DISCUSSION PAPER - NEW CUSTOMER CONTRIBUTION (NCC) NEGOTIATING FRAMEWORK

Background

For the second regulatory period, 2008-09 to 2012-13, the Essential Services Commission (ESC) set uniform NCC charges for all water corporations across Victoria. For the third regulatory period, 2013-14 to 2017-18, the ESC is proposing to revert to a pricing principles approach whereby the NCC charges are formulated by the Water Corporations having regard to the incremental costs to provide services to new customers, less incremental revenues to be earned.

1. Application of Negotiating Framework

This Negotiating Framework will form part of Central Highlands Water’s submission for its approved water plan for the 2013 price determination which applies to the 2013-18 regulatory period.

This Framework applies to both Standardised NCC Charges (Standardised charge for Connection Applicants wishing to connect to the Central Highlands Water System) and Negotiated NCC Charges (applies where the Standardised NCC Charge is not applicable due to the nature and/or locality of the development or arising out of negotiation with the Connection Applicant).

Subject to the release of the ESC’s final Price Decision for the third regulatory period (2013-14 to 2017-18), Central Highlands Water has determined that a standardised NCC charge of $1,213 / lot will apply from year one of the third regulatory period, increasing each year thereafter for the third regulatory period in-line with the Consumer Price Index (CPI – Melbourne All groups). In the event that CHW determines that the Standardised NCC charge is not applicable (in accordance with Clause 7 of this Framework), then the Negotiating Framework will be used to determine an NCC for the particular development.

1.1 Purpose

This Negotiating Framework sets out procedural and information requirements relevant to services to which NCC’s apply, as defined in the Water Industry Regulatory Order (WIRO). NCC’s are levied when new connections are made to the water corporation’s water, sewerage and recycled water networks. The framework requires Central Highlands Water and any Connection Applicant to negotiate in good faith to agree the price, standards and conditions of services to be provided. It also provides for transparent information to enable
the Connection Applicant to understand the reasons for decisions made by Central Highlands Water.

The requirements set out in this negotiating framework are in addition to any requirements or obligations contained in or imposed under the Water Act 1989, the Planning & Environment Act 1987 (including under any planning scheme or permission), the Subdivision Act 1988, subordinate regulation under the described legislation as well as Central Highlands Water’s Land Development Manual, or any other relevant legislation or instruments (the "Regulatory Instruments").

In the case of inconsistency between the Regulatory Instruments and this negotiating framework, the relevant Regulatory Instruments will prevail.

This Negotiating Framework does not alter the rights of a Connection Applicant to seek a review of a Central Highlands Water decision by the Victorian Civil and Administrative Tribunal (VCAT).

1.2 Who this negotiating framework applies to

This Negotiating Framework applies to Central Highlands Water in dealing with any property owner - generally a property developer – that is a Connection Applicant who requests connection to Central Highlands Water’s works in accordance with section 145 of the Water Act 1989 ("Application").

It also applies to Central Highlands Water in responding to such requests from a Connection Applicant.

1.3 No obligation to provide service, good faith obligation

Nothing in this negotiating framework imposes an obligation on Central Highlands Water to allow the Connection Applicant to connect to Central Highlands Water’s works or provide services to the Connection Applicant.

Central Highlands Water can refuse its consent, or consent subject to any terms and conditions that Central Highlands Water thinks fit, as provided under section 145(3) of the Water Act.

However, Central Highlands Water and the Connection Applicant must negotiate in good faith the price, terms and conditions for services sought by the Connection Applicant.

2. Timeframes

Central Highlands Water and the Connection Applicant will use their reasonable endeavours to achieve the following timeframes:

(a) Agree the milestones, information requirements and any other relevant issues within fifteen [15] business days of Central Highlands Water’s receipt of an Application. An Application, under Section 145 of the Water Act 1989, for connection means a
servicing request made to Central Highlands Water, the details of which are provided in the Land Development Manual;

(b) Respond to the Application giving details of the terms and conditions of the Offer to allow connection:
   - Within forty five (45) business days where a Standardised NCC Charge applies; and
   - Within one hundred and twenty (120) business days where a Negotiated NCC Charge applies.

(c) Adhere to any timetable established for negotiations and progress negotiations in an expeditious manner; and

(d) Finalise negotiations within one hundred and twenty (120) business days of the initial Application.

2.1 Commencing, progressing and finalising negotiations

Table 1 below provides an indicative timeframe regarding the process of NCC negotiations. As mentioned above, dependant on the location and specific requirements of the development, either a standardised or a negotiated NCC will be applicable. The timeframes for these two charges will differ. It is likely that a Negotiated NCC Charge will require additional design and modelling to be undertaken by Central Highlands Water and/or the Connection Applicant. The two timelines are presented below.

Table 1 – Indicative timeframes for negotiating connection

<table>
<thead>
<tr>
<th>Step</th>
<th>Actions</th>
<th>Timing Standardised NCC Charge (Business Days from Application date)</th>
<th>Timing Negotiated NCC Charge (Business Days from Application date)</th>
</tr>
</thead>
</table>
| 1    | Application (Section 145) for service requirements and costings of connection  
      Application fee paid | Application date | Application date |
| 2    | Negotiation Meeting  
      Parties discuss:  
      - the nature of the services required;  
      - any additional information to be provided by the Connection Applicant; and  
      - notification and consultation with other persons potentially affected  
      Parties agree to timeframes for negotiation and consultation and milestones if different to these indicative timeframes; \(+ 15\) (if required) | \(+ 15\) |
| 3    | Connection Applicant provides additional information  
      Connection Applicant provides additional information to Central Highlands Water if requested | 20 | 35 |
### Step 4: Central Highlands Water Investigation completed

This includes:
- Original completed application;
- Additional information (if required);

<table>
<thead>
<tr>
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<th>Standardised NCC Charge (Business Days from Application date)</th>
<th>Timing</th>
<th>Negotiated NCC Charge (Business Days from Application date)</th>
</tr>
</thead>
<tbody>
<tr>
<td>35</td>
<td></td>
<td>90</td>
<td></td>
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### Step 5: Offer

Central Highlands Water makes offer, in accordance with relevant regulatory instruments, including:
- terms and conditions of connection;
- NCC (ie developer charge) to apply; and
- such Offer will (unless otherwise specified) expire 12 months from being made.

<table>
<thead>
<tr>
<th>Timing</th>
<th>Standardised NCC Charge (Business Days from Application date)</th>
<th>Timing</th>
<th>Negotiated NCC Charge (Business Days from Application date)</th>
</tr>
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<tbody>
<tr>
<td>45</td>
<td></td>
<td>120</td>
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### 3. Provision of Information by Connection Applicant

The Connection Applicant must provide sufficient information to enable Central Highlands Water to assess the Application and determine the service requirements and costings for the development. The information generally required by Central Highlands Water is detailed in the *Land Development Manual*.

The level of information required by Central Highlands Water, and the detail of its response, will vary depending on the complexity and size of the development. As stated above, additional information may be sought by Central Highlands Water in the event of a Negotiated NCC Charge being sought.

### 4. Provision of Information by Central Highlands Water

After consideration of servicing requests Central Highlands Water may provide an offer, via letter, draft agreement and/or notice (“Offer”). The Offer will include specific requirements for the particular development and also include various standard conditions and other information including charges and fees to achieve connection to Central Highlands Water’s assets. This includes New Customer Contributions.

The information relating to the Offer is detailed in the *Land Development Manual*.

The Offer is provided by Central Highlands Water pursuant to the Regulatory Instruments.

### 5. Pricing Principles

Central Highlands Water’s NCC charges will:
(a) Have regard to the incremental infrastructure and associated costs in one or more of the statutory cost categories attributable to a given connection;

(b) Have regard to the incremental future revenues that will be earned from customers at that connection; and

(c) Be greater than the avoidable cost of that connection and less than the standalone cost of that connection.

In setting charges, Central Highlands Water will also comply with:

(a) The regulatory principles set out in clause 14 of the Water Industry Regulation Order (WIRO); and

(b) Specific pricing principles approved by the Essential Services Commission as part of Central Highlands Water’s water plan applying at the relevant time.

6. Consultation with affected parties

If Central Highlands Water considers that persons other than the Connection Applicant may be affected by proposed connection services, then:

(a) Subject to legal confidentiality requirements, Central Highlands Water may share any necessary information with others potentially affected to assess impacts; and

(b) Parties will allow sufficient time for reasonable consultation with affected parties to occur.

7. Payment of Central Highlands Water’s Costs

When connecting to Central Highlands Water’s sewerage or water networks, a Connection Applicant is required to provide all reticulation assets and pay NCC fees and charges. Reticulation assets are to be fully funded by the Connection Applicant and vested in Central Highlands Water, regardless of whether they are required to be sized or positioned to service other developments.

Fees and charges levied by Central Highlands Water are subject to approval processes under the Water Act 1989 and/or as approved by the ESC. Details about the fees and charges can be found in Central Highlands Water’s Final Pricing Determination from the ESC, or via the Central Highlands Water website, under ‘Fees and Charges’.

Should the particular Application require a Negotiated NCC Charge, rather than the Standardised NCC Charge this will arise from the relevant negotiation, pursuant to this Framework, subject to the Regulatory Instruments in place at the time.

Negotiated NCC’s may be calculated and levied separately to the standardised NCC charge in the event that Central Highlands Water determines:
1. That the development does not form part of a logically sequenced network expansion, as detailed in Central Highlands Water’s Development Servicing Plans, or

2. The size and/or nature of the development may have a detrimental effect on existing Central Highlands Water assets

3. The Connection Applicant requests access to Recycled Water

The Negotiated NCC, where applicable, will be calculated using:

- The additional financing costs incurred by Central Highlands Water for augmentation works brought forward by the development, multiplied by the Weighted Average Cost of Capital (WACC) at the time of application, multiplied by the number of years brought forward. The number of years brought forward will be calculated from the DSP.

- Central Highlands Water’s NCC model, updated to reflect the costs associated with the particular development

Both Standardised and Negotiated NCC’s shall be levied on a ‘per lot’ basis. For the purposes of the Framework, ‘lot’ is defined as real property that is separately titled or is, or can be, separately metered.

During the third regulatory period (2013-14 to 2017-18), Central Highlands Water will also develop a process, in conjunction with developers, to deal with costs and charges associated with ‘pioneer developers’. The purpose of this process will be to ensure that fair and equitable cost sharing arrangements in respect to negotiated NCC’s apply to both the ‘pioneer developer’ and subsequent connection applicants.

8. Termination of negotiations

The Connection Applicant may elect not to continue with its Application and may end the negotiations by giving Central Highlands Water written notice of its decision to do so.

Central Highlands Water may terminate a negotiation under this Negotiating Framework by giving the Connection Applicant written notice of its decision to do so where:

(a) Central Highlands Water believes on reasonable grounds that the Connection Applicant is not conducting the negotiation in good faith; or

(b) Central Highlands Water reasonably believes that the Connection Applicant and the particular development will not be able to receive a service from Central Highlands Water; or

(c) An act of insolvency occurs in relation to the Connection Applicant; or

(d) Central Highlands Water reasonably believes that the Connection Applicant has provided false or misleading information to Central Highlands Water.
9. Dispute resolution

In the event of a dispute between parties, Central Highlands Water will continue attempts to resolve the matter by negotiation.

After Central Highlands Water provides its Offer, if the Connection Applicant does not accept the Offer and attempts to resolve the matter by negotiation are unsuccessful, generally the Connection Applicant has particular rights to seek a review in the Victorian Civil and Administrative Tribunal (“VCAT”) of the terms and conditions of connection and the NCC charge applied. These VCAT review rights, including various time lines, rights and process are set out in the Water Act 1989 and the VCAT Act 1998.

10. Giving notices

The address for correspondence and notices to Central Highlands Water is:

Central Highlands Water
PO Box 152
Ballarat, Victoria, 3353

A notice must be:

(a) In writing and signed by a person duly authorised by the sender;

(b) Hand delivered or sent by prepaid post, facsimile or email to the recipient's address for Notices, as varied by any Notice given by the recipient to the sender; and

(c) If given or received under any Regulatory Instruments or other statute of regulation, must be given under the requirements of that relevant instrument, or other statute or regulation.

11. Terms and abbreviations

**Central Highlands Water** – A water corporation established pursuant to Part 6 of the Water Act 1989.

**Connection Applicant** – The person making application to connect to the Central Highlands Water system pursuant to Section 145 of the Water Act 1989.

**Development Servicing Plan** – Central Highlands Water document showing the staging, timing and asset size and type that Central Highlands Water plans to construct to cater for new development. Development Servicing Plans shall be developed and reviewed on an annual basis, for such locations that Central Highlands Water deems necessary, having regard to local government growth projections publicly released from time to time.

**Reticulation Asset** – Defined as a water main or recycled water main that is 150mm or less in diameter and gravity sewerage main that is 225mm or less in diameter, and all associated assets. These sizes are for guidance purposes only and sizing requirements for reticulation assets will be determined for particular developments. Associated assets that are deemed to be reticulation assets include:
• Sewer Pump Stations, emergency storages and rising mains (where the gravity sewer inlet to sewer pumping station is less than or equal to 225mm diameter)

• Water or recycled water Pump Stations (where the pump discharges into water or recycled water mains of 150mm diameter or less)

• Pressure Reducing Valves (where connected to water or recycled water mains of 150mm diameter or less)

• Water and Recycled Water Tanks (where outlet main is 150mm diameter or less)

**Land Development Manual** – Central Highlands Water’s Land Development Manual, which outlines policies and guidelines for customers to connect to water and sewerage services, available at Central Highlands Water website.

**Standardised NCC** – This is the standardised charge for Connection Applicants wishing to connect to the Central Highlands Water System.

**Negotiated NCC** – This charge, derived from the NCC principles developed by Central Highlands Water will apply where the Standardised NCC Charge is not applicable due to:

• The nature and/or locality of the development, or

• Arising out of negotiation with the Connection Applicant, or

• A determination by Central Highlands Water in accordance with Clause 7 of this Framework