

[REDACTED]

From: Best, Chris [REDACTED]
Sent: Monday, 2 May 2022 11:30 AM
To: Lands-Water Regional Town Water Mailbox
Cc: Macfarlane, Ian
Subject: Re: Feedback on Consultation draft: Regulatory framework for local water utilities

Thanks Sascha,

That can be public formal submission made by Chris Best on behalf of Bega Valley Shire Council. Thank you for checking.

Sorry, can I add one more thing to the dividends one.

- any attempt to regulate excess reallocations must consider a pathway for LGAs to reapportion income generation from the LWU customers, to their general rate income (e.g. via a DPE backed one-off SRV). This is a service-reflective reapportionment. The total council bill would not substantially change for most customers/ratepayers, but costs would be redistributed to the beneficiary.

Failure to consider and enable this corrective action could lead to substantial impacts on regional community services. LGA executives and councillors cannot simply cut key community services. Nor should they be forced to later, after an OLG performance audit. These services are funded by the community they serve.

We recognise that from a DPE regulatory perspective it is important that LGAs see dividends from LWUs as a desirable income stream. Dividend approvals are one key mechanism at the regulator's disposal to recognise and incentivise quality utility strategic planning. To tackle this issue fully, DPE and OLG/IPART together must provide a trustworthy mechanism to reapportion rates and charges without risk of financial loss to Councils, where required. This will promote pursuit of dividend income (via quality strategic planning) in many cases, and avoid damaging existing essential regional community services.

Chris Best

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From: Lands-Water Regional Town Water Mailbox <regional.town.water@dpie.nsw.gov.au>
Sent: Monday, 2 May 2022, 10:29 am
To: Best, Chris [REDACTED]
Cc: Macfarlane, Ian [REDACTED]
Subject: RE: Feedback on Consultation draft: Regulatory framework for local water utilities

Hey Chris

Thank you for making a submission to the department's Consultation draft: Regulatory framework for local water utilities.

We will consider your submission in the development of the final regulatory framework for local water utilities.

Please let us know whether your submission is a public or private one as well as whether we should attribute it to you personally or your council?

We will publish submissions on our website next week, unless being advised that they are private.

Sascha

Sascha Moege

Manager Town Water Risk Reduction Program

Performance Division | Water Group

Department of Planning and Environment

[REDACTED]



I acknowledge the traditional custodians of the land and pay respects to Elders past and present. I also acknowledge all the Aboriginal and Torres Strait Islander staff working with NSW Government at this time.

Using your contact details

The Department of Planning and Environment's Water group uses a stakeholder management system to send you timely information about water issues and engagement activities via email, text message or letter. When you register to attend one of our events (eg webinar, public consultation meeting), we will add your contact details to our database to receive the Department's Water News and communications to stay informed and have your say about water planning, management, and reform across NSW. By providing this information, you agree to the Department's Privacy Policy. To update your contact details, please complete this form. You can unsubscribe at any time by emailing water relations@dpie.nsw.gov.au.

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Please consider the environment before printing this email.

From: Best, Chris [REDACTED]

Sent: Monday, 2 May 2022 9:40 AM

To: Lands-Water Regional Town Water Mailbox <regional.town.water@dpie.nsw.gov.au>

Cc: Macfarlane, Ian [REDACTED]

Subject: Feedback on Consultation draft: Regulatory framework for local water utilities

Apologies – I was unwell last week. I hope that the below is useful, and not too late, to inform the final version of this framework. The framework is a significant step-forward. Thank you for all of your hard work.

Section 3 – Strategic planning oversight:

1. **Is the reasonable standard test applied to strategic planning outcomes appropriate?**

No it is not. Reality is shades of grey not black and white. A binary result encourages:

- an adversarial regulator-utility relationship
- a risk-averse compliance strategy – don't try to innovate just do a generic report that you know will pass
- no reward for excellence
- no record of bare-passes to refer to later after continued mediocrity
- no opportunity to reward general funds for resourcing robust utility strategic planning within their existing strategic planning.

2. **What factors may indicate that a local water utility is no longer achieving strategic planning outcomes to a reasonable standard?**

Creating an assessment method that adapts as our industry improves requires a 'live' set of measurements. Performance should therefore be comparative against peer utility's work rather than to a particular standard set by the department. This is a more independent measure than the opinion of DPE officers on absolute quality in the absence of comparison.

3. **How should the department arrive at an overall assessment result based on the assessments of the individual strategic planning outcomes?**

If each area is scored more granularly then the summation of the scores will lead to an overall number. Self-awareness of utilities, and commitments to address lower quality outcome areas, should prevent one category fouling the review where the other categories are reasonably addressed.

4. **What tools should the department use for compliance?**

- Regional engineers should be aware of key areas for improvement resulting from the DPE evaluation of the strategic planning outputs. Regional engineers should be the primary DPE contact with LWUs on an ongoing basis.
- Requests for 'please explain', or for plans to improve particular areas of concern, should be made to the utility manager in almost all cases, as required.

- In the rare circumstance where the utility manager is unable to achieve compliance, or indicates an escalation is required, the LGA general manager should be contacted directly by the department.
 - In extreme cases the mayor could be contacted. This could include a request for DPE to attend a council workshop.
 - A more granular assessment framework would allow sliding dividend payments to be linked to strategic planning outcome quality – incentivising good performance.
 - Grants and S60 should not be linked to strategic planning outputs.
5. **How should the regulatory framework integrate with the Integrated Planning and Reporting framework?**
The way they are currently proposed. Optionally, but supported.
6. **How should the department transition utilities that have or are preparing an ‘IWCM strategy’ under the existing regulatory framework?**
Ask all utilities to prepare a submission to the regulator for strategic outcome evaluation. A simple and technical memo that cites where the LWU has addressed the strategic outcomes. The evidence cited might be in an IWCM strategy, or in any document. The submission simply links the evaluating DPE officers to the relevant sections. To make it easy for LWUs already nearing completion of an IWCM an example submission mapping the IWCM checklist structure could be created by the department. A similar one based on IPR would help those transitioning, which DPE water has effectively already begun in its ‘using IPR’ guide.

Section 4 – Assessing and approving dividend payments:

7. **How can the department improve its methodology for dividend assessment?**
- The risk of ‘no dividend’ should be very low and only reflect extreme poor performance. Assessment should result in a more granular and sliding scale of allowable dividends.
 - Assessment should be based on a more granular assessment of strategic planning outcomes.
 - Assessment should not be linked to surplus in any one year.
 - Payment should not be capped on a \$/connection basis. A more commercial measure such as % of asset base should be adopted.
 - The requirement for an independent audit report on reallocations is a fatal disincentive to apply for transparent dividend payments.
 - A 2-year (mid-term, mid-IP&R) price submission cycle could check progress against commitments made in strategic planning and allow re-assessment of dividends to reflect the meeting or failing of commitments for improved strategic planning.
 - Overall an attempt to promote commerciality of utilities through a more commercial dividend structure would create incentive for LGAs with under-funded LWUs to make them viable and achieve legal dividends. It would also incentivise over-funded LWUs to be resourced to meet strategic outcomes and transparently profit their owner.



Chris Best
Manager – Water and Sewerage Services

PO Box 492, Bega NSW 2550



www.begavalley.nsw.gov.au

We wish to acknowledge the Traditional Custodians of the lands and waters of the Shire
- the people of the Yuin nation and show our respect to elders past and present.