" – namely, to pay for part of capital works which the water corporation will apply, going forward, in relation to growth within the various water and sewerage districts.

As mentioned above, the legislative basis for the imposition of NCCs by section 268 (and other similar provisions) in the Water Act, states:

The owner of the property to meet or contribute to the present day costs of works that are used or will be able to be used directly or indirectly for the provision of those services, and any fireplugs attached to those works.

It is respectfully suggested that, at best, there is a limited correlation between the historic references to "present day costs" and the methodology that gives rise to the NCCs for individual water corporations.

Part of the reason for this lack of correlation was, with the adoption of the Regulatory Framework, little regard was had to the legislative basis for the imposition of either developer works or charges. And the lack of correlation or relationship has increased.

Some years after the introduction of the Regulatory Framework, an extra right to object to the Regulatory Framework (section 271(1)(e)(a)) was added. However, this right of objection is expressly excluded from review to VCAT.

Developer works

In a similar vein, the purported adoption of section 145 as the legislative basis for the imposition of conditions, relating to developer works, is quite uncertain and leads to ongoing confusion and a lack of clarity regarding rights.

Section 145 was not created for the purpose and the now adopted Regulatory Framework has sought to add to this function of it being a source of power for the imposition then the review in VCAT of developer works.

Consequences

One of the consequences of this lack of clarity is that developers are now challenging the basis of the imposition of developer works and charges (including NCCs) and seeking a review in VCAT.

In relation to developer works, for example, review is sought under section 271 of the Water Act that relates to the requirement for payments to be made. In addition, developers are seeking to appeal planning permit conditions, which refer to the later provision of Deeds of Agreement or letters of offer of acceptance.

In relation to the issue of developer works versus shared assets, developers are putting forward the view that, not only are particular works (which the water corporation considers to be reticulated assets) shared assets, the water corporation should (somehow or other) be obliged to make a contribution for those shared assets.

The test the developer advances is that a shared asset is any developer works. Even if the correct size for the development, if there is any incidental benefit to other existing land, that asset becomes a shared asset. This may include the proposition that a water authority ought to offer a future reduction or setoff in NCCs based on a dispute over the issue of reticulation assets versus shared assets.

3. Preparing a submission (response to implementation issues)

3.1. PS23 NCC framework implementation issues

Issue	Coliban Water perspective
Unjustified cost attribution	Coliban Water articulated its justification for cost attribution in the draft decision response.[2] As noted by FTI Consulting, most water corporations did not have their assumptions for cost attribution documented within organisational policies. The lack of documentation of cost attribution (not the lack of justification) reflects the limited application that this purpose serves in a water corporation. That is, the apportionment of growth capital expenditure does not drive other decisions in the business or have a place outside of informing prices. It is therefore apparent that efforts to design policy, process and systems to improve cost attribution occurs only to serve the purpose of price regulation.
A preference for standard pricing	Efforts to derive NCCs on a locational basis, irrespective of the model used, produce wide-ranging results. This is largely a result of step changes in growth-related capital expenditure which is high relative to the new connections. Consequently, NCCs modelled on a system location basis are sensitive to single capital projects and are often unaffordable. For this reason, Coliban Water, supported by customers, preferences standardised (postage stamp) pricing for NCCs. Adherence to the economic principle of cost-reflectivity for NCCs is compromised by the location and legacy of existing water and sewer systems and dynamic growth needs. There is little value gained by building infrastructure and then pricing it out of use, just to preserve the balance between who should pay. Any signals sent to developers that illustrate efficient costs will be superseded by the practical realities of land availability, cost to purchase and other public amenity and service issues.
Negotiating framework requirements	Coliban Water's negotiating framework was developed based on the guiding framework issued by the Commission in 2013. Some improvements were made to the framework in PS23 to align this with changes in the approach to devising the standard NCC (e.g. inclusion of shared assets).

[2] Coliban Water, May 2023, *Price Submission draft decision response*

Issue	Coliban Water perspective
inadequately met	The negotiating framework causes confusion with the use of language that requires Coliban Water and any Connection Applicant to negotiate in good faith to agree the price, standards, and conditions of services to be provided. This statement expands the scope of applicants to include minor / standard applicants (e.g. single lot subdivisions) that the standardisation was aimed at. This negates any benefit of administrative ease for Coliban Water and causes confusion for the Connection Applicant. The negotiating framework is considered alongside other policy documents including Coliban Water's land Development Manual, Shared Asset Procedure, and a Developer Installed Works Process. These policy documents attempt to address ambiguity around developer work requirements, shared assets, and future benefitting developments to ensure that costs associated with new development are born by the developer (and the associated new customers). The potential for negotiation in a competitive development environment (like is the case in Bendigo) could easily lead to every developer seeking to use the framework to negotiate. This would add significant costs. Furthermore, due to geographical factors, it is often the case that water and sewer NCCs are negatively correlated for a district. For example, development of a low-lying district may have low (or nil) water NCCs but high sewer NCCs. In this case, a developer could seek to negotiate the sewer NCC but not the water NCC (i.e. accept a standard NCC). There is a risk that allowance for negotiating NCCs undermines the basis for setting the standard NCC. Greater prescription to inform standards would benefit both developers and the water corporation in establishing what works are required to enable operational flexibility (e.g. cross-connections) vs the augmentation requirements that the business needs to undertake to ensure minimum standards for level of service are sustained.
Engagement issues	Coliban Water's engagement process with developers and customers ahead of its 2023 Price Submission was extensive. Some gaps in consideration of a transition plan were noted by the Commission in their draft decision and responded to by Coliban Water. To mitigate the increased NCC impact to customers, Coliban Water's Price Submission proposed to transition NCCs over a seven-year period for water and recycled water and a five-year period for sewerage. This timeframe was a direct result of feedback from customers. In response to concerns raised by the Commission of potential cross-subsidisation between developers and existing customers (i.e. transition timeframe is too lengthy), Coliban Water reduced the transition timeframe for water and recycled water NCCs.
Application of an average incremental cost approach	In the absence of significant reform, Coliban Water considers the Average Incremental Cost (AIC) as the superior approach to deriving NCCs. Coliban Water provided a concise response to the draft decision[3] that outlined reasoning behind the use of the more forward-looking AIC model, over the existing Net Incremental Cost (NIC) model approach. AIC is considered to deliver benefits including: • The ability to send developers efficient pricing signals and incentivise efficient development decisions. AIC is a stronger approximation of the marginal cost of connection than the current approach. It clearly aligns the charge to the incremental costs associated with the connection and excludes sunk assets from the calculation of the charge. • Ease of understanding: AIC is a more intuitive approach than the current approach. The relative simplicity of the approach will enhance the effectiveness of the charge in incentivising efficient development decisions. • Risk is best placed with those whose actions are capable of changing risk outcomes, through their development decisions. Significant effort was placed on exploring different models and varied approaches to arranging inputs for the purpose of informing the NCC for the recent pricing submission. Coliban Water participated in an industry review that settled on the approach of using the AIC model as the basis for its proposal.

[3] Coliban Water, May 2023, *Price Submission draft decision response*

Issue	Coliban Water perspective
	Outputs from this review showed the variation between the NIC and AIC method, and in particular, variation was material across the locational systems modelled. For example, in modelling the NCC for water, a result of between $0 and $54,000 was modelled under the NIC approach, or $0 to $52,000 under the AIC approach (both excluding tax). This obscure result is less about the choice of model and more about consideration across locations. The variation in the result locationally, is driven by the proposed expenditure itself, for which the denominator (number of customers) is relatively small compared to the step change in the investment required. In most instances, the cost of servicing growth is lower in already developed, larger systems. This simultaneously attracts greater growth and greater demand, increasing house and land prices. A perverse outcome occurs when smaller systems have higher NCCs, being disproportionate to the value of the developed land itself. Furthermore, outcomes of low or $0 NCCs can be a result of legacy matters that have led to an oversized system. For example, Rochester, a township within the Goulburn system, has its own water treatment system which was designed to service the needs of a major customer. This major customer left the system in 2018 increasing available capacity in the water treatment system by approximately 20%. Consequently, this township will not require growth investment for the foreseeable future, therefore the direct cost of servicing additional growth in this area is negligible. This legacy issue contributes to the $0 NCC proposed irrespective of the modelling used (AIC or NIC). Given that the annual costs of maintaining and operating this system is now borne by the broader Coliban Water customer base, it is unfair that new customers in this district experience a low or $0 connection cost.
Uncertainty around gifted or reticulated assets	Policy documents including Coliban Water's Negotiating Framework, Land Development Manual, Shared Asset Procedure and a Developer Installed Works Process inform developer requirements for gifted assets. These policy documents attempt to address ambiguity around developer work requirements, shared assets and future benefitting developments to ensure that costs associated with new development are borne by the developer (and the associated new customers). Lack of clarity (and dispute) stems from: • Understanding of standards used to inform policies (e.g. WSAA guidelines) • Policy settings that drive operational flexibility (e.g. cross-connections) vs the augmentation requirements that the business needs to undertake to ensure minimum standards for level of service are sustained • Transparency of water corporation augmentation alignment with Council planned activities e.g. our planning does not account for land that is outside our declared service districts, for land that is not either zoned correctly, or slated for rezoning.
Timing of development and development servicing plans	Coliban Water provides publicly available augmentation plans that show "the timing of a logically sequenced expansion of [Coliban Water's], sewerage and recycled water networks[4]". These plans are reviewed and updated based on the actual development applications received. This ensures the developer servicing plans are always current and that developers have access to the "current" plans. Challenges with the timing of developments and development servicing plans include: • Inherent uncertainty with timing of developments, requires an adaptive planning approach noting that step change growth investments will only occur when demand deficiency is imminent, the course of which cannot be altered at late stages to inform new development activities. • Information received sufficiently in advance for a new development that can inform the location and expansion approach of a water or sewer augmentation (e.g. recent example in Maiden Gully of a late-stage amendment to the relocation of a water trunk distribution main 5km closer to the developer's site (reducing developer costs).

[4] ESC, August 2024, *Review of New Customer Contributions*

4. Recommendations

Coliban Water recommends the following findings are addressed:

4.1. Guidance for new customer contributions

Coliban Water is supportive of a more prescriptive approach to aid in achievement of principles for the water industry and Coliban Water's broader objectives. Changes that the Commission could consider in the NCC guidance includes:

4.1.1. assumptions to define growth investment (approximations for projects where there are multiple drivers)

4.1.2. a simplified modelling approach to balance costs between new and existing customers (e.g. support for AIC model)

4.1.3. narrowing the basis for negotiating NCCs by describing characteristics that would qualify a development as non-standard

4.1.4. a State-wide approach to establishing NCCs, aligned to state government policy (assessing cost reflectivity across a broader base).

4.2. Conflicts between the legislative and Regulatory Framework

Coliban Water supports undertaking a detailed review of the existing conflicts between the Regulatory Framework and the Water Act. Aspects of that review and potential outcomes to be addressed include:

4.2.1. Recognition that, once the NCC is proved by the Commission and adopted, it should not be the subject of a review right under the Water Act (provided it is properly applied). In this respect and to be clear:

a. current developer actions in challenging NCCs and their application is analogous to allowing developers to challenge charges under Developer Contribution Plans and Infrastructure Contribution Plans levied by councils and the State Government for their infrastructure – something which for those infrastructure works and charges, cannot occur; and

b. the right to seek a review of an incorrect application of the NCCs must of course be maintained.

4.2.2. The adoption of a statute-based (or at least statute-supported and regulatory based) clear definition of what constitutes a reticulation asset versus a shared asset. In particular, clarity that a shared asset is one that provides material additional benefit to either existing or future development. This would include, for example, where reticulation assets to be provided by a developer are augmented (by agreement between the water corporation and the developer) and the water corporation makes a contribution.

4.2.3. A careful review and effectively a re-writing of the provisions in the Water Act insofar as they relate to developer works (providing for a proper application of section 145 and the likely inclusion of additional provisions) and in relation to charges and, in particular, NCCs through Division 6 and the owner finance provisions. Additional provisions relating to charges and NCCs should be aligned to the current methodology used to calculate these.

4.3. Engagement on NCCs

How can the Commission support connection applicants and water businesses in their engagement on NCCs?

4.3.1. provide sector education and joint sessions for developers

4.3.2. define requirements to ensure that non-developer voices are expressly considered by water corporations.

4.4. Change in terminology for NCCs

Coliban Water does not see value in changing the current term 'new customer contributions' to an alternative such as 'developer charges'. There are numerous miscellaneous charges levied on developers aside from NCCs. The emphasis on the word "new" helpfully aligns this fee to the underlying cost driver (i.e. growth), however the word customer is somewhat misleading as not all new customers moving into a community (contributing to growth) pay a fee, with the fee levied only on new connections. "New Connection Charge" may be a more appropriate descriptor.