



Government of **Western Australia**  
Department of **Water**

# Economic Regulation Authority's inquiry into developer contributions to the Water Corporation

Statement of response

*Looking after all our water needs*

Department of Water

July 2010

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### **Acknowledgements**

The Department of Water and the Department of Treasury and Finance jointly developed the government response that was approved by the Minister for Water and Treasurer.

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### **Further Information**

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## Statement of response

### Economic Regulation Authority's *Inquiry into Developer Contributions to the Water Corporation*

A government response to the recommendations of the Economic Regulation Authority's (ERA) *Inquiry into Developer Contributions to the Water Corporation* was approved by the Minister for Water and Treasurer in June 2009.

This statement summarises the government's response. It is intended that this document be read in conjunction with the final report of the inquiry, which can be found at [http://www.era.wa.gov.au/2/700/46/inquiry\\_into\\_de.pm](http://www.era.wa.gov.au/2/700/46/inquiry_into_de.pm).

**Table 1 Summary of Principles, Findings and Recommendations**

ERA RECOMMENDATIONS	GOVERNMENT RESPONSE
<b>General principles and findings for developer charges</b>	
<b>Efficiency</b>	
1. Source costs are likely to be better recovered through tariffs than through developer charges, as all customers benefit from supply augmentation.	Agreed.
2. The costs of enhancements to the transmission network are also likely to be better recovered through tariffs than through developer charges, to the extent that all connected customers contribute to the need for these costs to be incurred.	Agreed.  Correspondingly, to the extent that new development creates a need for costs to be incurred, these costs should be recovered through developer charges.
3. Developer charges, if set efficiently, should at least cover the direct forward-looking costs of providing services to each new development.	Agreed.
4. Any risks associated with additional costs due to the over-sizing of assets to meet future demand growth should be borne by the utility, and the costs recovered from those for whom the spare capacity was provided.	Agreed.
5. It is consistent with the "user pays" principle to share development costs between current and future developers.	Noted.
6. Developer charges are unlikely to be a dominant consideration in the location decision for many new developments, although very high developer charges may impact on development.	Noted.
7. Location-based developer charges would remove cross-subsidies between	While location-based developer charges could help achieve allocative efficiency, efficient

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developments, helping to achieve allocative efficiency.	<p>prices can result in prohibitively high costs for some developments. This can restrict development counter to the regional development goals of government.</p> <p>For this reason, government has approved the adoption of a statewide charge for developer contributions for all schemes.</p>
8. Developer charges should cover the costs associated with bringing forward new developments ahead of a development schedule.	Agreed.
9. The correct determination of out-of-sequence development costs depends on the existence of a clearly defined development schedule.	Noted.
10. The benefits of implementing a developer charging methodology should outweigh its administrative costs, including transition costs.	Agreed.
<b>Equity</b>	
11. The intent of the Uniform Pricing Policy is that households should have access to affordable water for essential needs, and not that developer charges should be uniform.	<p>Agreed.</p> <p>The relationship of the Uniform Pricing Policy to developer charges has not previously been explicitly considered and the ERA's finding is supported.</p> <p>While the statewide charge being recommended is uniform, this decision is not driven by the Uniform Pricing Policy.</p>
<p>12. Caps on developer charges are not appropriate as they would distort price signals sent by cost-reflective charges and would not achieve any clear policy objectives.</p> <ul style="list-style-type: none"> <li>- Indirect benefits to local communities are best funded by the communities themselves.</li> <li>- It is unclear whether there are any State-wide benefits from subsidizing developer charges. If there are, these should be funded through explicit programs such as the Regional Headworks Program.</li> </ul>	Noted. However this response recommends a statewide charge, so a cap on the charges of more expensive schemes is not applicable.
13. Changes to developer charges should not be phased in, as these are one-off charges. However, when implementing changes to developer contributions policies, service providers could mitigate any resultant impacts on tariff customers by phasing in changes to tariffs over time.	Agreed.

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<b>Good regulatory practice</b>	
14. The setting of developer charges and developer charging policies should involve effective public consultation.	<p>Agreed.</p> <p>Targeted consultation occurs for relevant stakeholders. Broader public consultation will occur as part of ERA inquiries into tariffs.</p>
15. Developer charges and developer charging methodologies should be subject to independent regulatory scrutiny.	<p>Agreed.</p> <p>Developer charges are within the scope of the current ERA inquiry into tariffs and will also be included in future relevant inquiries. It is not proposed that regulatory scrutiny be required prior to individual charging proposals.</p>
16. Service providers should be accountable for money raised through developer charges, through independent scrutiny and public consultation.	<p>Agreed.</p>
17. Developer charges and developer charging methodologies should be transparent to stakeholders.	<p>Agreed.</p> <p>Published information on developer charging methodologies and charges is currently being revised. More detailed information is available upon request.</p>
18. Developer charging policies should incorporate a legislative mechanism for appeals against the charges and their coverage.	<p>Agreed in principle.</p> <p>Under the currently planned legislative reforms, the Government would have the ability to directly regulate the charges of water service providers. The Water Services Bill would give the relevant Minister the power to establish codes that set out specific charges, or the mechanisms by which charges are calculated.</p> <p>Currently, there is not sufficient evidence of customer dissatisfaction to warrant additional costly regulatory measures. At this stage it is proposed that the Water Corporation continue to self-regulate developer charges at least until new legislation is in place and a trend of complaints related to charges emerges.</p> <p>The Water Corporation will continue to develop information for customers that summarises the process for determining charges and of existing complaints mechanisms. The Department of Water will monitor complaints for any emerging trends.</p> <p>If the Government later determines that a code is needed to regulate developer charges, any non-compliance with a regulatory code will be</p>

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	<p>subject to appeal under water services legislation.</p> <p>In this scenario, the developer would only be able to appeal the application of the policy or compliance with the policy specified by the code. The content of the code as set by the Government would not be subject to appeal.</p> <p>The Urban Development Advisory Committee (UDAC) continue to be a forum for issue resolution, and help ensure potential problems are avoided through active industry participation in policy setting.</p>
<b>Water Corporation's standard headworks charges</b>	
<p>19. The alternative methods proposed by the Corporation for determining headworks charges are an improvement over the current approach in that they are based on distribution costs and exclude the costs of source development<sup>1</sup>.</p>	<p>Agreed.</p>
<p>20. Basing developer charges on average historical distribution costs is a means of sharing development costs between developers.</p>	<p>Noted.</p>
<p>21. The Corporation's proposed Minor Works Cost Sharing Policy could be an appropriate mechanism for sharing the costs of minor water or sewerage mains extensions between developers over time, as long as:</p> <ul style="list-style-type: none"> <li>- developers are refunded for the costs of over-sizing assets to meet future growth; and</li> <li>- the costs of over-sizing assets are recovered, as far as practically possible, from those for whom it was provided.</li> </ul>	<p>Agreed.</p>
<p>22. Of the two options proposed by the Corporation, Option 2<sup>2</sup> is better than Option 1<sup>3</sup> in terms of economic efficiency, as it provides scope for setting headworks charges which reflect development costs at each location.</p>	<p>Noted.</p> <p>However in low/moderate cost schemes, price signals are a small part of total development cost and the efficiency gains of option 2 (individual scheme charges) are modest. It may</p>

<sup>1</sup> The Water Corporation's current approach to determining standard headworks charges is based on recovering 40% of the average state-wide total cost (including source development and transmission costs) of providing infrastructure to a typical residence on an average residential lot. The alternative methods proposed (see recommendation 22) are based only on distribution asset costs, with source development and transmission costs being recovered through volumetric water tariffs.

<sup>2</sup> Option 2 involves calculating the headworks charges for each scheme

<sup>3</sup> Option 1 involves a standard statewide uniform headworks charge for water and wastewater

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	<p>also have significant negative customer and regional development impacts.</p> <p>Therefore Option 1 (a statewide average charge) is supported by the government.</p>
<p>23. A modified Option 2, which takes into account existing spare capacity in limited circumstances, would be a more efficient approach to setting headworks charges. This approach would be less administratively complex than other approaches, while potentially representing a reasonable approximation of the forward-looking development costs in each scheme.</p>	<p>Noted.</p>
<p>24. If Water Sensitive Urban Design principles result in permanent savings to the Corporation in the distribution costs of new developments, these cost savings should be reflected in developer charges.</p>	<p>Agreed.</p> <p>The Water Corporation will calculate reductions in developer charges on a case-by-case basis. All demonstrated permanent savings in the cost of the distribution system would be deducted from the charge.</p> <p>The Water Corporation will self-regulate decisions about reductions in charges at least until there is further experience with the process of considering and calculating reductions and new water services legislation is in place.</p>
<p>25. An implementation committee, including a representative of the Authority as an observer, should be established to determine a set of developer charges for each scheme.</p>	<p>This recommendation applies to individual scheme charges, which is not supported by this response.</p>
<p>26. Under the modified Option 2, there should be no caps on developer charges, as caps would distort the price signals sent by location-based developer charges, are unlikely to achieve any clearly defined social objective, and would likely result in a net loss in welfare to society as a whole.</p>	<p>This recommendation applies to individual scheme charges, which is not supported by this response.</p>
<p>27. There is an ongoing need for a forum to consult key stakeholders on developer charges. However, public consultation on developer charges should be widened beyond the development community.</p>	<p>Agreed.</p> <p>Charges will be reviewed and broader public consultation conducted through periodic ERA inquiries into tariffs. Key stakeholders will continue to be targeted for additional consultation through UDAC.</p>
<p>28. Developer contributions should be subject to independent regulatory review to ensure that the total revenue raised from developer charges is no more than the total efficient costs of development, and</p>	<p>Agreed.</p> <p>Independent regulatory review is conducted through ERA inquiries into tariffs.</p>

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that the principles of setting developer charges are applied appropriately.	
29. Standard developer charges for each scheme should be fixed for the regulatory period.	The statewide developer charges will be fixed in real terms for the regulatory period.
30. To aid transparency, the principles and methodology which underlie location-based developer charges should be published, along with development costs and developer charges for each scheme.	<p>Agreed in principle.</p> <p>The principles for determining out-of-sequence charges and cost reductions from water sensitive urban design will be published. Detailed information will be available to stakeholders on request.</p>
31. Location-based developer charges should be accompanied by a statutory mechanism for appeals against the charges. Possible avenues for appeal may be through an ombudsman or the State Administrative Tribunal, depending on the drafting of new legislation.	<p>Agreed in principle.</p> <p>It is not proposed to formally regulate developer charges at this stage (see recommendation 18), however the draft water services legislation will provide a process for appeals against charges if a code to regulate charges is found to be necessary.</p> <p>The policy and methodology itself would not be subject to appeal.</p> <p>It is expected that the UDAC would continue to be a more preferable forum for issue resolution, and ensure potential problems are avoided through active industry participation in policy setting.</p> <p>The draft water services legislation gives smaller customers, including smaller developers, access to a water industry ombudsman.</p>
<b>Water Corporation's other headworks charges</b>	
<b><i>Rural subdivisions</i></b>	
32. Under a regime of location-based developer charges, rural subdivisions between one and four hectares would incur developer charges on the same basis as other developments in that scheme (i.e. average distribution costs, unless development costs differ substantially from the average).	Noted.
<b><i>Out-of-sequence developments</i></b>	
33. The Corporation's developer contribution policy should continue to provide for developers to bring forward projects ahead of the development schedule if the developers are willing to bear any	Agreed.

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associated additional financial cost and risk.	
34. Developers should be able to appeal out-of-sequence charges through a statutory appeals mechanisms (e.g. an ombudsman or the State Administration Tribunal).	<p>Agreed in principle.</p> <p>It is not proposed to formally regulate charges at this stage (see recommendation 18) however legal appeals mechanisms will be available if formal regulation is found to be necessary (see recommendation 31).</p> <p>The involvement of UDAC in developing out-of-sequence developer charges helps ensure developers' interests are represented.</p>
35. There is a need for greater transparency regarding the methodology for determining out-of-sequence costs, including the Corporation's development schedule and land servicing policy.	Agreed. See also the response to recommendation 17 (above).
<b>High cost, remote and competitive developments</b>	
36. Non-standard developer charges could be applied where special circumstance give rise to development costs that are higher than the average scheme development costs, based on clear criteria (e.g. 15 per cent higher).	Agreed.
37. Developer charges in the case of remote developments and competitive developments should at least cover the direct forward-looking costs of providing services to the developments.	Agreed.
<b>Major country customers</b>	
38. For schemes serving major customers, a notional cost approach to setting headworks charges for major customers could achieve an appropriate balance between cost reflectivity and administrative complexity.	Noted. This is the current approach.
39. The charging method for major customers should be transparent (the way in which notional costs are calculated should be clearly understandable by stakeholders).	Agreed.
40. Major country customers should have a legislative mechanism for appeals against their developer charges.	<p>Agreed in principle.</p> <p>It is not proposed to formally regulate charges at this stage (see recommendation 18) however legal appeals mechanisms will be available if formal regulation is found to be necessary in future (see recommendation 31).</p>

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<b>Temporary connections</b>	
41. If there are substantial development costs required for a temporary connection, such as for the construction of assets specific to that connection at costs greater than average distribution costs, then these should be charged to the developer making use of the temporary connection. Otherwise, temporary connection charges should be linked to standard developer charges, based on the average distribution costs for that scheme.	Agreed.

### ***Water Corporation's developer charges***

The following table provides the impacts of the outcomes of the inquiry on the Water Corporation's developer contributions in June 2008 dollars as at the time of the inquiry.

	Water	Wastewater	Drainage
<b>Before inquiry</b>	\$3 378	\$1 560	\$440
<b>After inquiry</b>	\$3 720	\$1 100	\$440
<b>Difference</b>	<b>+\$342</b>	<b>-\$460</b>	<b>\$0</b>

The Water Corporation's current developer contributions can be found at:  
[http://www.watercorporation.com.au/D/developers\\_fees.cfm?uid=4304-2763-4341-4248](http://www.watercorporation.com.au/D/developers_fees.cfm?uid=4304-2763-4341-4248).