

Notice of Special General Meeting and Information Memorandum

27 September 2018



Notice of Special General Meeting

Notice is hereby given that a Special General Meeting of members of the Tasmanian Water and Sewerage Corporation Pty Limited (ACN 162 220 653) will be held at 11:30am on Thursday 27 September 2018 at Windsor Community Precinct, 1 Windsor Drive, Riverside 7250.

The business to be conducted at the Special General Meeting is set out in the attached Agenda.

Please confirm your attendance by email to ailsa.sypkes@taswater.com.au by 13 September 2018.

Issued by order of the Board on 12 July 2018.

A handwritten signature in black ink, appearing to be "Ailsa Sypkes".

Ailsa Sypkes

Company Secretary

Appointed Owners' Representatives (as at 12 July 2018):

Mayor Bridget Archer	Mayor Tony Foster AM OAM JP	Commissioner Adriana Taylor
Deputy Mayor Lana Benson	Mayor Peter Freshney	Mayor Don Thwaites
Mayor Tony Bisdee OAM	Alderman Grant Goodwin	Mayor Mick Tucker
Deputy Mayor Jan Bishop	Lord Mayor Alderman Ron Christie	Mayor Albert van Zetten
Mayor Jan Bonde	Mayor Greg Howard	Mayor Phil Vickers
Mayor Alwyn Boyd	Councillor Richard Ireland	Mayor Kerry Vincent
Mayor Doug Chipman	Mayor Kristie Johnston	Mayor Robby Walsh
Councillor Royce Conley	Mayor Michael Kent	Mayor Steve Wass
Mayor David Downie	Mayor Craig Perkins	Councillor Gerald Willis
Mayor Martyn Evans	Deputy Mayor Kelly Spaulding	

Enclosures:

1. Agenda
2. Form of Proxy
3. Information Memorandum



AGENDA

**Special General Meeting
Thursday 27 September 2018 at 11.30am – 1.00pm
at Windsor Community Precinct, 1 Windsor Drive, Riverside 7250**

1. Apologies

2. Declaration of Interests

3. Minutes of Previous Meeting

Minutes of the General Meeting – 10 May 2018

4. Introduction by Chief Owners' Representative

5. Presentation by Board Chairman

6. Proposed resolutions

Resolution 1 – Adoption of a new Constitution

Subject to:

- (i) the Water and Sewerage Legislation (Corporate Governance and Pricing) Bill 2018 passing into law and taking effect in substantially the same terms as set out in Appendix 4, as determined by the Board of the Corporation, having consulted with the Chief Owners' Representative and the Secretary of the Department of Treasury and Finance for Tasmania; and
- (ii) the passing of Resolution 2 adopting the Shareholders' Letter of Expectations in substantially the same form as set out in Appendix 2; and
- (iii) the passing of Resolution 3 authorising the Corporation to enter into the Share Subscription and Implementation Agreement with the Crown in substantially the same form as set out in Appendix 3,

to adopt the Constitution in the form as set out in Appendix 1 of the Information Memorandum dated 16 July 2018 to replace the existing Constitution of the Corporation, with effect from the date the Crown first subscribes for shares in the Corporation in accordance with the Share Subscription and Implementation Agreement between the Crown and the Corporation.

Resolution 2 – Adoption of a new Shareholders' Letter of Expectations



Subject to:

- (i) the Water and Sewerage Legislation (Corporate Governance and Pricing) Bill 2018 passing into law and taking effect in substantially the same terms as set out in Appendix 4, as determined by the Board of the Corporation, having consulted with the Chief Owners' Representative and the Secretary of the Department of Treasury and Finance for Tasmania; and
- (ii) the passing of Resolution 1 adopting the Constitution in substantially the same form as set out in Appendix 1; and
- (iii) the passing of Resolution 3 authorising the Corporation to enter into the Share Subscription and Implementation Agreement with the Crown in substantially the same form as set out in Appendix 3,

to adopt the Shareholders' Letter of Expectations in the form as set out in Appendix 2 of the Information Memorandum dated 16 July 2018 to replace the existing Shareholders' Letter of Expectations, with effect from the date the Crown first subscribes for shares in the Corporation in accordance with the Share Subscription and Implementation Agreement between the Crown and the Corporation.

Resolution 3 – Approval to enter into the Share Subscription and Implementation Agreement, including approval for the issue of shares in the Corporation to the State Government

Subject to:

- (i) the Water and Sewerage Legislation (Corporate Governance and Pricing) Bill 2018 passing into law and taking effect in substantially the same terms as set out in Appendix 4, as determined by the Board of the Corporation, having consulted with the Chief Owners' Representative and the Secretary of the Department of Treasury and Finance for Tasmania; and
- (ii) the passing of Resolution 1 adopting the Constitution in substantially the same form as set out in Appendix 1; and
- (iii) the passing of Resolution 2 adopting the Shareholders' Letter of Expectations in substantially the same form as set out in Appendix 2,

that the Corporation be authorised to enter into the Share Subscription and Implementation Agreement with the Crown in substantially the same form as set out in Appendix 3 of the Information Memorandum dated 16 July 2018, including the issuing of shares in the Corporation to the Crown.

7. Other Business

Lunch will provided at the conclusion of the meeting



FORM OF PROXY

We,.....[insert council name]

of..... [insert council address]

being a member of Tasmanian Water and Sewerage Corporation Pty Limited (ACN 162 220 653)

hereby appoint.....[insert name/s of proxy]

as our proxy to vote for us and on our behalf at the Special General Meeting of the Corporation to be held on Thursday 27 September 2018 and at any adjournment of that Special General Meeting.

Our proxy is authorised to exercise all of our voting rights. If no directions are given, our proxy may vote or abstain as the proxy thinks fit.

DATED this day of 2018

.....

[Member council to insert execution clause]

Important Notes:

In accordance with Section 6.9 of the Corporation’s Constitution, each member has the right to appoint a proxy to act on its behalf. The proxy need not be a member of the Corporation. A member may also appoint a body corporate as its proxy and that body corporate may appoint a representative to exercise the powers of the body corporate on behalf of the member.

This proxy form should be signed and (where applicable) any power of attorney or a certified copy attached to this form and returned to the Corporation at its registered office or the email address set by below by no later than 2:00pm on Monday 24 September 2018.¹

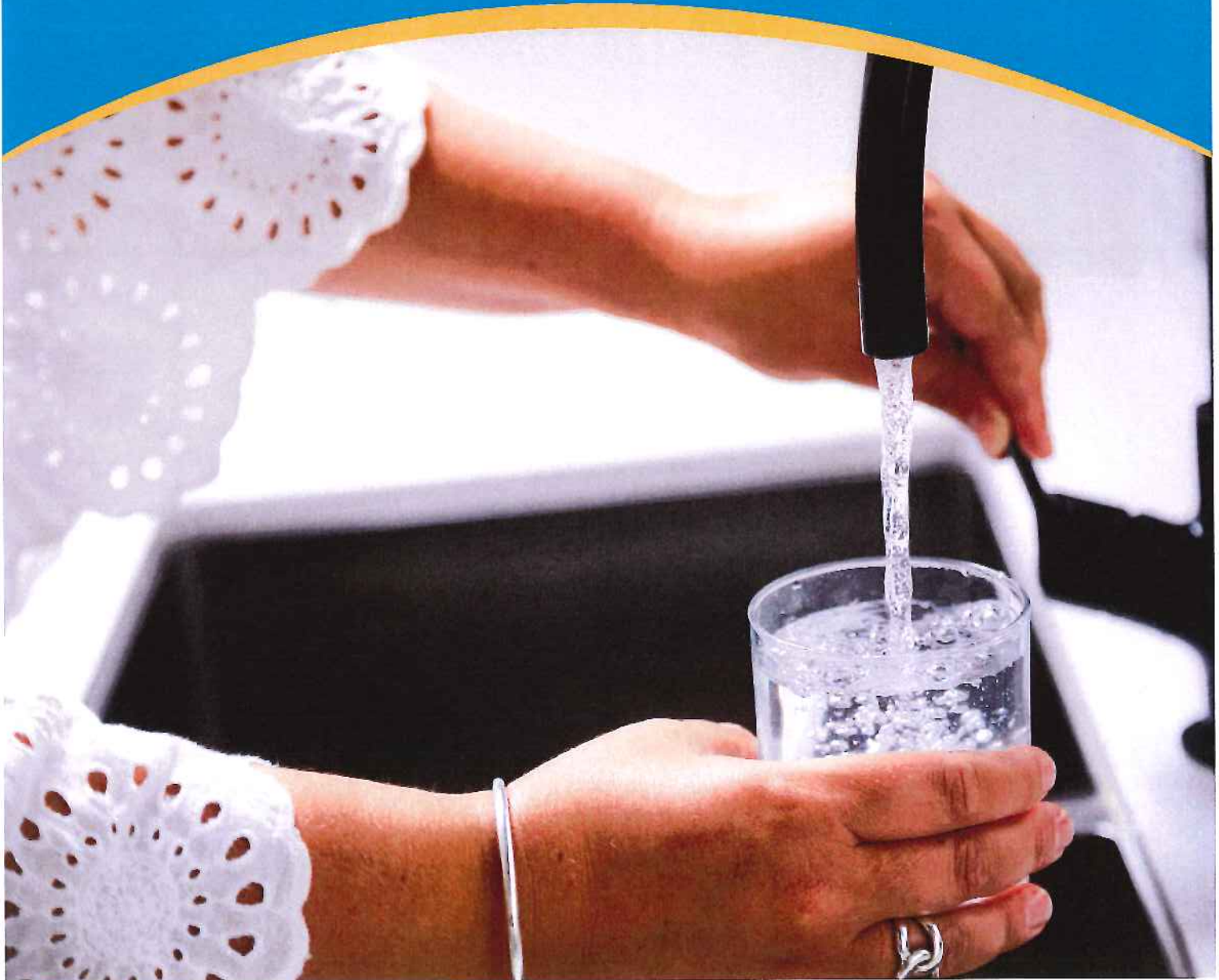
Please send to the Company Secretary via email to ailsa.sypkes@taswater.com.au

¹ Any proxy form received after this time will not be valid for the scheduled meeting and the member will not be entitled to vote at the meeting.



Information Memorandum

16 July 2018



Contents

Chairman's message	3
1. Key features of the proposal	4
2. Financial information	7
2.1 Key assumptions	7
2.2 Financial model inputs and outputs	7
2.3 Summary of key results	9
3. Questions and answers	11
4. Risks	13
4.1 Resourcing risk for capital program delivery	13
4.2 Non-payment risk of the State Government's equity injection	13
4.3 Risk of operational or performance impact if the resolution is not passed	13
4.4 Inflation or interest rate risk impacting TasWater's ability to deliver on the MOU	13
5. Proposed resolutions	14
5.1 Proposed resolutions	14
6. Explanatory notes	16
6.1 Resolution 1 – Adoption of a new Constitution	16
6.2 Resolution 2 – Adoption of a new Shareholders' Letter of Expectations	17
6.3 Resolution 3 – Approval to enter into the Share Subscription and Implementation Agreement, including the issue of shares in TasWater to the State Government	19
7. Glossary	21
Appendix 1: Proposed Constitution	22
Appendix 2: Proposed Shareholders' Letter of Expectations	81
Appendix 3: Proposed Share Subscription and Implementation Agreement	101
Appendix 4: Water and Sewerage Legislation (Corporate Governance and Pricing) Bill 2018	119
Appendix 5: Water and Sewerage Corporation Act 2012 – Amended Clauses	130
Appendix 6: Water and Sewerage Industry Act 2008 – Amended Clauses	135

Chairman's message

In March 2018 the President of the Local Government Association of Tasmania (LGAT) and TasWater's Chief Owners Representative commenced a dialogue with the State Government seeking to explore if a "compromise" to the "ownership debate" could be found.

As Board Chair I encouraged this dialogue believing it was time to seek to resolve the ownership debate.

It was my view that the debate was an unnecessary diversion to both Owner Councils and State Government. Further, the impact on TasWater was debilitating.

I had concluded that ending the debate was in the best interests of Councils, State Government and TasWater, but most especially the people of Tasmania.

TasWater's Chief Executive Officer, Mike Brewster, and I were invited to join the dialogue and on 1 May 2018 the signing of a Memorandum of Understanding (MOU) with the State Government was announced.

Like all compromises there had to be some concessions on all sides, but on balance I am confident it represents both a fair minded and sensible way forward.

After 10 years the State Government will have contributed equity of \$200 million, and Owner Councils' contributed equity will be unchanged (i.e. at \$1,528 million).

The MOU scenario will not have a material negative impact on TasWater's ongoing financial sustainability.

The policy to pay distributions to Owner Councils remains unchanged, albeit under the MOU scenario this will be solely in the form of dividends.

Most importantly TasWater and Councils will be working with the State Government to ensure that the water and sewerage services across the state are affordable, reliable and enhance economic development opportunities.

The TasWater Board endorsed the signing of the MOU and has authorized the release of this Information Memorandum to Owner Councils.

The TasWater Board unanimously recommends that Owner Councils vote in favour of the proposed resolutions.



Miles Hampton

Chairman

1. Key features of the proposal

The proposed features outlined in the MOU between TasWater and the State Government will enable TasWater's customers to benefit from a reduction in forecast price increases, accelerated infrastructure upgrades and a joint focus on major projects of significance to Tasmania.

Under the proposal, the State Government will inject \$20 million of equity per year for the next 10 years into TasWater. In return, the State Government will become a 10 per cent shareholder of TasWater. The State Government will have a new class of shares which will reflect the State's decision to not receive any dividends from TasWater.

Owner Councils will retain majority ownership of TasWater, albeit individual Owner Council's equity entitlements will be marginally reduced as State Government equity injections are received. New governance arrangements will facilitate State and Local Government working on a collaborative basis.

The key features of the proposal are set out below.

Ownership and governance

- Governance by an independent skills-based Board will continue.
- The State Government will contribute \$200 million over 10 years in new equity. For each \$20m contributed the State Government will receive 1% of the voting capital.
- The State Government shareholding will not receive dividends.
- The annual Corporate Plan will be jointly agreed between the Board, Owner Councils and the State Government, with defined arrangements in place in the event of a deadlock as specified in Part 8.4 of the Amended Shareholders' Letter of Expectation provided at Appendix 2.
- The State Government's representative will sit on the Board Selection Committee and will be consulted – along with the Chief Representative – on the appointment of the CEO. The State Government will not have the right to appoint a director.
- If the State Government does not meet its commitments to make equity injections it will lose its rights in respect of:
 - the rights to jointly approve the draft Corporate Plan and to participate in the process to resolve any dispute regarding the adoption or amendment of the Corporate Plan
 - its seat on the Board Selection Committee and
 - its right to be consulted in relation to the appointment of the CEO

These rights will be reinstated on receipt of the overdue equity injection(s). Any decisions made by the Board Selection Committee, Owners' Representatives or the Board during such a period will continue to be valid and to remain effective.

- The State Government's commitment to contribute equity will be formalised through a Share Subscription and Implementation Agreement between TasWater and the State Government. This Agreement will also reinforce the particular State Government rights referenced above, and the loss of those rights if contributions are not made.
- TasWater's obligation to maintain price increases within the cap and/or accelerate the capital program (referenced below) may be suspended in the event that unforeseen events arise (eg significant interest rate and/or inflation increases beyond that reasonably

projected) or if the Government does not meet its commitment to maintain equity injections.

Water and sewerage pricing

- Prices will be frozen in FY2019/20.
- Annual price increases will not exceed 3.5 per cent from FY2020/21 through FY2024/25.
- The price determination process, via the independent Tasmanian Economic Regulator (TER), will continue as it does now to review TasWater's financial performance, including the prices, operational efficiency and investment program necessary to maintain sustainability.
- If the Regulator determines a price increase lower than 3.5 per cent, the Regulator's price increase will apply.

Infrastructure investment

- The parties will seek to accelerate the infrastructure investment program by at least one year, with TasWater using best endeavours to achieve capital expenditure over the 10 year period from FY2016/17 through FY2025/26 of \$1.8 billion by 30 June 2026.
- The parties will work cooperatively to progress major projects of special economic or environmental importance to Tasmania.

Other matters

- TasWater's obligation to pay income tax equivalents and loan guarantee fees to Shareholders will be removed. The \$20 million distribution to Owner Councils (indexed from FY2026/27) will be paid as dividends.
- The introduction of a community service obligation mechanism so that investment projects that are not commercial in their entirety can be considered in the context of broader benefits to the State and how these projects might be funded.
- Where the Board determines that, due to circumstances or events beyond TasWater's reasonable control, it cannot continue to maintain distributions, an accelerated capital program and annual price increases within the 3.5% cap while maintaining the financial sustainability of the business, TasWater will notify the Chief Owners' Representative and the State Government's Owner's Representative. TasWater must meet with the State Government's Owner's Representative to consider the impact of maintaining the accelerated capital program and price caps on the financial sustainability of the business. The State Government may, in its absolute discretion, provide additional financial support or comfort to TasWater in the form of grant funding, a pre-payment of equity, a guarantee or a letter of comfort. If the State Government decides not to provide adequate additional financial support or comfort to TasWater (as determined by the Board), the Board may amend the capital program or increase prices (within the regulator's determination).
- The parties will work together to monitor the effectiveness of recent announcements by TasWater on trade waste and to identify and implement any potential improvements.
- The State Government will introduce a bill into Parliament to give effect to the objectives set out in the MOU and to facilitate and support the proposed changes to TasWater's ownership and governance structure. A draft Bill is attached as Appendix 4 of this Information Memorandum. The proposed changes are not extensive, and the key matters are summarised as follows:
 - Changes to remove the current prohibition on ownership of shares in TasWater by anyone other than a Council – enabling the State Government to become a shareholder in return for its equity contributions.

- Changes to the pricing determination process to clarify that the Tasmanian Economic Regulator can only set maximum prices for regulated services – enabling the Board to elect to pass through lower price increases to customers to meet its commitment to freeze prices in FY2019/20 and to cap subsequent annual price increases until 30 June 2025.
- Changes to remove the current obligations to pay loan guarantee fees and tax equivalents – meaning that ‘distributions’ paid to Owner Councils will be solely in the form of dividends.

2. Financial information

The financial statements in this Information Memorandum have been prepared using a 20 Year Financial Model based on the FY2019 - 23 Corporate Plan and informed by the Long Term Strategic Plan FY2018-2037 (LTSP).

2.1 Key assumptions

The following key assumptions are common to all scenarios in the 20 Year Financial Model:

- Demand is assumed to grow at 0.7 per cent per annum in PSP3 (to FY2020/21), 0.6 per cent per annum in PSP4 (to FY2023/24) and 0.3 per cent per annum thereafter²
- The average interest rate in each scenario is held constant at 4.1 per cent per annum through FY2022/23 and increases at 0.1 per cent per annum thereafter
- Inflation is assumed to be 2.5 per cent per annum
- Loan guarantee fees are set to zero from 1 January 2019 onward³ and
- Distributions (paid as dividends) to Owner Councils are set at \$20 million per annum through FY2025/26 and are indexed to target tariff increases thereafter.

These assumptions, and other financial uncertainties, could materially impact the forecasts provided in the tables below. A broader consideration of risk is discussed in Section 4.

2.2 Financial model inputs and outputs

Two financial scenarios have been modelled for this Information Memorandum, namely a business as usual scenario and an MOU scenario. Key parameters that differentiate the scenarios are shown in the table below.

Table 1: Key parameters in each financial model scenario

Parameter	Business as usual scenario	MOU scenario
Capital expenditure (\$M)		
FY2017 to FY2026	\$1,543	\$1,700 ⁴
FY2027 to FY2036 ⁵	\$1,379	\$1,222
Capex (20 year total)	\$2,922	\$2,922
Annual price increase		
PSP3 (FY19 / FY20 / FY21)	4.1% / 4.1% / 4.1%	4.1% / 0% / 3.5%
PSP4 (FY22 to FY24)	3.7%	3.5%
PSP5 (FY25 to FY27)	3.1%	3.5%
PSP6+ (FY28 to FY36)	2.2%	2.5%
Equity injection (\$M)	\$0	\$200

Key inputs and outputs for each scenario are shown in the tables below.

² Demand forecast are derived from a TasWater developed model that sources data from the State Government's latest population forecasts (by local government area) and Australian Bureau of Statistics householder data. Detail of the model and resultant forecasts are provided in Chapter 5 of Price and Service Plan 3.

³ If the resolutions in this Information Memorandum are not passed, there is a risk that loan guarantee fees will not be set to zero as modelled in the business as usual scenario.

⁴ The MOU requires TasWater to use best endeavours to achieve capital expenditure of \$1.8 billion over this period. At this time the Board of the Corporation has formed the view that \$1.7 billion is achievable while maintaining our targeted long term interest cover ratio.

⁵ The capital expenditure estimate in years 11 to 20 has less accuracy than in Years 1 to 10. However, any changes to capital investment requirements in Years 11 to 20 are expected to have a similar impact on both scenarios.

Table 2: Financial information – FY2016/17 through FY2025/26

Financial Summary	FY17 (actual)	FY18 (forecast)	FY19 (forecast)	FY20 (forecast)	FY21 (forecast)	FY22 (forecast)	FY23 (forecast)	FY24 (forecast)	FY25 (forecast)	FY26 (forecast)	10 Year Total
Business as usual scenario											
Inputs											
Price increases (%) ⁺	6.0%	6.0%	4.1%	4.1%	4.1%	3.7%	3.7%	3.7%	3.1%	3.1%	n/a
Capital expenditure (\$M)	103	139	145	140	183	178	183	170	166	135	1,543
Distributions (\$M)	30	30	20	20	20	20	20	20	20	20	220
Average interest rate (%)	4.5%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.2%	4.3%	4.4%	n/a
Equity injections (\$M)	0	0	0	0	0	0	0	0	0	0	0
Outputs											
Revenue (\$M)	315	330	341	356	371	388	405	421	435	449	3,810
Net profit before tax (\$M)	41	53	53	61	67	69	71	72	74	74	634
Interest expense (\$M)	19	20	20	21	24	28	32	29	29	30	252
Interest cover (times)	2.79	3.26	3.18	3.35	3.34	3.06	2.93	2.86	2.73	2.63	n/a
Borrowings (\$M)	475	519	581	625	706	777	844	874	899	888	n/a
Gearing (%)	29.8%	32.2%	35.3%	37.3%	41.2%	44.2%	46.9%	47.5%	47.7%	45.9%	n/a
Depreciation (\$M)	68	74	78	82	85	90	96	106	111	116	906
MOU scenario											
Inputs											
Price increases (%) ⁺	6.0%	6.0%	4.1%	0.0%	3.5%	3.5%	3.5%	3.5%	3.5%	3.5%	n/a
Capital expenditure (\$M)	103	139	145	140	183	178	223	209	205	174	1,700
Distributions (\$M)	30	30	20	20	20	20	20	20	20	20	220
Average interest rate (%)	4.5%	4.1%	4.1%	4.1%	4.1%	4.1%	4.1%	4.2%	4.3%	4.4%	n/a
Equity injections (\$M)	0	0	20	20	20	20	20	20	20	20	160
Outputs											
Revenue (\$M)	315	330	344	346	359	373	387	401	416	430	3,702
Net profit before tax (\$M)	41	53	56	52	55	54	53	51	51	49	515
Interest expense (\$M)	19	20	20	21	24	28	32	29	30	34	256
Interest cover (times)	2.79	3.26	3.32	2.97	2.89	2.59	2.42	2.29	2.07	1.93	n/a
Borrowings (\$M)	475	519	559	591	665	730	833	912	976	1,006	n/a
Gearing (%)	29.8%	32.2%	33.5%	34.5%	37.8%	40.5%	45.1%	48.3%	50.5%	51.0%	n/a
Depreciation (\$M)	68	74	78	82	85	90	96	107	113	119	913

+ Annual Increase in target tariffs excluding market growth rate (which is the same in both scenarios)

Table 3: Financial information – FY2026/27 through FY2035/36

Financial Summary	FY27 (forecast)	FY28 (forecast)	FY29 (forecast)	FY30 (forecast)	FY31 (forecast)	FY32 (forecast)	FY33 (forecast)	FY34 (forecast)	FY35 (forecast)	FY36 (forecast)	10 Year Total
Business as usual scenario											
Inputs											
Price increases (%) ⁺	3.1%	2.2%	2.2%	2.2%	2.2%	2.2%	2.2%	2.2%	2.2%	2.2%	n/a
Capital expenditure (\$M)	124	158	133	132	134	132	136	139	143	148	1,379
Distributions (\$M)	21	21	22	22	22	23	23	24	25	25	228
Average interest rate (%)	4.5%	4.6%	4.7%	4.8%	4.9%	5.0%	5.1%	5.2%	5.3%	5.4%	n/a
Equity injections (\$M)	0	0	0	0	0	0	0	0	0	0	0
Outputs											
Revenue (\$M)	463	474	485	496	508	520	532	545	558	571	5,151
Net profit before tax (\$M)	76	76	73	72	72	72	72	68	67	67	715
Interest expense (\$M)	31	30	31	31	30	30	29	28	27	26	293
Interest cover (times)	2.67	2.68	2.57	2.57	2.57	2.59	2.63	2.57	2.59	2.62	n/a
Borrowings (\$M)	860	863	839	812	784	750	717	687	659	632	n/a
Gearing (%)	43.4%	42.5%	40.5%	38.4%	36.3%	34.1%	32.0%	30.1%	28.4%	26.9%	n/a
Depreciation (\$M)	120	123	128	132	136	140	144	148	152	156	1,379
MOU scenario											
Inputs											
Price increases (%) ⁺	3.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	n/a
Capital expenditure (\$M)	108	142	118	117	118	116	120	123	128	132	1,222
Distributions (\$M)	21	21	22	22	23	23	24	25	25	26	232
Average interest rate (%)	4.5%	4.6%	4.7%	4.8%	4.9%	5.0%	5.1%	5.2%	5.3%	5.4%	n/a
Equity injections (\$M)	20	20	0	0	0	0	0	0	0	0	40
Outputs											
Revenue (\$M)	446	457	469	482	494	507	521	535	549	563	5,023
Net profit before tax (\$M)	49	51	50	51	51	52	54	51	53	54	516
Interest expense (\$M)	36	35	35	35	35	35	34	33	32	31	342
Interest cover (times)	1.89	1.94	1.91	1.92	1.94	1.97	2.02	1.99	2.04	2.09	n/a
Borrowings (\$M)	964	952	932	908	881	849	816	786	756	727	n/a
Gearing (%)	47.9%	46.3%	44.8%	43.2%	41.5%	39.6%	37.7%	36.0%	34.3%	32.6%	n/a
Depreciation (\$M)	124	127	131	135	138	142	145	149	153	157	1,401

+ Annual Increase in target tariffs excluding market growth rate (which is the same in both scenarios)

2.3 Summary of key results

Selected key results for both scenarios are presented in the table below.

Table 4: Selected key results

Parameter	Business as usual scenario FY2017 – FY2036	MOU scenario FY2017 – FY2036
Total revenue (\$M)	\$8,961	\$8,724
Net profit before tax (\$M)	\$1,349	\$1,031
Equity injection (\$M)	\$0	\$200
Distributions (\$M)	\$448	\$452
Total capital expenditure (\$M)	\$2,922	\$2,922
Borrowings as at FY2036 (\$M)	632	727
Interest cover as at FY2036 (times)	2.62	2.09

In the MOU scenario, TasWater's borrowings will be higher and interest cover will be lower relative to the business as usual scenario. However, each of these measures will remain at a manageable level over the 20 year period. And, the injection of new equity in the MOU scenario helps to ameliorate the lower revenues that arise from lower prices in the first 10 years.

Importantly, the MOU scenario provides benefits to customers through a cap on price increases in the first 10 years and acceleration of the capital program. This enables the associated customer outcomes to be realised earlier.

3. Questions and answers

3.1 What consultation was undertaken with Owner Councils by the Chief Owners' Representative, LGAT and TasWater before the MOU was announced?

The level of consultation with Owner Councils was dictated by the circumstances of the proposal. LGAT had discussions at General Management Committee level, but it was not practical to consult with all mayors and owner representatives. This is why the MOU agreement is non-binding. Substantial consultation has occurred with Owner Councils subsequent to the MOU and the primary purpose of the Special General Meeting is to formally seek endorsement from Owner Councils.

3.2 What is the impact on distributions to Owner Councils including dividends, tax equivalent payments and loan guarantee fees?

Barring major unforeseen circumstances that cannot be mitigated, we do not expect any reduction in previously forecast distributions to Owner Councils. The financial model inputs described in Section 2.2 assumes distributions are indexed to target tariff increases beyond FY2025/26.

Further, TasWater's obligation to pay income tax equivalents and loan guarantee fees to Shareholders will be removed, resulting in distributions made up entirely of dividends.

3.3 What is the impact on the ownership interest of Owner Councils?

While Councils' percentage ownership will decline over time as the Government's equity increases from 0 per cent to 10 per cent between FY2018/19 and FY2027/28, the book value of that interest will not decline. However we note that normal valuation adjustments on book values may occur.

3.4 How much influence will the State Government have over TasWater's Board, strategy, operations and dividend decisions under this proposal?

The only involvement by State Government in strategy, operations and dividends is in relation to the annual Corporate Plan, which will be jointly agreed between the Board, Owner Councils and the State Government.

A dispute resolution mechanism is specified in Part 8.4 of the new Shareholders' Letter of Expectations provided at Appendix 2. Should the Board not agree to amend the draft Corporate Plan as requested, the Chairman will consult with the Chief Owners' Representative and the State Government Owner's Representative to determine a solution. If this group is unable to reach unanimous agreement as to a solution, it will be determined by a two thirds majority of the group. However, in the unlikely event that this would result in unlawful activity, or the directors being in breach of their fiduciary duties, the Board will not be obliged to adopt the relevant amendments.

3.5 Will the lower revenues under the MOU scenario in the 20 Year Financial projections affect the carrying value of TasWater's assets?

The lower net revenue projections in the MOU scenario may have an impact on the carrying values of our water and sewerage infrastructure assets. If an adjustment to the value is required it will be a non-cash adjustment and will necessitate a proportional non-cash adjustment to the carrying value of each Owner's investment in TasWater.

3.6 What will happen if the Tasmanian Parliament does not pass enabling legislation that is consistent with the draft legislation provided at Appendix 4?

The passage of the proposed Resolutions is subject to there being no material changes between the draft legislation provided at Appendix 4 and the final legislation enacted by the Tasmanian Parliament. In addition, the Share Subscription and Implementation Agreement contains the passing of the amending legislation in a form satisfactory to both the State Government and TasWater as a condition precedent. The materiality of changes, if any, is to be determined by the TasWater Board

after consultation with the Chief Owners' Representative and the Secretary of the Department of Treasury and Finance for Tasmania.

4. Risks

This section lists the risks associated with implementation of the proposed features outlined in the MOU between TasWater and the State Government. It does not discuss TasWater's ongoing organisational risks which will continue irrespective of this proposal and are provided in the FY2019-23 Corporate Plan.

The risks listed below are in addition to the key assumptions in the financial model discussed in Section 2.1.

4.1 Resourcing risk for capital program delivery

There is a risk that the required level of resourcing is not available to prudently and efficiently deliver the capital program in this proposal. However, in preparation for delivering the existing capital program outlined in Price and Service Plan 3 (PSP3), we have been reviewing our capital delivery model to ensure it is fit for purpose. The new capital delivery model will include an external partner to provide flexible resourcing that can increase as required to deliver increased capital investment.

4.2 Non-payment risk of the State Government's equity injection

There is a risk that the State Government does not make a \$20 million payment in accordance with the terms of the Share Subscription and Implementation Agreement provided at Appendix 3. However, as outlined in Section 1 of this Information Memorandum, if the State does not meet its commitments to make equity injections, it will lose its rights in relation to:

- The joint approval of the draft Corporate Plan and to participate in the process to resolve any dispute regarding the adoption or amendment of the Corporate Plan
- A seat on the Board Selection Committee and
- Consultation regarding the appointment of the CEO.

These rights will be reinstated on receipt of the overdue equity injection(s).

4.3 Risk of operational or performance impact if the resolution is not passed

If the resolutions in this Information Memorandum are not passed TasWater will proceed to deliver the outcomes under the business as usual scenario provided in the financial information section above. This would see the delivery of a \$2.9 billion capital program over 20 years and gradually reducing tariff increases from PSP to PSP. This will mean that tariff increases will be higher than they would have been in the first years of the MOU and it may impact on the ability of TasWater to secure funding for major projects from the Federal Government.

4.4 Inflation or interest rate risk impacting TasWater's ability to deliver on the MOU

The forward looking financial statements in this Information Memorandum are predictions based on our current expectations and assumptions regarding future events. Actual outcomes, financial results or levels of activity, performance or achievements may vary materially from those discussed in this Information Memorandum.

Notwithstanding these risks, the State Government has agreed to guarantee TasWater's debt by providing a letter of comfort to TasCorp should TasCorp requested it. Further, TasWater's obligation to maintain price increases within the cap and/or accelerate the capital program may be suspended in the event that unforeseeable events arise that impact on the financial sustainability of the business.

5. Proposed resolutions

In order to give effect to the MOU, the TasWater Constitution and Shareholders' Letter of Expectation will need to be changed and an agreement (the Share Subscription and Implementation Agreement) between TasWater and the State Government will need to be entered into. In addition, an Act to amend existing legislation must be passed by the Tasmanian Parliament.

Appendices 1 and 2 provide copies of the proposed new Constitution and Shareholders' Letter of Expectations. To enable the reader to clearly understand the extent of amendments to existing documents, 'tracked changes' versions have been provided.

Appendix 3 provides the proposed Share Subscription and Implementation Agreement between TasWater and the State Government, and the proposed draft legislation is at Appendix 4.

Resolutions to give effect to the MOU are provided below.

The TasWater Board of Directors unanimously recommends that members vote in favour of each resolution.

Under the current Constitution, the thresholds for approval of each resolution differ. To simplify the process, each of the resolutions will be required to meet the highest threshold i.e. 75% by members, 75% by equity.

5.1 Proposed resolutions

- **Resolution 1 – Adoption of a new Constitution**

To consider and, if thought fit, to pass the following resolution:

“Subject to:

- (i) the Water and Sewerage Legislation (Corporate Governance and Pricing) Bill 2018 passing into law and taking effect in substantially the same terms as set out in Appendix 4, as determined by the Board of the Corporation, having consulted with the Chief Owners' Representative and the Secretary of the Department of Treasury and Finance for Tasmania; and*
- (ii) the passing of Resolution 2 adopting the Shareholders' Letter of Expectations in substantially the same form as set out in Appendix 2; and*
- (iii) the passing of Resolution 3 authorising the Corporation to enter into the Share Subscription and Implementation Agreement with the Crown in substantially the same form as set out in Appendix 3,*

to adopt the Constitution in the form as set out in Appendix 1 to replace the existing Constitution of the Corporation, with effect from the date the Crown first subscribes for shares in the Corporation in accordance with the Share Subscription and Implementation Agreement between the Crown and the Corporation.”

The proposed new version of the Constitution is provided at Appendix 1.

- **Resolution 2 – Adoption of a new Shareholders' Letter of Expectations**

To consider and, if thought fit, to pass the following resolution:

“Subject to:

- (i) the Water and Sewerage Legislation (Corporate Governance and Pricing) Bill 2018 passing into law and taking effect in substantially the same terms as set out in Appendix 4, as determined by the Board of the Corporation, having consulted with*

the Chief Owners' Representative and the Secretary of the Department of Treasury and Finance for Tasmania; and

- (ii) the passing of Resolution 1 adopting the Constitution in substantially the same form as set out in Appendix 1; and*
- (iii) the passing of Resolution 3 authorising the Corporation to enter into the Share Subscription and Implementation Agreement with the Crown in substantially the same form as set out in Appendix 3,*

to adopt the Shareholders' Letter of Expectations in the form as set out in Appendix 2 to replace the existing Shareholders' Letter of Expectations, with effect from the date the Crown first subscribes for shares in the Corporation in accordance with the Share Subscription and Implementation Agreement between the Crown and the Corporation."

The proposed new Shareholders' Letter of Expectations is provided at Appendix 2.

- **Resolution 3 – Approval to enter into the Share Subscription and Implementation Agreement, including approval for the issue of shares in the Corporation to the State Government**

To consider and, if thought fit, to pass the following resolution:

"Subject to:

- (i) the Water and Sewerage Legislation (Corporate Governance and Pricing) Bill 2018 passing into law and coming into effect in substantially the same terms as set out in Appendix 4, as determined by the Board of the Corporation, having consulted with the Chief Owners' Representative and the Secretary of the Department of Treasury and Finance for Tasmania; and*
- (ii) the passing of Resolution 1 adopting the Constitution in substantially the same form as set out in Appendix 1; and*
- (iii) the passing of Resolution 2 adopting the Shareholders' Letter of Expectations in substantially the same form as set out in Appendix 2,*

that the Corporation be authorised to enter into the Share Subscription and Implementation Agreement with the Crown in substantially the same form as set out in Appendix 3, including the issuing of shares in the Corporation to the Crown."

The proposed Share Subscription and Implementation Agreement is provided at Appendix 3.

6. Explanatory notes

6.1 Resolution 1 – Adoption of a new Constitution

The material changes to the existing Constitution are summarised below:

- **Rule 3 Share capital**
 - A new class of shares for the State Government is established.
 - Owner Councils' existing single shares will be converted to a proportionate number of shares out of 90,000,000 total shares on issue to Councils. The number of shares held by each Owner Council is calculated based on the voting percentages under Schedule 2 of the current Constitution.
 - It is noted that the voting percentages expressed in Schedule 2 of the current Constitution were rounded up to two decimal points for presentation purposes. To provide greater accuracy, the rounding effect has been removed.
 - On a winding up, any surplus will be divided amongst all owners in accordance with the proportion of their shares held at the time.
- **Rule 6 General meetings**
 - Under the new share capital structure, when voting, an Owner's Representative is entitled to one vote on a show of hands, or one vote per share on a poll.
 - Similarly, the State Government's Owner's Representative will be entitled to one vote on a show of hands, or one vote per share on a poll.
- **Rule 8 Shareholders' Letter of Expectations**
 - Changes to certain provisions in the Shareholders' Letter of Expectations will require support from both an Ordinary Majority of Council Owners' Representatives and the State Government's Owner's Representative: these relate to the key commitments in the MOU regarding approval of the Corporate Plan, an accelerated capital investment program and the price freeze and cap.
- **Rule 9 Owners' Representatives**
 - The State Government's Owner's Representative will be the Secretary of Treasury or their delegate.
- **Rule 10 Selection Committee**
 - The Board Selection Committee to be reduced to either six or seven, with one Council Owner's Representative from each of the North and North western regions, two Council Owners' Representatives from the Southern region, the Board Chairman, the State Government's Owner's Representative and the Chief Owners' Representative (if that person is not one of the regional representatives).
 - If the State Government does not meet its share subscription obligations, this right 'falls away' and the number of Selection Committee members decreases by one.
- **Rule 11 Directors**
 - A person who is employed by State Government cannot be appointed to the Board, reflecting the same rule that applies for Council employees. However, this will not operate to exclude a person who sits on the board of a State-owned Business, or who provides services to such a board as an independent contractor.
- **Rule 13 Executive officers**

- The appointment of the CEO continues to be the Board's decision, but there is a requirement that the Chief Owner's Representative and the State Government's Owner's Representative be consulted.
- If the State Government does not meet its share subscription obligations, this right 'falls away' and TasWater's obligation will be limited to consultation with the Chief Owner's Representative.
- **Rule 15 Distribution of profits**
 - The current obligations to pay loan guarantee fees and tax equivalent payments have been removed, meaning that the only distributions paid to Owner Councils are in the form of dividends.
- **Schedules 1 Dictionary**
 - A number of new definitions have been added reflecting the amendments to the Constitution.
- **Schedule 2 Equity proportions per member for voting purposes**
 - This Schedule reflects the changes to the share capital structure as outlined in relation to Rule 3 above and notes that the State Government's shareholding will increase in line with its ongoing equity contributions.
- **Schedule 3 Equity proportions per member for dividend purposes**
 - This Schedule is unchanged, save for the inclusion of the State Government as a shareholder – but receiving no dividend in line with the MOU.
- **Schedule 4 Priority distribution proportions**
 - This Schedule is deleted, noting it only applied in the first year of TasWater.
- **Schedule 5 Special majority members resolution**
 - Other than being renumbered as Schedule 4, this Schedule is unchanged.
- **Schedule 6 75% by member, 75% by equity resolution**
 - Renumbered as Schedule 5, the only changes to this Schedule are to ensure consistency with other provisions.
- **NEW Schedule 6 Government member resolution**
 - This Schedule has been inserted to enshrine the State Government's rights in relation to approval or amendment of the Corporate Plan (or resolution of disputes relating thereto), membership of the Board Selection Committee, and right to be consulted in relation to the appointment of the CEO.
 - The corresponding provisions in the Constitution also note that any change to those rights can only be effected with the State Government's Owner's Representative's support.

6.2 Resolution 2 – Adoption of a new Shareholders' Letter of Expectations

The material changes to the existing Shareholders' Letter of Expectations are summarised below:

- **Part 8 Corporate Plan**
 - The Corporate Plan process is amended by providing both Owner Councils and the State Government access to the draft Corporate Plan as endorsed by the Board and an opportunity to provide proposed amendments to the draft Plan in writing to the Board Chairman.

- The Board will consider any proposed amendments as soon as practicable, but is not obliged to accept any amendment that would create a risk of the directors breaching their directors' duties or any other regulatory obligations.
 - The Board will then either present a revised draft Corporate Plan (if amendments are accepted) or the draft Corporate Plan and a letter of explanation (if amendments are not accepted) to the shareholders for consideration at the Annual Planning General Meeting.
 - At the Annual Planning General Meeting, the shareholders can adopt the Corporate Plan presented to them. This will require both an Ordinary Majority of Council Owners' Representatives and an affirmative vote by the State Government Owner's Representative.
 - If the Corporate Plan as presented to the Annual Planning General Meeting is not adopted, but an Ordinary Majority of Owners' Representatives (not including the State Government's Owner's Representative) and the State Government's Owner's Representative agree amendments to the Plan, the Board must accept those amendments unless this would result in the directors being in breach of their fiduciary duties, the *Corporations Act 2001* (Cth) or result in unlawful activity. In such a case, the Corporate Plan as recommended by the Board will be deemed to have been adopted and the Chairman will advise the shareholders accordingly.
 - If the Corporate Plan as presented to the Annual Planning General Meeting is not adopted, and an Ordinary Majority of Owners' Representatives (not including the State Government's Owner's Representative) and the State Government's Owner's Representative cannot agree amendments to the Plan, a dispute resolution process is invoked.
 - This process involves consultation by the Board Chairman with the Chief Owner's Representative and the State Government's Owner's Representative to determine a solution. If the parties cannot reach a unanimous decision, a two-thirds majority will prevail, except where that result would cause directors to breach their fiduciary duties, or otherwise result in unlawful action.
 - If the State Government does not meet its share subscription obligations, the requirement for the State Government's Owner's Representative to approve the Corporate Plan, and to be included in any associated dispute resolution process 'falls away'. Approval of the Corporate Plan will require only the support of an Ordinary Majority of Owners' Representatives and the dispute resolution process will be limited to the Board Chairman and the Chief Owners' Representative.
- **Part 10 Shareholder Relationships**
 - The Board Chair and CEO will meet with relevant Ministers regularly as determined by mutual agreement.
 - **Part 18 Trade Waste**
 - TasWater, Councils and Government will work closely together to ensure that the recent initiatives by TasWater in relation to trade waste are working and to identify and implement any further improvements in trade waste management.
 - **Part 21 Dividends**
 - TasWater has committed to certain price increase constraints (see Part 27) and to use best endeavours to accelerate our capital program (see Part 29).

- If however, the Board determines that to maintain financial sustainability, it cannot continue to meet these commitments and maintain Owner Councils' dividends, it may, following consultation with State Government, determine to amend the capital program and/or the regulated pricing structure (noting that any price increases must still be within the prevailing pricing determination issued by the Tasmanian Economic Regulator).
- **Part 24 Whole of Government Reporting**
 - The Chief Owner's Representative, Chairman and CEO will appear at GBE Scrutiny Committee hearings if required.
- **Part 27 Pricing**
 - Prices will be frozen from 1 July 2019 until 30 June 2020. From 1 July 2020 until 30 June 2025 annual price increases will be capped at 3.5%, unless unforeseen circumstances arise.
- **Part 28 Community Service Obligation**
 - A mechanism has been included which enables a shareholder to request that TasWater undertake a project that is not contemplated either in its then current Corporate Plan, or in its long term investment plan.
 - A project may be deemed 'commercial' (i.e. one that be accepted by the Economic Regulator as prudent and efficient, and the costs of which may therefore be recovered through tariffs for regulated water and sewerage services) or 'uncommercial' (i.e. projects that will not meet this test).
 - If a project is deemed uncommercial, a shareholder may offer to fund it either directly or through a third party.
 - TasWater will consider the potential impact on its ability to deliver existing commitments in the then current Corporate Plan if it progresses the project (whether commercial or uncommercial) and whether this means that an amendment to the Corporate Plan is required.
 - Any amendment to the Corporate Plan will require approval from the shareholders.
 - TasWater must include information about any uncommercial projects that it undertakes in its Annual Report.
- **Part 29 Infrastructure Investment Program**
 - TasWater will use best endeavours to develop an accelerated capital program in consultation with its owners, which will target a total infrastructure investment of \$1.8 billion by 30 June 2026.

6.3 Resolution 3 – Approval to enter into the Share Subscription and Implementation Agreement, including the issue of shares in TasWater to the State Government

Under the Constitution, approval is required to issue new shares in the Corporation. The terms on which these shares are issued, and the particular rights attached to the relevant class of shares, are set out in the Share Subscription and Implementation Agreement.

The key features of the Agreement are as follows:

- The State Government will provide annual equity injections of \$20 million for a period of 10 years

- 1,000,000 “DD” class shares in the Corporation will be issued in return for each \$20 million contributed
- The rights attached to these shares are, in essential terms, the same as the other classes of shares held by Owner Councils except in relation to the role of the State Government’s Owner’s Representative in the following matters:
 - The approval of the Corporate Plan, and involvement in resolving any deadlock if the Board does not accept any requests from shareholders for amendment
 - The Board Selection Committee and
 - The right to be consulted in relation to the appointment of the CEO

and in that the State Government has no entitlement to receive dividends

- If the State Government does not meet its commitment to subscribe for shares (i.e. inject equity), it will lose these additional rights unless and until it rectifies that failure. Any decisions made by the Board Selection Committee, the Owners’ Representatives or the Board during such a period shall remain valid and in full effect notwithstanding those additional rights being reinstated at a later date.
- Whilst it is currently anticipated that the equity injections will be made on an annual basis, there is a mechanism for this to occur more frequently. Hence, the State Government’s shareholding may increase more rapidly, although it will not exceed a maximum of 10% of shares on issue.

7. Glossary

A list of terms and acronyms used in this Information Memorandum, and their meanings, is provided below.

Term	Meaning
Board	The Directors of the Corporation from time to time
CEO	The Chief Executive Officer appointed to that role pursuant to Rule 13.1 of the Constitution
Chief Representative	The Chief Owners' Representative as appointed pursuant to Rule 9.2 of the Constitution
Company	Tasmanian Water and Sewerage Corporation Pty Limited (ACN 162 220 653)
Constitution	The constitution of the Corporation as adopted on 5 February 2013, ratified on 16 May 2013 and subsequently amended
Corporations Act	The <i>Corporations Act 2001</i> (Cth)
Director	A person who is, for the time being, a director of the Company
Notice	The notice of the Special General Meeting
Proxy Form	The proxy form enclosed with the Notice

Appendix 1: Proposed Constitution



Tasmanian Water and Sewerage
Corporation Pty Ltd

Constitution

Tasmanian Water and Sewerage Corporation Pty Ltd
ACN 162 220 653
A proprietary company limited by shares

Adopted on incorporation 5 February 2013
Ratified by general meeting 16 May 2013
Amended by general meeting 13 May 2014
Amended by general meeting 28 July 2015
Amended by general meeting 27 September 2018



Table of Contents

1	Principal Objectives	1
2	Defined terms and interpretation	1
2.1	Definitions in the Dictionary	1
2.2	Interpretation	1
2.3	Act to prevail.....	1
3	Share capital	1
3.1	Shares.....	1
3.2	Certificates	2
3.3	Share class structure.....	2
3.4	Equitable interests in shares	3
4	Indemnities and surrender	3
4.1	Indemnity for payments by the Corporation	3
4.2	Surrender of shares	4
4.3	General provisions applicable to a disposal of shares under this constitution	4
4.4	Interest payable by member	4
5	Transfer and transmission of shares	5
5.1	Transfer of shares	5
5.2	Power to decline registration of transfers.....	5
5.3	Power to suspend registration of transfers	6
5.4	Transmission of shares.....	6
5.5	Members to act in good faith on the occurrence of a Transmission Event	6
6	General meetings	6
6.1	Convening general meetings.....	6
6.2	General meetings.....	7
6.3	Notice of general meetings	7
6.4	Quorum at general meetings	8
6.5	Chair of general meetings	8
6.6	Conduct of general meetings	8
6.7	Decisions at general meetings	9
6.8	Voting at general meetings	9
6.9	Representation at general meetings	10
6.10	Resolutions without meetings.....	12
6.11	Electronic technology to conduct meetings	12
7	Constitution	13



7.1	Process for adopting, modifying and repealing	13
7.2	Constitution is a public document	13
7.3	Entrenchment of constitution	13
7.4	Subsidiary constitutions	13
8	Shareholders' Letter of Expectations	13
8.1	Process for adopting, modifying and repealing	13
8.2	Matters to be included in Shareholders' Letter of Expectations	14
8.3	Publication of Shareholders' Letter of Expectations	15
8.4	Crown's role in adopting or amending the Corporate Plan	15
9	Owners' Representatives	15
9.1	Appointment of Owners' Representatives	15
9.2	Chief Representatives	<u>15-16</u>
9.3	Appointment of Acting Owners' Representatives	16
9.4	Functions of Owners' Representatives	16
9.5	Proceedings of Owners' Representatives	17
10	Selection Committee	17
10.1	Establishment of Selection Committee	17
10.2	Term	18
10.3	Function of Selection Committee	18
10.4	Proceedings of Selection Committee	19
10.5	Remuneration of Selection Committee	19
10.6	Removal of Selection Committee member	19
11	Directors	19
11.1	Board	19
11.2	Director Independence	20
11.3	Appointment, reappointment and removal of directors	20
11.4	Vacation of office	20
11.5	Remuneration of directors	21
11.6	Director need not be a member	21
11.7	Interested directors	22
11.8	Powers and duties of directors	23
11.9	Proceedings of directors	24
11.10	Convening meetings of directors	24
11.11	Notice of meetings of directors	24
11.12	Quorum at meetings of directors	25
11.13	Chair of directors	25



11.14	Decisions of directors	25
11.15	Resolutions without meetings	25
11.16	Committees of directors	26
11.17	Delegation to individual directors	26
11.18	Validity of acts	26
11.19	Limitation on sale or disposal of main undertaking.....	26
12	Board Reporting and Communication	26
12.1	Annual report.....	27
12.2	Other information	27
12.3	Commercial in confidence dispute resolution.....	27
13	Executive officers	28
13.1	Chief Executive Officer.....	28
13.2	Secretaries	28
13.3	Provisions applicable to all executive officers.....	28
14	Seals	29
14.1	Adoption of common seal.....	29
14.2	Safe custody of Seal.....	29
14.3	Use of Seal.....	29
14.4	Duplicate seal.....	29
14.5	Share seal or certificate seal.....	29
14.6	Sealing and signing of certificates.....	30
15	Distribution of profits	30
15.1	Dividends	30
15.2	Capitalisation of profits.....	32
15.3	Ancillary powers.....	33
15.4	Reserves.....	33
15.5	Carry forward of profits.....	34
16	Winding up	34
16.1	Distribution of surplus.....	34
16.2	Division of property.....	34
17	Minutes and records.....	34
17.1	Minutes	34
17.2	Signing of minutes	34
17.3	Minutes as evidence.....	35
17.4	Inspection of records.....	35
18	Indemnity and insurance.....	35



18.1	Persons to whom rules 18.2 and 18.4 apply	35
18.2	Indemnity.....	35
18.3	Extent of Indemnity.....	35
18.4	Insurance	35
18.5	Agreement and Access to Corporation Books	36
18.6	Savings	36
19	Notices.....	36
19.1	Notices by the Corporation to members.....	36
19.2	Notices by the Corporation to directors.....	37
19.3	Notices by members or directors to the Corporation	37
19.4	Notices to members outside Australia	37
19.5	Time of service.....	37
19.6	Other communications and documents.....	37
19.7	Notices in writing.....	38
20	General	38
20.1	Currency.....	38
20.2	Submission to jurisdiction.....	38
20.3	Subsidiaries.....	38
20.4	Limit on borrowings.....	38
20.5	Prohibition and enforceability.....	39
	SCHEDULE 1 - DICTIONARY	40
1	Dictionary	40
2	Interpretation.....	41
2.1	General.....	41
2.2	Application of the Corporations Act	42
2.3	Exercise of powers	42
2.4	Replaceable rules not to apply.....	43
2.5	Best Efforts.....	43
	SCHEDULE 2 – SHARE CAPITAL STRUCTURE	44
	SCHEDULE 3 – EQUITY PROPORTIONS PER MEMBER FOR <u>DISTRIBUTION DIVIDEND</u> PURPOSES ..	47
	SCHEDULE 4 – SPECIAL MAJORITY MEMBERS RESOLUTION	5151
	SCHEDULE 5 - 75% BY MEMBER, 75% BY EQUITY RESOLUTION	5252
	<u>SCHEDULE 6 – GOVERNMENT MEMBER RESOLUTIONS</u>	<u>53</u>



1 Principal – Objectives

The principal objectives of the Corporation are as follows:

- (a) to efficiently provide water and sewerage functions in Tasmania;
- (b) to encourage water conservation, the demand management of water and the re- use of water on an economic and commercial basis;
- (c) to be a successful business and, to this end:
 - (i) to operate its activities in accordance with good commercial practice;
 - (ii) to deliver sustainable returns to its members; and
 - (iii) to deliver water and sewerage services to customers in the most cost- efficient manner.

Each of the principal objectives of the Corporation is of equal importance.

2 Defined terms and interpretation

2.1 Definitions in the Dictionary

A term or expression starting with a capital letter:

- (a) which is defined in the Dictionary in Schedule 1 (Dictionary), has the meaning given to it in the Dictionary;
- ~~(b) — which is defined in rule 15.5, has the meaning given to it in rule 15.5;~~
- ~~(c)~~ (b) which is used in the *Water and Sewerage Corporation Act 2012* (Tas) has the meaning given to it in the *Water and Sewerage Corporation Act 2012* (Tas); and
- ~~(d)~~ (c) which is defined in the Corporations Act, but is not defined in the Dictionary ~~or in rule 15.5,~~ has the meaning given to it in the Corporations Act.

2.2 Interpretation

The interpretation clause in Schedule 1 (Dictionary) sets out rules of interpretation for this constitution.

2.3 Act to prevail

- (a) The provisions of the *Water and Sewerage Corporation Act 2012* (Tas) prevail over any inconsistent provisions of this constitution.
- (b) The Corporation, its directors and members are expressly prohibited from exercising any of their powers in contravention of or in a manner inconsistent with any requirement of the *Water and Sewerage Corporation Act 2012* (Tas).

3 Share capital

3.1 Shares

The directors have the right to issue shares in accordance with, or to ensure compliance with, the *Water and Sewerage Corporation Act 2012* (Tas).

3.2 Certificates

Each member is entitled without payment to receive a certificate for shares issued as required under the Corporations Act.

3.3 Share class structure

Without prejudice to any special rights conferred on the holders of any shares or class of shares, the directors may, subject to the terms of the *Water and Sewerage Corporation Act 2012 (Tas)*, issue or allot or otherwise dispose of, shares in the Corporation including:

- (a) "A" ordinary shares;
- (b) "B" ordinary shares;
- (c) "C" ordinary shares;
- (d) "D" ordinary shares;
- (e) "E" ordinary shares;
- (f) "F" ordinary shares;
- (g) "G" ordinary shares;
- (h) "H" ordinary shares;
- (i) "I" ordinary shares;
- (j) "J" ordinary shares;
- (k) "K" ordinary shares;
- (l) "L" ordinary shares;
- (m) "M" ordinary shares;
- (n) "N" ordinary shares;
- (o) "O" ordinary shares;
- (p) "P" ordinary shares;
- (q) "Q" ordinary shares;
- (r) "R" ordinary shares;
- (s) "S" ordinary shares;
- (t) "T" ordinary shares;
- (u) "U" ordinary shares;
- (v) "V" ordinary shares;
- (w) "W" ordinary shares;
- (x) "X" ordinary shares;
- (y) "Y" ordinary shares;
- (z) "Z" ordinary shares;
- (aa) "AA" ordinary shares;



(bb) "BB" ordinary shares; ~~and~~

(cc) "CC" ordinary shares; ~~and~~

(dd) "DD" ordinary shares,

which shall rank pari passu in all respects, except for:

(i) voting rights attaching to the shares are set out in rule 6.8; ~~and~~

(ii) dividend rights attaching to the shares are set out in rule 15.

3.4 Equitable interests in shares

- (a) The Corporation may treat the registered holder of a share as the absolute owner of that share.
- (b) The Corporation is not bound by or compelled in any way to recognise an equitable, contingent, future, partial or other right or interest in a share or unit of a share, even if the Corporation has notice of that right or interest.
- (c) With the consent of the directors, shares held by a trustee may be marked in the register in such a way as to identify them as being held subject to the relevant trust.
- (d) Nothing in rule 3.4(c) limits rule 3.4(a).

4 Indemnities ~~and~~ ~~surrender~~

4.1 Indemnity for payments by the Corporation

- (a) A member or, if the member no longer exists, the member's legal personal representative, must indemnify the Corporation against any liability which the Corporation has under any law to make a payment for or on account of that member including in respect of:
 - (i) shares held by that member;
 - (ii) a transfer or transmission of shares by a member; or
 - (iii) dividends, bonuses or other money owed to the member.
- (b) Rule 4.1(a) includes, without limitation, a payment arising from:
 - (i) the winding up of that member;
 - (ii) the non-payment of any income tax, income tax equivalents, capital gains tax, wealth tax or other tax by that member or the legal personal representative of that member; or
 - (iii) the non-payment of any duty by that member or the legal personal representative of that member.
- (c) The member or, if the member no longer exists, the member's legal personal representative, must pay to the Corporation immediately on demand:
 - (i) the amount required to reimburse the Corporation for a payment described in rule 4.1(a); and
 - (ii) interest on any part of that amount which is unpaid from the date the Corporation makes the payment until the date the Corporation is reimbursed in full for that payment, at a rate determined under rule 4.4.



- (d) This rule is in addition to any right or remedy the Corporation may have under the law which requires it to make the payment.
- (e) The directors may:
 - (i) exempt a share from all or any part of this rule 4.1; and
 - (ii) waive or compromise all or any part of any payment due to the Corporation under this rule 4.1.

4.2 Surrender of shares

- (a) Subject to any applicable requirements of the *Water and Sewerage Corporation Act 2012* (Tas), the directors may accept a surrender of a share:
 - (i) by way of compromise of any claim as to whether or not that share has been validly issued;
 - (ii) where it is within the power of the Corporation to require a surrender; or
 - (iii) where accepting a surrender is necessary to ensure compliance with the *Water and Sewerage Corporation Act 2012* (Tas).
- (b) Any share surrendered under rule 4.2(a) may be reissued or otherwise disposed of in the same manner as set out in rule 4.3.

4.3 General provisions applicable to a disposal of shares under this constitution

- (a) A reference in this rule 4.3 to a disposal of shares under this constitution is a reference to cancellation of a share surrendered under rule 4.2.
- (b) Where any share is surrendered under rule 4.2(a), the Corporation may convene a general meeting of members to vote on a resolution to cancel that share under the Corporations Act (if required) and the member must take all action required to give effect to that cancellation except to the extent that doing so may cause non-compliance with the applicable requirements of the *Water and Sewerage Corporation Act 2012* (Tas).
- (c) The remedy of any person aggrieved by a disposal of shares under this constitution is limited to damages only and is against the Corporation exclusively.
- (d) A statement in writing signed by a director or secretary of the Corporation to the effect that a share in the Corporation has been surrendered under rule 4.2(a) on a date stated in the statement is conclusive evidence of the facts stated in the statement as against all persons claiming to be entitled to the share.

4.4 Interest payable by member

- (a) For the purposes of rule 4.1(c)(ii), the rate of interest payable to the Corporation is:
 - (i) if the directors have fixed a rate, that rate; or
 - (ii) in any other case, 10% per annum.
- (b) Interest payable under rule 4.1(c)(ii) accrues daily and may be capitalised monthly or at other intervals the directors think fit.

5 Transfer and transmission of shares

5.1 Transfer of shares

- (a) Subject to this constitution, the rights or restrictions attached to any shares or class of shares and to any applicable requirements of the *Water and Sewerage Corporation Act 2012* (Tas), a member may transfer all or any of the member's shares by an instrument in writing in any usual form or in any other form that the directors approve where the shares are:
- (i) surrendered under rule 4.2(a); or
 - (ii) the subject of a Transmission Event under rule 5.4.
- (b) A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the register of members in respect of the shares.
- (c) The Corporation must not charge a fee for the registration of a transfer of shares.
- (d) An instrument of transfer referred to in rule 5.1(a) must be signed by or on behalf of both the transferor and the transferee unless the transfer:
- (i) relates only to fully paid shares and signature by the transferee has been dispensed with by the directors; or
 - (ii) is a sufficient transfer of marketable securities for the purposes of the Corporations Act.
- (e) An instrument of transfer referred to in rule 5.1(a) must be duly stamped if required by law to be stamped.
- (f) An instrument of transfer referred to in rule 5.1(a) must be lodged for registration at the registered office of the Corporation, or at such other place as the directors determine, accompanied by any evidence which the directors require to prove the title of the transferor or the transferor's right to the shares including the share certificate, if any, and to prove the right of the transferee to be registered as the owner of the shares.
- (g) Subject to the powers vested in the directors under rules 5.2 and 5.3, where the Corporation receives an instrument of transfer complying with rules 5.1(d), 5.1(e) and 5.1(f), the Corporation must register the transferee named in the instrument as the holder of the shares to which it relates.
- (h) The Corporation may retain any registered instrument of transfer received by the Corporation under rule 5.1(f) for any period as the directors think fit.
- (i) Except in the case of fraud, the Corporation must return any instrument of transfer received under rule 5.1(f) which the directors decline to register to the person who deposited it with the Corporation.
- (j) The directors may, to the extent permitted by law and subject to the *Water and Sewerage Corporation Act 2012*, waive all or any of the requirements of this rule 5.1.

5.2 Power to decline registration of transfers

Subject to any special rights conferred on the holders of any shares or class of shares, the directors may, in their absolute discretion, decline to register any transfer of shares provided that they may not do so in the case of a transfer of shares effected under the enforcement of any security interest



created over the relevant shares.

5.3 Power to suspend registration of transfers

The directors may suspend the registration of transfers at the times and for the period the directors think fit, but the period of suspension must not exceed a total of 30 days in any year provided that they may not do so in the case of a transfer of shares effected under the enforcement of any security interest created over the relevant shares.

5.4 Transmission of shares

- (a) This rule 5.4 is subject to all applicable provisions of the *Water and Sewerage Corporation Act 2012* (Tas).
- (b) In the case of a Transmission Event, the only person or entity that the Corporation may recognise as having any title to a member's shares or any benefits accruing in respect of those shares are:
 - (i) the legal personal representative of that member where the member no longer exists and was a sole holder; and
 - (ii) another Council.
- (c) Nothing in rule 5.4(b) releases the entity that has assumed the responsibilities of a member which no longer exists from any liability in respect of a share.
- (d) Only a person who becomes entitled to a share as a result of a Transmission Event may elect to be registered as the holder of the share and must do so by signing and serving on the Corporation a notice in writing stating that election after producing any evidence the directors require to prove that person's entitlement to the share, including the certificate for the share.
- (e) The provisions of this constitution relating to the right to transfer, and the registration of transfers of, shares apply, so far as they can and with the changes as are necessary, to any transfer under rule 5.4(b)(i) as if the relevant Transmission Event had not occurred and the transfer were executed or effected by the registered holder of the share.
- (f) Despite rule 5.4(b), the directors may register a transfer of shares signed by a member before a Transmission Event even though the Corporation has notice of the Transmission Event.

5.5 Members to act in good faith on the occurrence of a Transmission Event

If a Transmission Event occurs, the members must act in good faith and use their best efforts to ensure that the equity percentages **for voting set out in Schedule 2** and for distributions set out in Schedule 3 are amended, if necessary, to reflect the Transmission Event.

6 General -meetings

6.1 Convening general meetings

- (a) A general meeting may be convened by:
 - (i) the directors by resolution of the board; or
 - (ii) in accordance with sections 249E, 249F and 249G of the Corporations Act.
- (b) A general meeting must be convened by the directors in accordance with section 249D of the Corporations Act.
- (c) Subject to rule 6.1(e), the directors may postpone, cancel or change the venue for a general

meeting by giving notice not later than five business days before the time at which the general meeting was to be held to each person who is at the date of the notice:

- (i) a member;
 - (ii) a director; or
 - (iii) an auditor of the Corporation.
- (d) A notice postponing or changing the venue for a general meeting must specify the date, time and place of the general meeting.
- (e) A general meeting convened under section 249D of the Corporations Act may not be:
- (i) postponed beyond the date by which that section requires it to be held; or
 - (ii) cancelled without the consent of the member or members who requested it.

6.2 General meetings

- (a) The Corporation must hold a general meeting:
- (i) at least twice in each calendar year; and
 - (ii) subject to rule 6.2(b), the second general meeting for the calendar year must be held within 5 months after the end of the Corporation's financial year.
- (b) The members may extend the time referred to in rule 6.2(a)(ii).
- (c) The directors may attend a general meeting.
- (d) In addition to the notice of meeting, at least 21 days before the second general meeting for each calendar year, the Corporation must give the members a copy of the Corporation's annual report.

6.3 Notice of general meetings

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, notice of a general meeting must be given within the time limits prescribed by the Corporations Act and in the manner authorised by rule 19.1 to each person who is at the date of the notice:
- (i) a member;
 - (ii) a director; or
 - (iii) an auditor of the Corporation.
- (b) A notice of a general meeting must specify the date, time and place of the meeting and state the general nature of the business to be transacted at the meeting and any other matters required under the Corporations Act.
- (c) A person may waive notice of any general meeting by notice in writing to the Corporation.
- (d) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this rule 6.3 does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
- (i) the non-receipt or failure occurred by accident or error; or
 - (ii) before or after the meeting, the person:



- (A) has waived or waives notice of that meeting under rule 6.3(c); or
 - (B) has notified or notifies the Corporation of the person's agreement to that act, matter, thing or resolution by notice in writing to the Corporation.
- (e) A person's attendance at a general meeting:
- (i) waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
 - (ii) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

6.4 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chair and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business and remains present throughout the meeting.
- (b) A quorum consists of:
 - (i) if the number of members entitled to vote is two or more - more than 50% of the total number of members entitled to vote (irrespective of the number of shares held by each member); or
 - (ii) if only one member is entitled to vote - that member.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (i) where the meeting was convened by, or at the request of, a member or members, the meeting must be dissolved; or
 - (ii) in any other case:
 - (A) the meeting stands adjourned to the day, and at the time and place, as the directors determine or, if no determination is made by the directors, to the same day in the next week at the same time and place; and
 - (B) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

6.5 Chair of general meetings

- (a) The Chief Representative, or if the Chief Representative is not present, the Deputy Chief Representative, must preside as chair at each general meeting if present at the time appointed for the meeting.
- (b) If neither the Chief Representative or the Deputy Chief Representative is present at the time appointed for the meeting, the members present must elect as chair of the meeting another person who is present and willing to act.

6.6 Conduct of general meetings

- (a) Any question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chair of the meeting, whose decision is final.
- (b) The chair of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any



adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

- (c) It is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

6.7 Decisions at general meetings

- (a) Except in the case of any resolution which as a matter of law requires a Special Majority Members Resolution and as otherwise provided for in this Constitution, questions arising at a general meeting are to be decided by a majority of votes cast by the members present at the meeting and that decision is for all purposes a decision of the members.
- (b) In the case of an equality of votes upon any proposed resolution:
 - (i) the chair of the meeting does not have a second or casting vote; and
 - (ii) the proposed resolution is taken as having been lost.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless, before a vote by show of hands is taken or before or immediately after the declaration of the result of the show of hands, a poll is demanded by:
 - (i) the chair of the meeting; or
 - (ii) at least 5 members present and entitled to vote on the relevant resolution; or
 - (iii) members with at least 5% of the votes that may be cast on the resolution on a poll.
- (d) A demand for a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which the poll has been demanded.
- (e) Unless a poll is duly demanded, a declaration by the chair of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Corporation, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (f) If a poll is duly demanded at a general meeting, it will be taken when and in the manner the chair of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (g) A poll cannot be demanded at a general meeting on the election of a chair of the meeting.
- (h) The demand for a poll may be withdrawn.

6.8 Voting at general meetings

- (a) Subject to this constitution (including rule 6.7(f)) and to any rights or restrictions attached to any shares or class of shares, at a general meeting:
 - (i) on a show of hands, every member present has one vote irrespective of the number of fully paid shares held by the member in respect of which they are entitled to vote; and
 - (ii) on a poll, each member present has one vote for each fully paid share (of any class) held by a member and each person present as proxy, attorney or Representative of a member has one vote for each fully paid share held by the member that that person represents, a proportionate vote at the percentage set out in Schedule 2, irrespective of the number of fully paid shares held by the member in respect of which the



~~member is entitled to vote.~~

- (b) Each of the matters listed in Schedule ~~45~~ requires a Special Majority Members Resolution;
- (c) Each of the matters listed in Schedule ~~56~~ requires a resolution of the members passed by:
 - (i) at least 75% ~~by number~~ of the members of the Corporation entitled to vote; and
 - (ii) any combination of members that hold at least 75% of the votes cast by members of the Corporation entitled to vote on the resolution-equity voting proportions specified in Schedule 2;

(d) Each of the matters listed in Schedule 6 requires a Government Member Resolution;

~~(d)(e)~~ Where a person present at a general meeting represents personally or by proxy, attorney or Representative more than one member the following rules apply to a vote taken on a show of hands:

- (i) the person is entitled to one vote only despite the number of members the person represents; and
- (ii) the person's vote will be taken as having been cast for all the members the person represents.

~~(e)(f)~~ A person entitled to a share as a result of a Transmission Event may vote at a general meeting in respect of that share in the same manner as if that person were the registered holder of the share if, before the meeting, the directors have:

- (i) admitted that person's right to vote at that meeting in respect of the share; or
- (ii) been satisfied of that person's right to be registered as the holder of, or to transfer, the share under rule 5.4(d),

and any vote tendered by that person must be accepted to the exclusion of the vote of the registered holder of the share.

~~(f)(g)~~ Where a member holds any share on which any call due and payable to the Corporation has not been duly paid that member is only entitled to be present at a general meeting but not vote.

~~(g)(h)~~ An objection to the qualification of a person to vote at a general meeting:

- (i) must be raised before or immediately after the result of the motion on which the vote objected to is given or tendered; and
- (ii) must be referred to the chair of the meeting, whose decision is final.

~~(h)(i)~~ A vote not disallowed by the chair of a meeting under rule 6.8(g) is valid for all purposes.

6.9 Representation at general meetings

- (a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:
 - (i) in person or, where a member is a body corporate, by its Representative;

- (ii) by proxy; or
 - (iii) by attorney.
- (b) A proxy, attorney or Representative may be a member of the Corporation but does not have to be a member.
- (c) A proxy, attorney or Representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Unless otherwise provided in the Corporations Act or in the appointment, an appointment of a proxy, attorney or Representative is taken to confer authority:
- (i) to agree to a meeting being convened by shorter notice than is required by the Corporations Act or by this constitution;
 - (ii) to speak to any proposed resolution on which the proxy, attorney or Representative may vote;
 - (iii) to demand or join in demanding a poll on any resolution on which the proxy, attorney or Representative may vote;
 - (iv) even though the appointment may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions:
 - (A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (B) to vote on any procedural motion, including any motion to elect the chair, to vacate the chair or to adjourn the meeting; and
 - (C) to act generally at the meeting; and
 - (v) even though the appointment may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (e) The chair of a meeting may require any person purporting to act as a proxy, attorney or Representative to establish to the satisfaction of the chair that the person has been validly appointed as a proxy, attorney or Representative and is the person named in the relevant instrument of appointment, failing which the person may be excluded from attending or voting at the meeting.
- (f) Where a member appoints two proxies or attorneys to vote at the same general meeting and the authority of one is not conditional on the other failing to attend or vote, the following rules apply:
- (i) where the appointment does not specify the proportion or number of the member's votes each proxy or attorney may exercise, each proxy or attorney may exercise half of the member's votes;
 - (ii) on a show of hands, neither proxy or attorney may vote; and
 - (iii) on a poll, each proxy or attorney may only exercise the voting rights the proxy or attorney represents.
- (g) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides,

the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.

- (h) A proxy or attorney may not vote at a general meeting or adjourned meeting unless the instrument appointing the proxy or attorney, and the original or a certified copy of the power of attorney or other authority (if any) under which the instrument is signed, are received:
 - (i) at the registered office of the Corporation, at the fax number at its registered office or at another place, fax number or electronic address specified for that purpose in the notice convening the meeting; and
 - (ii) by the time specified in the notice of meeting.
- (i) Unless the Corporation has received written notice of the matter by the time and at the place or in the manner set out in rules 6.9(h)(i) and (h)(ii), a vote cast by a proxy or attorney is valid even if, before the proxy or attorney votes:
 - (i) a Transmission Event occurs in relation to the appointer; or
 - (ii) the member revokes the proxy's or attorney's appointment; or
 - (iii) the member revokes the authority under which a third party appointed the proxy or attorney; or
 - (iv) the member transfers the share in respect of which the proxy or attorney was appointed.
- (j) The authority of a proxy or attorney to speak and vote for a member at a general meeting is suspended while the member is present at the meeting.

6.10 Resolutions without meetings

- (a) Subject to rule 6.10(c), the Corporation may pass a resolution without a general meeting being held, if all of the members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) For the purposes of rule 6.10(a):
 - (i) the document may be sent to members in any manner described in rule 19;
 - (ii) the resolution is passed when the last member signs;
 - (iii) separate copies of a document may be used for signing by members if the wording of the resolution and statement is identical in each copy; and
 - (iv) a signature of a member transmitted to the Corporation by facsimile is sufficient evidence of signature.
- (c) Rule 6.10(a) does not apply to a resolution to remove an auditor.
- (d) Where a document is signed in accordance with rule 6.10(a) the document is to be taken as a minute of the passing of the resolution.

6.11 Electronic technology to conduct meetings

Any meeting of the Corporation may be conducted by telephone, video conference or any other means of communication that gives the members a reasonable opportunity to participate and a member who participates in a meeting as permitted under this rule is taken to be present at the meeting.

7 Constitution

7.1 Process for adopting, modifying and repealing

- (a) Subject to the requirements of the *Water and Sewerage Corporation Act 2012* (Tas), the constitution of the Corporation is adopted on registration if each person specified in the application for the company's registration as a person who consents to become a member agrees in writing to the terms of the constitution before the application is lodged.
- (b) In accordance with the *Water and Sewerage Corporation Act 2012* (Tas), as soon as practicable after incorporation of the Corporation, the members must approve the constitution by resolution passed by at least 75% of the members of the Corporation entitled to vote.
- (c) Subject to rule 7.1(d) and rule 6.8(d), the Corporation may modify or repeal the constitution or a provision of the constitution by a resolution passed by at least 75% of the members of the Corporation entitled to vote.
- (d) Despite anything else in this constitution, this rule 7.1(d), ~~Schedule 2~~ and Schedule 3 can only be modified by a resolution passed by
- (i) at least 75% by number of the members of the Corporation entitled to vote; and
 - (ii) at least 75% of the votes cast by members of the Corporation entitled to vote on the resolution equity voting proportions specified in Schedule 2.

7.2 Constitution is a public document

The Corporation is to make available to the public the constitution of the Corporation following its adoption or modification as soon as practicable following its adoption or modification.

7.3 Entrenchment of constitution

- (a) Any special or other resolution of the Corporation that purports to modify or repeal the constitution or a provision of the constitution in breach of clause 7.3(b) does not have any effect.
- (b) The constitution or a provision of the constitution may not be modified or repealed:
- (i) in a way that would result in the constitution being inconsistent with the provisions of the *Water and Sewerage Corporation Act 2012* (Tas) or any regulations made under it; or
 - (ii) unless the provisions of section 11 of the *Water and Sewerage Corporation Act 2012* have been complied with.

7.4 Subsidiary constitutions

Each of the provisions that are to be included in the Corporation's constitution in accordance with *Water and Sewerage Corporation Act 2012* (Tas) must also be included in the constitution of any subsidiary of the Corporation.

8 Shareholders' -Letter of Expectations

8.1 Process for adopting, modifying and repealing

- (a) The members must prepare and approve by Ordinary Majority, a Shareholders' Letter of Expectations in accordance with this constitution and the *Water and Sewerage Corporation*

Act 2012 (Tas).

- (b) As soon as practicable after incorporation of the Corporation, the members must provide the Shareholders' Letter of Expectations_s to the board.
- (c) The Shareholders' Letter of Expectations_s must not be inconsistent with the *Water and Sewerage Corporation Act 2012* (Tas), the regulations or this constitution.
- (d) Subject to rule 8.1(f), the members may decide by Ordinary Majority, at any time, or on application of the board to:
 - (i) amend the Shareholders' Letter of Expectations_s; or
 - (ii) revoke the Shareholders' Letter of Expectations_s and substitute another Shareholders' Letter of Expectations_s.

(e) Before or while preparing a Shareholders' Letter of Expectations_s or an amendment to a Shareholders' Letter of Expectations_s, the members of the Corporation are to consult with the board.

(f) Where any amendment or revocation and substitution of the Shareholders' Letter of Expectations involves a change to:

- (i) the process for adoption and amendment of the Corporation's corporate plan (including any mechanism for resolving any dispute regarding the adoption of amendments to the corporate plan); or
- (ii) any expectation that the Corporation will commit to a price freeze or a cap on annual price increases for regulated services for water and sewerage customers; or
- (iii) any expectation that the Corporation will, on a best endeavours basis, commit to deliver an accelerated capital investment program such that it achieves a target of \$1.8 billion in total infrastructure investment over the remainder of its current 10 year investment program (ie until 30 June 2026).

the amendment or revocation and substitution of the Shareholders' Letter of Expectations will require the support of:

- (iv) an Ordinary Majority of Owners' Representatives (excluding the Crown's Owner's Representative); and
- (v) the Crown's Owner's Representative.

8.2 Matters to be included in Shareholders' Letter of Expectations_s

- (a) The Shareholders' Letter of Expectations_s must specify, without limitation:
 - (i) the strategic priorities of the Corporation;
 - (ii) the high-level expectations of members for the performance of the business of the Corporation and any subsidiary of the Corporation;
 - (iii) the process for adoption and amendment of the Corporation's corporate plan;
 - (iv) the required content and form for, and time period to be covered by, the corporate plan; and
 - (v) that the chair of directors and Chief Executive Officer~~chief executive officer~~ must provide briefings to members as provided in the Shareholders' Letter of Expectations_s.

8.3 Publication of Shareholders' Letter of Expectations

The Corporation must publish the Shareholders' Letter of Expectations on the Corporation's website as soon as practicable after adoption.

8.4 Crown's role in adopting or amending the Corporate Plan

- (a) Subject to rule 8.4(c) and rule 8.4(d), the process for adopting or amending the corporate plan is set out in part 8.4 of the Shareholder's Letter of Expectations.
- (b) Subject to rule 8.4(c), any changes relating to:
- (i) the role of the Crown's Owner's Representative in the process to approve, or request amendments to, the corporate plan; or
 - (ii) the Crown's Owner's Representative's role in the mechanism to avoid deadlock in the event that there is any dispute over adopting any amendments to the corporate plan,
- together "the Corporate Plan Rights", or to this rule 8.4(b), requires a Government Member Resolution in accordance with Schedule 6.
- (c) If the Crown does not meet its share subscription obligations in accordance with clause 2.2 of the Share Subscription and Implementation Agreement, then, for so long as the Crown fails to meet those obligations, the Corporate Plan Rights and rule 8.4(b) shall not apply.
- (d) Where the circumstances in rule 8.4(c) apply:
- (i) there shall be no obligation for the Crown's Owner's Representative to approve the corporate plan, and an Ordinary Majority of the Owners' Representatives may accept or request amendments to the corporate plan; and
 - (ii) there shall be no right for the Owner's Representative for the Crown to take part in the mechanism for resolving any disputes in relation to the adoption of any amendments to the corporate plan. For the avoidance of doubt, in these circumstances the chair and the Chief Owner's Representative shall determine a solution.

9 Owners' Representatives

9.1 Appointment of Owners' Representatives

- (a) Each member of the Corporation must as soon as practicable, after incorporation of the Corporation and at any time there is a vacancy in the position of Owners' Representative for a member, appoint a person as an Owners' Representative for that member for a specified term not exceeding 3 years.
- (b) A person appointed by a Council member as its Owners' Representative under rule 9.1(a), must be an elected member of Council for that member or the General Manager of Council for that Council member.
- ~~(b)~~(c) A person appointed by the Crown as its Owner's Representative under rule 9.1(a), must be the Secretary of Treasury of the Department of Treasury and Finance in Tasmania for the Crown or a delegate of the Secretary.
- ~~(c)~~(d) Each member must notify the Corporation of the name of the Owner's Representative and if there is a new appointment of a person as an Owner's Representative.
- ~~(d)~~(e) The number of times a person may be appointed to the role of Owners' Representative is not limited.

9.2 Chief Representatives

- (a) The Owners' Representatives may elect by Ordinary Majority one of the Owners' Representatives as the ~~Chief Owners' Representative~~chief of Owners' Representatives.
- (b) The Owners' Representatives may elect by Ordinary Majority one of the Owners' Representatives as the ~~Deputy Chief Representative~~deputy chief of Owners' Representatives.
- (c) The ~~chief~~Chief Owners' Representative and ~~Deputy Chief~~deputy chief of Owners' Representative are to carry out the duties prescribed in the charter of the Owners' Representatives established under this constitution.
- (d) The Owners' Representatives may remove a ~~Chief Owners' Representative~~chief or Deputy Chief~~deputy chief of Owners' Representatives~~ by Special Majority.
- (e) The Chief ~~Owners'~~ Representative is to be paid such fees and allowances by the Corporation, as determined from time to time by the members on the recommendation of the Selection Committee, by an Ordinary Majority.
- (f) ¹A person may not serve as a Chief ~~Owners'~~ Representative or Deputy Chief Representative for a period exceeding 3 years unless re-elected by an Ordinary Majority of the Owners' Representatives.
- (g) ²The number of times a person may be appointed as Chief ~~Owners'~~ Representative or Deputy Chief Representative is not limited.

9.3 Appointment of Acting Owners' Representatives

- (a) A member of the Corporation may appoint a person to act as the Owner's Representative for that member:
 - (i) during a vacancy in the position of Owner's Representative for that member, whether or not an appointment has previously been made to the position; or
 - (ii) during any period, or during all periods, when that member's Owner's Representative is absent from duty or is, for any reason, unable to perform all or part of the duties of the position.
- (b) An appointment of an Acting Owner's Representative under rule 9.3(a) may be limited by the member making the appointment to specified rights and obligations for which that appointment is valid.
- (c) Each member must notify the Corporation of the name of the Acting Owner's Representative and if there is a new appointment of a person as an Acting Owner's Representative.

9.4 Function of Owners' Representatives

- (a) The Owners' Representatives are to:
 - (i) consult with other Owners' Representatives and undertake such other functions imposed on Owners' Representatives under this constitution;
 - (ii) agree and present to members and the board a charter of operations and procedures to govern the Owners' Representatives' objects and functions;
 - (iii) make and implement decisions on behalf of members in accordance with the *Water and*

¹ Clause 9.2(f) amendment adopted 28 July 2015

² Clause 9.2(g) amendment adopted 28 July 2015

Sewerage Corporation Act 2012 (Tas), this constitution and the charter agreed under rule 9.4(a)(ii);

- (iv) act as the official liaison between the board and the members of the Corporation;
- (v) monitor the performance of the board against the Shareholders' Letter of Expectations and the Corporation's most recent corporate plan;
- (vi) through the Selection Committee and where appropriate the chair of directors, monitor:
 - (A) the appointment of directors including board renewal and continuity;
 - (B) board performance; and
 - (C) board remuneration;
- (vii) approve the charter of operations and procedures developed by the Selection Committee to govern the Selection Committee's objects and functions; and
- (viii) subject to any law or lawful order to the contrary, elect by Ordinary Majority at least one of the Owners' Representatives to attend any committee of the Parliament or state government as required.

9.5 Proceedings of Owners' Representatives

The Owners' Representatives may engage secretariat and executive support to assist it in performing its functions as required by this constitution.

10 Selection - Committee

10.1 Establishment of Selection Committee

- (a) Subject to rule 10.1(h) and 10.1(i), tThe Owners' Representatives must as soon as practicable establish a Selection Committee composed of:
 - (i) 12 persons selected by Ordinary Majority by the Owners' Representatives of the members of the North-western Region;
 - (ii) 12 persons selected by Ordinary Majority by the Owners' Representatives of the members of the Northern Region;
 - (iii) 24 persons selected by Ordinary Majority by the Owners' Representatives of the members of the Southern Region; ~~and~~
 - (iv) the chair of directors;
 - (v) the Crown's Owner's Representative; and
 - ~~(vi)~~ the Chief Owners' Representative, if that person is not one of the persons referred to in rule 10.1(a)(i), rule 10.1(a)(ii) or rule 10.1(a)(iii).
- (b) Only a person who is an Owners' Representative is eligible for appointment to the Selection Committee under rule 10.1(a).
- (c) The current chair of directors must not be present at or take part in any consultations, discussion or decision by the Selection Committee in relation to the appointment of any person to the role of chair of directors, unless the chair of directors is not seeking re-appointment and the other members of the Selection Committee all agree that the chair of directors may be present and take part.

- (d) ³A Selection Committee member may not appoint an acting or alternate member and may not give a proxy to another member of the Selection Committee.
- (e) ⁴The Selection Committee members may elect by Ordinary Majority one of the Selection Committee members to act as the Chair of the Selection Committee.
- (f) ⁵If the Chair of the Selection Committee is absent from a meeting, the Selection Committee members present may elect another Selection Committee member who is present and willing to act to chair the meeting.
- (g) Subject to rule 10.1(h), any change or amendment to rule 10.1(a)(v) or to this rule 10.1(g) requires a Government Member Resolution in accordance with Schedule 6.-
- (f)(h) If the Crown does not meet its share subscription obligations in accordance with clause 2.2 of the Share Subscription and Implementation Agreement then, for so long as the Crown fails to meet those obligations, the Crown's Owner's Representative will cease to be a member of the Selection Committee and rule 10.1(a)(v) will cease to apply.

10.2 Term

- (a) Members of the Selection Committee must not be appointed for a term exceeding 3 years.
- (b) The number of times a person may be appointed to the Selection Committee is not limited.
- (c) ⁶A person may not serve as the chair of the Selection Committee for a period exceeding 3 years unless re-elected by an Ordinary Majority of the Selection Committee members.
- (d) ⁷The numbers of times a person can be appointed as chair of the Selection Committee is not limited.

10.3 Function of Selection Committee

- (a) The Selection Committee must agree and present to the Owners' Representatives a charter of operations and procedures to govern the Selection Committee's objects and functions.
- (b) If there is a vacancy or expected vacancy in the position of chair of directors or other director, the Selection Committee is to cause an appropriate recruitment process to be undertaken to fill that vacancy, including if necessary and without limitation, by the use of a professional recruitment consultant to source candidates.
- (c) Any person, including directors of the Corporation, may nominate for consideration by the Selection Committee any one or more persons as candidates for appointment as chair of directors or other director of the Corporation.
- (d) The Selection Committee, after making due enquiry, is by Ordinary Majority to appoint a person who, in the opinion of the Selection Committee, has the experience and skills necessary to assist the Corporation to achieve its principal objectives, to the vacant position of chair of directors or other director of the Corporation.
- (e) The Selection Committee must consult with the Owners' Representatives on:
- (i) a framework for the remuneration of directors, which must be approved by the Owners' Representatives by Ordinary Majority; and

³ Clause 10.1(d) amendment adopted 13 May 2014

⁴ Clause 10.1 (e) amendment adopted 28 July 2015

⁵ Clause 10.1(f) amendment adopted 28 July 2015

⁶ Clause 10.2(c) amendment adopted 28 July 2015

⁷ Clause 10.2(d) amendment adopted 28 July 2015

- (ii) apply the framework for remuneration to determine the remuneration of each director in accordance with rule 11.5.
- (f) When making appointments to the board, the Selection Committee must consider the need for both renewal and continuity of the members of the board as a whole.
- (g) The board must conduct an annual performance review of the board and provide a report to the Selection Committee.
- (h) The Selection Committee must report to the Owners' Representatives in accordance with its charter when requested with regard to board performance, board appointments and composition required to ensure an appropriate balance of board continuity and renewal.

10.4 Proceedings of Selection Committee

- (a) The Selection Committee must regulate its proceedings, including the calling of, and the conduct of business at its meetings, in accordance with its charter, this constitution and otherwise as it considers appropriate.
- (b) The Selection Committee may permit its members to participate in a particular meeting or all meetings by telephone, video conference or any other means of communication that gives members a reasonable opportunity to participate and a member who participates in a meeting as permitted under this rule is taken to be present at the meeting.
- (c) If the number of members of the Selection Committee that constitutes an Ordinary Majority signs a document containing a statement that they are in favour of a resolution or proposal set out in the document, a resolution or proposal in those terms is taken to have been passed or agreed to at a meeting of the Selection Committee on the day on which the document is signed or, if the members of the Selection Committee do not sign it on the same day, on the day on which the last of the members of the Selection Committee signs the document.
- (d) For the purposes of rule 10.4(c), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members of the Selection Committee, is taken to constitute 1 document.

10.5 Remuneration of Selection Committee

The members of the Selection Committee (other than the chair of directors) are to be paid such fees and allowances as the Owners' Representatives collectively determine from time to time, which will be payable by the Corporation.

10.6 Removal of Selection Committee member

The Owners' Representatives for a Region may, by Special Majority, remove any person (other than the chair of directors) from their position on the Selection Committee for that Region.

11 Directors

11.1 Board

- (a) The business of the Corporation is to be managed by the directors, who may exercise all such powers of the Corporation as are not, by the Corporations Act, the *Water and Sewerage Corporation Act 2012* (Tas) or by this Constitution, required to be exercised by the Corporation in general meeting.
- (b) The number of directors is to be not more than 7 directors, comprising:

- (i) the chair of directors; and
 - (ii) a maximum of 6 other directors,
- appointed in accordance with the *Water and Sewerage Corporation Act 2012* (Tas), the Corporations Act and this constitution.
- (c) If at any time a vacancy occurs on the board, the Selection Committee must, as soon as practicable, do all things necessary to appoint a person to fill that vacancy in accordance with the procedures in this constitution.

11.2 Director Independence

- (a) None of the following persons may be appointed a director of the Corporation or any subsidiary of the Corporation:
 - (i) any person who has served as an elected government official at any time within the 3 years preceding the intended date of appointment; or
 - (ii) any person who currently holds office as an elected government official or who is currently an employee of any Council or the Crown.
- (b) Rule 11.2(a)(ii) shall not operate to exclude any person who:
 - (i) holds a position as a director of a State-Owned Business or
 - (ii) is engaged as an independent contractor to provide services to a board of directors of a State-Owned Business or to a Council

from being eligible to be appointed a director of the Corporation, or from continuing to act as a director of the Corporation.

11.3 Appointment, reappointment and removal of directors

- (a) The directors of the Corporation must be appointed and removed in accordance with the applicable requirements of the *Water and Sewerage Corporation Act 2012* (Tas), if any, and this constitution.
- (b) Each term of an appointment of a director must not exceed three years.
- (c) A person's appointment to the role of director must be reviewed by the Selection Committee in accordance with rule 10.3 of this constitution prior to the expiration of the term of his or her appointment. That person may be re-appointed as a director for further terms not exceeding three years each.
- (d) A director can be appointed by consecutive terms for a maximum period of 10 continuous years from the date of first appointment. The 10 year period may only be extended by a Special Majority of the Selection Committee. This rule 11.3(d) does not prevent the appointment of a director who has previously served for a period up to 10 continuous years, if that person has not been a director for a period of at least 3 years.
- (e) The Owners' Representatives may by Special Majority remove a person from the role of chair of directors or any other director of the Corporation.

11.4 Vacation of office

In addition to the circumstances in which the office of a director becomes vacant by virtue of the law, the office of a director becomes vacant:

- (a) in the circumstances prescribed by the *Water and Sewerage Corporation Act 2012* (Tas);
- (b) if the director becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; or
- (c) if the director resigns by notice in writing to the Corporation;
- (d) if the director is absent, without the consent of the other directors, from meetings of the directors held during a period of three (3) months; or
- (e) if the director is directly or indirectly interested in any contract or proposed contract with the Corporation (other than in his or her capacity as a director or employee of the Corporation) and fails to declare the nature of that interest as required by the Corporations Act.

11.5 Remuneration of directors

- (a) Each director is entitled to the remuneration out of the funds of the Corporation as advised by the Selection Committee in accordance with this rule 11.5.
- (b) The Corporation must request that the Selection Committee:
 - (i) determines the amount of remuneration of each director in accordance with the framework for remuneration approved by the Owners' Representatives under this constitution, in terms of:
 - (A) a stated fee; or
 - (B) a fixed sum for attendance at each meeting of directors
 or a combination of both;
 - (ii) reviews the amount of remuneration of each director annually; and
 - (iii) gives the directors and the Owners' Representatives written notice of the amount it determines in accordance with this constitution for each director on an annual basis.
- (c) In addition to remuneration under rule 11.5(a), the directors are entitled to be paid all travelling and other expenses properly incurred by them when engaged on the business of the Corporation, including in attending and returning from:
 - (i) general meetings of the Corporation;
 - (ii) meetings of the directors; or
 - (iii) meetings of committees of the directors.
- (d) If a director renders or is called on to perform extra services or to make any special exertions in connection with the affairs of the Corporation, the Selection Committee may arrange for a special remuneration to be paid to that director, either in addition to or in substitution for that director's remuneration under rule 11.5(a).
- (e) Nothing in this rule 11.5 restricts the remuneration to which a director may be entitled as an officer of the Corporation or of a related body corporate in a capacity other than director, which may be either in addition to or in substitution for that director's remuneration under this rule 11.5.

11.6 Director need not be a member

- (a) A director is not required to hold any shares in the Corporation to qualify for appointment.
- (b) A director is entitled to attend and speak at a general meeting even if he or she is not a

member of the Corporation.

11.7 Interested directors

- (a) A director may:
- (i) hold any other office or place of profit, other than auditor, in the Corporation or a related body corporate in conjunction with his or her directorship; and
 - (ii) be appointed to that office or place of profit on the terms as to remuneration, tenure of office and otherwise as the directors think fit.
- (b) A director of the Corporation may be a director or other officer of:
- (i) a related body corporate;
 - (ii) a body corporate promoted by the Corporation;
 - (iii) a body corporate in which the Corporation is interested, as shareholder or otherwise; or
 - (iv) a body corporate as required by law because of that director's position as a director of the Corporation,
- or be otherwise interested in any of those bodies corporate. A director is not accountable to the Corporation for any remuneration or other benefits received by the director as a director or officer of that body corporate or from having an interest in that body corporate.
- (c) The directors may exercise the voting rights conferred by shares in any body corporate held or owned by the Corporation as the directors think fit. This includes voting in favour of any resolution appointing an officer of that body corporate (excluding a director or a chairperson), or voting for the payment of remuneration to the directors or other officers of that body corporate. A director may, if permitted by law, vote in favour of the exercise of those voting rights even if he or she is, or may be about to be appointed, a director or other officer of that other body corporate.
- (d) A director is not disqualified merely because of being a director from contracting with the Corporation in any respect including, without limitation:
- (i) selling any property to, or purchasing any property from, the Corporation; or
 - (ii) being employed by the Corporation or acting in any professional capacity, other than auditor, on behalf of the Corporation.
- (e) No contract made by a director with the Corporation and no contract or arrangement entered into by or on behalf of the Corporation in which any director may be in any way interested is avoided or rendered voidable merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (f) No director contracting with the Corporation or being interested in any arrangement involving the Corporation is liable to account to the Corporation for any profit realised by or under a contract or arrangement of that kind merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (g) Subject to rule 11.7(h), a director who has a material personal interest in a contract or arrangement or proposed contract or arrangement, or other matter being considered at a directors meeting cannot:
- (i) be present while the matter is being considered at the meeting; or

- (ii) vote on the matter.
- (h) Rule 11.7(g) does not apply if the director is permitted to be present or vote on a matter under the Corporations Act, in which case that director can:
 - (i) be counted in determining whether or not a quorum is present at any meeting of directors considering that contract or arrangement or proposed contract or arrangement;
 - (ii) vote in respect of the contract or arrangement or proposed contract or arrangement or any matter arising out of those things; and
 - (iii) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement.
- (i) The directors may make regulations requiring the disclosure of interests that a director, and any person deemed by the directors to be related to or associated with the director, may have in any matter concerning the Corporation or a related body corporate. Any regulations made under this rule bind all directors and apply in addition to any obligations imposed on the directors by the Corporations Act to disclose interests to the Corporation.
- (j) If the Corporation is a wholly-owned subsidiary of a body corporate, a director may act in the best interests of the holding Corporation.

11.8 Powers and duties of directors

- (a) Subject to the provisions of the *Water and Sewerage Corporation Act 2012* (Tas) and this constitution, the directors:
 - (i) are responsible for managing the business of the Corporation having regard to the Shareholders' Letter of Expectations; and
 - (ii) may exercise to the exclusion of the Corporation in general meeting all the powers of the Corporation which are not required, by the Corporations Act or this constitution, to be exercised by the Corporation in general meeting.
- (b) Subject to rule 20.4 and without limiting rule 11.8(a), the directors may exercise all the powers of the Corporation to borrow or otherwise raise money, to charge any property or business of the Corporation or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Corporation or of any other person.
- (c) The directors may determine how cheques, promissory notes, banker's drafts, bills of exchange or other negotiable instruments or other documents must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the Corporation.
- (d) The directors may:
 - (i) appoint or employ any person to be an officer, agent or attorney of the Corporation for the purposes, for the period and on the conditions as they think fit;
 - (ii) resolve to delegate any of their powers to an officer, agent or attorney and the officer, agent or attorney must exercise the powers delegated in accordance with any directions of the directors;
 - (iii) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and

- (iv) subject to any contract between the Corporation and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney of the Corporation at any time, with or without cause.
- (e) A power of attorney may contain provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors think fit.

11.9 Proceedings of directors

- (a) The directors may hold meetings for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) Subject to the Corporations Act, the contemporaneous linking together by a form of technology of a number of the directors sufficient to constitute a quorum, constitutes a meeting of the directors and all the provisions in this constitution relating to meetings of the directors apply, so far as they can and with such changes as are necessary, to meetings of the directors held using a form of technology.

11.10 Convening meetings of directors

- (a) Any three directors may, whenever they think fit, request the chair of directors to convene a meeting of the directors.
- (b) A secretary must, on the requisition of any three directors, convene a meeting of the directors.
- (c) The chair of directors may, whenever he or she thinks fit, convene a meeting of the directors.

11.11 Notice of meetings of directors

- (a) Subject to this constitution, reasonable notice of a meeting of directors must be given to each person who is at the time of giving the notice a director, other than a director on leave of absence approved by the directors.
- (b) A notice of a meeting of directors:
 - (i) must specify the time and place of, or form of technology for, the meeting;
 - (ii) need not state the nature of the business to be transacted at the meeting; and
 - (iii) may be given in person or by post, or, subject to the Corporations Act, by a form of technology.
- (c) A director may waive notice of a meeting of directors by notifying the Corporation to that effect in person or by post, or by a form of technology.
- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the director:
 - (A) waives notice of that meeting under rule 11.11(c); or
 - (B) notifies the Corporation of his or her agreement to that act, matter, thing or resolution personally or by post, or by a form of technology; or
 - (iii) the director attended the meeting.

- (e) Attendance by a person at a meeting of directors waives any objection that person may have to a failure to give notice of the meeting.

11.12 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of directors unless there is a quorum of directors at the time the business is dealt with.
- (b) A quorum consists of 4 directors, one of whom must be the chair of directors or if the chair of directors is unavailable the deputy chair.

11.13 Chair of directors

- (a) The chair of directors is appointed for a term not exceeding 3 years.
- (b) The chair of directors may be reappointed in accordance with this constitution on expiry of his or her term of office.
- (c) The chair of directors may only be removed in accordance with the Corporations Act and this constitution.
- (d) The directors may appoint one of the directors as a deputy chair of directors.
- (e) The office of chair of directors will not be treated as an extra service or special exertion performed by the director holding that office.
- (f) The chair of directors must preside as chair at each meeting of directors, if present at the time appointed for the holding of the meeting.
- (g) The directors present at a meeting of directors may elect a person present to chair the meeting if:
 - (i) there is a vacancy in the role of chair of directors; or
 - (ii) the chair of directors is not present within 30 minutes of the time appointed for the meeting.

11.14 Decisions of directors

- (a) A meeting of directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under this constitution and in accordance with the *Water and Sewerage Corporation Act 2012* (Tas).
- (b) Questions arising at a meeting of directors are to be decided by a majority of votes cast by the directors present and a decision of that kind is for all purposes a determination of the directors.
- (c) In the case of an equality of votes on a proposed resolution:
 - (i) the chair of the meeting does not have a second or casting vote; and
 - (ii) the proposed resolution is to be taken as having been lost.

11.15 Resolutions without meetings

- (a) The directors may pass a resolution without a directors' meeting being held if all the directors, other than a director on a leave of absence approved by the other directors, entitled to vote on the resolution assent to a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used if the wording of the resolution and statement is

identical in each copy.

- (c) The resolution is passed when the last director assents.
- (d) A director may signify assent to a document by signing the document or by notifying the Corporation of the director's assent in person or by post, fax, electronic, telephone or other method of written, audio or audio visual communication.
- (e) Where a director signifies assent to a document otherwise than by signing the document, the director must by way of confirmation sign the document at the next meeting of the directors attended by that director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.
- (f) Where a document is assented to in accordance with this rule 11.15, the document is to be taken as a minute of the passing of the resolution.

11.16 Committees of directors

- (a) The directors may resolve to delegate any of their powers to a committee or committees consisting of such number of directors as they think fit.
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) The provisions of this constitution applying to meetings and resolutions of directors apply, so far as they can and with the changes as are necessary, to meetings and resolutions of a committee of directors.

11.17 Delegation to individual directors

- (a) The directors may resolve to delegate any of their powers to one director.
- (b) A director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.

11.18 Validity of acts

An act done by a person acting as a director or by a meeting of directors or a committee of directors attended by a person acting as a director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a director;
- (b) the person being disqualified to be a director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the directors or committee, as the case may be, when the act was done.

11.19 Limitation on sale or disposal of main undertaking

- (a) The directors must ensure that the Corporation does not dispose of the main undertakings of the Corporation, or permit the disposal of the main undertakings of any of the Corporation's subsidiaries.
- (b) The main undertakings of the Corporation are as specified in the most recent corporate plan of the Corporation.

12 Board Reporting and Communication

12.1 Annual report

- (a) The directors must in each calendar year and no later than 3 months after the end of the financial year to which the annual report relates, provide the members:
 - (i) with an annual report for the Corporation and each of its subsidiaries; and
 - (ii) any other information requested in writing by the members.
- (b) Subject to the *Water and Sewerage Corporation Act 2012* (Tas), on the written request of a member, the Corporation must include in the financial statements any financial information that the members consider appropriate, unless that information is not accurate, or commercial in confidence.
- (c) The Corporation must publish the annual report on the Corporation's website no later than ~~4~~ 5 months after the end of the financial year to which the annual report relates, or as soon as possible after the Annual General Meeting at which the report is adopted, whichever occurs first.

12.2 Other information

- (a) Subject to the *Water and Sewerage Corporation Act 2012* (Tas), on the written request of a member, the Corporation must provide to the members:
 - (i) the business and strategic plans of the Corporation and any subsidiary, as specified in the request;
 - (ii) the financial information specified in the request;
 - (iii) a report on the matters specified in the request; and
 - (iv) any other information relevant to any such plan, financial information or report; unless the information is commercial in confidence.
- (b) If the directors form the opinion that a matter has arisen that may:
 - (i) prevent, or significantly affect, achievement of the objectives of the Corporation or any of its subsidiaries; or
 - (ii) significantly affect the strategies and policies that the Corporation or its subsidiaries are following to achieve those objectives; or
 - (iii) prevent, or significantly affect, achievement of a financial target,
 the directors will promptly notify the members of their opinion and the reasons for the opinion.

12.3 Commercial in confidence dispute resolution

- (a) If the directors determine certain information requested by a member to be commercial in confidence in accordance with rule 12.1(b) or rule 12.2(a), the Corporation must give the member that made the request notice of that determination.
- (b) Within 7 days of the giving of notice under rule 12.3(a), the member may notify the Corporation that it disputes the determination and provide details specifying the nature of the dispute.
- (c) Within 14 days of the delivery of a dispute notice under rule 12.3(b), the Corporation and the member must meet and use their best endeavours to resolve the dispute to the mutual

satisfaction of both parties as soon as possible.

- (d) If the Corporation and the member are not able to reach a resolution of the dispute within a reasonable period of time (in any event being no more than 14 days after the date of receipt of the notice of the dispute under rule 12.3(b)), then the dispute must be submitted for arbitration to an independent arbiter appointed by the President of the Law Society of Tasmania.
- (e) This rule 12.3 does not apply, or ceases to apply, if compliance with it would be likely to cause the Corporation to breach a law or any other requirement with respect to the Corporation's financial statements or any other information subject to the dispute.

13 Executive -officers

~~13.1 Chief Executive Officer~~ Chief executive officer

- (a) The ~~Chief Executive Officer~~ chief executive officer of the Corporation is to be appointed by the directors and may be removed by the directors.
- (b) Subject to rule 13.1(d) and 13.1(e), in exercising their functions under rule 13.1(a), the directors shall consult with the Chief Owners' Representative and the Crown's Owner's Representative.
- ~~(c) Subject to rule 13.1(d), any change or amendment to this rule 13.1(b) or this rule 13.1(c) requires a Government Member Resolution in accordance with Schedule 6.~~
- (d) If the Crown does not meet its share subscription obligations in accordance with clause 2.2 of the Share Subscription and Implementation Agreement then for so long as the Crown fails to meet those obligations, the rights contained in rule 13.1(b) and rule 13.1(c) shall not apply.
- (e) Where the rights set out in rule 13.1(b) and 13.1(c) do not apply, the directors shall consult with the with the Chief Owner's Representative only in exercising their functions under rule 13.1(a).

13.2 Secretaries

- (a) The directors may appoint a secretary or more than one secretary.
- (b) The directors may appoint one or more assistant secretaries.
- (c) Any director may also be the secretary or a secretary of the Corporation.

13.3 Provisions applicable to all executive officers

- (a) A reference in this rule 13.3 to an executive officer is a reference to a ~~Chief Executive Officer~~ chief executive officer, secretary or assistant secretary appointed under this rule 13.
- (b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions the directors think fit.
- (c) Subject to any contract between the Corporation and the relevant executive officer, an executive officer of the Corporation may be removed or dismissed by the directors at any time, with or without cause. Such removal or dismissal does not remove that person from office as a director.
- (d) The directors may:
 - (i) confer on an executive officer the powers, discretions and duties as they think fit, and may resolve to delegate any powers, discretions and duties vested in or exercisable by

- the directors;
- (ii) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
 - (iii) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
- (e) An executive officer is not required to hold any shares to qualify for appointment.
 - (f) An act done by a person acting as an executive officer is not invalidated by reason only of:
 - (i) a defect in the person's appointment as an executive officer; or
 - (ii) the person being disqualified to be an executive officer,
 if that circumstance was not known by the person when the act was done.

14 Seals

14.1 Adoption of common seal

- (a) The directors may determine that the Corporation has a common seal or that the Corporation no longer has a common seal, and may revoke a determination made under this rule 14.1(a).
- (b) Rules 14.2, 14.3, 14.4, 14.5 and 14.6 only apply if the Corporation has a common seal.

14.2 Safe custody of Seal

The directors must provide for the safe custody of the Seal.

14.3 Use of Seal

- (a) The Seal must be used only by the authority of the directors or a committee of the directors authorised by the directors to authorise the use of the Seal.
- (b) The authority to use the Seal may be given before or after the Seal is used.
- (c) Subject to rule 14.6, until the directors otherwise determine, the fixing of the Seal to a document must be witnessed by a director and by another director, a secretary or another person appointed by the directors to witness that document or a class of documents in which that document is included.

14.4 Duplicate seal

- (a) The Corporation may have for use in place of its common seal outside the state or territory where its common seal is kept one or more duplicate seals, each of which must be a facsimile of the common seal of the Corporation with the addition on its face of the words "duplicate seal" and the name of the place where it is to be used.
- (b) A document sealed with a duplicate seal is to be taken as having been sealed with the common seal of the Corporation.

14.5 Share seal or certificate seal

- (a) The Corporation may have for use on certificates for securities of the Corporation in place of its common seal one or more duplicate seals, each of which must be a facsimile of the common seal of the Corporation with the addition on its face of the words "share seal" or "certificate seal".

- (b) A certificate for securities of the Corporation sealed with a share seal or certificate seal is to be taken as having been sealed with the common seal of the Corporation.

14.6 Sealing and signing of certificates

The directors may determine either generally or in a particular case that the seal and the signature of any director, secretary or other person is to be printed on or fixed to any certificates for securities in the Corporation by some mechanical or other means.

15 Distribution of profits

15.1 Dividends

- (a) The directors must determine a ~~distribution dividend~~ policy in conjunction with the Owners' Representatives and in accordance with the *Water and Sewerage Corporation Act 2012* (Tas). ~~The distribution policy must incorporate a dividend policy.~~
- (b) The ~~distribution dividend~~ policy ~~(which incorporates the dividend policy)~~ must, subject to complying with that Act and the law generally, allow for payment of quarterly interim dividends during the financial year in which the profits are made.
- (c) The directors may, from time to time and in a manner consistent with the ~~distribution dividend~~ policy, determine the aggregate amount of dividends to be distributed to members in accordance with the equity proportions for each member set out in Schedule 3 of this constitution, ~~except if rule 15.4 applies, then the aggregate amount of dividends is to be distributed to members in accordance with rule 15.4 (Distribution Prior to 13 November 2013).~~
- (d) Interest is not payable by the Corporation in respect of any dividend.
- (e) A dividend in respect of a share must be paid to the person who is registered as the holder of the share:
- (i) where the directors have fixed a record date in respect of the dividend, on that date; or
 - (ii) where the directors have not fixed a record date in respect of that dividend, on the date the dividend is paid.
- (f) The directors may deduct from any dividend payable to a member all sums of money presently payable by the member to the Corporation and apply the amount deducted in or towards satisfaction of the money owing.
- (g) Where a person is entitled to a share as a result of a Transmission Event, the directors may, but are not obliged to, retain any dividends payable on that share until that person becomes registered as the holder of the share or transfers it.
- (h) Any dividend, interest or other money payable in cash in respect of shares may be paid by cheque and sent by post:
- (i) to the address of the holder as shown in the register of members; or
 - (ii) to such other address as the holder in writing directs.
- This rule 15.1(h) does not limit the method of payment the directors may adopt.
- (i) A cheque sent under rule 15.1(h) may be made payable to bearer or to the order of the member to whom it is sent or any other person the member directs and is sent at the member's risk.

15.2 Guarantee fees

- (a) ~~The Corporation must pay guarantee fees in accordance with the *Water and Sewerage Corporation Act 2012* and this constitution.~~
- (b) ~~The aggregate guarantee fee is to be paid to members in amounts calculated in accordance with the equity proportions for each member for distribution entitlements set out in Schedule 3 of this constitution, except if rule 15.4 applies, then the aggregate amount of guarantee fee is to be distributed to members in accordance with rule 15.4 (Distribution Prior to 13 November 2013).~~
- (c) ~~Any guarantee fee may be paid by cheque and sent by post:~~
- ~~(i) to the address of the member as shown in the register of members; or~~
- ~~(ii) to such other address as the member in writing directs.~~
- ~~This rule 15.2(c) does not adversely affect any other method of payment the directors may adopt.~~
- (d) ~~A cheque sent under rule 15.2(c) may be made payable to bearer or to the order of the member to whom it is sent or any other person the member directs and is sent at the member's risk.~~

15.3 Tax equivalents

- (a) ~~The Corporation must pay an income tax equivalent in respect of each financial year in accordance with the *Water and Sewerage Corporation Act 2012* and this constitution.~~
- (b) ~~The aggregate income tax equivalent is to be paid to members in amounts calculated in accordance with the equity proportions for each member for distribution entitlements set out in Schedule 3 of this constitution, except if rule 15.4 applies, then the aggregate amount of~~
- (c) ~~income tax equivalent is to be distributed to members in accordance with rule 15.4 (Distribution Prior to 13 November 2013).~~
- (d) ~~Any tax equivalent may be paid by cheque and sent by post:~~
- ~~(i) to the address of the member as shown in the register of members; or~~
- ~~(ii) to such other address as the member in writing directs.~~
- ~~This rule 15.3(c) does not adversely affect any other method of payment the directors may adopt.~~
- (e) ~~A cheque sent under rule 15.3(c) may be made payable to bearer or to the order of the member to whom it is sent or any other person the member directs and is sent at the member's risk.~~

15.4 Distribution Prior to 13 November 2013

~~For distributions made prior to 13 November 2013, the allocation of aggregate distributions made under rule 165.1 (Dividends), rule 165.2 (Guarantee Fees) and rule 165.3 (Tax Equivalents), without limiting these rules, must be in accordance with this rule 165.4:~~

- (a) ~~priority distributions are to be made to members:~~
- ~~(i) when the total of the Current Distribution and Past Distributions payable to all members in the year is less than the sum of all members' Pro-Rata Maximum Priority Distribution, in the amount of that member's Relative Priority Share of the Current Distribution; or~~

- ~~(ii) when the total of the Current Distribution and Past Distributions payable to all members in the year is greater than or equal to the sum of all members' Pro-Rata Maximum Priority Distribution, in the amount of that member's total Pro-Rata Maximum Priority Distribution less the sum of all Past Priority Distributions received by that member in the relevant year;~~
- ~~(b) any residual distributions to be made after priority distributions in rule 165.4(a), are to be made to members based on the equity proportions per member for distribution entitlements set out in Schedule 3.~~

~~15.5 Interpretation~~

- ~~(a) In rule 615.4 (Distribution Prior to 13 November 2013):~~
 - ~~(i) Current Distribution means the total of any distributions currently payable to the members of the Corporation;~~
 - ~~(ii) Past Distributions means the total of all distributions previously paid to members in the year;~~
 - ~~(iii) Past Priority Distributions means the total of all distributions previously paid to members in the year under rule 165.4(a);~~
 - ~~(iv) Pro-Rata Maximum Priority Distribution means the values set out in column 3 of the table at Schedule 4; and~~
 - ~~(v) Relative Priority Share means the shares set out in column 4 of the table at Schedule 4.~~

~~15.615.2 Capitalisation of profits~~

- ~~(a) Subject to any rights or restrictions attached to any shares or class of shares, the directors may capitalise and distribute among such of the members as would be entitled to receive dividends and in the same proportions, as each member would be entitled to receive a dividend, any amount:~~
 - ~~(i) forming part of the undivided profits of the Corporation;~~
 - ~~(ii) representing profits arising from an ascertained accretion to capital or from a revaluation of the assets of the Corporation;~~
 - ~~(iii) arising from the realisation of any assets of the Corporation; or~~
 - ~~(iv) otherwise available for distribution as a dividend (having provided for expected future capital requirements and operational expenditure).~~
- ~~(b) The directors may resolve that all or any part of the capitalised amount is to be applied:~~
 - ~~(i) in paying up in full any unissued shares in the Corporation;~~
 - ~~(ii) in paying up any amounts unpaid on shares held by the members;~~
 - ~~(iii) partly as specified in rule 15.62(b)(i) and partly as specified in rule 15.62(b)(ii); or~~
 - ~~(iv) in any other way permitted by the Corporations Act,~~

~~and that application must be accepted by the members entitled to share in the distribution in full satisfaction of their interests in the capitalised amount.~~
- ~~(c) Rules 15.1(e) and 15.1(g) apply, so far as they can and with any necessary changes, to a capitalisation of an amount under rule 15.26 as if references in those rules to a dividend and to the date a dividend is paid were references to a capitalisation of an amount and to the~~

date the directors resolve to capitalise the amount under this rule 15.26 respectively.

15.715.3 Ancillary powers

- (a) Subject to any applicable requirements of the *Water and Sewerage Corporation Act 2012* (Tas), the directors may do any of the following things to give effect to a resolution for the satisfaction of a dividend in the manner set out in rule 15.1 or by the capitalisation of an amount under rule 15.2:
- (i) settle as they think expedient any difficulty that may arise in making the distribution or capitalisation and, in particular, where shares in the Corporation are or would otherwise be issuable in fractions:
 - (A) determine that fractions are to be disregarded or are to be rounded down to the nearest whole number; or
 - (B) determine that fractions are to be rounded up to the nearest whole number;
 - (ii) fix the value for distribution of any specific assets;
 - (iii) pay cash to any member or issue shares to any member in order to adjust the rights of all parties;
 - (iv) vest any specific assets, cash or shares in a trustee on such trusts for the persons entitled to the dividend or capitalised amount as may seem expedient to the directors; and
 - (v) authorise any person to make, on behalf of all the members entitled to any further shares as a result of the distribution or capitalisation, an agreement with the Corporation or another body corporate providing, as appropriate:
 - (A) for the issue to them of further shares as fully paid; or
 - (B) for the payment by the Corporation on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised,
 and any agreement made under an authority referred to in this rule (v) is effective and binding on all members concerned.
- (b) If the Corporation distributes to a member shares in the Corporation or another body corporate or a trust, the member appoints the Corporation as his or her agent to do anything needed to give effect to that distribution, including agreeing to become a member of that other body corporate.

15.815.4 Reserves

- (a) Subject to this constitution, the directors may set aside out of the profits of the Corporation reserves or provisions for any purpose as they think fit, including for future capital requirements or operational expenditure of the Corporation.
- (b) The directors may appropriate to the profits of the Corporation an amount previously set aside as a reserve or provision.
- (c) The setting aside of an amount as a reserve or provision does not require the directors to keep the amount separate from other assets of the Corporation or prevent the amount being used in the business of the Corporation or being invested as the directors think fit.

15.915.5 Carry forward of profits

Subject to this constitution, the directors may carry forward as much of the profits remaining as they consider ought not to be distributed as dividends or capitalised without transferring those profits to a reserve or provision.

16 Winding-up**16.1 Distribution of surplus**

Subject to this constitution and to the rights or restrictions attached to any shares or class of shares:

- (a) if the Corporation is wound up and the property of the Corporation is more than sufficient:
 - (i) to pay all of the debts and liabilities of the Corporation; and
 - (ii) the costs, charges and expenses of the winding up;

the excess must be divided among the members in accordance with the equity proportions of shares held by each member at the relevant time set out in Schedule 2 of this constitution, irrespective of the amounts paid or credited as paid on the shares; and

- (b) for the purpose of calculating the excess referred to in rule 16.1(a), any amount unpaid on a share is to be treated as property of the Corporation.

16.2 Division of property

- (a) If the Corporation is wound up, the liquidator may divide among the members the whole or any part of the property of the Corporation in accordance with the equity proportions of shares held by each member at the relevant time set out in Schedule 2 of this constitution. Nothing in this rule 16.2 adversely affects any right to exercise any statutory or other power which would have existed if this rule were omitted.
- (b) Rule ~~15.7-15.3~~ applies, so far as it can and with necessary changes, to a division by a liquidator under rule 16.2(a) as if references in rule ~~15.7-15.3~~ to the directors and to a distribution or capitalisation were references to the liquidator and to the division under rule 16.2(a) respectively.

17 Minutes and records**17.1 Minutes**

The directors must cause minutes of:

- (a) all proceedings and resolutions of general meetings;
- (b) proceedings and resolutions of meetings of the directors and of committees of the directors;
- (c) resolutions passed by members without a meeting;
- (d) resolutions passed by a director or directors without a meeting; and
- (e) declarations made by a director of a single director Corporation,

to be recorded and entered in books kept for that purpose, within one month after the meeting is held, the resolution is passed or the declaration is made.

17.2 Signing of minutes

- (a) Minutes of a meeting must be signed by the chair of the meeting or the chair of the next

meeting within a reasonable time after the meeting.

- (b) Minutes of the passing of a resolution without a meeting or the making of a declaration must be signed by a director within a reasonable time after the resolution is passed.

17.3 Minutes as evidence

A minute that is recorded and signed in accordance with rules 17.1 and 17.2 is evidence of the proceeding or resolution to which it relates, unless the contrary is proved.

17.4 Inspection of records

- (a) Subject to the Corporations Act, the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the Corporation or any of them will be open to the inspection of members other than directors.

(b) A member other than a director does not have the right to inspect any books, records or documents of the Corporation except as provided by law or authorised by the directors.

18 Indemnity and insurance

18.1 Persons to whom rules 18.2 and 18.4 apply

Rules 18.2 and 18.4 apply:

- (a) to each person who is or has been a director or executive officer (within the meaning of rule 13.3(a)) of the Corporation;
- (b) to such other officers or former officers of the Corporation or of its related bodies corporate as the directors in each case determine; and
- (c) if the directors so determine, to any auditor or former auditor of the Corporation or of its related bodies corporate.

18.2 Indemnity

The Corporation must indemnify to the extent permitted by law, each person to whom this rule 18.2 applies for all losses or liabilities incurred by the person as an officer or, if the directors so determine, an auditor of the Corporation or of a related body corporate including, but not limited to, a liability for negligence or for legal costs on a full indemnity basis.

18.3 Extent of indemnity

The indemnity in rule 18.2:

- (a) is a continuing obligation and is enforceable by a person to whom rule 18.2 applies even though that person may have ceased to be an officer or auditor of the Corporation or of a related body corporate;
- (b) applies to losses and liabilities incurred both before and after the date of adoption of that rule; and
- (c) operates only to the extent that the loss or liability is not covered by insurance.

18.4 Insurance

The Corporation may, to the extent permitted by law:

- (a) purchase and maintain insurance; or

- (b) pay or agree to pay a premium for insurance,

for any person to whom this rule 18.4 applies against any liability incurred by the person as an officer or auditor of the Corporation or of a related body corporate including, but not limited to, a liability for negligence or for legal costs.

18.5 Agreement and Access to Corporation Books

The Corporation may enter into an agreement with a person referred to in rule 18.1 (Persons to whom rules 18.2 and 18.4 apply) with respect to the matters covered by this rule 18. An agreement entered into pursuant to this rule may include provisions relating to rights of access to books of the Corporation conferred by the Corporations Act or otherwise by law.

18.6 Savings

Nothing in rule 18.2 or 18.4:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any loss or liability referred to in those rules; or
- (b) limits the capacity of the Corporation to indemnify or provide insurance for any person to whom those rules do not apply.

19 Notices

19.1 Notices by the Corporation to members

- (a) A notice may be given by the Corporation to a member:

- (i) by serving it personally at, or by sending it by post in a prepaid envelope to, the member's address as shown in the register of members or such other address, or by fax or electronic mail to such fax number or electronic address, as the member has supplied to the Corporation for the giving of notices; or
- (ii) if the member does not have a registered address and has not supplied another address to the Corporation for the giving of notices, by exhibiting it at the registered office of the Corporation.

- (b) A notice may be given by the Corporation to a person entitled to a share as a result of a Transmission Event by serving it or sending it in the manner authorised by rule 19.1(a)(i) addressed to the name or title of the person, at or to the address, fax number or electronic address supplied to the Corporation for the giving of notices to that person, or if no address, fax number or electronic address has been supplied, at or to the address, fax number or electronic address to which the notice might have been sent if the relevant Transmission Event had not occurred.
- (c) The fact that a person has supplied a fax number or electronic address for the giving of notices does not require the Corporation to give any notice to that person by fax or electronic mail.
- (d) A notice given to a member in accordance with rules 19.1(a) or (b) is, despite the occurrence of a Transmission Event and whether or not the Corporation has notice of that occurrence:
- (i) duly given in respect of any shares registered in that person's name; and
- (ii) sufficient service on any person entitled to the shares as a result of the Transmission Event.
- (e) A notice given to a person who is entitled to a share as a result of a Transmission Event is

sufficient service on the member in whose name the share is registered.

- (f) Any person who, because of a transfer of shares, becomes entitled to shares registered in the name of a member is bound by every notice which, before that person's name and address is entered in the register of members in respect of those shares, is given to the member in accordance with this rule 19.1.
- (g) A signature to any notice given by the Corporation to a member under this rule 19.1 may be in writing or a facsimile printed or fixed by some mechanical or other means.
- (h) A certificate signed by a director or secretary of the Corporation to the effect that a notice has been given in accordance with this constitution is conclusive evidence of that fact.

19.2 Notices by the Corporation to directors

Subject to this constitution, a notice may be given by the Corporation to any director either by serving it personally at, or by sending it by post in a prepaid envelope to, the director's usual residential or business address, or such other address, or by fax or electronic mail to such fax number or electronic address, as the director has supplied to the Corporation for the giving of notices.

19.3 Notices by members or directors to the Corporation

Subject to this constitution, a notice may be given by a member or director to the Corporation by serving it on the Corporation at, or by sending it by post in a prepaid envelope to, the registered office of the Corporation or by fax or electronic mail to the principal fax number or electronic address at the registered office of the Corporation.

19.4 Notices to members outside Australia

A notice to be sent to a member outside Australia and its external territories must be sent by airmail or by fax or by electronic mail, or in another way that ensures it will be received quickly.

19.5 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
 - (i) in the case of a notice of a general meeting, on the day after the date of its posting; or
 - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) Where a notice is sent by fax, the notice is to be taken to be given on the business day after it is sent.
- (c) Where a notice is sent by electronic mail, service of the notice is taken to be effected if the sender receives a confirmation of delivery and is taken to have been effected on the business day after it is sent.
- (d) Where the Corporation gives a notice under rule 19.1(a)(ii) by exhibiting it at the registered office of the Corporation, service of the notice is to be taken to be effected when the notice was first so exhibited.

19.6 Other communications and documents

Rules 19.1 to 19.5 (inclusive) apply, as far as they can and with necessary changes, to the service of any communication or document.

19.7 Notices in writing

A reference in this constitution to a notice in writing includes a notice given by fax, electronic mail or another form of written communication.

20 General

20.1 Currency

An amount payable to the holder of a share, whether by way of or on account of dividend, return of capital, participation in the property of the Corporation on a winding up or otherwise, may be paid, with the agreement of the holder or pursuant to the terms of issue of the share, in the currency of a country other than Australia and the directors may fix a date up to 30 days before the payment date as the date on which any applicable exchange rate will be determined for that purpose.

20.2 Submission to jurisdiction

Each member submits to the non-exclusive jurisdiction of the Supreme Court of Tasmania, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

20.3 Subsidiaries

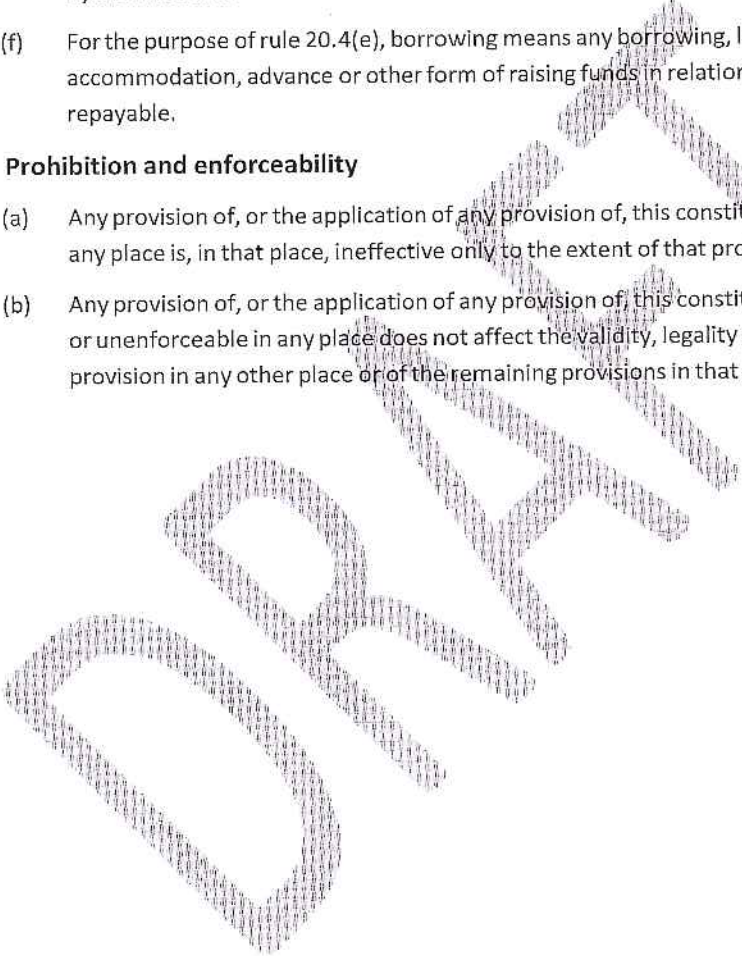
- (a) The Corporation may not:
- (i) form, or participate in the formation of, any company, trust, managed investment scheme, other body corporate, partnership or joint venture; or
 - (ii) acquire any:
 - (A) any shares or other securities in a company;
 - (B) any interest, including any units, in any trust;
 - (C) any interest in any managed investment scheme;
 - (D) any interest in any other body corporate; or
 - (E) any interest in any partnership or joint venture,
 without the prior approval of the members of the Corporation.
- (a) The Corporation is, to the maximum extent practicable, to ensure that every subsidiary complies with the subsidiary's constitution (if any) and with the requirements of the *Water and Sewerage Corporation Act 2012 (Tas)*.
- (b) The constitution of a subsidiary is to be substantially consistent with this constitution except to the extent that changes are required to permit a subsidiary to:
- (i) be a single member company;
 - (ii) have a single director; or
 - (iii) as otherwise necessary for the efficient operation of the subsidiary.

20.4 Limit on borrowings

- (a) In respect of a financial year, the members by special resolution may determine the maximum total amount that may be borrowed by the Corporation and all its subsidiaries during that financial year.

- 1
- (b) The secretary of the Corporation must notify all the subsidiaries of the Corporation, in writing, of a maximum total amount determined under rule 20.4(a) if it has been so determined.
 - (c) The Corporation must ensure that the total of all amounts borrowed by the Corporation and all its subsidiaries during a financial year does not exceed the maximum total amount determined under rule 20.4(a) in respect of that financial year.
 - (d) Except where approved by a special resolution of members and by the Minister in accordance with the *Water and Sewerage Corporation Act 2012 (Tas)*, the Corporation must not borrow from any person other than the Tasmanian Public Finance Corporation.
 - (e) The terms and conditions of any borrowing is to be in accordance with any guidelines issued by the Treasurer.
 - (f) For the purpose of rule 20.4(e), borrowing means any borrowing, loan, temporary accommodation, advance or other form of raising funds in relation to which the principle is repayable.

20.5 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
 - (b) Any provision of, or the application of any provision of, this constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.
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SCHEDULE 1 - DICTIONARY

1 Dictionary

In this constitution:

Business Day means a day on which banks are open for business in Hobart excluding Saturdays, Sundays and public holidays in Hobart.

Chief Owners' Representative means the chief of Owners' Representatives appointed under Rule 9.2(a).

Corporation means Tasmanian Water and Sewerage Corporation Pty Ltd (ACN 162 220 653).

Corporations Act means the *Corporations Act 2001* (Cth).

Council means a council within the meaning of the *Local Government Act 1993* (Tas).

Crown means the Crown in Right of Tasmania.

Deputy Chief Representative means the deputy chief of Owners' Representatives appointed under Rule 9.2(b).

General Manager means a person appointed as, and currently holding, the position of, general manager under section 61 of the *Local Government Act 1993*.

Government Member Resolution means a resolution in relation to which only the Crown's Owner's Representative is entitled to vote, and which the Crown's Owner's Representative votes in favour of.

Guarantee means a guarantee, indemnity, letter of credit, letter of comfort or other assurance or assumption of responsibility given at any time for a debt or liability of another person or the solvency or financial condition of that person.

Member means the member Councils and the Crown.

~~Owners' Representatives means the Owners' Representatives appointed under rule 9.~~

Northern Region has the same meaning as set out in the *Acts Interpretation Act 1931* (Tas).

North-western Region has the same meaning as set out in the *Acts Interpretation Act 1931* (Tas).

Ordinary Majority means a majority representing more than 50% of:

- (a) in relation to the members of the Corporation, all of the members;
- (b) in relation to the Owners' Representatives representing members of the Corporation from a particular Region, all the Owners' Representatives representing members of the Corporation from that Region;
- (c) in relation to the Owners' Representatives of the Corporation, all the Owners' Representatives of the Corporation; and
- (d) in relation to the Selection Committee, all the Selection Committee.

Owners' Representatives means the Owners' Representatives appointed under rule 9.

Region means the Northern Region, North-western Region or Southern Region.

Representative, in relation to a body corporate, means a representative of the body corporate appointed

under section 250D of the Corporations Act or a corresponding previous law.

Seal means any common seal, duplicate seal, share seal or certificate seal of the Corporation.

Selection Committee means the selection committee established under rule ~~1011~~.

Share Subscription and Implementation Agreement means the Share Subscription and Implementation Agreement between the Corporation and the Crown.

Southern Region has the same meaning as set out in the *Acts Interpretation Act 1931* (Tas).

Special Majority Members Resolution means a resolution of the members passed by at least 75% of the votes cast by members entitled to vote on the resolution.

Special Majority means a majority representing at least 75% of:

- (a) in relation to the Owners' Representatives representing members of the Corporation from a particular Region, all the Owners' Representatives representing members of the Corporation from that Region;
- (b) in relation to the Owners' Representatives of the Corporation, all the Owners' Representatives of the Corporation.

State Owned Business means any body or authority, whether incorporated or not, which is established or constituted by or under the *Government Business Enterprises Act 1995* (Tas) or other Tasmanian statute, being a body or authority which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor of Tasmania, a minister of the Crown or another government authority, but does not include a government department.

Transmission Event means in respect of a member of the Corporation which is a body corporate (including a Council or the Crown), the winding up or dissolution of the member or the succession by another body corporate to the assets and liabilities of the member.

~~**Treasurer's Instruction** means a Treasurer's instruction issued under the *Government Business Enterprises Act 1995* (Tas).~~

2 Interpretation

2.1 General

- (a) A member is to be taken to be present at a general meeting if the member is present in person or by proxy, attorney or Representative or by alternative means of simultaneous communication.
- (b) A director is to be taken to be present at a meeting of directors if the director is present in person or by alternative means of simultaneous communication.
- (c) Where a provision of this constitution establishes an office of chair, the chair may be referred to as a chairman or chairwoman, as the case requires.
- (d) A reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (e) In this constitution, headings and underlining are for convenience only and do not affect the interpretation of this constitution and, unless the contrary intention appears:
 - (i) words importing the singular include the plural and vice versa;
 - (ii) words importing a gender include every other gender;

- (iii) words used to denote persons generally or importing a natural person include any company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
- (iv) a reference to a person includes that person's successors and legal personal representatives;
- (v) a reference to any statute, regulation, proclamation, ordinance or by-laws includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and
- (vi) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

2.2 Application of the Corporations Act

- (a) This constitution is to be interpreted subject to the Corporations Act and the *Water and Sewerage Corporation Act 2012* (Tas).
- (b) Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by a provision of the Corporations Act, has the same meaning as in that provision.
- (c) Subject to rule 2.2(b) of this Schedule 1, unless the contrary intention appears, an expression in a rule that is defined in section 9 of the Corporations Act has the same meaning as in that section.

2.3 Exercise of powers

- (a) The Corporation may exercise in any manner permitted by the Corporations Act any power which under the Corporations Act a company limited by shares may exercise if authorised by its constitution.
- (b) Where this constitution provides that a person or body may do a particular act or thing and the word "may" is used, the act or thing may be done at the discretion of the person or body.
- (c) Where this constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (d) Where this constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.
- (e) Where this constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:
 - (i) to appoint a person to act in the office or position until a substitute person is appointed to the office or position;
 - (ii) subject to any contract between the Corporation and the relevant person, to remove or suspend any person appointed, with or without cause; and
 - (iii) to appoint another person temporarily in the place of any person so removed or

suspended or in place of any sick or absent holder of such office or position.

- (f) Where this constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.
- (g) Where this constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (h) Where this constitution confers power on a person or body to delegate a function or power:
 - (i) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;
 - (ii) the delegation may be either general or limited in any manner provided in the terms of delegation;
 - (iii) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
 - (iv) the delegation may include the power to delegate:
 - (v) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and
 - (vi) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

2.4 Replaceable rules not to apply

The replaceable rules applicable to a proprietary company contained in the Corporations Act from time to time do not apply to the Corporation.

2.5 Best Efforts

Any provision of this constitution which requires a person to use best efforts to procure that something is performed or occurs does not include any liability:

- (a) (payment): to pay any money, or to provide any financial compensation, valuable consideration or any other incentive to or for the benefit of any person; or
- (b) (legal action): to commence any legal action against any person, to procure that that thing is done or happens;

except:

- (c) (fees): for payment of any applicable fee for the lodgement or filing of any relevant application with any governmental agency; or
- (d) (contrary provision): where that provision expressly specifies otherwise.

SCHEDULE 2 – SHARE CAPITAL STRUCTURE EQUITY PROPORTIONS PER-MEMBER FOR VOTING PURPOSES

Council	Class of Share	Percentage
Break O'Day	"A" ordinary shares	2.10%
Dorset	"B" ordinary shares	1.06%
Flinders	"C" ordinary shares	0.21%
George Town	"D" ordinary shares	1.23%
Launceston	"E" ordinary shares	14.80%
Meander	"F" ordinary shares	3.02%
Northern Midlands	"G" ordinary shares	2.52%
West Tamar	"H" ordinary shares	3.55%
Burnie	"I" ordinary shares	4.12%
Central Coast	"J" ordinary shares	4.73%
Circular Head	"K" ordinary shares	1.58%
Devonport	"L" ordinary shares	5.44%
Kentish	"M" ordinary shares	0.43%
King Island	"N" ordinary shares	0.31%
Latrobe	"O" ordinary shares	1.90%
Waratah Wynyard	"P" ordinary shares	2.81%
West Coast	"Q" ordinary shares	1.80%
Brighton	"R" ordinary shares	2.93%
Central Highlands	"S" ordinary shares	0.50%
Clarence	"T" ordinary shares	10.58%
Derwent Valley	"U" ordinary shares	1.30%
Glamorgan Spring Bay	"V" ordinary shares	1.99%

Council	Class of Share	Percentage
Glenorchy	"W" ordinary shares	10.41%
Hobart	"X" ordinary shares	10.39%
Huon Valley	"Y" ordinary shares	2.04%
Kingborough	"Z" ordinary shares	5.91%
Sorell	"AA" ordinary shares	1.56%
Southern Midlands	"BB" ordinary shares	0.74%
Tasman	"CC" ordinary shares	0.05%

Table 1.

Council	Class of Share	Number of Shares
Break O' Day	"A" ordinary shares	1,889,811
Dorset	"B" ordinary shares	953,905
Flinders	"C" ordinary shares	188,981
George Town	"D" ordinary shares	1,106,889
Launceston	"E" ordinary shares	13,318,668
Meander	"E" ordinary shares	2,717,728
Northern Midlands	"G" ordinary shares	2,267,773
West Tamar	"H" ordinary shares	3,194,681
Burnie	"I" ordinary shares	3,707,629
Central Coast	"J" ordinary shares	4,256,574
Circular Head	"K" ordinary shares	1,421,858
Devonport	"L" ordinary shares	4,895,510
Kentish	"M" ordinary shares	386,961
King Island	"N" ordinary shares	278,972
Latrobe	"O" ordinary shares	1,709,829
Waratah Wynyard	"P" ordinary shares	2,528,747
West Coast	"Q" ordinary shares	1,619,838
Brighton	"R" ordinary shares	2,636,736

<u>Central Highlands</u>	<u>"S" ordinary shares</u>	<u>449,955</u>
<u>Clarence</u>	<u>"T" ordinary shares</u>	<u>9,521,048</u>
<u>Derwent Valley</u>	<u>"U" ordinary shares</u>	<u>1,169,883</u>
<u>Glamorgan-Spring Bay</u>	<u>"V" ordinary shares</u>	<u>1,790,821</u>
<u>Glenorchy</u>	<u>"W" ordinary shares</u>	<u>9,368,063</u>
<u>Hobart</u>	<u>"X" ordinary shares</u>	<u>9,350,065</u>
<u>Huon Valley</u>	<u>"Y" ordinary shares</u>	<u>1,835,816</u>
<u>Kingborough</u>	<u>"Z" ordinary shares</u>	<u>5,318,468</u>
<u>Sorell</u>	<u>"AA" ordinary shares</u>	<u>1,403,860</u>
<u>Southern Midlands</u>	<u>"BB" ordinary shares</u>	<u>665,933</u>
<u>Tasman</u>	<u>"CC" ordinary shares</u>	<u>44,996</u>
<u>Crown</u>	<u>"DD" ordinary shares</u>	<u>Refer to Table 2.</u>

Table 2

Subject to the Crown meeting its obligations to subscribe for shares in accordance with the Share Subscription and Implementation Agreement, the Crown's shareholding shall progressively increase up to a maximum of 10,000,000 in 2028, on or before the Subscription Dates set out below:

<u>Subscription Date</u>	<u>Number of Shares</u>	<u>Subscription Amount</u>
<u>1 January 2019</u>	<u>1,000,000</u>	<u>\$20,000,000</u>
<u>1 January 2020</u>	<u>1,000,000</u>	<u>\$20,000,000</u>
<u>1 January 2021</u>	<u>1,000,000</u>	<u>\$20,000,000</u>
<u>1 January 2022</u>	<u>1,000,000</u>	<u>\$20,000,000</u>
<u>1 January 2023</u>	<u>1,000,000</u>	<u>\$20,000,000</u>
<u>1 January 2024</u>	<u>1,000,000</u>	<u>\$20,000,000</u>
<u>1 January 2025</u>	<u>1,000,000</u>	<u>\$20,000,000</u>
<u>1 January 2026</u>	<u>1,000,000</u>	<u>\$20,000,000</u>
<u>1 January 2027</u>	<u>1,000,000</u>	<u>\$20,000,000</u>
<u>1 January 2028</u>	<u>1,000,000</u>	<u>\$20,000,000</u>
	<u>10,000,000</u>	<u>\$200,000,000</u>

SCHEDULE 3 – EQUITY PROPORTIONS PER MEMBER FOR ~~DISTRIBUTION~~ DIVIDEND PURPOSES

Member	Class of Share	Percentage
Break O' Day	"A" ordinary shares	1.94%
Dorset	"B" ordinary shares	0.97%
Flinders	"C" ordinary shares	0.18%
George Town	"D" ordinary shares	1.13%
Launceston	"E" ordinary shares	13.62%
Meander	"F" ordinary shares	2.78%
Northern Midlands	"G" ordinary shares	2.34%
West Tamar	"H" ordinary shares	3.28%
Burnie	"I" ordinary shares	4.14%
Central Coast	"J" ordinary shares	4.77%
Circular Head	"K" ordinary shares	1.58%
Devonport	"L" ordinary shares	5.46%
Kentish	"M" ordinary shares	0.44%
King Island	"N" ordinary shares	0.33%
Latrobe	"O" ordinary shares	1.91%
Waratah Wynyard	"P" ordinary shares	2.81%
West Coast	"Q" ordinary shares	1.81%
Brighton	"R" ordinary shares	3.08%
Central Highlands	"S" ordinary shares	0.51%
Clarence	"T" ordinary shares	11.06%
Derwent Valley	"U" ordinary shares	1.36%
Glamorgan-Spring Bay	"V" ordinary shares	2.07%

Member	Class of Share	Percentage
Glenorchy	"W" ordinary shares	10.86%
Hobart	"X" ordinary shares	10.86%
Huon Valley	"Y" ordinary shares	2.12%
Kingborough	"Z" ordinary shares	6.16%
Sorell	"AA" ordinary shares	1.62%
Southern Midlands	"BB" ordinary shares	0.76%
Tasman	"CC" ordinary shares	0.05%
<u>Crown</u>	<u>"DD" ordinary shares</u>	<u>0.00%</u>

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SCHEDULE 4 – PRIORITY DISTRIBUTION PROPORTIONS

Council	Class of Share	Pro-Rata Maximum-Priority Distribution to 12/11/13 (135 days)	Relative Priority Share (%)
Break O'Day	"A" ordinary shares	0	0
Dorset	"B" ordinary shares	0	0
Flinders	"C" ordinary shares	8,508	0.09
George Town	"D" ordinary shares	34,028	0.38
Launceston	"E" ordinary shares	813,698	9.07
Meander	"F" ordinary shares	187,521	2.09
Northern Midlands	"G" ordinary shares	0	0
West Tamar	"H" ordinary shares	708,657	7.90
Burnie	"I" ordinary shares	150,534	1.68
Central Coast	"J" ordinary shares	0	0
Circular Head	"K" ordinary shares	382,068	4.26
Devonport	"L" ordinary shares	636,534	7.09
Kentish	"M" ordinary shares	740	0.01
King Island	"N" ordinary shares	30,700	0.34
Latrebe	"O" ordinary shares	287,013	3.20
Waratah Wynyard	"P" ordinary shares	18,864	0.21
West Coast	"Q" ordinary shares	309,205	3.45
Brighton	"R" ordinary shares	395,753	4.41
Central Highlands	"S" ordinary shares	0	0
Clarence	"T" ordinary shares	0	0

Council	Class of Share	Pro-Rata Maximum Priority Distribution to 12/11/13 (135 days)	Relative Priority Share (%)
Derwent Valley	"U" ordinary shares	0	0
Glamorgan Spring Bay	"V" ordinary shares	0	0
Glenorchy	"W" ordinary shares	3,280,314	36.56
Hobart	"X" ordinary shares	775,233	8.64
Huon Valley	"Y" ordinary shares	322,151	3.59
Kingborough	"Z" ordinary shares	443,835	4.95
Sorell	"AA" ordinary shares	187,151	2.09
Southern Midlands	"BB" ordinary shares	0	0
Tasman	"CC" ordinary shares	0	0
Total Pro-Rata Maximum Priority Distribution		8,972,507	

SCHEDULE 45 – SPECIAL MAJORITY MEMBERS RESOLUTION

The matters requiring a Special Majority Members Resolution are:

- (a) (strategic direction) any substantial alteration in the strategic direction of the business or the entry into any new business by the Corporation;
- (b) (sale) any sale, purchase or reconstruction, including by way of any buy-back of shares or capital reduction, by the Corporation which would result in a change in the level of the Corporation's ownership of any equity or shares or any trading business, including the Business;
- (c) (new issues) the issue and terms of issue of any Shares;
- (d) (consultancy fees) any proposal for or any changes to the consultancy fees payable to or other non-Board remuneration arrangements with the chairman;
- (e) (asset disposals) any sale, lease, exchange or other disposition of:
 - (i) all or a material part of the assets of the Corporation unless specified in the budget; or
 - (ii) all or a substantial part of the business.

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SCHEDULE ~~56~~ - 75% BY MEMBER, 75% BY EQUITY RESOLUTION

Subject to the matters which require a Government Member Resolution in accordance with Schedule 6, the matters requiring a resolution of the members passed by:

- (a) at least 75% ~~by number~~ of the members of the Corporation entitled to vote; and
- (b) any combination of members that hold at least 75% of ~~votes cast by members of the Corporation entitled to vote on the resolution~~ ~~the equity voting proportions specified in Schedule 2~~

are:

- (ca) any resolution to amend Schedule 2 or Schedule 3 of this constitution; and
- (cb) any resolution as a result of the winding up, liquidation or dissolution of any member of the Corporation.

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SCHEDULE 6 – GOVERNMENT MEMBER RESOLUTIONS

The matters requiring a Government Member Resolution are:

- (a) any amendment or revocation and substitution of the Shareholders' Letter of Expectations which involves a change to the process for adoption and amendment of the Corporation's corporate plan (including any mechanism for resolving any dispute regarding the adoption of amendments to the corporate plan);
- (b) any amendments to:
 - (i) the role of the Crown's Owner's Representative in the process to approve, or request amendments to, the corporate plan; or
 - (ii) the Crown's Owner's Representative's role in the mechanism to avoid deadlock in the event that there is any dispute over adopting any amendments to the corporate plan;
- (c) any amendments to the role of the Crown's Owner's Representative on the Selection Committee;
- (d) any amendments to the right of the Crown's Owner's Representative to be consulted in relation to the appointment of the Chief Executive Officer; and
- (e) any amendments to rule 6.8(d) or to this Schedule 6.

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Appendix 2: Proposed Shareholders' Letter of Expectations



Water and Sewerage Corporation Act 2012

**SHAREHOLDERS' LETTER
OF EXPECTATIONS**

**Tasmanian Water and Sewerage Corporation Pty Ltd
ACN 162 220 653**

Adopted by general meeting 16 May 2013
Amended by general meeting 28 July 2015
Amended by general meeting 27 September 2018

INDEX

PART 1 - PRELIMINARY	1
1. Commencement and Term	1
2. Purpose	1
3. Interpretation	1
PART 2 - GENERAL	1
4. Guiding Principles	1
5. Preservation of Employee Benefits	2
PART 3 - GOVERNANCE	2
6. Shareholders' Letter of Expectations	2
7. Legislative Compliance	3
8. Corporate Plan	3
9. Board Performance	5
10. Shareholder Relationships	5
11. Customer and Community Engagement	65
12. Economic Development	6
PART 4 - PLANNING, SERVICE DELIVERY AND RISK MANAGEMENT	6
13. Risk Management Planning	6
14. Conserving Water, Recycling Water and Sewage	76
15. Responding to Drought	7
16. Service Standards	7
17. Stormwater Management Plans	7
18. Trade Waste	7
19. Catchment, Regional and Local Government Planning	7
20. Environmental Management	87
PART 5 - FINANCIAL CONSIDERATIONS	8
21. Dividends	8
22. Investment Policy	8
PART 6 - REPORTING	98
23. Reporting Framework	98
24. Whole-of-Government Reporting	9
25. Reporting under AEFERS	10
26. External Funding Assistance	10
27. Pricing	10
28. Community Service Obligation	10
29. Infrastructure Investment Program	11
SCHEDULE A - Definitions	12
PART 1 - PRELIMINARY	3
1. Commencement and Term	3
2. Purpose	3
3. Interpretation	3
PART 2 - GENERAL	3
4. Guiding Principles	3
5. Preservation of Employee Benefits	4
PART 3 - GOVERNANCE	4
6. Shareholders' Letter of Expectations	4
7. Legislative Compliance	5
8. Corporate Plan	5

9.	Board Performance.....	6
10.	Shareholder Relationships.....	6
11.	Customer and Community Engagement.....	7
12.	Economic Development.....	7
	PART 4 – PLANNING, SERVICE DELIVERY AND RISK MANAGEMENT.....	7
13.	Risk Management Planning.....	7
14.	Conserving Water, Recycling Water and Sewage.....	7
15.	Responding to Drought.....	8
16.	Service Standards.....	8
17.	Stormwater Management Plans.....	8
18.	Trade Waste.....	8
19.	Catchment, Regional and Local Government Planning.....	8
20.	Environmental Management.....	9
	PART 5 – FINANCIAL CONSIDERATIONS.....	9
21.	Distributions.....	9
22.	Investment Policy.....	9
	PART 6 – REPORTING.....	9
23.	Reporting Framework.....	9
24.	Whole of Government Reporting.....	10
25.	Reporting under AEIFRS.....	10
26.	Treatment of “Not for Profit” Customer Concessions.....	10
	SCHEDULE A – Definitions.....	11
	PART 7 – SIGNATORIES.....	12

PART 1 - PRELIMINARY	
1. Commencement and Term	
1.1	This Letter of Expectations is issued by the Shareholders of the Tasmanian Water and Sewerage Corporation Pty Ltd under Section 12 of the <i>Water and Sewerage Corporation Act 2012</i> . This Letter of Expectations commenced on 1 July 2013 and operates until it is replaced in accordance with the procedures outlined in this document and the Corporation's Constitution.
2. Purpose	
2.1	The purpose of this Letter of Expectations is to communicate and give guidance in relation to the Shareholders' high-level performance expectations and strategic priorities to the Board of the Corporation.
3. Interpretation	
3.1	The definitions of the terms are contained in Schedule A to this Letter of Expectations.
3.2	<p>The following rules also apply in interpreting this Letter of Expectations, except where the context makes it clear that a rule is not intended to apply.</p> <p>Terms defined in the <i>Water and Sewerage Corporations Act 2012</i> and <i>Water and Sewerage Industry Act 2008</i> (as amended from time to time) have the same meaning in this Letter of Expectations.</p> <p>Whenever this Letter of Expectations requires the Corporation to make something "available to the public", the Corporation shall:</p> <ul style="list-style-type: none"> • publish the matter on the Corporation's website; and • make a copy of the document available for inspection at each of the Corporation's offices; and • provide a copy on request for a charge that covers the fair and reasonable costs of making the copy available. <p>Whenever this Letter of Expectations requires the Corporation to "develop" something, the Corporation shall be taken to have complied with that obligation if it has already developed the item before this Letter of Expectations commenced.</p> <p>Where this document sets out expectations in relation to the provision of information, the Corporation shall forward such information to the Owners' Representatives, the Mayors (where the Owners' Representatives are not also the Mayors) and the General Managers (unless otherwise specified in this document). These expectations also apply to all subsidiaries of the Corporation.</p>
PART 2 - GENERAL	
4. Guiding Principles	
4.1.	<p>The Corporation shall operate in a manner consistent with the principal objectives under the <i>Water and Sewerage Corporations Act 2012</i>:</p> <ol style="list-style-type: none"> (a) to efficiently provide water and sewerage functions in Tasmania; (b) to encourage water conservation, the demand management of water and the reuse of water on an economic and commercial basis; (c) to be a successful business, and to this end – <ol style="list-style-type: none"> (i) to operate its activities in accordance with good commercial practice; (ii) to deliver sustainable returns to its Owner Council members; and (iii) to deliver water and sewerage services to customers in the most cost efficient manner.

4.2.	In addition to these principal objectives, the Shareholders expect that the Corporation will uphold the original principles of 2008 structural reform by maintaining a capability and governance structure to manage the water resource, water supply and sewerage services in a sustainable manner, taking account of economic and environmental factors including the improvement of drinking water quality across Tasmania.
4.3.	<p>In performing its functions and providing its services, the Corporation shall therefore:</p> <ul style="list-style-type: none"> • have an appropriate and formalised distributions/dividends policy that provides for an appropriate balance sheet, profit and loss and cash-flow strength to enable access to debt funding to the level required to support required investment and to fund all business activities on a sustainable basis; • as far as is practical, maintain employment levels in each region equivalent to the proportion of full-time equivalents transferred from each regional Corporation to the statewide Corporation; • share the 'intellectual capacity' of the Corporation across each region wherever practical to do so; • balance the needs of each region over time when developing discretionary long term capital expenditure programs with the aim of sharing economic benefits across the state; • establish and maintain compliance with the ASX Corporate Governance Principles and Recommendations (as amended from time to time) to the extent that they apply to the Corporation's circumstances; • develop clear and unambiguous guidelines which allow the Shareholders to provide advice and guidance to the Board on matters that fall beyond the scope of the Board; • maintain the organisational and managerial capability to deliver a continuous improvement approach to operations and business processes; and • ensure that the Corporation collaborates with the various agencies to take account of state-wide and regional needs and endeavour to identify other opportunities to enhance outcomes for the Councils and the Tasmanian community.
5. Preservation of Employee Benefits	
5.1.	In addition to the general preservation of employment conditions specified in Part 3 of the <i>Water and Sewerage Corporations Act 2012</i> , the Corporation shall recognise as continuous service the length of uninterrupted employment in local government, bulk water authorities, Regional Water Corporations and the Common Service Corporation in determining employee entitlements including any future redundancy calculation.
PART 3 – GOVERNANCE	
6. Shareholders' Letter of Expectations	
6.1.	In issuing this Letter of Expectations, owner council the Shareholders intend that the Board will abide by its provisions unless to do so would create a risk of breaching the <i>Water and Sewerage Corporation Act 2012</i> , the <i>Corporation Act 2001</i> , the Corporation's Constitution, directors' duties, or any other statutory or regulatory obligation.
6.2.	The Board will advise Owners' Representatives when the provisions of the Shareholder's Letter of Expectations cannot be met.
6.3.	The Corporation shall make this Letter of Expectations available to the public.

6.4.	As required under Section 12(5) of the <i>Water and Sewerage Corporation Act 2012</i> , the Shareholders shall consult with the Board before or while preparing or amending a Shareholders' Letter of Expectations.
6.5.	The method of adopting, amending or repealing the Shareholders' Letter of Expectations is determined in the Constitution.
7. Legislative Compliance	
7.1.	The Shareholders expect the Corporation to comply with all applicable statutory and regulatory obligations and to develop appropriate management systems to ensure reliable and continuous compliance is maintained.
7.2.	The Corporation shall ensure that it has a general compliance and audit scheme in place that focuses on systems and processes and monitors compliance with licence conditions and instruction from relevant industry regulators.
8. Corporate Plan	
8.1.	The preparation and provision of an annual Corporate Plan is required under Section 13 of the <i>Water and Sewerage Corporation Act 2012</i> .
8.2.	<p>The Corporate Plan shall be for a 3-5 year period and identify and explain the strategic and operational plans of the Corporation.</p> <p>Each Corporate Plan shall include:</p> <ul style="list-style-type: none"> • The main undertakings of the Corporation, • An assessment of the operating environment including a strategic risk assessment and mitigation plan, • An outline of the Corporation's Strategic Plan including objectives, actions and timelines, • Operating and Capital Works budgets for the forecast year and two forward years including: <ul style="list-style-type: none"> ○ forecast growth of connections and demand for water and sewerage services, ○ assumptions regarding revenue and expenses, ○ details of total borrowings and assumed interest rates, ○ assumptions regarding timing and total Owner Councils' dividends distributions to owners, including dividends, income tax equivalents and government guarantee fees, ○ 10 Year Capital Works Program and cost estimate. • Forecast Profit and Loss, Balance Sheet, Cash Flow and Owners' Councils' Distributions dividends statements for a 10 year period. • Key Performance Measures and Targets including: <ul style="list-style-type: none"> • Financial, • Licence Condition Compliance, • Water Quality, • Wastewater Quality, • Customer Service Standards • Safety.
8.3.	<p>The Corporation shall provide a draft of the annual Corporate Plan to the Owners' Representatives at least six weeks prior to the Annual Planning Meeting.</p> <p>The Owners' Representatives will ensure that the annual Corporate Plan is adopted by no later than 31 July each year.</p>

8.4. Process for adopting or amending the Corporate Plan is as follows.

- The Corporation shall issue a draft Corporate Plan to Owner Councils and the Crown by no later than 30 April each year for review.
- Owner Councils and the Crown must provide any suggested amendments to the draft Corporate Plan to the Chairman in writing within 28 days.
- The Board will consider all suggested amendments received from Owner Councils and the Crown as soon as practicable. The Board is not obliged to adopt the requested amendments if to do so would create a risk of breaching directors' duties or other formal regulatory obligations.
- Not less than 21 days prior to the Annual Planning General Meeting, the Corporation shall provide the Board's response to each of the amendments proposed by the Owner Councils and/or the Crown, through:
 - an amended Corporate Plan (if amendments are accepted) or
 - the draft Corporate Plan and letter of explanation (if amendments are rejected),

a copy of the draft Corporate Plan to Owners' Representatives for consideration at the Annual Planning General Meeting.
- The Chairman and CEO shall attend the meeting to present and or answer questions.
- At the Annual Planning General Meeting the Owners' Representatives, in general meeting, may adopt or request the Board to reconsider the Corporate Plan.
- The method of approving or requesting amendment to Approval of the Corporate Plan at the Annual Planning General Meeting will require:
 - be by a simple Ordinary Majority of Owners' Representatives (excluding the Crown's Owner's Representative); and
 - using the 1 share: 1 vote approach an affirmative vote by the Crown's Owner's Representative.
- ~~Requests for amendment will be forwarded to the Chairman by the Chief Representative of the Owners Representatives.~~
- ~~The Board will consider the requested amendments as soon as reasonably practicable and provide a response by way of an amended draft Corporate Plan or letter of explanation, or both.~~
- ~~The Board is not obliged to adopt the requested amendments if to do so would create a risk of breaching directors' duties or other formal regulatory obligations.~~
- Should:
 - the Corporate Plan as presented by the Board not be adopted at the Annual Planning General Meeting, but
 - the Owners' Representatives, through an Ordinary Majority of Owners' Representatives (excluding the Crown's Owner's Representative) and an affirmative vote by the Crown's Owner's Representative agree amendments to the Corporate Plan,

the Board (if it has not already done so) shall be obliged to accept and incorporate those amendments into the Corporate Plan unless this would result in directors of the Corporation being in breach of their fiduciary duties, the Corporations Act 2001 (Cth) or constitute unlawful activity, in which case the Corporate Plan as recommended by the Board will be deemed to have been adopted by the Owners' Representatives, and the Chairman shall advise the Owners' Representatives accordingly.
- Should:
 - the Corporate Plan not be adopted at the Annual Planning General Meeting and

	<p><u>o no agreed position on amendments to the Corporate Plan can be reached by the Crown's Owner's Representative and an Ordinary Majority of Owners' Representatives (excluding the Crown's Owner's Representative)-the Board not agree to amend the Draft Corporate Plan as requested</u></p> <p>the Chairman shall, <u>within 7 days,</u> -consult with the Chief <u>Owners' Representative and the Crown's Owner's Representative</u> to determine a solution. <u>If this group is unable to reach unanimous agreement as to a solution within a further 7 days, it will be determined by a two thirds majority of the group, unless this would result in directors of the Corporation being in breach of their fiduciary duties, the Corporations Act 2001 (Cth) or constitute unlawful activity, in which case the Corporate Plan as recommended by the Board will be deemed to have been adopted by the Owners' Representatives.</u></p> <ul style="list-style-type: none"> • A summary of the approved Corporate Plan will be published on the Corporation's website <u>before the commencement of the period covered by the Corporate Plan within 7 days after the Corporate Plan is adopted.</u>
<p>9. Board Performance</p>	
9.1.	<p>The Shareholders expect the Corporation to annually review and report to the Selection Committee on the performance of the Board and its committees.</p>
9.2.	<p>Each year, the Board Chairman shall discuss with the Board Selection Committee Chair any concerns about the contribution of individual directors and/or the need to change the skills mix of the Board.</p>
<p>10. Shareholder Relationships</p>	
10.1.	<p>The Corporation shall act for the ultimate benefit of the Shareholders. It is the responsibility of the Board to act in the interests of the Corporation and, through it, the Shareholders' interests.</p>
10.2.	<p>The Board shall develop a policy or protocol for continuous disclosure with shareholders, following a no surprises, approach based on that described in ASX Principle 5.</p>
10.3.	<p>The continuous disclosure protocol will address information that:</p> <ul style="list-style-type: none"> • may have a material effect on financial Corporate Plan expectations; • may influence the owners' <u>Shareholders'</u> decisions; or • relates to an issue on which the owners' <u>Shareholders</u> may be required to comment, financial or otherwise.
10.4.	<p>In collaboration with <u>the Councils and the Crown</u>, the Corporation should seek to develop systems to enable effective and timely property and asset data sharing and coordination mechanisms that benefit both entities.</p>
10.5.	<p>The Corporation should collaborate with Councils, <u>the Crown</u> and regional agencies on matters of economic development and regional importance.</p> <p><u>The Corporation, the Crown and the Owner Councils shall work co-operatively in order to progress major investment projects of special or environmental importance to Tasmania and which obligation shall include using all reasonable endeavours to secure Federal Government funding for such projects. Specific projects included in this obligation include (but are not limited to):</u></p> <ul style="list-style-type: none"> • <u>the Launceston sewerage/stormwater separate project; and</u> • <u>the works at Macquarie Point waste water treatment plant necessary for the development of the Macquarie Point site.</u> <p>In determining appropriate levels of investment required to support economic development the Board will have a view balancing financial risks and benefits to the Corporation against the long term risks and benefits to the Tasmanian community, <u>and the Councils and the Crown.</u></p>

10.6.	The Chairman and the CEO shall make themselves available to meet with the Shareholders as and when requested. <u>The Chairman and the CEO shall meet regularly with the Ministers by mutual agreement.</u>
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11. Customer and Community Engagement	
11.1.	The Corporation shall develop and implement open and transparent processes to engage its customers and the community in its planning processes to ensure, amongst other matters, that the standards of services it provides meet regulatory requirements and the needs and expectations of customers and the requirements of the Industry's regulators.
11.2.	The Corporation shall make: <ul style="list-style-type: none"> • information about the services it provides available to the public; • information about water conservation and the responsible use of water and waste water available to the public; • educational material about the water industry available to schools and communities.
11.3.	While recognising that this may have a cost, the Shareholders expect the Corporation to adopt principles of Corporate Social Responsibility.
12. Economic Development	
12.1.	At its general meeting on 16 May 2013, <u>Owner Councils</u> resolved to endorse five principles that the Corporation is to apply when considering matters related to economic development.
12.2.	The five principles that apply to the consideration of economic development matters are: <p>Principle 1: That the Corporation develops strategic customer alliances aimed at growing the businesses of customers and the Corporation and provide regular reports to <u>owners Shareholders</u> on economic development activities.</p> <p>Principle 2: That the Corporation recognises residential development as a key driver of economic growth and that infrastructure decisions be made in accordance with settlement strategies.</p> <p>Principle 3: That the capital program of the Corporation should have regard for regional land use strategies and the priorities and opportunities that they present.</p> <p>Principle 4: That the Corporation seeks to ensure that its pricing and costing regime is transparent and understood by <u>owners Shareholders</u> and customers and that charges reflect the relative cost of the service or solution being provided.</p> <p>Principle 5: That infrastructure solutions proposed for economic development projects be set at a reasonable standard so as to allow their progress without compromising the overall standards of the Corporation's infrastructure system.</p>
PART 4 – PLANNING, SERVICE DELIVERY AND RISK MANAGEMENT	
13. Risk Management Planning	
13.1.	The Corporation shall develop and implement plans, systems and processes to ensure an acceptable level of risk. In developing risk management plans, systems and processes the Corporation shall consider the requirement to balance risk and appropriate opportunities; its obligation to provide continuous services to its customers; its statutory and regulatory obligations and the relevant ASX Principles.
13.2.	The Corporation shall develop and maintain asset management planning that allows it to supply its services sustainably, minimise the overall whole of life costs of any assets as well as minimise any detrimental social, economic or environmental effects of managing its assets.

14. Conserving Water, Recycling Water and Sewage	
14.1.	To demonstrate its commitment to the principal objectives under the <i>Water and Sewerage Corporation Act 2012</i> and sustainable water resource management, the Corporation should maintain, develop and implement programs for: <ul style="list-style-type: none"> • assessing and monitoring water supplies including groundwater; • assessing and monitoring future demands on water supplies; • efficient and effective management of demand for water; • minimising leakage and other losses of water from its network as far as is practicable; and • investigating and implementing treated sewage reuse schemes for beneficial agricultural/horticultural irrigation, energy generation and other non-potable purposes where it is both commercially and environmentally viable.
15. Responding to Drought	
15.1	The Corporation shall: <ul style="list-style-type: none"> • develop, implement and maintain an effective drought response plan for each water supply system operated by the Corporation; and • make its drought response plans available to the public.
15.2	Drought response plans should wherever possible be compatible with Council plans and should promote resource sharing opportunities.
16. Service Standards	
16.1	In complying with customer service standards issued by the Regulator the Shareholders' expect that, the Corporation should, as a minimum, develop water supply, sewerage services and wastewater management plans in conjunction with the relevant Council and State Government agencies and the local community.
17. Stormwater Management Plans	
17.1	The Corporation should participate in any development or review by the Councils of stormwater management plans and the re-use of stormwater where commercially feasible.
18. Trade Waste	
18.1	The Corporation shall develop policies and practices to manage trade waste to manage the associated risks, meet statutory and regulatory obligations and an improved quality of trade waste entering its sewerage systems.
18.2	<u>The Corporation, the Crown and the Owner Councils commit to work collaboratively to identify and implement any improvements (if required) to the Corporation's policies and practices relating to trade waste, including the Corporation's management of trade waste generally.</u>
19. Catchment, Regional and Local Government Planning	
19.1	The principal objectives of the Corporation's participation in such planning are to: <ul style="list-style-type: none"> • promote consistency of any strategy or any scheme with the Corporation's planning and programs for sustainable water management; and • ensure the alignment, integration and consistency of regional infrastructure development objectives.
19.2	The Corporation shall participate in periodic reviews, and provide input into the continuous improvement and implementation of any regional or municipal planning schemes or strategies

	<p>which may affect, or be affected by, the Corporation's area or activities. In particular, this includes:</p> <ul style="list-style-type: none"> • any local planning policy framework; • strategic plans of Councils; • any regional land use strategy development; • any regional infrastructure plans; • any State Water Management Plans initiated under the <i>Water Management Act 2000</i>.
20. Environmental Management	
20.1	The Corporation should seek to work cooperatively with other agencies and stakeholders to protect and improve natural resources and catchment management.
20.2	Following the principal objectives in Section 4 of this Letter, the Corporation shall participate in the development and implementation of any regional <u>or statewide</u> catchment management strategy or catchment sub-strategy that may affect, or be affected by, the Corporation's area or activities.
PART 5 – FINANCIAL CONSIDERATIONS	
21. Distributions–Dividends	
21.1	In accordance with the <i>Water and Sewerage Corporation Act 2012</i> the Board is to determine a Distributions–Dividends Policy for the Corporation in consultation with the <u>Council Owners' Representatives</u> with a view to establishing the target level of total dividendsdistributionsincluding Dividend .
21.2	Distributions–Dividends will be in accordance with Schedule 3 of the Corporation's Constitution.
21.3	The Distribution–Dividends Policy will include the expectation that distributions-dividends will be paid to shareholders in the year in which the dividendsdistributions are generated.
21.4	The Corporation should undertake a capital structure review to coincide with preparation of Price and Service Plan submissions.
21.5	<p><u>Where the Board determines that, due to any circumstance or event beyond the Corporation's reasonable control, the Corporation cannot continue to:</u></p> <ul style="list-style-type: none"> • <u>maintain Owner Councils' dividends in line with the Corporate Plan and</u> • <u>deliver an accelerated capital program (as envisaged under Part 29 of this Letter) and</u> • <u>limit annual price increases for regulated water and sewerage services to within the 3.5% cap (as envisaged under Part 27 of this Letter),</u> <p><u>while maintaining the financial sustainability of the Corporation (an 'adverse development'), the Corporation must notify the Chief Owners' Representative and the Crown's Owner's Representative of the adverse development and the Corporation must meet with the Crown's Owner's Representative to consider the impact of maintaining the accelerated infrastructure investment and price caps on the financial sustainability of the business.</u></p> <p><u>Following notice from the Corporation of an adverse development, and consideration of that adverse development by the Crown's Owner's Representative, the Crown may, in its absolute discretion, provide additional funding support or comfort to the Corporation. If the Crown decides not to provide adequate additional support or comfort to the Corporation (as determined by the Board), the Board may determine that the capital program should be amended and/or that price increases in excess of the cap (but within the prevailing price determination at the time) should be applied for regulated water and sewerage services.</u></p> <p><u>For the purposes of this Part, without limitation 'additional financial support or comfort' may include grant funding, a pre-payment of equity, a guarantee or letter of comfort.</u></p>
22. Investment Policy	
22.1	In the event that the Corporation becomes an investor of cash for other than short term liquidity

	<p>purposes, the Board will develop an investment policy which sets out:</p> <ul style="list-style-type: none"> • the Board's investment objectives; • the responsibility structure for managing investments; • the management of risks associated with investments; and • the investment management approach of the Board.
PART 6 – REPORTING	
23. Reporting Framework	
23.1	<p>The Board will arrange the following meetings each year, at a minimum,:</p> <ul style="list-style-type: none"> • Annual Planning Meeting – to consider and approve the Corporate Plan and any potential changes to the Shareholders' Letter of Expectations • Annual Reporting Meeting – to review the annual financial reports; • Quarterly Reporting meeting with Owners' Representatives – to occur in each region each quarter unless a region requests fewer meetings or elects to joins with another region.
23.2	Other general meetings can be convened in accordance with the provisions of the Constitution or the protocol agreed between the Board and Owners' Representatives.
23.3	Programs and plans developed by the Corporation in response to these Shareholders' expectations shall specify objectives to be achieved and measures for monitoring performance.
23.4	Performance shall be reported to the Owners' Representatives in a formal quarterly report to be received within 45 days from the end of the September, December and March quarters each financial year.
23.5	Performance reporting for the quarter ended June each year shall be incorporated into the Annual Report and presented at the Annual Reporting Meeting each year.
23.6	<p>The minimum content of the quarterly report is to include:</p> <ul style="list-style-type: none"> • financial statements for the period and year to date, • results against key performance targets include in the Corporate Plan for the quarter and year to date, • commentary on performance and explanations of material variances from budget, • revisions to the expected full year forecast financial results, • current estimates for <u>dividend distributions to the Owners Councils</u> and explanation for material variances from Corporate Plan, • capital expenditure for the quarter and material variance explanations, and • any non-compliances with the current Shareholders' Letter of Expectations.
23.7	In accordance with the requirements of the <i>Water and Sewerage Corporation Act 2012</i> , the Corporation shall provide its Annual Report to shareholders by 30 September each year.
23.8	The content of the Corporation's Annual Report will conform to the requirements prescribed in the <i>Water and Sewerage Corporation Act 2012</i> .
23.9	The Corporation's Annual Report will be included for discussion at the Annual Reporting Meeting of <u>owners-the Shareholders</u> and subsequently published on the Corporation's website.
23.10	Disclosures under the 'no surprises', continuous disclosure regime should be provided in the formal quarterly report unless the Board considers that a more timely disclosure is appropriate.
24. Whole-of-Government Reporting	

24.1	The Board should comply with requests from the Treasurer for information relating to the collection of financial information for whole of government reporting and ensure that such information relating to the Corporation and its subsidiaries will be provided by the relevant dates and in the specified formats, where applicable.
24.2	<u>The Chief Owners' Representative, Chairman and CEO will comply with a request to appear at GBE Scrutiny Committee hearings.</u>
24.3	<u>The Corporation will provide such financial and other information to the Department of Treasury and Finance as required to allow the Department of Treasury and Finance to provide advice to the Crown as it does for Government Business Enterprises.</u>
25. Reporting under AEIFRS	
25.1	The Corporation shall report in accordance with the requirements of the <i>Water and Sewerage Corporation Act 2012</i> .
26. Treatment of "Not for Profit" Customer Concessions	
26.1	The Corporation will consult with the Owners Representatives to develop a consistent state-wide Not for Profit rebate / concession policy within the first 12 months of operation with an expectation that the policy will take effect from 1 July 2014.
26.7. External Funding Assistance	
27.2 6.1	The Corporation and the Shareholders will work collaboratively with a view to obtaining external funding assistance to facilitate the timely delivery of the Corporation's capital program whilst ensuring that the prices imposed by the Corporation on its customers are affordable.
27. Pricing	
27.1	<u>The Corporation commits to:</u> <ul style="list-style-type: none"> • <u>freeze prices for regulated services for water and sewerage customers from 1 July 2019 to 30 June 2020</u> • <u>subject always to Part 21.5 of this Letter, develop a future price profile for regulated water and sewerage services with annual price increases for target tariffs to be no greater than 3.5% commencing from 1 July 2020 until 30 June 2025 ("Capped Period") (or apply such lower price determination to such price increases as may be made by the Tasmanian Economic Regulator during the Capped Period) and</u> • <u>transition customers who are currently significantly below target tariffs to ensure that those customers reach the target tariffs within the legislated timeframe without facing significant price shocks.</u>
28. Community Service Obligation	
28.1	<u>A Shareholder may request that the Corporation undertakes a water or sewerage infrastructure investment project that is not in the Corporation's long term investment plan or the then current Corporate Plan.</u>
28.2	<u>The Corporation will consider the proposed project and assess whether the project is likely to be prudent and efficient, so that the costs of the project are recoverable from customers under the economic regulatory framework in the <i>Water and Sewerage Industry Act 2008</i>. If the Corporation in good faith, considers that the project:</u> <ul style="list-style-type: none"> • <u>meets this requirement – the project is a "commercial project"; or</u> • <u>does not meet this requirement – the project is an "uncommercial project".</u>
28.3	<u>If the Corporation assesses the project as a commercial project, the Corporation may consider undertaking the project, after taking into account the impact of the project on the Corporation's key financial performance</u>

	<u>measures and any social, environmental or economic benefits of the project.</u>
<u>28.4</u>	<u>If the Corporation considers that the project has merit, the Corporation will consider the commercial project in the context of the Corporation's long term investment plan, discuss options for the timing of the delivery of the project with the Shareholder and consider the project in the context of preparing the Corporate Plan.</u>
<u>28.5</u>	<u>If the Corporation assesses a proposed project as an uncommercial project, it must notify the Shareholder of its decision.</u>
<u>28.6</u>	<u>If the Shareholder wishes to progress an uncommercial project, the Shareholder may offer to fund the project directly or seek third party funding for the project.</u>
<u>28.7</u>	<u>If the parties agree, the Corporation will consider the funded uncommercial project in the context of the Company's long term investment program, discuss options for the timing of the delivery of the project with the Shareholder and consider the project in the context of preparing the Corporate Plan.</u>
<u>28.8</u>	<p><u>The Corporation is to:</u></p> <ul style="list-style-type: none"> • <u>include, in its annual report, all non-commercial projects it has undertaken, including the cost to the Corporation of the non-commercial project and the funds contributed by the Shareholder, if applicable; and</u> • <u>publish on its website, details of non-commercial projects it has undertaken.</u>
<u>29. Infrastructure Investment Program</u>	
<u>29.1</u>	<u>The Corporation will jointly develop an accelerated infrastructure investment program with the Crown and the Owner Councils as referred to in paragraph 3.2 of the MOU on a best endeavours basis before 1 January 2019 (or such other date as the Crown makes its first contribution of \$20,000,000 to the Corporation).</u>
<u>29.2</u>	<u>Subject always to Part 21.5, the Corporation will use best endeavours to deliver sufficient investment during the remainder of its current 10 year investment program (i.e. until 30 June 2026) in order to achieve a target of \$1.8 billion of total infrastructure investment.</u>

SCHEDULE A - Definitions

The following definitions apply:

'AEIRFS' means the Australian Equivalents to International Financial Reporting Standards.

'Annual Planning Meeting' means one of the two general meetings to be held each year under the terms of the Constitution, one being the Annual Reporting Meeting to consider the annual accounts as mandated in the Constitution and the other being the general meeting to consider the Corporate Plan amongst other things.

'Annual Reporting Meeting' means one of the two general meetings to be held each year under the terms of the Constitution, one being the Annual Planning Meeting to consider the Corporate Plan as mandated in the Constitution and the other being the general meeting to consider the annual accounts, amongst other things.

'ANCOLD Guidelines' means the Guidelines issues by the Australian National Committee on Large Dams Inc as revised from time to time.

'Board' means the Board of Directors appointed to the Tasmanian Water and Sewerage Corporation Pty Ltd.

'CEO' means the Chief Executive Officer of the Corporation.

'Chairman' means the chairman of the Board.

'Corporation' means Tasmanian Water and Sewerage Corporation Pty Ltd (ACN 162 220 653).

'Council Owners' Representatives' means the representatives nominated by the Owner Councils.

'Councils' refers to the 29 Tasmanian Councils.

'Crown' means the Crown in Right of Tasmania.

'Crown's Owner's Representative' means the person appointed by the Crown as its Owner's Representative.

'Department of Treasury and Finance' means the Department of Treasury and Finance in Tasmania.

'Dividends Policy' means the policy determined in accordance with Part 5 of this Letter.

'MOU' means the memorandum of understanding dated 1 May 2018 between (1) the Crown (2) the Corporation and (3) the Chief Owners' Representative on behalf of the Owners' Representatives.

'Owners' Representatives' mean the representatives appointed by the owner councils Shareholders of the Corporation.

'Owner Councils' means those Shareholders which are member Councils (and not the Crown).

'Owner Councils' dividends' means the dividend payments payable by the Corporation to the Owner Councils in accordance with the Dividends Policy.

'Regulator' means Tasmanian Economic Regulator.

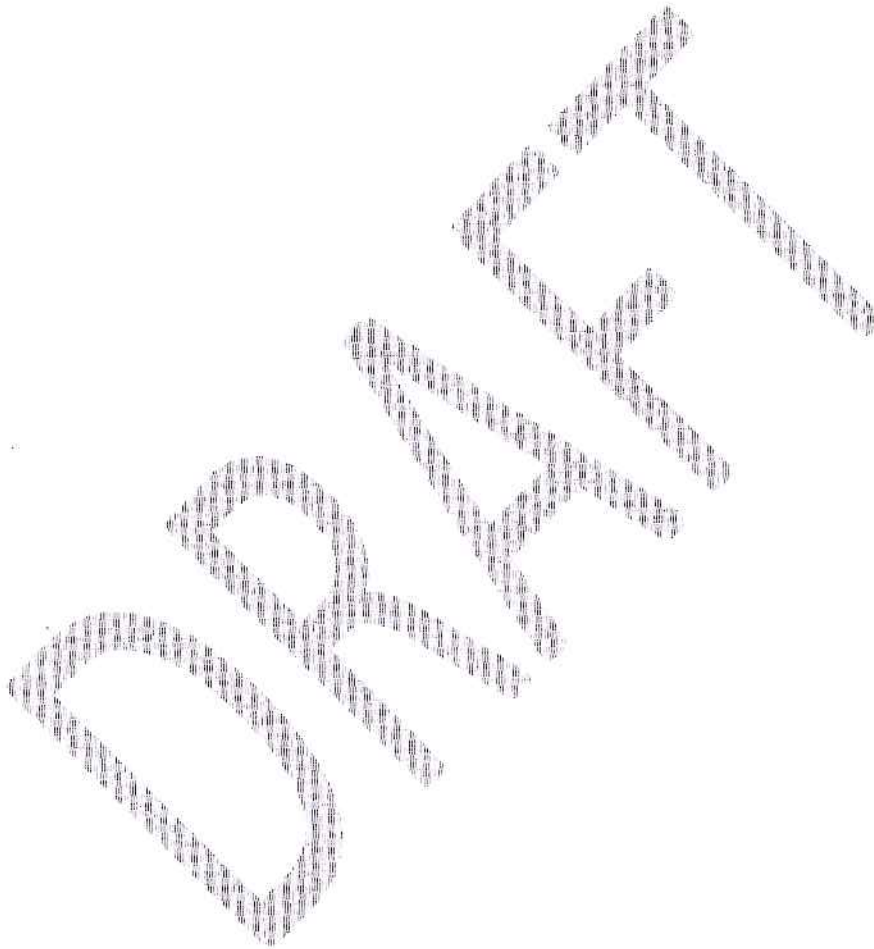
'Shareholders' means the member Councils and the Crown of the Corporation Tasmanian Water and Sewerage Corporation Pty Limited.

'Share Subscription and Implementation Agreement' means the Share Subscription and Implementation Agreement between the Corporation and the Crown.

'Treasurer' means the Treasurer of the Tasmanian Government.

'shall' means if the requirement is not met, the corporation will notify the shareholders of the failure in its routine reporting.

'should' means the corporation will use its discretion in decision making and notify the shareholders of the decision in the normal course of business.



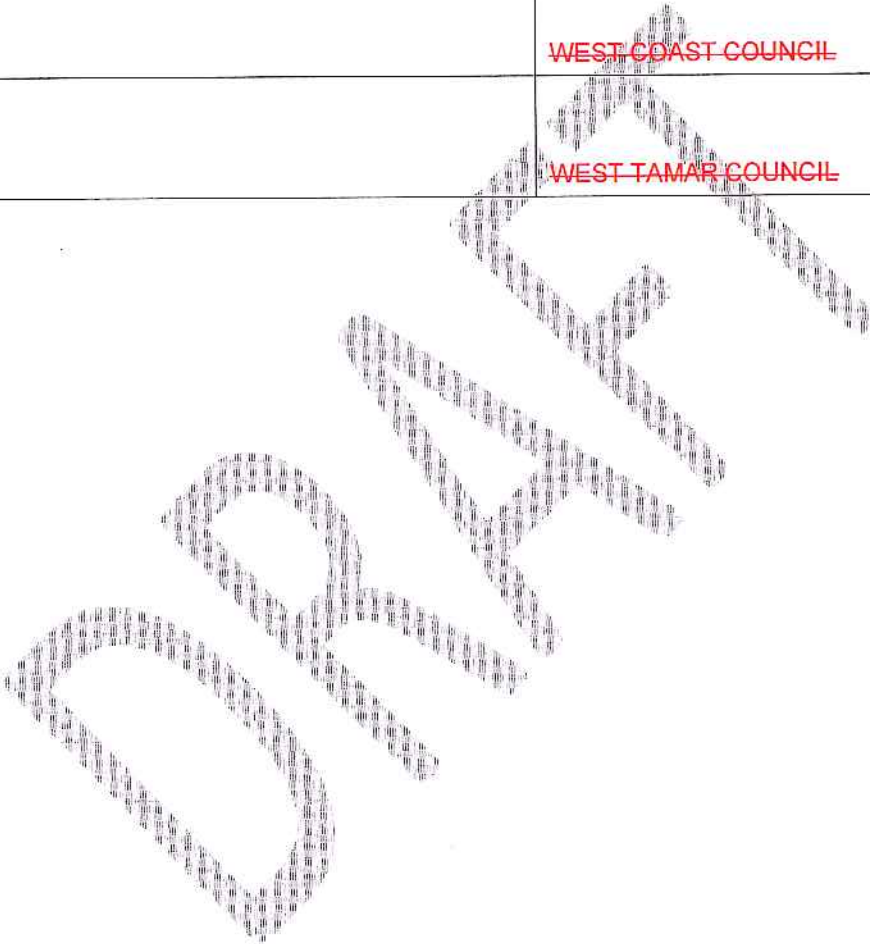
PART 7 – SIGNATORIES

In accordance with the *Water and Sewerage Corporation Act 2012*, we, the undersigned, being formal representatives of the twenty nine Tasmanian Councils, issue this Shareholders' Letter of Expectations to the Tasmanian Water and Sewerage Corporation Pty Ltd.

Date of signing	Council
	BRIGHTON COUNCIL
	BREAK O'DAY COUNCIL
	BURNIE CITY COUNCIL
	CENTRAL COAST COUNCIL
	CENTRAL HIGHLANDS COUNCIL
	CIRCULAR HEAD COUNCIL
	CLARENCE CITY COUNCIL
	DERWENT VALLEY COUNCIL
	DEVONPORT CITY COUNCIL
	DORSET COUNCIL
	FLINDERS COUNCIL

Date of signing	Council
	GEORGE TOWN COUNCIL
	GLAMORGAN SPRING BAY COUNCIL
	GLENORCHY CITY COUNCIL
	HOBART CITY COUNCIL
	HUON VALLEY COUNCIL
	KENTISH COUNCIL
	KINGBOROUGH COUNCIL
	KING ISLAND COUNCIL
	LATROBE COUNCIL
	LAUNCESTON CITY COUNCIL
	MEANDER VALLEY COUNCIL
	NORTHERN MIDLANDS COUNCIL
	SORELL COUNCIL

Date of signing	Council
	SOUTHERN MIDLANDS COUNCIL
	TASMAN COUNCIL
	WARATAH WYNYARD COUNCIL
	WEST COAST COUNCIL
	WEST TAMAR COUNCIL



Appendix 3: Proposed Share Subscription and Implementation Agreement

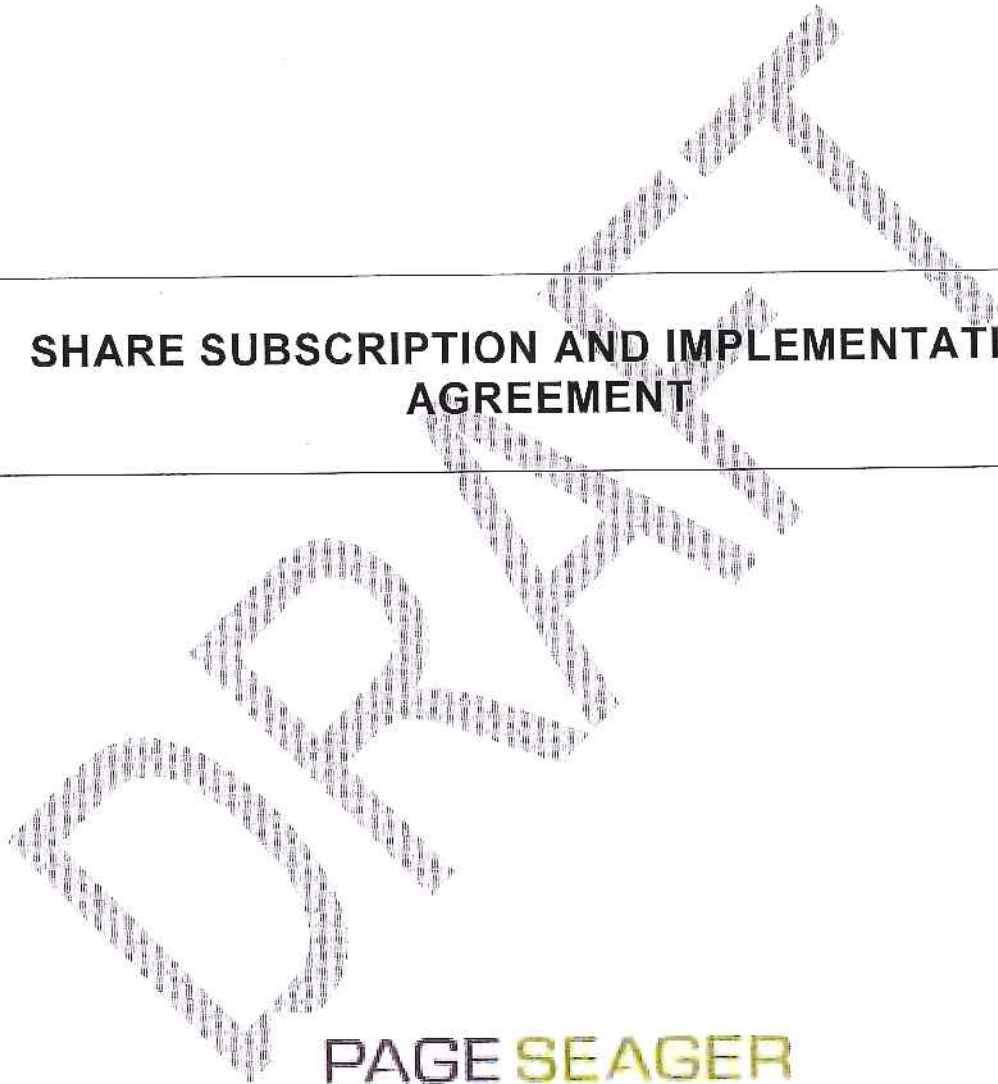
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**TASMANIAN WATER & SEWERAGE CORPORATION PTY LTD
(ABN 47 162 220 653)**

and

THE CROWN IN RIGHT OF TASMANIA

**SHARE SUBSCRIPTION AND IMPLEMENTATION
AGREEMENT**



PAGE SEAGER
LAWYERS

Level 2, 179 Murray Street
HOBART TAS 7000

P: (03) 6235 5155

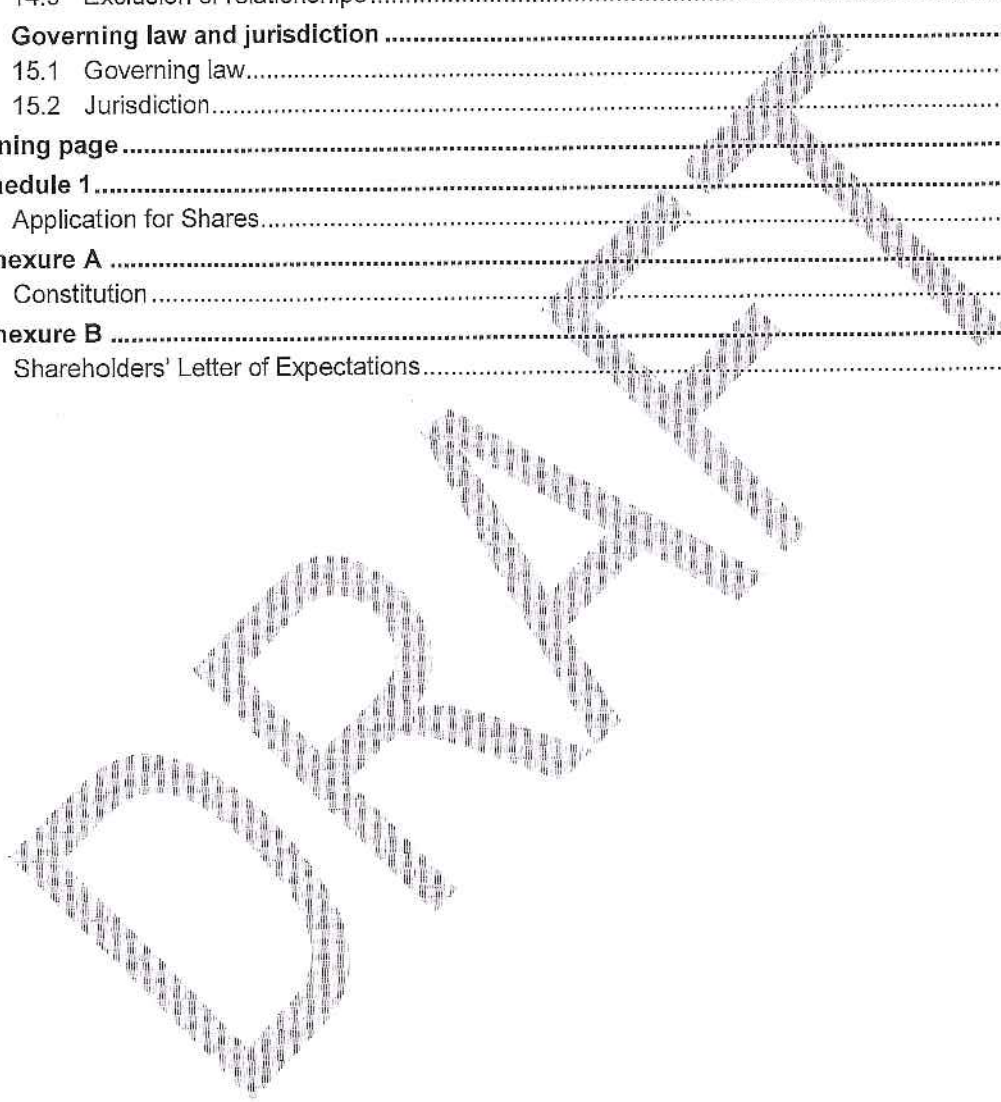
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Ref: JJH-LB (180850)

TABLE OF CONTENTS

Details	4
Background.....	4
Agreed terms	4
1 Definitions and interpretation.....	4
1.1 Definitions.....	4
1.2 Interpretation.....	6
2 Shares	7
2.1 Subscription for Shares	7
2.2 Subscription Dates, Number of Shares and Subscription Amounts.....	7
3 Conditions precedent	7
3.1 Conditions.....	7
3.2 Satisfaction of Conditions.....	8
3.3 Introduction of legislation.....	8
3.4 Passage of legislation.....	8
3.5 Benefit of Conditions	8
3.6 Failure of Condition	8
4 Payment and issue of shares	9
4.1 Time and place	9
4.2 Crown's obligations on each Subscription Date.....	9
4.3 Company's obligations at Subscription	9
4.4 Simultaneous actions at each Subscription.....	9
5 Governance	9
5.1 Corporate Plan	9
5.2 Appointment of the Board of TasWater.....	10
5.3 Chief Executive Officer of TasWater	10
6 Water and Sewerage Pricing	10
7 Default.....	10
7.1 Share Subscription Default.....	10
7.2 Exclusive Remedy.....	11
8 Implementation and good faith	11
9 GST.....	11
9.1 Payments exclusive of GST	11
9.2 Payment of GST.....	11
9.3 Tax invoice.....	11
9.4 Definitions.....	11
10 Entire agreement.....	11
11 Termination	11
11.1 Default	11
11.2 Rights not prejudiced.....	11
12 Disputes.....	12
12.1 Notice.....	12
12.2 Best endeavours to resolve.....	12
12.3 Mediation	12
13 Notices.....	12
13.1 Form	12
13.2 Delivery.....	12
13.3 When effective.....	12
13.4 Receipt – postal.....	12
13.5 Receipt – fax.....	12

13.6 Receipt - general	12
14 General.....	12
14.1 Amendments.....	12
14.2 Assignment.....	12
14.3 Consents.....	13
14.4 Counterparts.....	13
14.5 Costs.....	13
14.6 Further acts and documents.....	13
14.7 Waivers.....	13
14.8 Severance.....	13
14.9 Exclusion of relationships	13
15 Governing law and jurisdiction	13
15.1 Governing law.....	13
15.2 Jurisdiction.....	13
Signing page.....	14
Schedule 1.....	15
Application for Shares.....	15
Annexure A	16
Constitution	16
Annexure B	17
Shareholders' Letter of Expectations.....	17



Confidential Information means this document and any information notified by the disclosing party to the recipient party as confidential but does not include any information that is in the public domain.

Constitution means the constitution of TasWater as amended from time to time.

Corporate Plan means the Corporate Plan of TasWater pursuant to rule 8.2 of the Constitution and part 8 of the Shareholder's Letter of Expectations.

Corporations Act means the *Corporations Act 2001 (Cth)*.

Council means a council within the meaning of the *Local Government Act 1993 (Tas)*.

Crown has the meaning set out in the Details.

Crown Owner's Representative means the Owner's Representative appointed by the Crown.

Details mean the section of this document headed 'Details'.

GST has the meaning given in the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and the related imposition Acts of the Commonwealth.

Insolvency Event means the occurrence of any of the following events in relation to a party:

- (a) a party commits any act which is defined as "an act of bankruptcy" under the *Bankruptcy Act 1966 (Cth)*, regardless of whether or not the party is an individual;
- (b) a garnishee notice, or a notice under section 120 of the PPSA, is given to:
 - (i) a debtor of that party; or
 - (ii) any other person that otherwise owes or may owe money at any time to that party, in connection with any money that the party is said to owe;
- (c) in the case of an individual, the party dies, is imprisoned or becomes incapable of managing his or her own affairs;
- (d) an application is made to a court for a provisional or final order declaring a party provisionally or finally bankrupt or insolvent;
- (e) a special resolution is passed to wind up or otherwise dissolve the party;
- (f) a party is, or makes a statement from which it may be reasonably deduced by the other party that a ground or grounds on which the party may be wound up exists as specified in section 461 (or in the case of a part 5/7 body, section 585) of the Corporations Act;
- (g) a party has a controller (as defined in the Corporations Act) appointed, is in liquidation, in provisional liquidation, under administration or wound up or has had a receiver appointed to any part of its property;
- (h) a mortgagee, chargee or other holder of security, by itself or by or through an agent, enters into possession of all or any part of the assets of the party;
- (i) the party applies for, consents to, or acquiesces in the appointment of a trustee or receiver in respect of the party or any of its property;
- (j) the party takes any step to obtain protection or is granted protection from its creditors under any applicable legislation or a meeting is convened or a resolution is passed to appoint an administrator or controller (as defined in the Corporations Act) is appointed in respect of any part of the property of the party;
- (k) the party is or states that it is unable to pay its debts when they fall due;
- (l) except to reconstruct or amalgamate while solvent on terms approved by the other party, the party enters into or resolves to enter into a scheme of arrangement, compromise or reconstruction with its creditors (or any class of them) or with its members (or any class of them) or proposes a reorganisation, re-arrangement, moratorium or other administration of the party's affairs;
- (m) the party is the subject of an event described in section 459(C)(2) of the Corporations Act; or
- (n) anything analogous or having a substantially similar effect to any of the events specified above happens in relation to the party.

Member Councils means the Councils in Tasmania which are shareholders in TasWater.

MoU means the memorandum of understanding between the Crown, TasWater and the Chief Owners Representative on behalf of the Owners' Representatives of TasWater dated 1 May 2018.

Number of Shares means the number of Shares in column 2 of the table set out in clause 2.2 (Subscription Dates, Number of Shares and Subscription Amounts) set opposite each Subscription Date.

Owners' Representatives means the representatives of the shareholders of TasWater appointed pursuant to rule 9.1 of the Constitution.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Selection Committee has the same meaning as set out in the Constitution.

Shareholders' Letter of Expectations means TasWater's Shareholder's Letter of Expectations as amended from time to time.

Shares means fully paid class DD shares in TasWater.

Subscription means application and payment for a Number of Shares by the Crown and the issue of those Shares by TasWater pursuant to this Agreement.

Subscription Amounts means each subscription amount in column 3 of the table set out in clause 2.2 (Subscription Dates, Number of Shares and Subscription Amounts) set opposite each Subscription Date.

Subscription Date means each respective date in column 1 of the table set out in clause 2.2 (Subscription Dates, Number of Shares and Subscription Amounts).

Sunset Date means 31 December 2018.

TasWater has the meaning set out in the Details.

WSCA means the *Water and Sewerage Corporation Act 2012* (Tas).

1.2 Interpretation

- (a) A reference to:
- (i) one gender includes every other gender;
 - (ii) the singular includes the plural and the plural includes the singular;
 - (iii) a person includes a body corporate or unincorporate;
 - (iv) a party includes the party's executors, administrators, successors and permitted assigns;
 - (v) a statute, regulation or provision of a statute or regulation (**Statutory Provision**) includes:
 - (A) that Statutory Provision as amended or re-enacted from time to time;
 - (B) a statute, regulation or provision enacted in replacement of that Statutory Provision; and
 - (C) another regulation or other statutory instrument made or issued under that Statutory Provision; and
 - (vi) money is to Australian dollars, unless otherwise stated.
- (b) The expression "this document" includes the deed, covenants, agreement, arrangement, understanding or transaction recorded in this document.
- (c) "Including" and similar expressions are not words of limitation.
- (d) A reference to a clause or schedule is a reference to a clause of or a schedule to this document.
- (e) A reference to a document (including, without limitation, a reference to this document) is to that document as amended, novated or replaced.
- (f) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.

- (g) Headings and any table of contents or index are for convenience only and do not form part of this document or affect its interpretation.
- (h) A provision of this document must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this document or the inclusion of the provision in this document.
- (i) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.
- (j) All references to time are to Australian Eastern Standard time.

2 Shares

2.1 Subscription for Shares

The Crown agrees to subscribe for and TasWater agrees to issue and allot the Shares in accordance with clause 2.2 (Number of shares and subscription amounts) and on the terms and conditions of this document.

2.2 Subscription Dates, Number of Shares and Subscription Amounts

- (a) The Crown agrees to apply for the Number of Shares set out in column 2 and pay the Subscription Amounts set out in column 3 in the table below not more than 6 months prior to the Subscription Dates set out in column 1 in the table below.

Subscription Date	Number of Shares	Subscription Amount
1 January 2019	1,000,000	\$20,000,000
1 January 2020	1,000,000	\$20,000,000
1 January 2021	1,000,000	\$20,000,000
1 January 2022	1,000,000	\$20,000,000
1 January 2023	1,000,000	\$20,000,000
1 January 2024	1,000,000	\$20,000,000
1 January 2025	1,000,000	\$20,000,000
1 January 2026	1,000,000	\$20,000,000
1 January 2027	1,000,000	\$20,000,000
1 January 2028	1,000,000	\$20,000,000
	10,000,000	\$200,000,000

- (b) The Crown may, with the prior written agreement of TasWater, apply for a Number of shares and pay the Subscription Amount up to 6 months (or such other time as agreed) prior to the Subscription Date.
- (c) If the Crown applies for a Number of Shares and pays the Subscription Amount in accordance with clause 2.2(a) or (b), TasWater agrees to issue and allot the Number of Shares set out in column 2 in the table above on the Subscription Dates set out opposite in column 1 in the table above, or within 5 days of any earlier payment of the Subscription Amount under clause 2.2(b).

3 Conditions precedent

3.1 Conditions

This obligations of the parties under this document, other than under this clause 3, is conditional on each of the following being satisfied or waived on or before the Sunset Date:

- (a) **(amendment of WSCA)** the WSCA is amended to authorise the creation, and issue to the Crown, of shares in TasWater and to permit or require the Constitution to be amended in connection with the creation and issue of those shares in a form satisfactory to TasWater

and the Crown;

- (b) **(approval of document and issue of shares)** the shareholders and Board of TasWater approving the entry into this document and the issue of the Subscription Shares in accordance with its Constitution;
- (c) **(amendment to constitution)** the constitution of TasWater being amended so that it is in substantially the same form as set out in Annexure A; and
- (d) **(amendment to shareholders letter of expectation)** the Shareholders Letter of Expectation being amended so that it is in substantially the same form as set out in Annexure B.

3.2 Satisfaction of Conditions

Each party must:

- (a) use its reasonable endeavours (other than waiver) to ensure that the Conditions which are within its powers and control are fulfilled or waived on or before the relevant date;
- (b) promptly give the other party all information reasonably requested by that party in connection with any application required to satisfy a Condition;
- (c) not take any action that would, or would be likely to, prevent or hinder the fulfilment of any Condition;
- (d) keep each other party informed of any circumstances which may result in any of those Conditions not being satisfied in accordance with its terms; and
- (e) promptly advise each other party of the satisfaction of a Condition.

3.3 Introduction of legislation

The Crown agrees to:

- (a) consult with TasWater in relation to amendments to the WSCA and any other relevant legislation to permit the Crown's investment in TasWater in accordance with this document; and
- (b) introduce legislation into the Parliament of Tasmania to amend the WSCA and any other relevant legislation to permit the Crown's investment in TasWater in accordance with this document.

3.4 Passage of legislation

- (a) On the passage of legislation amending the WSCA to permit the Crown's investment in TasWater in accordance with this document, each party must, within 5 Business Days of the amending legislation receiving royal assent, notify the other, if the form of the legislation, as passed, is not satisfactory to it for the purposes of clause 3.1(a).
- (b) In the event that neither party provides notice under clause 3.4(a), the condition in clause 3.1(a) will be deemed to have been satisfied.

3.5 Benefit of Conditions

A Condition may be waived only prior to its end date for fulfilment and only:

- (a) in writing; and
 - (b) where the Condition is expressed to be for the benefit of a particular party, if that party gives notice of waiver of the Condition to the other parties; or
 - (c) otherwise, if the parties agree in writing to waive the Condition,
- but only to the extent set out in the waiver.

3.6 Failure of Condition

- (a) If a Condition is not satisfied or waived under clause 3.3 (Benefit of Conditions) before 5.00pm on the Sunset Date, any party may, if not otherwise in breach of this document, terminate this document by giving notice to all other parties.
- (b) On termination under clause 3.6(a):
 - (i) no party has any obligation or liability to any other party under this document, except in connection with:

- (A) any clause which survives termination of this document; and
 - (B) claims that arose before termination or which survive termination of this document.
- (ii) the Subscriber must return to the Company all documents and other materials in any medium in its possession, power or control which contain information received from or on behalf of the Company.

4 Payment and issue of shares

4.1 Time and place

The subscription for Shares will take place at 3.00pm on the date on which the Crown makes application and payment under clause 2.2(a) or 2.2(b), as applicable, at 163-169 Main Road, Moonah, Tasmania 7009 or any other time and place agreed by TasWater and the Crown.

4.2 Crown's obligations on each Subscription Date

The Crown agrees to:

- (a) deliver to TasWater an application for the relevant Number of Shares, duly completed and executed by the Crown, in the form set out in schedule to this document (Application for Subscription Shares); and
- (b) pay the Subscription Amount to TasWater in immediately available funds, prior to each Subscription Date.

4.3 Company's obligations at Subscription

TasWater agrees to:

- (a) issue the Number of Shares to the Crown on each Subscription; and
- (b) as soon as practicable after each Subscription, register the Crown as the holder of the Subscription Shares.

4.4 Simultaneous actions at each Subscription

In respect of each Subscription:

- (a) the obligations of the parties under this document are interdependent; and
- (b) all actions required to be performed will be taken to have occurred simultaneously on each respective Subscription.

5 Governance

5.1 Corporate Plan

- (a) TasWater and the Crown agree that the adoption of or any changes to TasWater's Corporate Plan will be agreed between the Crown and the Councils in accordance with part 8 of the Shareholders' Letter of Expectations.
- (b) If the Owners' Representatives are unable to agree the necessary votes to approve the adoption of or any changes to TasWater's Corporate Plan, TasWater's Chair must consult with the Chief Owners' Representative and the State Government Owner's Representative to resolve the adoption of the Corporate Plan or any requested amendments to the Corporate Plan. If TasWater's Chair, the Chief Owners' Representative and the State Government Owner's Representative are unable to reach unanimous agreement in relation to any changes to the Corporate Plan within 7 days, the changes will be determined by a two thirds majority of the TasWater's Chair, the Chief Owners' Representative and the Crown's Owner's Representative, unless those changes would result in TasWater's directors being in breach of their fiduciary duties, the *Corporations Act 2001* (Cth) or constitute unlawful activity, in which case the Corporate Plan as approved by the Board shall be deemed to have been adopted by the Owners' Representatives.
- (c) If the Owners' Representatives are able to agree the necessary votes to approve any changes to TasWater's Corporate Plan, and the Board has not previously done so, the Board is bound to accept those changes unless those changes would result in TasWater's directors being in breach of their fiduciary duties, the *Corporations Act 2001* (Cth) or

constitute unlawful activity, in which case the Corporate Plan as approved by the Board shall be deemed to have been adopted by the Owners' Representatives and TasWater's Chair will advise the Owners' Representatives accordingly.

5.2 Appointment of the Board of TasWater

The Crown and TasWater agree that the Crown Owner's Representative will be a member of the Selection Committee in accordance with rule 10.1(a) of the Constitution.

5.3 Chief Executive Officer of TasWater

The Crown and TasWater acknowledge and agree that:

- (a) the CEO is to be appointed by the directors of TasWater and may be removed by the directors;
- (b) the Crown and the Chief Owners' Representative shall be consulted in connection with the appointment of the CEO.

6 Water and Sewerage Pricing

The Crown and TasWater agree that, subject to part 21.5 of the Shareholders' Letter of Expectations, TasWater will:

- (a) not apply the outcome of any regulatory pricing determination to the extent that it is inconsistent with the provisions of this clause and does not have mandatory application;
- (b) apply no increase to its prices for regulated services for water and sewerage customers from 1 July 2019 to 30 June 2020;
- (c) develop and implement a future price profile for regulated water and sewerage services for the Capped Period under which annual price increases for target tariffs are no greater than the lesser of 3.5% and the outcome of any price determination made by the Tasmanian Economic Regulator and applicable during the Capped Period; and
- (d) transition customers who are currently significantly below target tariffs to ensure that those customers reach the target tariffs within the legislated timeframe without facing significant price shocks.

7 Default

7.1 Share Subscription Default

If the Crown fails to meet its obligations under clause 2.1 (Subscription for Shares), including, without limitation, failing to pay any Subscription Amount on the time required to make the payment then:

- (a) subject to paragraph (b), the Crown will, for as long as it fails to meet its obligations under clause 2.1 (Subscription for Shares), lose its rights and entitlements:
 - (i) under clause 5.1 (Corporate Plan) and the Crown will have no right or entitlement in relation to the content of TasWater's Corporate Plan additional to any right or entitlement that it has as a shareholder of any Shares that it holds at the date of the failure to meet its obligations;
 - (ii) under clause 5.2 (Appointment of the Board of TasWater) and the Crown Owner's Representative's seat will be lost; and
 - (iii) under clause 5.3 (Chief Executive Officer of TasWater); and
- (b) the parties acknowledge that the remedies set out in paragraph (a) are contained in the Constitution and, if the equivalent provisions of the Constitution are amended, then the provisions of paragraph (a) will be amended to the same effect, unless the parties expressly agree otherwise, in writing, prior to the amendment to the Constitution.
- (c) For the avoidance of doubt, notwithstanding any reinstatement of the Crown's rights in relation to clause 5.1 (Corporate Plan), clause 5.2 (Appointment of the Board of TasWater) or clause 5.3 (Chief Executive Officer of TasWater), any decisions made by the Selection Committee, the Owners' Representatives or the Board during such time as the Crown does not have those rights shall continue to be valid and to remain in full effect.

7.2 Exclusive Remedy

The remedies and consequences set out in clause 7.1 (Share Subscription Default) are exclusive for any breach by the Crown of clause 2.1, and no action will be had or maintained against the Crown for any other claim, demand or cause of action, including:

- (a) specific performance of its obligations under clause 2.1;
- (b) a claim for payment of the Subscription Amounts; or
- (c) damages.

8 Implementation and good faith

The Crown and TasWater will act in good faith and to use their reasonable endeavours to implement this document.

9 GST

9.1 Payments exclusive of GST

Unless otherwise stated in this document, all amounts payable by one party to another party are exclusive of GST.

9.2 Payment of GST

If GST is imposed or payable on any supply made by a party under this document, the recipient of the supply must pay to the supplier, in addition to the GST exclusive consideration for that supply, an additional amount equal to the GST exclusive consideration multiplied by the prevailing GST rate. The additional amount is payable at the same time and in the same manner as the consideration for the supply.

9.3 Tax invoice

A party's right to payment under clause 9.2 (Payment of GST) is subject to a valid tax invoice being delivered to the party liable to pay for the taxable supply.

9.4 Definitions

Expressions defined in the GST Act have the same meaning when used in this clause 9.

10 Entire agreement

This document, together with the Constitution and the Shareholders' Letter of Expectations (as approved by the Owners' Representatives), constitute the entire agreement between the parties in relation to its subject matter and supersedes all previous agreements, negotiations and understandings between the parties in relation to its subject matter.

11 Termination

11.1 Default

Either party (**Non-Defaulting Party**) may terminate this document by giving the other party (**Defaulting Party**) notice if:

- (a) the Defaulting Party repudiates its obligations under this document; or
- (b) an Insolvency Event occurs in respect of the Defaulting Party.

11.2 Rights not prejudiced

If this document is terminated under clause 11.1 (Default):

- (a) the parties are relieved from future performance of this document, without prejudice to any right of action that has accrued prior to the date of termination; and
- (b) rights to recover damages are not affected by the termination.

12 Disputes

12.1 Notice

If a party has a dispute or complaint against the other, that party (**Notifying Party**) must notify the other party in one of the ways described in clause 13 (Notices). The Notifying Party must ensure that the notice contains specific detail identifying the nature of the dispute or complaint.

12.2 Best endeavours to resolve

Both parties within 21 days of the delivery of a dispute notice will meet and use their best endeavours to resolve the dispute or complaint to the mutual satisfaction of both parties as soon as possible.

12.3 Mediation

If the parties are not able to reach a resolution of the dispute or complaint within a reasonable period of time (in any event being no more than 21 days after the date of receipt of the notice of the complaint or dispute), then the dispute or complaint must be submitted for mediation in accordance with, and subject to, the Resolution Institute Mediation Rules.

13 Notices

13.1 Form

Any notice, consent, approval, waiver and other communications to be given under or in connection with this document must be in writing, signed by the sender and marked for the attention as set out or referred to in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified.

13.2 Delivery

They must be:

- (a) left at the address set out or referred to in the Details; or
- (b) sent by prepaid post to the address set out or referred to in the Details; or
- (c) sent by fax to the fax number set out or referred to in the Details.

However, if the intended recipient has notified a changed postal address or changed fax number, then the communication must be to that postal address or fax number.

13.3 When effective

They take effect from the time they are received unless a later time is specified in them.

13.4 Receipt – postal

If sent by post, they are taken to be received 6 days after posting (or 10 days after posting if sent to or from a place outside Australia).

13.5 Receipt – fax

If sent by fax, they are taken to be received at the time shown in the transmission report as the time that the whole fax was sent.

13.6 Receipt - general

Despite clauses 13.4 (Receipt - postal) and 13.5 (Receipt - fax) and, if they are received after 5pm in the place of receipt or on a non-Business Day, they are taken to be received at 9am on the next Business Day.

14 General

14.1 Amendments

An amendment or variation to this document is not effective unless it is in writing and signed by the parties.

14.2 Assignment

A party cannot assign or otherwise transfer any of its rights under this document without the prior written consent of each other party.

14.3 Consents

Unless this document expressly provides otherwise, a consent under this document may be given or withheld in the absolute discretion of the party entitled to give the consent and to be effective must be given in writing.

14.4 Counterparts

- (a) This document may be entered into in any number of counterparts.
- (b) A party may execute this document by signing any counterpart.
- (c) All counterparts, taken together, constitute one document.

14.5 Costs

Each party will bear its own costs and disbursements of or incidental to the negotiation, preparation, execution, stamping and registration of this document, and all other matters and agreements referred to in this document.

14.6 Further acts and documents

Each party must promptly do all further acts and execute and deliver all further documents (in a form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this document.

14.7 Waivers

The non-exercise of, or delay in exercising, any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver.

14.8 Severance

- (a) If anything in this document is unenforceable, illegal or void then it is severed and the rest of this document remains in force, unless the severance would change the underlying principal commercial purpose or effect of this document.
- (b) If two or more provisions of this document are inconsistent or contradictory the numerical position of those provisions must not be a determinative factor in any decision, order or ruling that results in the severance of any conflicting provision.

14.9 Exclusion of relationships

The parties acknowledge and agree that this document and the performance of this document does not represent or imply a partnership, agency, fiduciary relationship, joint venture, distribution or any other category of commercial or personal relationship between the parties recognised at law or in equity as giving rise to forms of specific rights and obligations.

15 Governing law and jurisdiction**15.1 Governing law**

The laws of Tasmania govern this document.

15.2 Jurisdiction

The parties submit to the non-exclusive jurisdiction of the courts of Tasmania.

SIGNING PAGE

EXECUTED as an Agreement.

EXECUTED by Tasmanian Water & Sewerage Corporation Pty)
Ltd (ACN 162 220 653) pursuant to section 127 of the)
Corporations Act 2001 by:

.....
Director Signature

.....
Director Full Name (print)

.....
*Director/*Secretary Signature

.....
*Director/*Secretary Full Name (print)

(* please strike out inapplicable)

EXECUTED for and on behalf of the Crown in Right of)
Tasmania by [#PS Comment: Crown law to insert)
appropriate execution clause for the Crown#] in the)
presence of:

Witness:

Full Name:

Address:

Occupation:

Schedule 1

Application for Shares

[#insert date#]

To: Tasmanian Water and Sewerage Corporation Pty Ltd (ACN 162 220 653) (**TasWater**)
163 – 169 Main Road, Moonah, Tasmania 7009

Attention: Company Secretary

Dear Directors

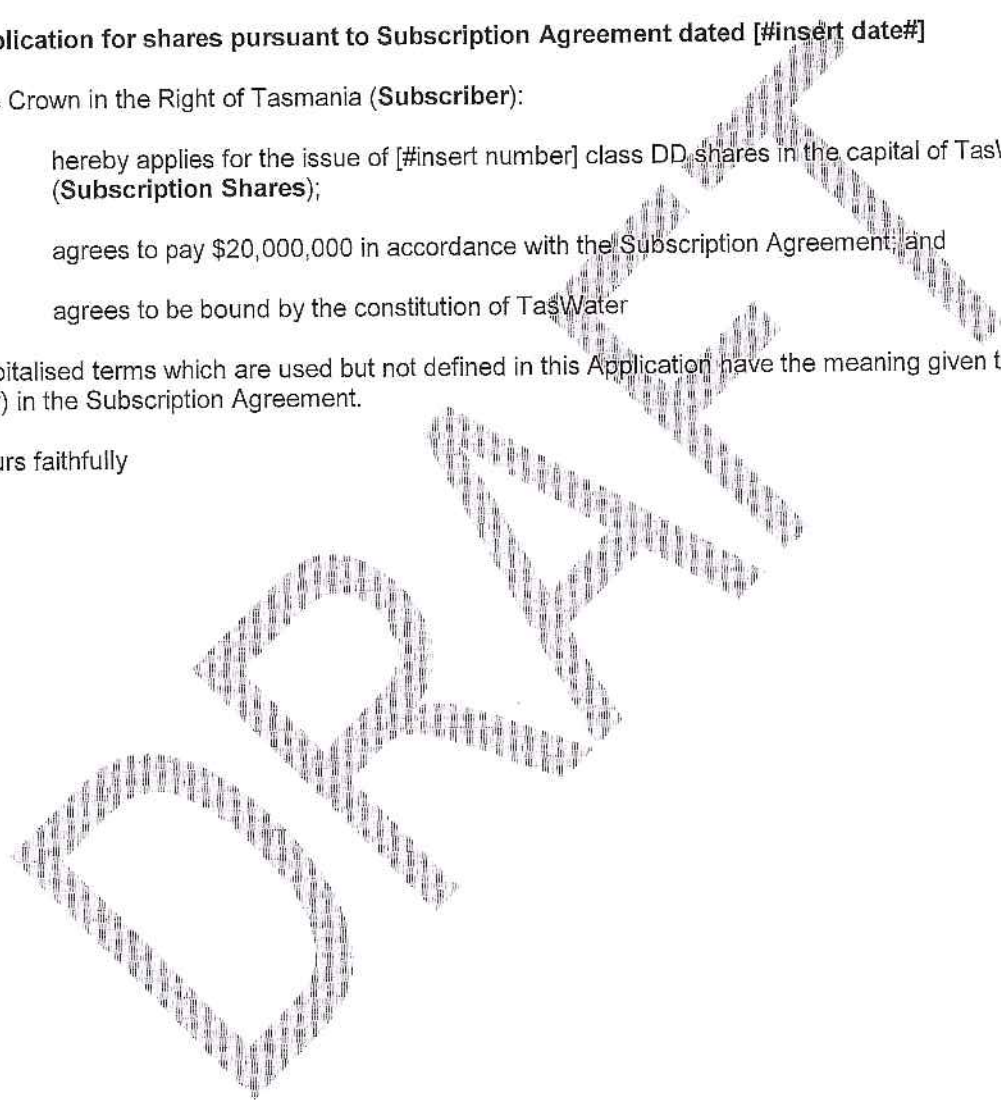
Application for shares pursuant to Subscription Agreement dated [#insert date#]

The Crown in the Right of Tasmania (**Subscriber**):

- (a) hereby applies for the issue of [#insert number] class DD shares in the capital of TasWater (**Subscription Shares**);
- (b) agrees to pay \$20,000,000 in accordance with the Subscription Agreement; and
- (c) agrees to be bound by the constitution of TasWater

Capitalised terms which are used but not defined in this Application have the meaning given to them (if any) in the Subscription Agreement.

Yours faithfully



Annexure A
Constitution

[PS comment: to insert Constitution once finalised]

DRAFT

Annexure B

Shareholders' Letter of Expectations

[PS comment: to insert SLE once finalised]

DRAFT

Appendix 4: Water and Sewerage Legislation (Corporate Governance and Pricing) Bill 2018

Drafted in the Office of
Parliamentary Counsel

TASMANIA

**WATER AND SEWERAGE LEGISLATION
(CORPORATE GOVERNANCE AND PRICING)
BILL 2018**

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

**PART 2 – WATER AND SEWERAGE CORPORATION ACT 2012
AMENDED**

3. Principal Act
4. Section 6 amended (Principal objectives of Corporation)
5. Section 7 amended (Status of Corporation)
6. Section 10 amended (Ownership and restrictions on sale and issue of securities)
7. Section 14 amended (Board of Corporation)
8. Section 21 amended (Distribution of dividends)
9. Sections 22 and 23 repealed
10. Section 42 repealed

**PART 3 – WATER AND SEWERAGE INDUSTRY ACT 2008
AMENDED**

11. Principal Act
12. Section 65 amended (Price and service plan)
13. Section 66 amended (Price determinations)
14. Part 6 repealed

PART 4 – CONCLUDING PROVISION

15. Repeal of Act

consultation draft

**WATER AND SEWERAGE LEGISLATION
(CORPORATE GOVERNANCE AND PRICING)
BILL 2018**

*(Brought in by the Treasurer, the Honourable Peter Carl
Gutwein)*

A BILL FOR

An Act to amend the *Water and Sewerage Corporation Act 2012* to enable the Crown to hold shares in, and have certain rights in relation to, the Corporation, and to amend the *Water and Sewerage Industry Act 2008* in relation to pricing, and for related purposes

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Water and Sewerage Legislation (Corporate Governance and Pricing) Act 2018*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

Water and Sewerage Legislation (Corporate Governance and Pricing) Act 2018
Act No. of 2018

s. 3

Part 2 – Water and Sewerage Corporation Act 2012 Amended

**PART 2 – WATER AND SEWERAGE CORPORATION
ACT 2012 AMENDED**

3. Principal Act

In this Part, the *Water and Sewerage Corporation Act 2012** is referred to as the Principal Act.

4. Section 6 amended (Principal objectives of Corporation)

Section 6(1)(c)(ii) of the Principal Act is amended by omitting “its members” and substituting “such of its members as are councils”.

5. Section 7 amended (Status of Corporation)

Section 7(1)(b) of the Principal Act is amended by omitting “council” and substituting “member”.

6. Section 10 amended (Ownership and restrictions on sale and issue of securities)

Section 10 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, or the Crown,” after “councils”;

*No. 51 of 2012

Water and Sewerage Legislation (Corporate Governance and Pricing) Act 2018
Act No. of 2018

Part 2 – Water and Sewerage Corporation Act 2012 Amended

s. 7

- (b) by omitting subsection (2);
- (c) by inserting in subsection (4) “or to the Crown” after “shareholdings”.

7. Section 14 amended (Board of Corporation)

Section 14(3)(b) of the Principal Act is amended by inserting “or of the Crown” after “council”.

8. Section 21 amended (Distribution of dividends)

Section 21 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(a) “members” and substituting “members, who are not the Crown,”;
- (b) by omitting from subsection (2)(d) “members” and substituting “members who are not the Crown”;
- (c) by omitting from subsection (3) “members” and substituting “members who are not the Crown”;
- (d) by inserting the following subsection after subsection (3):
 - (4) The constitution of the Corporation must not provide that the Crown is entitled to any dividends or that dividends may be paid to the Crown.

Water and Sewerage Legislation (Corporate Governance and Pricing) Act 2018
Act No. of 2018

s. 9 Part 2 – Water and Sewerage Corporation Act 2012 Amended

9. Sections 22 and 23 repealed

Sections 22 and 23 of the Principal Act are repealed.

10. Section 42 repealed

Section 42 of the Principal Act is repealed.

consultation draft

Water and Sewerage Legislation (Corporate Governance and Pricing) Act 2018
Act No. of 2018

Part 3 – Water and Sewerage Industry Act 2008 Amended

s. 11

**PART 3 – WATER AND SEWERAGE INDUSTRY ACT
 2008 AMENDED**

11. Principal Act

In this Part, the *Water and Sewerage Industry Act 2008** is referred to as the Principal Act.

12. Section 65 amended (Price and service plan)

Section 65 of the Principal Act is amended as follows:

(a) by inserting the following subsection after subsection (6):

(6A) A regulated entity may, without the approval of the Regulator, amend a proposed price, in relation to a service, that is set out, in relation to a year, in the entity's price and service plan, if the price, as so amended, does not exceed the maximum price, in relation to the service, that is specified, in relation to the year, in a price determination in relation to the entity.

(b) by inserting in subsection (10) “, including such a plan as altered under this section” after “subsection (5)”.

*No. 13 of 2008

Water and Sewerage Legislation (Corporate Governance and Pricing) Act 2018
Act No. of 2018

s. 13

Part 3 – Water and Sewerage Industry Act 2008 Amended

13. Section 66 amended (Price determinations)

Section 66 of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) from subsection (3);
- (b) by omitting from subsection (3)(b) “and minimum” first occurring;
- (c) by omitting from subsection (3)(b) “or maximum rate of increase or decrease or minimum rate of increase or decrease in the maximum and minimum price”;
- (d) by omitting paragraph (c) from subsection (3);
- (e) by omitting from subsection (3)(e) “a price” and substituting “a maximum price”;
- (f) by omitting from subsection (3)(f) “a price” and substituting “a maximum price”;
- (g) by omitting from subsection (3)(g) “and minimum” first occurring;
- (h) by omitting from subsection (3)(g) “or maximum rate of increase or decrease or minimum rate of increase or decrease in the maximum and minimum revenue”;
- (i) by inserting the following subsection after subsection (3):

Water and Sewerage Legislation (Corporate Governance and Pricing) Act 2018
Act No. of 2018

Part 3 – Water and Sewerage Industry Act 2008 Amended

s. 14

(3A) Nothing in this section is to be taken to permit a price determination made under this section to set a price, other than a maximum price, or an amount of revenue other than a maximum amount of revenue.

14. Part 6 repealed

Part 6 of the Principal Act is repealed.

consultation draft

*Water and Sewerage Legislation (Corporate Governance and
Pricing) Act 2018
Act No. of 2018*

s. 15

Part 4 – Concluding Provision

PART 4 – CONCLUDING PROVISION

15. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which all of the provisions of the Act commence.

**Appendix 5: Water and Sewerage Corporation Act 2012 – Amended
Clauses**

APPENDIX 5 – WATER AND SEWERAGE CORPORATION ACT 2012 – AMENDED CLAUSES

6. Principal objectives of Corporation

- (1) The principal objectives of the Corporation are as follows:
- (a) to efficiently provide water and sewerage functions in Tasmania;
 - (b) to encourage water conservation, the demand management of water and the re-use of water on an economic and commercial basis;
 - (c) to be a successful business and, to this end –
 - (i) to operate its activities in accordance with good commercial practice; and
 - (ii) to deliver sustainable returns to ~~its members~~such of its members as are councils; and
 - (iii) to deliver water and sewerage services to customers in the most cost-efficient manner.
- (2) Each of the principal objectives of the Corporation is of equal importance.

7. Status of Corporation

- (1) Unless this or any other Act expressly provides otherwise, the Corporation or any subsidiary of the Corporation –
- (a) is not and does not represent the councils or the Crown; and
 - (b) is not exempt from any rate, tax, duty or other impost imposed by or under any law of the State or the Commonwealth merely because a ~~council member~~ or the Corporation has beneficial ownership of shares in it.
- (2) The Crown is not liable for any debt, liability or obligation of the Corporation or any subsidiary of the Corporation.
- (3) A council is not liable for any debt, liability or obligation of the Corporation or any subsidiary of the Corporation unless –
- (a) that council gives a guarantee or indemnity under section 26 in relation to that debt, liability or obligation; or
 - (b) the constitution of the Corporation expressly provides otherwise.

10. Ownership and restrictions on sale and issue of securities

- (1) Only councils, or the Crown, may hold one or more shares or other securities in the Corporation.
- ~~(2) Each member of the Corporation is to at all times hold an equal number of shares, and an equal number of other securities in the Corporation, as each other member of the Corporation.~~
- (3) A member of the Corporation must not dispose of the shares or other securities in the Corporation held by that member.

APPENDIX 5 – WATER AND SEWERAGE CORPORATION ACT 2012 – AMENDED CLAUSES

- (4) The Corporation must not, and must ensure that any subsidiary of the Corporation does not –
- (a) offer shares or other securities in the Corporation or any subsidiary of the Corporation for subscription, or invite any person to subscribe for any such shares or other securities; or
 - (b) grant options over unissued shares or other securities in the Corporation or any subsidiary of the Corporation; or
 - (c) allot or issue shares or other securities in the Corporation or any subsidiary of the Corporation –

other than to existing members pro rata to their existing shareholdings or to the Crown.

- (5) In this section –
- (a) a reference to securities includes a reference to securities of a kind specified in section 92(3) of the Corporations Act; and
 - (b) a reference to shares includes a reference to shares of a kind specified in section 254A(1) of the Corporations Act.

14. Board of Corporation

- (1) The Board is to ensure that its directors have the experience and skills necessary to enable the Corporation to achieve its principal objectives.
- (2) The appointment of the Board and removal of directors is to be in accordance with the constitution.
- (3) None of the following persons may be appointed as a director of the Corporation or any subsidiary of the Corporation:
 - (a) any person who has served as an elected government official at any time within the 3 years preceding the intended date of appointment;
 - (b) any person who holds office as an elected government official or who is currently an employee of any council or the Crown.

21. Distribution of dividends

- (1) The Board or the board of directors of any subsidiary of the Corporation must determine a dividend policy for the Corporation or subsidiary.
- (2) The dividend policy of the Corporation or of any subsidiary of the Corporation is to –
 - (a) establish the aggregate amount, and the basis of determining the aggregate amount, of dividends payable to members-members, who are not the Crown, in respect of any period; and
 - (b) be determined having due regard to the provisions of the shareholders' letter of expectation; and

APPENDIX 5 – WATER AND SEWERAGE CORPORATION ACT 2012 – AMENDED CLAUSES

- (c) be consistent with good commercial practice; and
 - (d) require adequate provision to be made for expected future capital requirements and operational expenditure before the payment of any dividend to ~~members~~members who are not the Crown.
- (3) In setting out the rights attaching to each class of shares for the purposes of section 11(2)(a), the constitution of the Corporation is to provide for the allocation of the aggregate amount of dividends amongst ~~members~~members who are not the Crown.
- (4) The constitution of the Corporation must not provide that the Crown is entitled to any dividends or that dividends may be paid to the Crown.

~~22. Payment of guarantee fees~~

- ~~(1) The Corporation or any subsidiary of the Corporation is liable to pay guarantee fees determined pursuant to subsection (2).~~
- ~~(2) If the Corporation or any subsidiary of the Corporation borrows money in accordance with section 18—~~
- ~~(a) Division 1 of Part 11 of the Government Business Enterprises Act 1995 (other than section 78(1)) and, unless the Corporation or subsidiary has received a notice from the Treasurer to the contrary, each GBE Treasurer's Instruction given in relation to any matter the subject of that Division applies by virtue of this Act in relation to the Corporation or subsidiary as if—~~
 - ~~(i) the Corporation or subsidiary were a Government Business Enterprise specified in Schedule 3 to the Government Business Enterprises Act 1995; and~~
 - ~~(ii) each reference to financial accommodation in that Division of the Government Business Enterprises Act 1995 were a reference to money borrowed from the Tasmanian Public Finance Corporation in accordance with section 18; and~~
 - ~~(iii) each reference to the Consolidated Fund in the Government Business Enterprises Act 1995 were a reference to a council; and~~
 - ~~(b) the Corporation or subsidiary is to pay the aggregate guarantee fee, determined by the Treasurer pursuant to the application of paragraph (a), to councils in the amount and in the manner outlined in the constitution.~~

~~23. Payment of tax equivalents~~

- ~~(1) The Corporation or any subsidiary of the Corporation is liable to pay an aggregate income tax equivalent in respect of each financial year, determined pursuant to the application of this section, to councils in the amount and in the manner outlined in the constitution.~~

APPENDIX 5 – WATER AND SEWERAGE CORPORATION ACT 2012 – AMENDED CLAUSES

- ~~(2) Despite subsection (1), the Corporation or any subsidiary of the Corporation is not liable to pay an income tax equivalent to the extent to which it is liable to pay income tax under the Commonwealth Tax Act.~~
- ~~(3) Division 3 of Part 10 of the Government Business Enterprises Act 1995 and, unless the Corporation or any subsidiary of the Corporation has received a notice from the Treasurer to the contrary, each GBE Treasurer's Instruction given in relation to any matter the subject of that Division applies by virtue of this Act to the liabilities and payments that arise under subsection (1) as if –~~
- ~~(a) the Corporation or subsidiary were a prescribed Government Business Enterprise as defined in section 67 of the Government Business Enterprises Act 1995; and~~
 - ~~(b) a reference to section 68 of the Government Business Enterprises Act 1995 were a reference to subsection (1); and~~
 - ~~(c) each reference to the Consolidated Fund were a reference to a council.~~

~~42. Staged repeal of Water and Sewerage Corporations Act 2008~~

- ~~(1) A provision of the Water and Sewerage Corporations Act 2008 is repealed to the extent, and from the day, fixed by proclamation in respect of that provision.~~
- ~~(2) The Water and Sewerage Corporations Act 2008 is repealed on a day fixed by proclamation, being a day after the last day fixed under subsection (1).~~

To view the current Water and Sewerage Corporation Act 2012 in its entirety, please see:
<https://www.legislation.tas.gov.au/view/html/inforce/current/act-2012-051>

**Appendix 6: Water and Sewerage Industry Act 2008 – Amended
Clauses**

APPENDIX 6 – WATER AND SEWERAGE INDUSTRY ACT 2008 – AMENDED CLAUSES

65. Price and service plan

- (1) The Regulator must, by notice given to a regulated entity, require the regulated entity to submit a proposed price and service plan for regulated services to the Regulator for approval by not later than the date specified in the notice.
- (2) A regulated entity must submit a proposed price and service plan to the Regulator by the date specified in the notice given to the regulated entity under subsection (1).
Penalty: Fine not exceeding 1 000 penalty units.
- (3) The proposed price and service plan submitted under subsection (1) must include –
 - (a) proposed regulated services to be provided to customers; and
 - (b) any customer contract; and
 - (c) standards and conditions of service which are in compliance with the customer service code; and
 - (d) proposed prices for each regulated service; and
 - (e) any other matter required under this Act.
- (4) The proposed price and service plan submitted under subsection (1) may include –
 - (a) proposed annual revenue requirements; and
 - (b) projected capital and operational expenses; and
 - (c) supply and demand forecasts; and
 - (d) such other matters as required by the Regulator in guidelines issued under subsection (7).
- (5) The Regulator must approve a proposed price and service plan for a regulated entity if the Regulator is satisfied that the proposed price and service plan fulfils the requirements for a price and service plan as set out in guidelines issued under subsection (7) and any relevant price determination under section 66.
- (6) The Regulator may require amendments to be made to the proposed price and service plan, including amendments to ensure that the price and service plan complies with a price determination, before approving it.
- (6A) A regulated entity may, without the approval of the Regulator, amend a proposed price, in relation to a service, that is set out, in relation to a year, in the entity's price and service plan, if the price, as so amended, does not exceed the maximum price, in relation to the service, that is specified, in relation to the year, in a price determination in relation to the entity.
- (7) The Regulator must issue guidelines to a regulated entity for the preparation of a proposed price and service plan.
- (8) The guidelines referred to in subsection (7) may –
 - (a) specify the requirements for a regulated entity to comply with when submitting a proposed price and service plan to the Regulator for approval; and

APPENDIX 6 – WATER AND SEWERAGE INDUSTRY ACT 2008 – AMENDED CLAUSES

- (b) specify the process for the preparation and approval of a proposed price and service plan, including the extent of public consultation and timelines and the subsequent publication of prices for each regulated service.
- (9) A price and service plan approved under subsection (5) is to relate to a regulatory period.
- (10) The Regulator may, by notice in writing given to a regulated entity, direct the regulated entity to publish a price and service plan approved under subsection (5), including such plan as altered under this section.
- (11) A regulated entity must comply with a direction given to it under subsection (10).
Penalty: Fine not exceeding 50 penalty units.
- (12) The Treasurer may, by notice published in the *Gazette*, fix –
 - (a) the duration of the first regulatory period, which period is to commence on the first day after approval by the Regulator of a price and service plan; and
 - (b) the minimum duration of each subsequent regulatory period.
- (13) The Regulator is to declare, by notice published in the *Gazette*, the duration of each subsequent regulatory period, being a period which is not less than a minimum period specified by the Treasurer under this section.
- (14) A declaration made by the Regulator under subsection (13) must be made not less than 2 years before the end of each subsequent regulatory period.

66. Price determinations

- (1) The Regulator is to make price determinations that apply to a regulated entity in respect of a regulated service.
- (2) In making a price determination under subsection (1), the Regulator must –
 - (a) adopt an approach and methodology which the Regulator considers will best meet the objective of this Act; and
 - (b) determine prices, terms and conditions, including developer charges, for water services and sewerage services in accordance with the pricing principles referred to in section 68 or any principles prescribed by regulations under that section; and
 - (c) consider any proposed price and service plan submitted under section 65; and
 - (d) consider any customer contract; and
 - (e) ensure that the price determination takes into account and clearly articulates any trade-offs between costs and service standards; and
 - (ea) not take into account a change in a rate, prescribed in a regulation for the purposes of section 68(1A)(c)(iv), that comes into force at any time –
 - (i) after a regulated entity is required to submit to the Regulator a proposed price and service plan that may be approved by the Regulator after the price determination is made; and

APPENDIX 6 – WATER AND SEWERAGE INDUSTRY ACT 2008 – AMENDED CLAUSES

- (ii) before the price determination to which the proposed price and service plan relates is made; and
 - (f) have regard to any matters contained in the regulations.
- (3) Without limiting the generality of subsection (1), a price determination made under this section may provide for one or more of the following:
- ~~(a) fixing the price or the rate of increase or decrease in the price for a regulated service or other price control formula;~~
 - (b) fixing a maximum ~~and minimum~~ price ~~or maximum rate of increase or decrease or minimum rate of increase or decrease in the maximum and minimum price~~ for a regulated service;
 - ~~(c) fixing an average price for a regulated service specified in the determination or an average rate of increase or decrease in the average price;~~
 - (d) specifying pricing policies or principles that are to be applied in relation to a regulated service;
 - (e) specifying ~~a price~~ a maximum price determined by reference to a general price index, the cost of production, a rate of return on assets employed or any other factor specified in the determination;
 - (f) specifying ~~a price~~ a maximum price determined by reference to quantity, location, period or other factor specified in the determination relevant to the rate or provision of a regulated service;
 - (g) fixing a maximum ~~and minimum~~ revenue ~~or maximum rate of increase or decrease or minimum rate of increase or decrease in the maximum and minimum revenue~~ in relation to a regulated service;
 - (h) specifying a factor or factors to be applied, and the manner in which such a factor is or factors are to be applied, in setting prices, terms and conditions for a regulated service.
- (3A) Nothing in this section is to be taken to permit a price determination made under this section to set a price, other than a maximum price, or an amount of revenue, other than a maximum amount of revenue.
- (4) Before the Regulator makes a price determination under subsection (1), the Regulator is to publish, in daily newspapers published and circulating in Tasmania, a notice of the Regulator's intention to make a price determination.
 - (5) The notice under subsection (4) is to include information as to where a copy of the proposed price determination, and the proposed price and service plan on which the proposed price determination is based, can be obtained or viewed.
 - (6) The Regulator is to publish the proposed price determination, and the proposed price and service plan on which the proposed price determination is based, on the Regulator's internet website.
 - (7) The Regulator is to make a price determination in accordance with section 67.
 - (8) The regulations may provide for –

APPENDIX 6 – WATER AND SEWERAGE INDUSTRY ACT 2008 – AMENDED CLAUSES

- (a) the conduct of investigations by the Regulator into the price and pricing policies of regulated entities; and
- (b) the appointment of assistants to the Regulator for the purposes of carrying out investigations referred to in paragraph (a); and
- (c) the liability of regulated entities for the costs by the Regulator incurred in undertaking such investigations; and
- (d) any related matter.

~~PART 6 – Transition to New Regulatory Arrangements~~**~~88. – Interim price order~~**

- ~~(1) The Treasurer may, by notice published in the *Gazette* and in daily newspapers published and circulating in Tasmania, make an interim order in relation to—~~
 - ~~(a) the prices, terms and conditions for the provision of a regulated service; and~~
 - ~~(b) the service standards, terms and conditions for the provision of a regulated service.~~
- ~~(2) Before an interim order may be made under subsection (1), the Treasurer must obtain advice from the Regulator in relation to the matters contained in the order.~~
- ~~(3) An order made under this section remains in force until the commencement of the first regulatory period fixed under section 65(12).~~
- ~~(4) A regulated entity must comply with an order made under this section.~~
~~Penalty: Fine not exceeding 500 penalty units.~~
- ~~(5) Without limiting the generality of subsection (1), an order made under this section may provide for one or more of the following:~~
 - ~~(a) fixing the price or the rate of increase or decrease in the price for a regulated service;~~
 - ~~(b) fixing a maximum and minimum price or maximum rate of increase or decrease or minimum rate of increase or decrease in the maximum and minimum price for a regulated service;~~
 - ~~(c) fixing an average price for a regulated service or an average rate of increase or decrease in the average price;~~
 - ~~(d) specifying pricing policies or principles that are to be applied in relation to a regulated service;~~
 - ~~(e) specifying a price determined by reference to a general price index, the cost of production, a rate of return on assets employed or any other specified factor;~~
 - ~~(f) specifying a price determined by reference to quantity, location, period or other specified factor relevant to the rate or provision of a regulated service;~~
 - ~~(g) fixing a maximum and minimum revenue or maximum rate of increase or decrease or minimum rate of increase or decrease in the maximum and minimum revenue in relation to regulated services;~~

APPENDIX 6 – WATER AND SEWERAGE INDUSTRY ACT 2008 – AMENDED CLAUSES

~~(h) specifying a factor or factors to be applied, and the manner in which such a factor is or factors are to be applied, in setting prices, terms and conditions for a regulated service.~~

~~(6) An order made under this section may impose functions and confer powers on the Regulator relating to the prices, terms and conditions for the provision of a regulated service specified in such an order.~~

~~(7) The Treasurer is to give a copy of an order made under this section to each regulated entity that provides a regulated service to which the order applies.~~

~~(8) If there is an inconsistency between this Act and regulations made under this Act and any order made under this section, this Act or the regulations prevail to the extent of the inconsistency.~~

~~89. Interim licences~~

~~(1) The Minister may grant an interim licence to a person to authorise an activity specified in section 30 on such terms and conditions that the Minister considers appropriate and as are specified in the interim licence.~~

~~(2) An interim licence granted to a person under subsection (1) remains in force –~~

~~(a) for a period not exceeding 2 years from the day on which it is granted; or~~

~~(b) until a licence is granted to that person under section 35(1) in relation to an activity for which that interim licence is granted –~~

~~whichever is the earlier.~~

~~(3) The Minister may, by written notice given to a person to which an interim licence is granted under subsection (1), impose such interim licence conditions as the Minister considers appropriate to be complied with by that person.~~

~~(4) Before granting an interim licence under subsection (2) or imposing interim licence conditions, the Minister must obtain advice from the Regulator in relation to the granting of the interim licence or imposition of the interim licence conditions.~~

~~90. Interim exemption from requirement to be licensed~~

~~(1) The Minister may, by order, exempt a person who provides a regulated service specified in the order, other than the Corporation, from the requirement to hold a licence under section 30 or comply with any other provision of this Act until a date specified in the order.~~

~~(2) The date specified in an order made under subsection (1) is to be not later than the commencement of the first regulatory period.~~

To view the current Water and Sewerage Industry Act 2008 in its entirety, please see:
<https://www.legislation.tas.gov.au/view/html/inforce/current/act-2008-013>

Briefing for Councils

TasWater and State Government MOU Implementation



Today's presentation

1. The MOU Key Features
2. Necessary changes to the Constitution
3. Necessary changes to the Shareholders' Letter of Expectations
4. Share Subscription and Implementation Agreement
5. Necessary legislative changes
6. Financial outcomes
7. Key risks
8. Special General Meeting to Vote on Proposal
9. Summary

1-259

MOU Key Features

Proposed governance arrangements:

- State Government to inject \$200M equity over 10 years
- Receive 1% equity for each \$20M
- State Government will not receive dividends
- State Government Owner's Rep on Board Selection Committee (Head of Treasury, or delegate)
- Board to remain skills-based
- Consultation with State Government Rep and Chief Owners' Rep re: CEO appointment
- State Government and Owner Councils approve Corporate Plan

MOU Key Features

Proposed pricing arrangements:

- FY2018/19 – 4.1% increase
- FY2019/20 – 0% increase
- FY2020/21 to FY2024/25 – capped at 3.5% increase, or Economic Regulator's determination (whichever is lower)
- FY2025/26 onward – no commitment

1-261

MOU Key Features

Capital program

- Best endeavours to spend \$1.8B during the current 10 year capex plan

Major projects

- Cameron Bay STP (MONA MOU)
- Macquarie Point STP
- Launceston Combined System

Service extension

1-262

MOU Key Features

Distributions to Owner Councils:

- Distributions will remain at \$20M per year to FY2025/26
- Board to determine beyond FY2025/26, but profitability should enable indexation beyond that point
- If circumstances change and distributions are at risk, the Board has a number of levers to ensure distributions are maintained

1-263

MOU Summary

Government sought to have MOU reflect election commitments around:

- tariffs
- capital spend
- council dividends

TasWater sought to ensure MOU delivered:

- ongoing sustainability
- role of the economic regulator is maintained
- council rights preserved

Necessary changes to the Constitution

- Establish new class of shares for the State Government
- No dividends for the State Government shareholding
- The State Government will have one representative on the Board Selection Committee
- The State Government representative will be consulted, along with the Chief Representative, on appointment of the CEO
- The State Government will not have the right to appoint a director
- Governance by a skills-based Board will continue

1-265

Necessary changes to the Shareholders' Letter of Expectations

- **Corporate Plan approval process:**
 - Draft is endorsed by Board and provided to Owner Councils and State Government. Each party can then propose amendments
 - Board considers amendments, but is not obliged to accept
 - Board provides revised draft Plan (to the extent amendments are accepted) to Shareholders for consideration at General Meeting
 - The Plan is adopted by an Ordinary Majority of Council Owners' Reps and affirmative vote by State Government Owner's Rep¹
 - If a Plan is not adopted, dispute resolution involves consultation between Board Chairman, Chief Owner's Rep and State Govt Rep
 - A two-thirds majority of these parties will prevail if a unanimous decision cannot be reached

1-266

Necessary changes to the Shareholders' Letter of Expectations

- **Trade Waste**
 - TasWater, Councils and the State Government will work together to identify further improvements to trade waste
- **Community Service Obligation**
 - A shareholder can request TasWater to undertake a project not included in the current Corporate Plan
 - However shareholder approval is needed for amendment to the Corporate Plan
- **Dividends**
 - If needed for financial sustainability, the Board can amend the capital program or pricing to maintain Owner Councils' dividends¹

1-267



¹ Financial sustainability is determined by the Board. The State Government will be consulted before the Board amends the capital program or pricing structure. Pricing must adhere to regulatory determination.

Share Subscription and Implementation Agreement

- State Government will inject \$20M of equity each year for 10 years, and receive 1,000,000 “DD” class shares for each \$20M
- Equity injections can occur more frequently than annually, but State Government shareholding will not exceed 10%
- If the State Government fails to meet its equity injection commitments, it will lose its rights relating to:
 - Corporate Plan approval and participation in dispute resolution
 - Board Selection Committee representation
 - CEO appointment consultation
- The State Government’s rights will be restored once it makes good, but any decisions made in the interim remain valid

1-268

Necessary legislative changes

- The objective has been to keep legislative changes simple and to a minimum
- Key legislative changes include:
 - Removal of the prohibition on ownership of TasWater by anyone other than a Council to enable State Government shareholding
 - Price determination process updated to clarify that the Tasmanian Economic Regulator can only set maximum prices
 - Removal of the obligation to pay loan guarantee fees and tax equivalents, so distributions are solely in the form of dividends

1-269



¹ As determined by the Board, having consulted with the Chief Owners' Representative and the Secretary of the Department of Treasury and Finance for Tasmania

Necessary legislative changes

- Proposed changes to the Constitution and SLE, and the Share Subscription agreement, are conditional on the legislation passing into law in substantially the same form as in the IM

1-270

Financial model objectives

- The Board has committed to ensuring the proposed changes maintain TasWater's financial sustainability
- Two scenarios have been modelled:
 1. Business as usual scenario – TasWater's current capital program, forecast price increases and no equity injection from State Govt
 2. MOU scenario – an accelerated capital program, a price freeze (FY19) and cap (3.5% cap through FY27), and \$200M equity injection

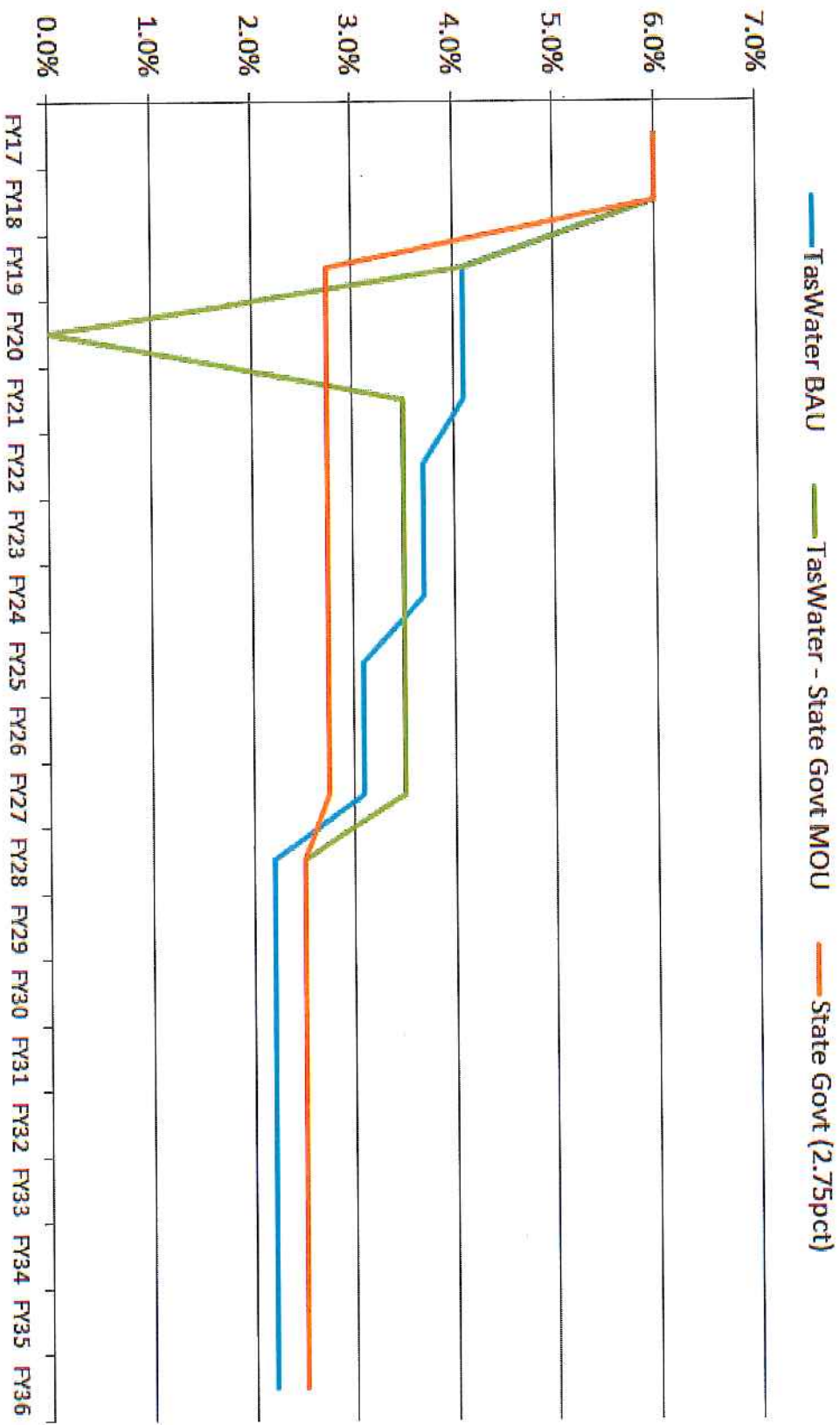
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Capital program

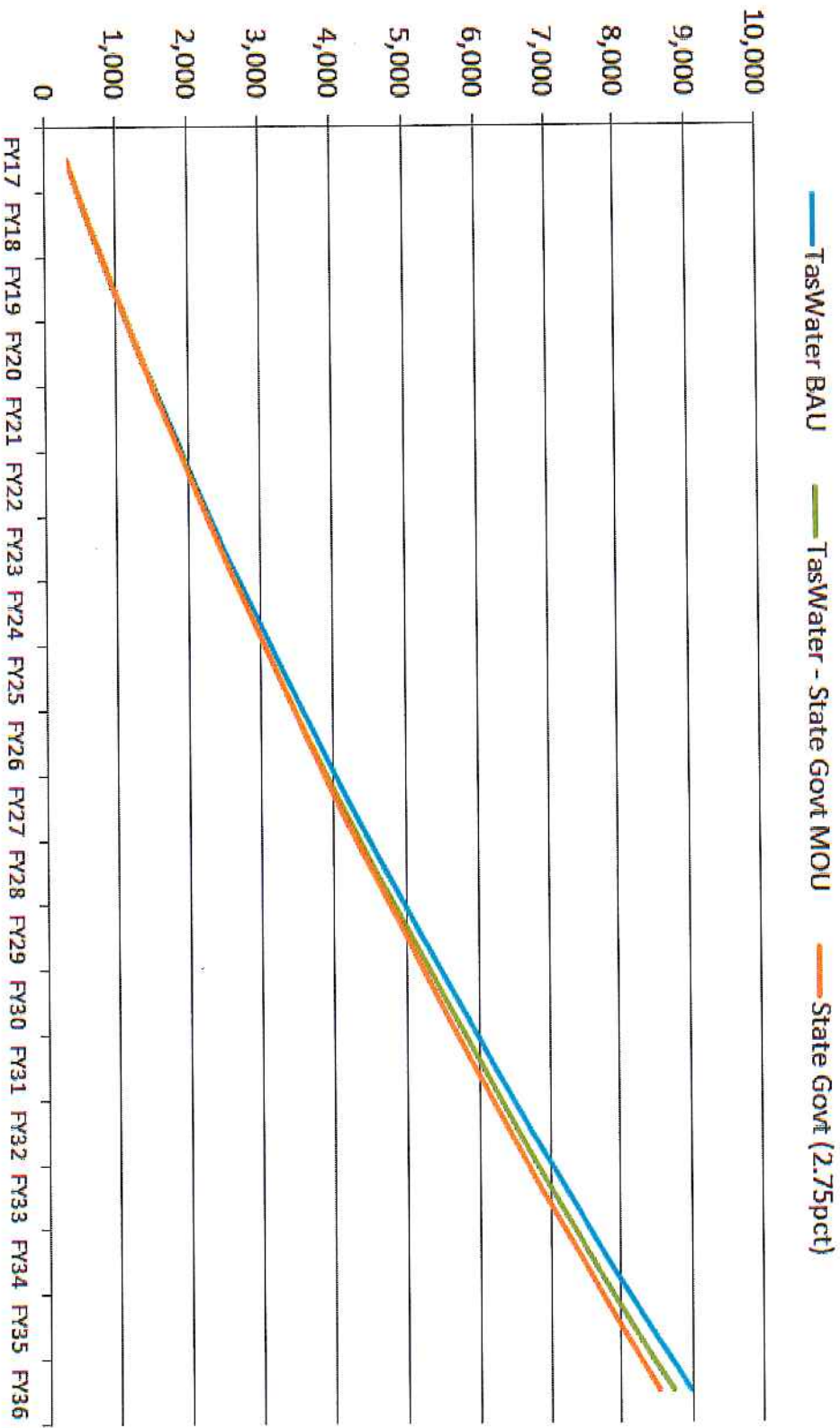
- The business as usual scenario is based on TasWater's current \$1.5 billion capital program (FY2016/17 through FY2025/26)
- The MOU scenario includes \$1.7 billion over this period.
- TasWater will make best endeavours to deliver a \$1.8 billion capital program. This may be facilitated by external funding (eg Federal / State Government funding for combined system)
- The financial model does not include any allowance for the following, however we will commit to working with government to find solutions for these:
 - Macquarie Point sewage treatment plant relocation
 - Cameron Bay sewage treatment plant relocation
 - Launceston Combined Sewer System upgrades

1-272

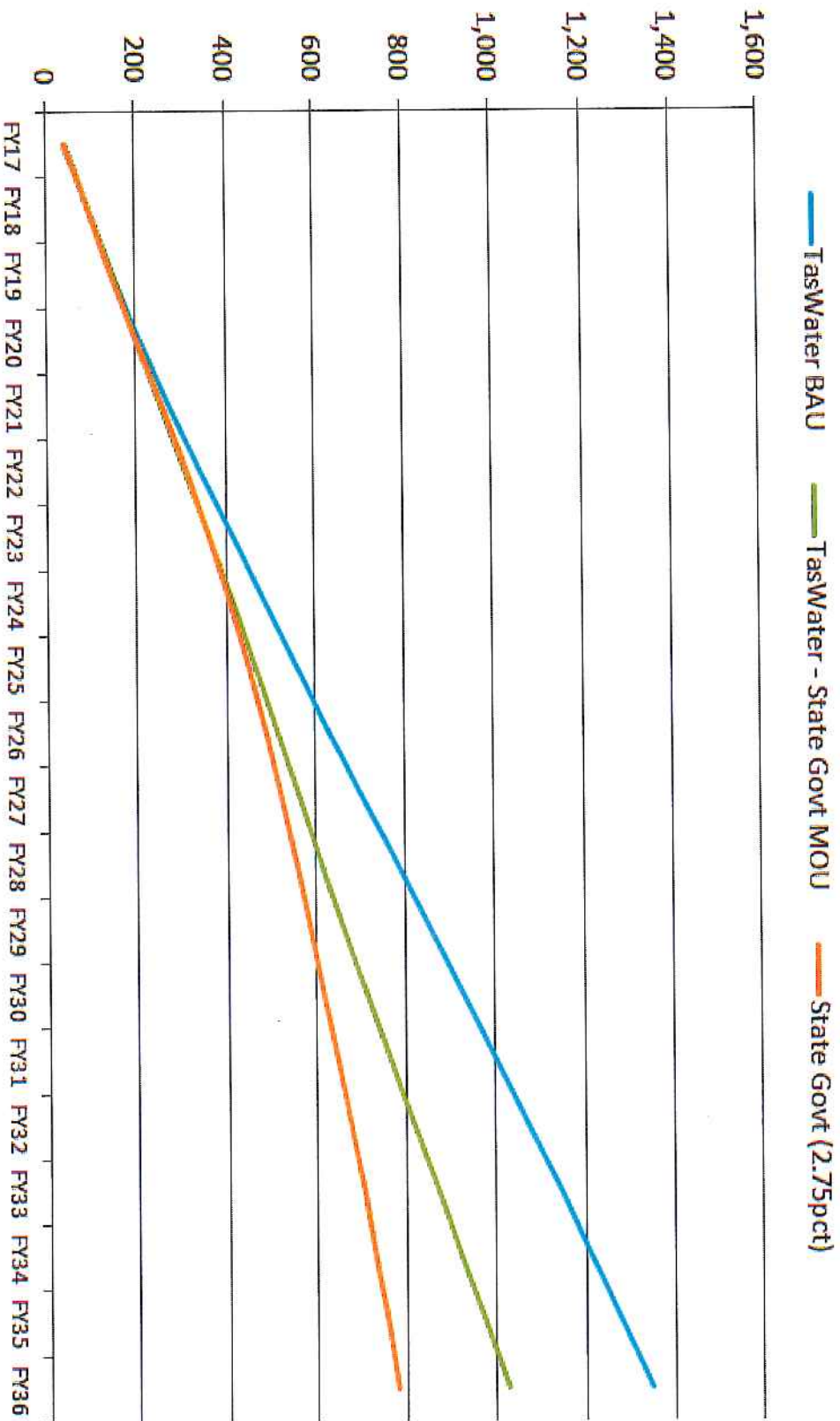
Annual price increase (%)



Cumulative revenue (\$million)

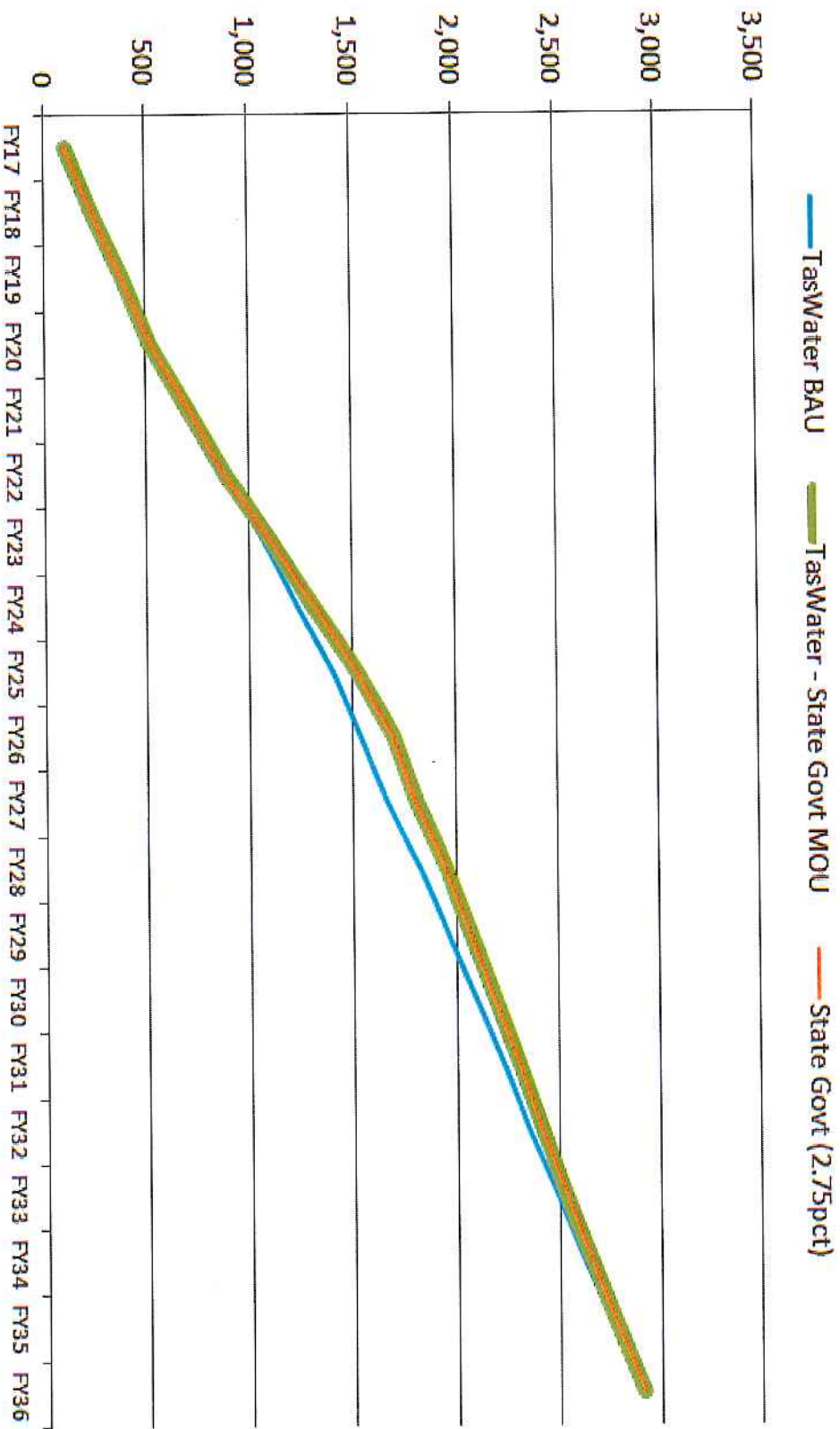


Cumulative net profit before tax(\$million)



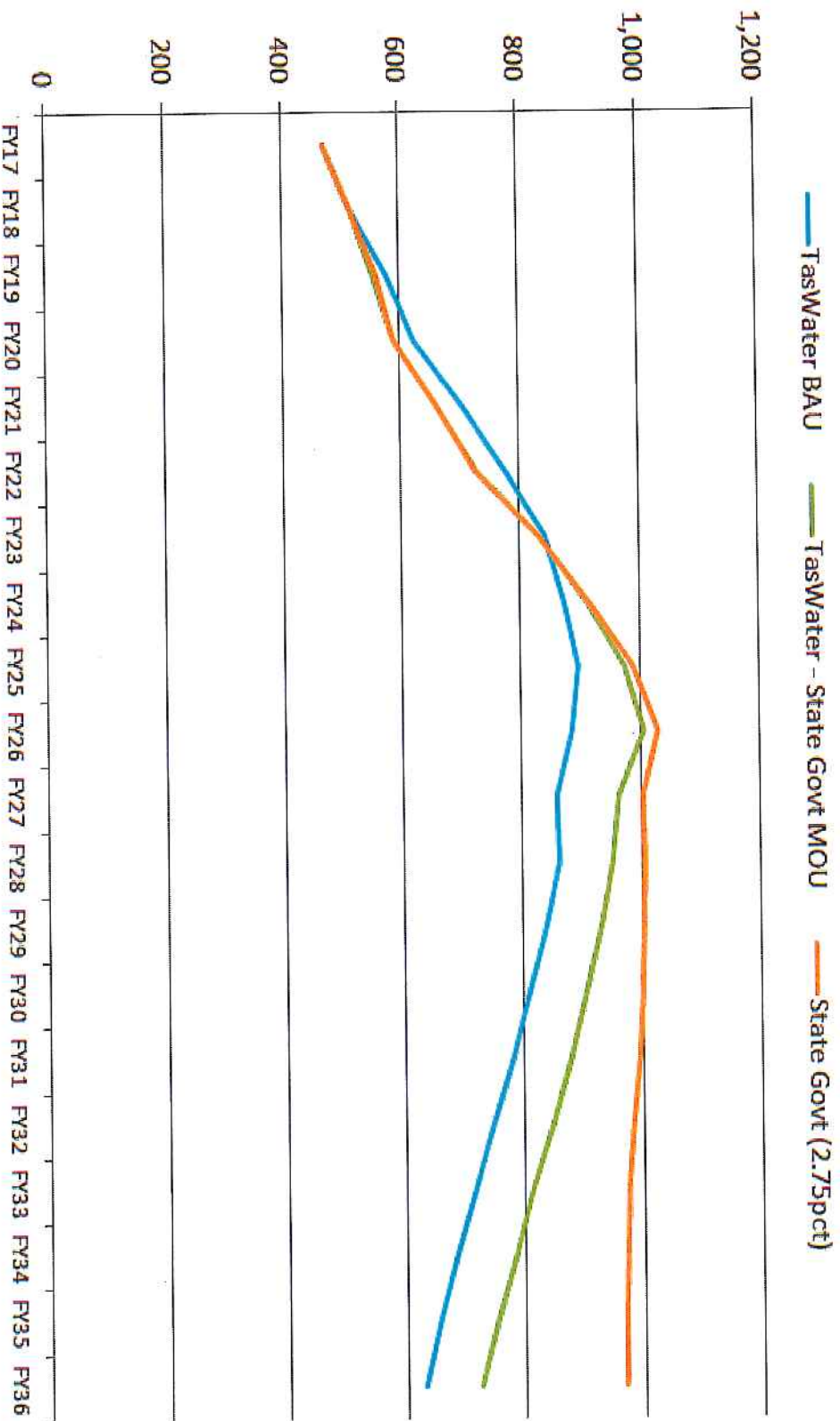
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Cumulative capital expenditure (\$millions)



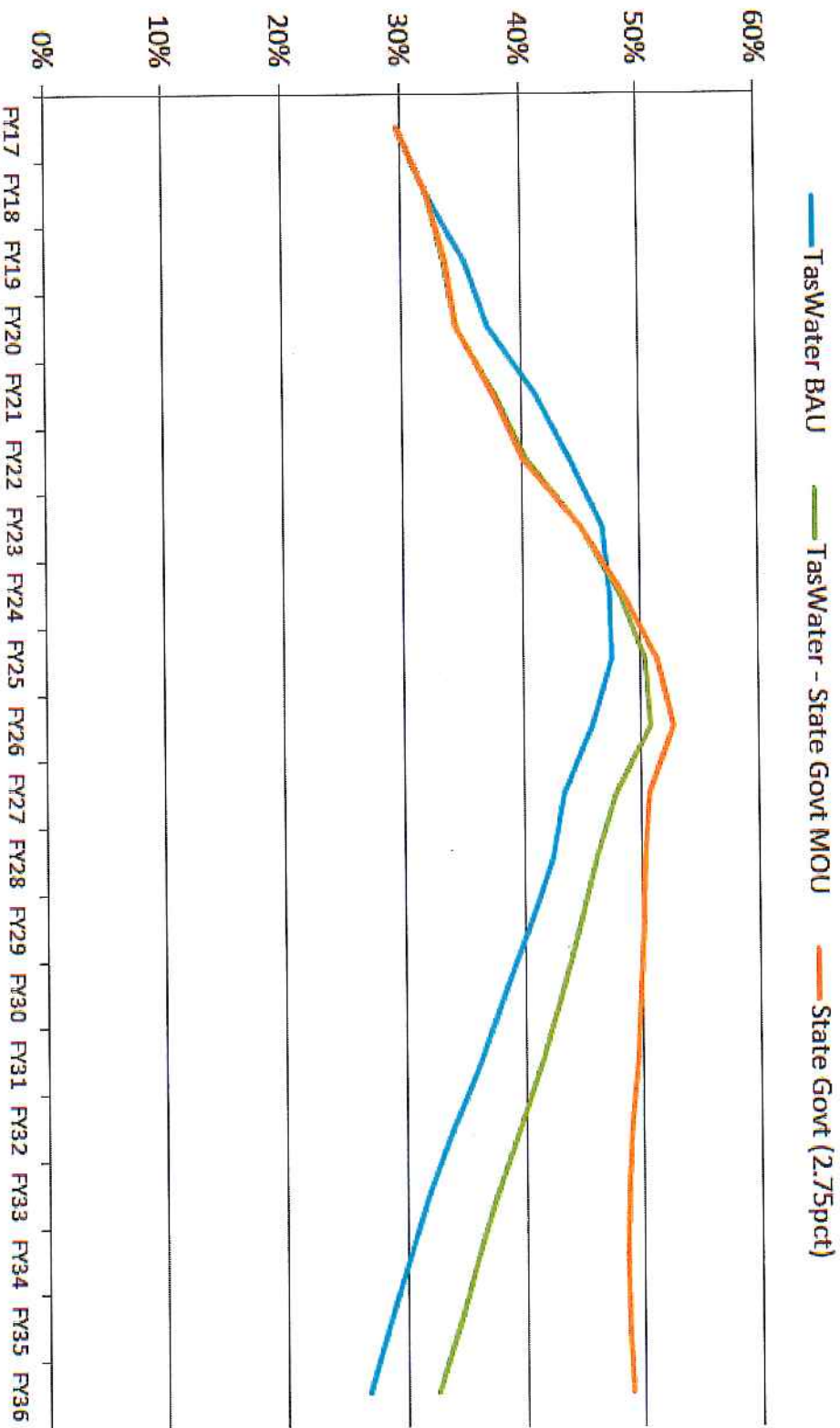
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Debt (\$millions)



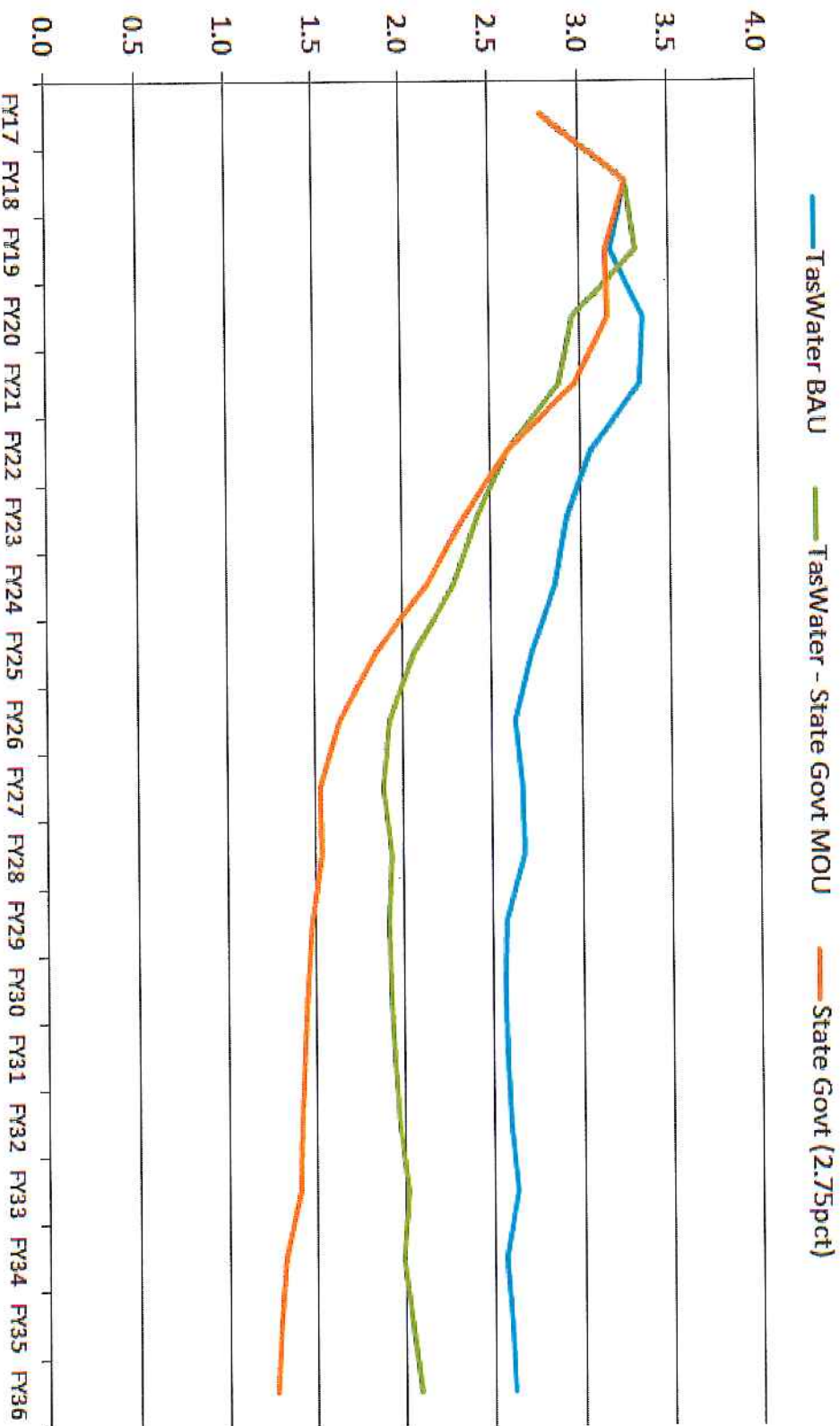
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Gearing (%)



1-278

Interest cover ratio (times)



1-279

Financial Summary

- Revenue is less under MOU, but actual cash difference is minimal over 20 years
- Debt is higher but manageable
- Interest coverage remains sound
- Dividends virtually guaranteed

1-280

Key risks of the proposal

Risk	Control
Interest rates rise faster than expected, or other circumstances arise that threaten the financial sustainability of TasWater due to commitments in the MOU	The Board can slow the capital program, increase prices and/or seek a letter of comfort from the State Government
TasWater is lobbied to undertake a project that is not commercial	The SLE allows for a shareholder to fund uncommercial projects. Any Corporate Plan amendment must be approved by shareholders
The State Government seeks to alter TasWater's governance arrangements to suit their interests	Changes to governance documents require certain thresholds to be met ¹
Sufficient resourcing is not available to deliver the capital program	We are currently improving our capital delivery model to include an external partner that provides flexible resourcing

1-281

¹ Constitution – either (a) 75% by member; or (b) 75% by member & 75% by equity; or (c) 75% by member which must include the Government's OR. SLE – generally an Ordinary Majority, some parts require Ordinary Majority plus Govt's OR

Councils to vote at Special General Meeting in September 2018

- Council Owners will be provided with a voting paper ahead of the Special General Meeting on 27 September 2018
- Each resolution will have three voting options (yes, no, abstain)
- For each resolution, voting will occur by a poll
- Representatives are asked to attend the meeting with their voting papers completed
- Each resolution requires the highest threshold for approval:
75% by member, 75% by equity

1-282

Summary

The TasWater Board unanimously recommends that Owner Councils vote in favour of the proposed resolutions.

The Board considers that it will:

- Entrench Council Ownership and Dividends
- Entrench the role of the Economic Regulator
- Keep household bills lower
- Ensure that TasWater remains financially sound
- Prospects of realising federal funding significantly higher. Without this, receipt of federal funding is considered unlikely.
- Serve the best interests of the Tasmanian Community being secured by Councils, Government and TasWater working collaboratively.