



New Customer Contributions

NCC Negotiating Framework

July 2023

Application of Negotiating Framework

This Negotiating Framework forms a part of Coliban Water's approved pricing submission.

This Framework applies to both Standardised New Customer Contribution (NCC) Charges (standardised charge for Connection Applicants wishing to connect to Coliban Water's System) and Non-standard/Negotiated NCC Charges (applies in non-standard situations due to the nature and/or locality of the development).

Coliban Water's *Land Development Manual* provides further information about the application of Standardised and Non-standard/Negotiated NCCs.

1 Purpose

This Negotiating Framework:

- Sets out procedural and information requirements relevant to services to which developer charges (New Customer Contributions) apply, as defined in the Water Industry Regulatory Order (WIRO). New Customer Contributions (NCC) are levied when new connections are made to the water corporation's water, sewerage and recycled water networks.
- Requires Coliban Water and any Connection Applicant to negotiate in good faith to agree the price, standards and conditions of services to be provided.
- It also provides for transparent information to enable the Connection Applicant to understand the reasons for decisions made by Coliban Water.

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

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

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

2 Who this negotiating framework applies to

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

It also applies to Coliban Water in responding to such requests from a Connection Applicant, defined as a property owner, generally a property developer for a subdivision, in relation to requests for connection to Coliban Water's works in accordance with section 145 of the *Water Act 1989* ("Application").

3 No obligation to provide service, good faith obligation

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

Coliban Water can:

- Consent to an application
- Consent subject to any terms and conditions that Coliban Water thinks fit, as provided under section 145(3) of the *Water Act*.
- Refuse its consent to an application.

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

4 Process

Coliban Water and the Connection Applicant / Developer will use their reasonable endeavours to the timeframes and procedures outlined in the Land Development Manual, Shared Asset Procedure, Developer Installed Works Process and this Framework.

4.1 Shared Asset & Future Benefitting Developer

- Coliban Water identifies the need for a large asset required to service a broad catchment area during augmentation planning for future growth areas during the set pricing period. A pioneer developer initiates the requirement for that asset by application to subdivide and provision of services to a development area.
- Coliban Water initiates consultation with the developer in accordance with the procedures identified above to fund a share of the required asset that is larger than what is required for the developer's proposal. In summary, Coliban Water funds the upsizing of the asset to cater for future growth or greater catchment area. The principle of the developer funding the asset size to cater for their development applies.
- Future Benefitting Developers utilising the excess capacity of the asset will be advised upon application of the % share calculation of the constructed asset that will apply to their development proposal. This will be applied as a Non-standard/Negotiated NCC for each stage of development within the identified catchment area.



5. Bring Forward Calculations

Financing costs relating to bring forward connections are calculated in accordance with the approved formula as detailed in the ESC's final determination.

The ESC requires that Water Corporations intending to levy 'bring forward' charges will have prepared development servicing plans. These are described as augmentation plans and are accessible via the Coliban Water website.

The formula for calculating these remains unchanged from the 2013-2018 pricing period as per below:

Incremental financing costs

Incremental financing costs (IFC) should be calculated using this formula:

$$\text{IFC} = \left(1 - \left[\frac{1}{(1+r)^n} \right] \right) \times \text{cost of capital being provided sooner than planned}$$

where: **r** estimated pre-tax regulatory rate of return

n the number of years the asset is required sooner than planned.

6. NCC Definition

NCCs are a one-off, upfront charge applied under sections 145(3), 268 and/or 269 of the *Water Act 1989* to all new allotments connected (or to be connected) to Coliban Water's water, sewer or recycled water networks. Payment of NCCs can be initiated by a new development, subdivision or application to connect.

NCCs include Standardised and, where applicable, Non-standard/Negotiated NCC charges.

The payment of Standardised NCC's for each additional connection to Coliban Water's water, recycled water or sewer services which includes the following:

- (a) Any new lot on a plan of subdivision
- (b) Any new or separate premises that is or can be separately metered
- (c) Any apartment, townhouse, unit or premises including multi storey developments that is or can be separately metered regardless of whether or not it is subdivided.
- (d) Specialised non subdivisinal or higher water/sewerage usage developments – See Note

Note:

Specialised non subdivisinal or higher water usage developments are charged based on an equivalent lot calculation. This is a measure of the demand that a connection will place on Coliban Water infrastructure in terms of water consumption and discharge compared to an average residential dwelling. A single equivalent lot will utilise a 20mm water tapping & meter.

These include but are not limited to:

- o Caravan parks
- o Commercial or industrial businesses
- o Hotels, motels or accommodation premises
- o Hospitals or private hospitals
- o Nursing homes
- o Public open space
- o Schools or other non-rateable properties
- o Sporting grounds/complexes

Coliban Water's *Land Development Manual* provides further information about the application of Standardised and Non-standard/Negotiated NCCs.

7. Provision of information by Connection Applicant

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

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

8. Provision of information by Coliban Water

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

In the case of a Non-standard/Negotiated NCC triggered by infrastructure installed by Pioneer Developers to service future growth, this higher NCC will be communicated Future Benefitting Developers when formally advising requirements for the provision of services to their development.

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

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

9. Pricing Principles

5.1 New Customer Contributions

Coliban Water's NCC charges will:

- (a) Have regard to the incremental infrastructure and associated costs in one or more of the statutory cost categories attributable to a given connection;
- (b) Have regard to the incremental future revenues that will be earned from customers at that connection; and
- (c) Be greater than the avoidable cost of that connection and less than the standalone cost of that connection.

In setting charges, Coliban Water will also comply with:

- (a) The regulatory principles set out in clauses 8 and 11 of the Water Industry Regulation Order 2014 (WIRO); and
- (b) Specific pricing principles approved or determined by the Essential Services Commission as part of Coliban Water's Price Determination applying at the relevant time.

10. Developer Installed Works

10.1 Reticulation assets

When seeking consent to connect to Coliban Water services, the connection applicant must provide all of the reticulation assets required to service any new lot, separate occupancy or other non-subdivisional development. This includes any assets that need to be located in road reserves or within other properties and allow the development to connect to Coliban Water's works.

Reticulation assets are to be fully funded by the connection applicant and vested to Coliban Water.

Coliban Water may require the connection applicant to upsize the reticulation assets in order to provide a whole of catchment solution to allow for future development. Any requirement to upsize

the reticulation assets will be based on the most cost effective whole of life servicing solution required by Coliban Water's design criteria.

Upsizing refers to an increase in the size of the reticulation assets. Any incremental costs associated with upsizing the reticulation assets shall be agreed between Coliban Water and the connection applicant. Coliban Water will provide details of the agreed reimbursement process.

Upsizing does not include changes to depth or alignment of reticulation assets required by Coliban Water to achieve the most effective and efficient whole of life servicing solution. Any such changes are to be fully funded by the connection applicant.

10.2 Shared assets

When seeking consent to connect to Coliban Water's works, the connection applicant must provide all shared assets required to service any new lot, separate occupancy or other non-subdivisional development. This includes any assets that need to be located in road reserves or within other properties and allow the connection applicant to connect to Coliban Water's works.

Shared assets are to be fully funded by the connection applicant and vested to Coliban Water. Any upsizing of those shared assets will be either:

- Treated as described within "reticulated assets" – section 10.1.
- A Non-standard/Negotiated NCC may be implemented by Coliban Water depending on funding model alternatives that may be available for significant assets. These specific requirements will be discussed with the Pioneer Developer and Future Benefitting Developers subject to a higher Non-standard/Negotiated NCC to utilise the excess capacity installed to service their development and discussed with an applicant on a case by case basis. Published augmentation plans will also highlight a potentially higher NCC for development in that area.

11. Consultation with affected parties

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

- (a) Subject to legal confidentiality requirements, Coliban Water may share any necessary information with others potentially affected to assess impacts; and
- (b) Parties will allow sufficient time for reasonable consultation with affected parties to occur.

12. Payment of Coliban Water's costs

All developments of land requiring new or upgraded connection to Coliban Water's system will incur associated fees and charges payable to Coliban Water.

Fees and charges levied by Coliban Water are subject to approval processes under the *Water Act 1989* and/or as approval by the ESC. Our [Schedule of Fees and Charges](#) can be found on our website.

Should the particular Application require a Non-standard/Negotiated NCC Charge, in addition to the Standardised NCC Charge, this will arise from the relevant negotiation, subject to the Regulatory Instruments in place at the time.

13. Termination of negotiations

The Connection Applicant may elect not to continue with its Application and may end the negotiations by giving Coliban Water written notice of its decision to do so. Any costs incurred or committed by Coliban Water may be charged to the Connection Applicant.

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

- (a) Coliban Water believes on reasonable grounds that the Connection Applicant is not conducting the negotiation in good faith; or
- (b) Coliban Water reasonably believes that the Connection Applicant and the particular development will not be able to receive a service from Coliban Water; or

- (c) An act of insolvency occurs in relation to the Connection Applicant; or
- (d) Coliban Water reasonably believes that the Connection Applicant has provided false or misleading information to Coliban Water.

14. Dispute resolution

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

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

15. Giving notices

The address for correspondence and notices is:

Coliban Water
PO Box 2770
BENDIGO DC VIC 3554

landdevelopment@coliban.com.au

A notice must be:

- (a) In writing and signed by a person duly authorised by the sender; or
- (b) Sent via email to the recipient's address for Notices, as varied by any Notice given by the recipient to the sender
- (c) If given or received under any Regulatory Instruments or other statute of regulation, must be given under the requirements of that relevant instrument, or other statute or regulation.

16. Terms and abbreviations

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

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

DIW – Coliban Water's developer installed works process

Future Benefitting Developer – Is a developer that utilises the excess capacity constructed in larger shared assets.

Land Development Manual – Coliban Water's Land Development Manual (as updated from time to time), which outlines policies and guidelines for customers to connect to water and sewerage services, available at www.coliban.com.au.

Non-standard/Negotiated NCC Charge – This charge, derived from the NCC principles developed by Coliban Water will apply in non-standard situations due to the nature and/or locality of the development or arising out of negotiation with the Connection Applicant

Pioneer Developer – This is the 1st developer within an area that may trigger the requirement for upsized assets to cater for a greater catchment or growth area.

Shared Asset Procedure – Coliban Water's internal process for implementing a shared funding arrangement with developers for assets identified as servicing a greater catchment or growth area than an individual development

Standard NCC Charge – This is the standard charge for most Connection Applicants wishing to connect to the Coliban Water System.