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The Honourable Bronwyn Halfpenny, MLA
Chair, Environment, Natural Resources and
Regional Development Committee
Parliament House
Spring Street
EAST MELBOURNE VIC 3002

Via email to: ENRRDC@parliament.vic.gov.au

Dear Ms Halfpenny

Re: Inquiry into the sustainability and operational challenges of Victoria's rural and regional councils

Thank you for the opportunity to make a submission to the Inquiry into the sustainability and operational challenges of Victoria's rural and regional councils. VicWater is the peak body of the Victorian water industry with its membership constituted of Victoria's 19 statutory water corporations. These corporations are responsible for the provision of urban water and wastewater services, rural water supply including irrigation and related drainage services (and waterway management, in the case of Melbourne Water). In addition, Goulburn Broken Catchment Management Authority (CMA) and the Victorian Environmental Water Holder hold associate membership status.

This submission does not include an expansive commentary on all items under the Inquiry's Terms of Reference, rather it will focus on issues of direct relevance to water and sewerage services. Suffice to say that all budgetary and funding pressures arise because there is a certain list of activities councils 'must' do, an infinite list of activities councils 'could' do, and finite resources for both. Contrary perspectives within council, among councillors, and at the state government regarding the actual decisions that a council makes to allocate scarce resources are easily blamed on budgetary and funding pressures – but in fact merely reflect the council's priorities.

The new economic regulatory framework for councils overseen by the ESC is similar to that which applies to water corporations. In our experience, it will provide a mechanism for councils to transparently fund core activities as well as identify discretionary priorities. If there is sufficient cause to fund discretionary priorities (for example community demand for it), this can be allowed via an increase in rates.

VicWater contends that the economic regulatory framework will work best, councils will be more efficient and better overall community outcomes will result, if 'core' activities are backed with clear, state-wide standards for the ESC to consider as part of pricing submissions. Alternatively, flexible arrangements and decision-making should apply to all discretionary activities. This principle already applies to some core activities like setting speed limits on local roads, and managing local flood mitigation infrastructure but could be more widespread.

As a part of the Committee's report, it might be worthwhile considering where various issues sit in terms of being 'core' or 'discretionary' and what additional state-wide standards may be required to help councils deliver the desired outcomes. From the water industry's perspective, two areas of council responsibility: (1) buffer protection around critical assets, and (2) catchment planning protection are currently seen as discretionary activities for councils, but could justifiably be considered 'core' activities and would benefit from the clarity, certainty and administrative ease of a state-wide standard. A third example (3) onsite wastewater management, demonstrates the benefits of a state-wide standard, where councils are not disposed to prioritise an issue of their own accord.

Buffer protection

Many rural and regional councils' planning schemes have weak buffers for protecting critical community assets. Weak land use planning around critical sewerage assets and the subsequent erosion of buffers – leading to expensive upgrades to reduce odour or noise, or in the worst case to entire closure and movement of an asset – is a major issue for water corporations and a significant financial burden for communities.

There is currently too much flexibility in zoning and overlay controls for buffers. In a resource constrained environment, this can make implementation of controls haphazard or lax. As a result a lot of rural and regional sewerage infrastructure has very poor protections from encroachment.

In a recent example, approximately 10 years ago a treatment plant was relocated (due to buffer erosion) at a cost of tens of millions of dollars. It was moved to the outskirts of town (at the time!) and was nearby an airport and industrial zoned land. The airport owner recently applied for a rezoning of land adjacent to the airport in order to develop it with a restaurant. The water corporation was oblivious to the application until it was publicly advertised at which time the water corporation objected and the case was heard by VCAT. The application has recently been approved. Time will tell if customers will be forced to fund further upgrades or relocations that should have been avoided.

Where the issue is state-wide and relatively homogenous (such as buffer protection around critical assets), there is a clear case for state-based / consistent regulation. The creation of a clear standard (for example a consistent zone or overlay control) would save councils time and effort to process planning applications as well as ensure cheaper sewerage services for communities.

Catchments and planning

Planning scheme protections for catchments is another area of council responsibility that could benefit from clearer state-wide standards and requirements. A particular concern of water corporations is the growing impact of diffuse sources of waterway pollution (including stormwater, unlicensed discharges and agriculture run off) in regional towns and rural areas. In potable water supply catchment, declining source water quality forces water corporations to upgrade treatment plants at significant cost to communities.

VicWater supports a recent set of Planning Scheme reforms that drive greater protection and improved waterway outcomes in the Yarra River, including the new State Planning Policy Framework (SPPF) clause 12.05 which aims to ensure that “development does not increase the rate or quantity of stormwater, sediment or other pollutants entering the river”. SPPF clause 12.05 may serve as model for the entire state.

As with buffer protection the creation of a clear standard (for example a consistent zone or overlay control) would save councils time and effort to process planning applications as well as ensure better water quality and cheaper water services for communities. Such a standard need not unnecessarily restrict development, but would identify sources of pollution where prevention at the source is substantially cheaper than treatment downstream. This would allow an overall better catchment outcome at lower community cost.

Onsite wastewater management

The *Guidelines for Planning permit applications in open, potable water supply catchment areas* (November 2012) provides an example of an effective planning control that creates a clear baseline standard (the 1:40ha rule) robust accountabilities including referral powers, as well as a risk-based pathway to more flexible implementation (the development and implementation of a Domestic Wastewater Management Plan, DWMP). However, this case study also demonstrates the sustainability and operational challenge for rural and regional councils when given an opportunity to deviate from the state-wide standard.

The Guidelines allow:

“a higher density of development than (1:40ha) where all of the following conditions are met: the minimum lot size area specified in the zone for subdivision is met in respect of each lot; the water corporation is satisfied that the relevant Council has prepared, adopted and is implementing a DWMP in accordance with the DWMP Requirements; and the proposal does not present an unacceptable risk to the catchment”

When these Guidelines were published, the State Government offered grants to support councils’ preparation of a local DWMP. Many councils took advantage of this funding to prepare a DWMP with the aim of gaining water corporation endorsement of a higher density (than 1:40ha) of development in the potable water supply catchments. Some councils favoured a higher density of development with the greater rates income that entails. Unfortunately, due to a lack of technical expertise, financial resources and motivation, many consultant-led DMWPs were poor quality. Furthermore, most councils did not commit to implementing their ongoing actions (particularly the follow-up inspections of onsite systems).

Despite accepting grant funding to develop a DWMP, only a handful of councils have contributed their own funds to the ongoing implementation. Consequently, the 1:40ha rule continues to apply in most potable water supply catchments.

This example should not be interpreted as a criticism of the Guidelines, but a strength of policy framework that includes both a clear baseline standard, as well as a risk-based pathway to more flexible implementation. A far worse community and water quality outcome would have resulted if the Guidelines stipulated the requirement for a DWMP, but did not apply a baseline standard in case the DWMP was not actually implemented.

An important consideration in establishing robust standards for core activities is whether they will create sustainability, operational and funding challenges for councils. In some case, for example requiring councils to fund the maintenance of flood mitigation infrastructure, council's costs will increase. However, this needs to be balanced against the overall community benefit, and be supported by a robust policy process. Some councils may continue to resist performing these activities if they don't see them as a priority, but efficient costs for these activities will be easily recovered through the ESC's process.

In other cases, for example buffer protection and catchments, the *absence* of a clear standard can create sustainability, operational and funding challenges for councils. Even though the responsibilities of the 'planning authority' are clear, councils must actively implement the necessary planning controls, often on a case-by-case basis and potentially defend them at VCAT. This has a high administrative cost and although there is significant benefit to the broader community, there is little tangible direct benefit for the council.

VicWater looks forward to hearing from the Committee as the Review proceeds. Please contact James Cleaver [REDACTED] with any questions or matters for clarification.

Yours sincerely

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Chief Executive Officer