



**MEMORANDUM OF UNDERSTANDING
ON
PUBLIC WASTEWATER MANAGEMENT**

**TASMANIAN WATER AND SEWERAGE CORPORATION PTY LTD
(TASWATER)**

AND

**ENVIRONMENT PROTECTION AUTHORITY, TASMANIA
(EPA)**

November 2016

1. Rationale

- a. The Tasmanian water and sewerage industry has undergone significant structural reform since the transfer in 2009 of responsibility for public drinking water and wastewater management from municipal councils to three regional water authorities. These authorities and their shared services provider merged in 2013 to form a single public utility, the Tasmanian Water and Sewerage Corporation Pty Ltd (TasWater).
- b. The reforms were driven by the need to achieve better social, economic and environmental outcomes from drinking water and wastewater management throughout Tasmania. TasWater's explicit objectives are to provide safe, environmentally responsible, efficient, sustainable, reliable and secure drinking water services and sewerage services to the Tasmanian community.
- c. The creation of a single water authority with state-wide reach represents the best opportunity yet to address significant legacy issues that challenge the delivery of affordable, high quality public drinking water and wastewater services in Tasmania.
- d. The magnitude of the water and sewerage task necessitates cooperation between TasWater, economic and technical regulators, industry and the community, to ensure TasWater is supported in balancing its pricing, service standard and compliance obligations in a manner acceptable to the community.
- e. For wastewater, legacy issues include ageing, undersized infrastructure, and outdated system design and configuration, largely attributable to the cost of servicing Tasmania's relatively small, dispersed population. Investment in wastewater asset upgrades has generally not kept pace with community needs or contemporary environmental standards.
- f. Tasmania's Environment Protection Authority (EPA) regulates 79 of the wastewater treatment plants operated by TasWater, principally through setting effluent quality limits to safeguard against unacceptable impacts upon receiving land and waters. The EPA, supported by EPA Tasmania also assesses TasWater's larger wastewater development proposals and investigates spill and odour issues arising from infrastructure failures. As the environmental regulator and through its technical expertise, the EPA has a fundamental responsibility to work with TasWater to improve Tasmania's public wastewater management present and future.
- g. However, TasWater and the EPA recognise that three years on from the corporation's formation, the rate of progress towards securing acceptable environmental outcomes from the public wastewater management network is inadequate and does not meet community expectations. By TasWater's metric, environmental compliance is currently at 42 per cent while the EPA analysis shows a downward trend in compliance for the last 5 years.
- h. TasWater and the EPA have agreed to address this situation by adopting a specific wastewater management and regulation strategy designed to achieve accelerated environmental compliance and performance in the next three years to 2019. This MoU describes the nature of that agreement and key components of the strategy.

2. Purpose

This MoU sets out the management and regulatory approach TasWater and the EPA will use to achieve a 20 per cent uplift over the next three years in environmental compliance and performance for Tasmania's public wastewater management network.

The MoU does not intend to create legally binding relations between TasWater and the EPA, nor does it fetter the EPA in its regulatory responsibilities under the *Environmental Management and Pollution Control Act 1994* (EMPCA).

3. Scope

This MoU concerns:

- a. CAPEX and OPEX for sewage infrastructure that yields the greatest environmental compliance and performance benefit for TasWater and the EPA effort, as identified through the following projects:
 - i. Big 13 - targeting those wastewater treatment plants that account for 70 per cent of all treated wastewater from TasWater's network;
 - ii. Top 20 - targeting key environmental risks posed by any part of the wastewater network and including infrastructure or operational practice; and
 - iii. Trade waste – targeting enhanced state-wide control of trade waste, tankered waste and leachate inputs to TasWater's network
 - iv. Any other state-wide TasWater project initiated during 2017-19 that seeks to:
 - a) Optimise wastewater infrastructure function through better control of inputs; or
 - b) Divert outputs (e.g. treated wastewater, biosolids) to reuse rather than direct discharge to the environment.
- b. Regulatory trade-offs to support successful delivery of projects listed in 3 a) above (referred to herein as 3 a) projects);
- c. Assessments for Level 2 or other environmentally relevant activities proposed by TasWater to support successful delivery of 3 a) projects;
- d. Wastewater management and regulatory data requirements, risk and compliance information and other evidence necessary to track delivery of 3 a) projects;
- e. Regulatory reform options, including the status quo, to support maintenance of enhanced compliance and ongoing improvement beyond the three-year term of this MoU;
- f. Strategic planning across the immediate (3-5 year), mid (10 year) and longer (20 year) terms; and
- g. Arrangements for incident response and compliance investigations in the event of wastewater infrastructure failures that lead to uncontrolled release of effluent or odour to the environment;
- h. Any other joint initiatives between TasWater and the EPA which further contribute to achieving the objective of this MoU.

4. Objective and Key Actions

The objective of this MoU is to provide for a 20 per cent uplift in compliance and performance improvement from Tasmania's public wastewater network by December 2019. In pursuing this, TasWater and the EPA will:

- a. Focus wastewater management and regulatory effort over 2017-2019 on those capital and operational improvements identified through 3 a) projects;
- b. Agree and implement reasonable regulatory trade-offs to support delivery of 3 a) projects, including:
 - i. Reducing the administrative regulatory burden in assessment and regulation when it is reasonable to do so; and
 - ii. Identifying wastewater regulatory functions that will not be fully delivered during this timeframe and agreeing minimum management and compliance requirements such as performance monitoring and reporting, care and maintenance arrangements, and incident response arrangements.
- c. Agree and obtain essential wastewater management and regulatory data requirements, risk information and other evidence necessary to support delivery of 3 a) projects, including ambient monitoring, effluent quality monitoring and compliance audit results;
- d. Agree and implement relevant metrics for measuring the success of 3 a) projects, track progress towards compliance and performance improvement, make timely and effective responses to unsatisfactory progress;
- e. Plan for ongoing compliance and performance improvements beyond the term of the MoU, including through:
 - i. Reviewing the current environmental regulatory framework that applies to TasWater, including merits or otherwise of:
 - a. a corporate licence covering all TasWater's Level 2 wastewater treatment plants;
 - b. regulating against network-wide plans for specific wastewater management issues such as infiltration and inflow, sewage sludge and biosolids and wastewater re-use;
 - c. current regulatory arrangements for other environmentally relevant wastewater management activities such as operation of sewage pumping stations;
 - d. current regulatory arrangements for trade waste; and
 - e. any other pertinent matters
 - ii. Strategic CAPEX planning across immediate, mid and longer terms, comprising TasWater's Wastewater Management Plan 2019-2021, and its 10 and 20 year strategic plans respectively, particularly to provide for effective decision-making on infrastructure renewals.
- f. Ensure management and regulatory responses to uncontrolled effluent discharge and odour incidents remain proportional to environmental risk;
- g. Pursue clear, strategic dialogue on the objective and actions under this MoU with the Tasmanian Government, other government agencies, industry and community entities with an interest in public wastewater management.

5. Principles

In implementing this MoU, TasWater and the EPA shall uphold the following principles:

- a. Good enough: Given the objective of effecting step change in environmental compliance and performance in three years, actions taken to support delivery of 3 a) projects will reflect the good enough principle – that is, management and regulatory effort will be applied to a level sufficient for successful project delivery, rather than applied at an optimum level.
- b. Best Practice: Actions taken under this MoU shall be consistent as appropriate with Good Commercial Practice, Best Practice Environmental Management, and Best Practice Regulation.
- c. Existing obligations and accountabilities: Nothing in or done under this MoU shall fetter:
 - i. the service provision, business and commercial obligations and accountabilities of TasWater under the *Water and Sewerage Industry Act 2008*, the *Water and Sewerage Corporation Act 2012*, and TasWater’s Water and Sewerage Licence; or
 - ii. the environmental assessment, regulation, enforcement and policy obligations and accountabilities of the EPA under the *Environmental Management and Pollution Control Act 1994*, sub-ordinate legislation, and the *State Policy on Water Quality Management 1997*.

In implementing this MoU, TasWater and the EPA shall have regard to each other’s existing obligations and accountabilities and associated community expectations.

- d. All-organisation implementation: TasWater and the EPA shall promote this MoU to staff to ensure it is understood, owned and implemented at all organisational levels.
- e. Other key wastewater stakeholders: In implementing this MoU, TasWater and the EPA shall have regard to the critical roles in public wastewater management of the Director of Public Health, the Office of the Tasmanian Economic Regulator, the Department of Primary Industries, Parks, Water and Environment, local government, industry and the community.
- f. Water and sewerage regulatory framework: In implementing this MoU, it shall be recognised that TasWater operates within an overarching economic and technical regulatory framework, and must achieve a workable balance between pricing, service standards and compliance.
- g. Transparency: This MoU shall be made publicly available. TasWater and the EPA will also ensure work under this MoU is clearly communicated when it is in the public interest to do so.

6. Relevant Legislation and Policy

The principal legislative and policy framework within which this MoU operates is established by:

- The *Environmental Management and Pollution Control Act 1994* (EMPCA);
- The *State Policy on Water Quality Management 1997* (SPWQM), pursuant to the *State Policies and Projects Act 1993*;
- *Water and Sewerage Industry (General) Regulations 2009*
- The *Australian Water Quality Guidelines for Fresh and Marine Waters 1992* (WQG);
- The *Water and Sewerage Industry Act 2008*; and
- The *Water and Sewerage Corporation Act 2012* (WSCA).

7. Roles and Responsibilities

The roles and responsibilities of TasWater and EPA Tasmania in implementing this MoU are:

Chief Executive Officer, TasWater	Oversee implementation of the MoU and update the TasWater board as appropriate
TasWater staff	Manage day-to-day MoU implementation, including through use of agreed operational protocols. Develop proposals and amend the capital and operational programs to align with the principles of the MoU Report progress against MoU objectives
Director, EPA	Oversee implementation of this MoU by EPA Tasmania. Update the Board, EPA, and the Secretary, Department of Primary Industries, Parks, Water and Environment, on MoU implementation as appropriate.
EPA Tasmania officers	Manage day-to-day MoU implementation, including through use of agreed operational protocols. Assess TasWater development proposals, regulate and undertake compliance investigations in accordance with the MoU principles, monitor and report compliance performance outcomes.

8. Governance

The following governance arrangements are established for the MoU:

- a. Steering Committee:
 - i. A Steering Committee will convene, comprising the CEO TasWater and Director EPA and their senior managers as relevant.
 - ii. The Steering Committee's Terms of Reference shall include:
 - a. Agreeing headline KPIs to be used for the duration of this MOU and which allow tracking progress toward 20 per cent uplift in environmental compliance and performance.
 - b. Overseeing delivery of 3 a) projects, agreeing regulatory trade-offs, monitoring KPIs, and determine responses to unsatisfactory progress.
 - c. Conducting biannual reviews of progress on initiatives identified in this MoU informed by a report on progress with commitments in the last six months and a schedule of commitments to be met in the next six months.
 - d. Planning for environmental compliance and performance improvement beyond the term of this MoU including reviewing the regulatory framework and identifying strategies for the immediate, mid and longer terms.
 - e. Engaging with stakeholders on the objective of the MoU and specific actions taken under it, including in pursuit of funding opportunities for 3 a) projects.
 - f. Considering key operational matters outside the 3 a) projects including incident and compliance investigation arrangements for sewage spills and odour issues, the standard of development proposals submitted by TasWater to the EPA.
 - g. Any other matters deemed necessary to the successful execution of initiatives under this MoU.

- iii. The Steering Committee may appoint TasWater and EPA Tasmania staff to joint working groups tasked with undertaking and reporting on specific activities identified in this MoU; and
- iv. The Steering Committee shall meet at least every two months. EPA Tasmania will provide administrative support to the Steering Committee.

9. External Engagement

- a. TasWater and EPA Tasmania will participate in the Water and Sewerage Regulators Forum to be established by the Office of the Tasmanian Economic Regulator, which will among other things consider the 3 a) projects and other initiatives carried out under this MoU; and
- b. TasWater may also convene as necessary, annual meetings with EPA Tasmania and other regulators, government and non-government entities on issues relevant to this MoU and particularly achievement of 20 per cent uplift in compliance and performance by December 2019.

10. Duration and Review

This MoU commences on the date of endorsement by TasWater and EPA Tasmania and continues for the three years to December 2019 or until terminated by written notice by either party.

Review may occur if there is a change in legislation or government policy pertinent to the MoU, or if TasWater's Water and Sewerage Licence is replaced or amended. In this event, the parties shall discuss the implications of the change, and review the MoU as required.

In addition, TasWater or EPA Tasmania may otherwise determine that a review is necessary, including in light of environmental compliance performance. Upon either party giving notice to the other of its desire for the MoU to be reviewed, the MoU must be reviewed according to mutually agreed criteria, in an agreed timeframe.

11. Dispute Resolution

Any difference or dispute that arises between TasWater and EPA Tasmania in respect of this MoU or matters within its scope, with the exception of investigation, compliance and enforcement action taken by EPA Tasmania, will be addressed at the lowest management level possible. Either party will refer issues that cannot be resolved at the lowest management level to more senior officers or the Steering Committee for consideration and resolution.

Agreement

Signed by an authorised representative of TasWater pursuant to s 126 of the *Corporations Act 2001* (Cth) by:

Name: MICHAEL BREWSTER

Signature: 

Date: 2 DECEMBER 2016

In the presence of:

Witness

Signature: 

Name: LYNN WADDOCK

Address: 169 MAIN ROAD, MOORAH

Occupation: EXECUTIVE ASSISTANT

Signed for and on behalf of the EPA by:

Name: Wes Ford

Signature: 

Date: 2/12/16

In the presence of:

Witness Robin Wall

Signature: 

Name:

Address: 134 Macquarie Street HOBART.

Occupation: Business Services Manager
EPA Tasmania