

INDEPENDENT PRICING AND REGULATORY TRIBUNAL

WORKSHOP FOR THE REVIEW OF STATE WATER CORPORATION'S
OPERATING LICENCE

Tribunal Members

Mr James Cox, Acting Chairman
Ms Cristina Cifuentes
Professor Warren Musgrave
AND
Various Workshop Members

Held at the Wesley Conference Centre
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ComputerReporters

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1 MR COX: Ladies and gentlemen, I suggest we make a start
2 now. My name is Jim Cox and I am the Acting Chairman of
3 the Independent Pricing and Regulatory Tribunal. With me
4 today are my colleagues Cristina Cifuentes and
5 Warren Musgrave and also some members of our Secretariat
6 who you will meet during the day.
7
8 There are a couple of members still to join our panel
9 but I am told they're not far away, so I think it is useful
10 to make a start and get things moving because it will be
11 quite a long day and there is a lot of ground to cover.
12
13 The Tribunal is conducting a review of State Water
14 Corporation's operating licence under Section 30 of the
15 State Water Corporation Act 2004. We are required to
16 review the interim operating licence, which has not been
17 drafted by us, and recommend to the Minister for Energy and
18 Utilities the terms of an initial operating licence for
19 State Water. This workshop is part of the Tribunal's
20 public consultation process and it will cover all aspects
21 of State Water's operating licence.
22
23 I would like to make a few opening remarks about the
24 general structure of the operating licence for State Water
25 and also to explain in a little more detail the role of the
26 Tribunal in undertaking this review of State Water's
27 licence. The principal functions of State Water are set
28 out in the State Water Corporation Act. In addition to
29 that, the operating licence can confer on State Water
30 functions under the Water Management Act and the Water Act,
31 but only when the Minister for Natural Resources or the
32 Premier agree.
33
34 State Water has functions conferred on it exclusively
35 or it can share the same functions with the Minister or the
36 Ministerial Corporation and that means essentially sharing
37 the functions with DIPNR. As I've already mentioned, the
38 role of the Tribunal under the Act is to make
39 recommendations to the Minister for Energy and Utilities
40 about granting, amending and cancelling State Water's
41 operating licence and imposing conditions in the operating
42 licence, and it is also to make recommendations about
43 monitoring, auditing and reporting to the Minister on
44 State Water's compliance with its operating licence.
45
46 We don't have the power to decide which functions
47 should be performed by State Water without the agreement of

1 the Minister for Natural Resources or the Premier. It
2 might be open to us to make recommendations to the Minister
3 for Energy and Utilities, but those recommendations would
4 have no effect unless the Minister for Natural Resources or
5 the Premier agreed.
6
7 A number of Memorandums of Understanding are required
8 to be entered into between State Water and other bodies.
9 An MOU is an agreement between two parties that relies on
10 the cooperation of the parties involved for the
11 implementation of the MOU. While the operating licence can
12 set some broad parameters for MOUs - for example, it can
13 require that the MOU address certain issues, such as
14 information sharing or targets or timetables and review
15 mechanisms - the detail of the agreement is to be settled
16 between the parties and is not a matter for the Tribunal.
17
18 MOUs are, therefore, not the appropriate instrument to
19 contain obligations that should be legally enforced. The
20 operating licence is, in our view, the appropriate
21 instrument to contain such obligations. That is just a bit
22 of general introduction about what we can and can't do.
23
24 I would like to say a little bit about how the
25 workshop will be run. There will be a number of sessions.
26 Members of the Tribunal's Secretariat will introduce each
27 discussion topic listed on the agenda and in one session
28 SKM will be making a presentation.
29
30 The purpose of the round table is to enable us to
31 listen to your views, to understand your views, and to
32 listen to everyone's view. What we would like to do is set
33 a number of rules as to how the round table will operate.
34 The way we've found it useful in the past is to limit
35 presentations from five to seven minutes for each topic and
36 to request speakers not be interrupted during that time.
37 If another speaker says something that you disagree with,
38 don't worry, we will get back to you later. We find it
39 useful to hear the presentations and to ask that people not
40 interrupt them.
41
42 There will then be an opportunity for additional
43 comments, debate and rebuttal from around the table and
44 then at the end of the session, if there's time, we will
45 take comments or questions from the people sitting at the
46 sides of the room, so you will get a chance to have your
47 say - we hope.

1
2 To assist the transcribers recording the discussion,
3 please introduce yourself at the start of your presentation
4 or question and if you're speaking from the side of the
5 room perhaps you'd introduce yourself at that stage as
6 well.
7
8 The transcript will be a public document and will be
9 available on the Tribunal's website later next week. What
10 I would like to do now is go around the table and ask
11 people on the table to introduce themselves and state the
12 organisation they represent. I will start off. I am
13 Jim Cox and I am the Acting-Chairman of the Independent
14 Pricing and Regulatory Tribunal.
15
16 MS McLEOD: I am Jenny McLeod from Murray Irrigation in
17 Deniliquin. Murray Irrigation is an irrigation supplier.
18
19 MS CIFUENTES: My name is Cristina Cifuentes and I am a
20 member of the Tribunal.
21
22 MR ALVAREZ: My name is Kim Alvarez. I am Director of
23 Water Management with the Department of Infrastructure,
24 Planning and Natural Resources.
25
26 MR MIELL: My name is Doug Miell. I am Chief Executive
27 New South Wales Irrigators Council.
28
29 MR MURRAY: My name is Michael Murray. I am from the
30 Gwydir Valley Irrigators Association based up in Moree,
31 representing approximately 200 regulated and groundwater
32 irrigators.
33
34 MR NEAL: My name is Brad Neal. I am a consultant from
35 Sinclair Knight Merz.
36
37 MS CULLEN: I am Lil Cullen. I am a member of the
38 IPART Secretariat in the water licensing section.
39
40 MS YOUNG: I am Rachel Young and I represent the Nature
41 Conservation Council of New South Wales. We are the peak
42 environmental body.
43
44 MS RICHARDSON: I am Barbara Richardson from the
45 Department of Environment and Conservation and I manage the
46 water and catchment policy area.
47

1 PROF MUSGRAVE: I am Warren Musgrave and I am a member of
2 the Tribunal.
3
4 MR BORNEMAN: My name is Geoff Borneman. I am the Acting
5 CEO of State Water.
6
7 MR COX: Thank you very much. The panel will change
8 during the day. I will ask new members to introduce
9 themselves when they come up to the table. I will now hand
10 over to Colin Reid who will talk a bit about the process
11 and the agenda for today.
12
13 ROLE OF OPERATING LICENCE
14
15 MR REID: Thank you very much, Jim. As Jim has mentioned,
16 the aim of this workshop is to assist the Tribunal to make
17 its recommendations to the Minister on the terms of
18 State Water's initial operating licence. This session of
19 the workshop is to cover the Tribunal's processes for the
20 conduct of the licence review, the agenda for the day and a
21 brief background of State Water's operating licence. I
22 should emphasise that while the licence conditions imposed
23 on State Water may have pricing implications, the purpose
24 of this workshop is to concentrate on the licence. There
25 will be opportunities to discuss State Water's pricing
26 proposals once we receive DIPNR's pricing submission.
27
28 Workshops are planned for March 2005 for this purpose.
29 At this stage, they are planned for Sydney, Moree and
30 Griffith. Because of the late receipt of DIPNR's pricing
31 submission, an extension of time will be given for those
32 public submissions for the pricing. I just wanted to cover
33 that on the pricing and its role.
34
35 With respect to the review process, as you know, the
36 Tribunal produced an issues paper for this review of
37 State Water's operating licence and has published that
38 issues paper on its website. That happened in September
39 this year. The issues paper covers the issues we will be
40 discussing today in relation to State Water. Submissions
41 in response to that issues paper were received from
42 State Water and other stakeholders. The Tribunal will
43 present a final report to the Minister for Energy and
44 Utilities recommending the terms to the initial licence by
45 31 May 2005. The initial operating licence will take
46 effect from 1 July 2005.
47

1 We have a number of submissions requesting that the
2 Tribunal hold workshops on the operating licence in other
3 parts of the State, not just in Sydney. We would have
4 liked to have done that but time limitations have not
5 permitted that. The time frames are very compressed and,
6 as I explained earlier, the initial licence must be in
7 place by 1 July next year.
8
9 We understand and recognise that having the workshop
10 only in Sydney has made it difficult for some of you to
11 attend and we apologise for that, but I'm sure you
12 appreciate the time constraints that we're under. We
13 certainly appreciate the effort you've made to get here
14 today.
15
16 We have also had a number of requests for there to be
17 further opportunity for stakeholders to comment prior to
18 presenting the Tribunal's final report recommending the
19 terms of the initial licence to the Minister. The
20 Secretariat will certainly endeavour to provide the
21 opportunity, probably in the form of a further briefing to
22 interested stakeholders on the key policy decisions of the
23 Tribunal in relation to the operating licence and there
24 will be an opportunity for stakeholders to make further
25 submissions, albeit within a short period in relation to
26 that.
27
28 The issues we will be looking at today are the role of
29 State Water's operating licence, what performance standards
30 and indicators should be included in the operating licence,
31 environmental issues, customer service issues, and some
32 other miscellaneous issues, including the coverage in the
33 operating licence of the Fish River Scheme, the terms and
34 conditions for operational audits of the licence and water
35 conservation issues.
36
37 With respect to a little bit of background to the
38 licence, State Water is currently operating under an
39 interim licence which expires on 30 June 2005. The interim
40 licence has been put in place while the initial licence is
41 being developed and consulted on. The interim licence was
42 not required to include performance standards or provisions
43 for the audit of the licence. The initial licence, which
44 we're consulting on today, will have a maximum term of
45 three years. It must include performance standards and
46 make provision for operational audits by IPART. Subsequent
47 licences will have a maximum term of five years. That I

1 hope gives you a little bit of background to the
2 proceedings today and on the licence itself. On that note,
3 I will hand back to Jim. Thank you very much.
4
5 MR COX: Thank you very much, Colin. The next session is
6 going to be presented by Lil Cullen. It is on the role of
7 the operating licence. I will ask Lil to make her
8 presentation.
9
10 MS CULLEN: Thank you, Jim. This session is going to look
11 at the role of the operating licence. I will start with
12 the presentation outline. Basically, I'm going to outline
13 the issues we will be considering this session and then
14 provide some background and look at the policy context of
15 the regulatory framework for State Water. I will then
16 examine the purpose and scope of the operating licence and
17 the broader structure of the licence.
18
19 In this session we are seeking your views on the role,
20 scope and structure of the operating licence, in
21 particular, we are seeking your views in relation to the
22 following questions: firstly, is it the role of the
23 licence to be an overarching instrument that provides an
24 overall view of State Water's performance or should it be
25 more narrowly focused? Are the current arrangements for
26 conferring functions under the Water Acts on State Water and
27 clarifying the respective responsibilities of State Water
28 and DIPNR appropriate for the initial licence?
29
30 The current arrangements include conferring functions
31 subject to ministerial arrangements and clarifying
32 responsibilities through Memorandums of Understanding. I
33 will explain the current arrangements further later in this
34 presentation.
35
36 Lastly, what, if any, requirements should be imposed
37 on the Memorandums of Understanding that are required to be
38 entered into under the terms of the licence in relation to
39 content, transparency and accountability, or are the
40 current requirements under the interim licence
41 satisfactory?
42
43 Starting with the background and policy context, in
44 line with national competition policy reforms the key
45 objective for corporatising State Water was to separate the
46 Government's commercial water delivery or "operational"
47 functions from its water resource management or "regulatory"

1 functions. National competition policy basically
2 questioned whether the old institutional structures, the
3 government monopolies were achieving the best outcomes for
4 the community. The criticism was that the old structure,
5 which was a blend of operator and regulator functions,
6 inhibited performance, lacked clarity of purpose and led to
7 conflicts of interest. Separating out the role of the
8 operator and the regulator and providing a commercial
9 framework for the operator through corporatisation is
10 intended to bring about a clearer regulatory framework and
11 improve accountability.

12
13 Under this model, the Government and regulatory
14 agencies have a clear public policy responsibility for
15 determining the outcomes the community wants from its water
16 delivery systems. Operating agencies like State Water have
17 a clear responsibility for undertaking day-to-day operations
18 to achieve these outcomes.

19
20 In separating out these functions what has occurred is
21 a range of government agencies with particular expertise
22 now have a public policy and regulatory responsibility in
23 relation to setting standards for the provision of State Water's
24 services, and for monitoring compliance and enforcement.

25 The key intuitional arrangements and regulatory
26 responsibilities are set out in this table. As you know,
27 IPART is the operating licence regulator. It makes
28 recommendations to the Minister in relation to the granting
29 of State Water's licence and imposing conditions on the
30 licence and that's what we're here to discuss today. It
31 also audits, monitors and reports on State Water's
32 performance under the licence.

33
34 DIPNR is the water resource manager for New South
35 Wales. Apart from the operating licence, the key
36 regulatory instrument that State Water's operations will be
37 subject to is the works approval to be issued by DIPNR.

38 The Department of Primary Industries is responsible for
39 regulating the operations of State Water under the
40 Fisheries Management Act. In particular, it is working
41 with State Water to restore and maintain fish passage. The
42 Department of Environment and Conservation does not
43 directly regulate State Water. However, it is the agency
44 responsible for ensuring State Water complies with general
45 environmental protection and conservation laws: for
46 example, not polluting waters. Finally, the Dam Safety
47 Committee regulates the effectiveness of dam safety

1 measures undertaken by State Water.

2
3 We have briefly considered the role of the regulators,
4 so now I will take a quick look at the role of the
5 operator, State Water. Basically, the State Water
6 Corporation Act defines State Water's role and provides a
7 commercial framework by constituting it as a State-owned
8 corporation. The Act outlines State Water's objectives and
9 functions and it is clear that State Water's main role is,
10 firstly, to capture, store and release water to customers
11 and the environment; secondly, the commercial delivery of
12 services to customers; and thirdly, the management of water
13 infrastructure assets; and it must provide these services
14 in an ecologically sustainable, socially and financially
15 responsible manner.

16
17 What is the purpose of the operating licence as a
18 regulatory instrument? If the licence is to reflect the
19 community's expectations of State Water's performance then
20 the purpose of the operating licence is to ensure standards
21 are maintained within State Water's area of operation in
22 order to protect consumers, government assets, the
23 environment and the community.

24
25 The role of the licence as a regulatory instrument is
26 to enable State Water to fulfil its statutory obligations.
27 It does this by setting out the terms and conditions under
28 which the corporation will operate. It facilitates the
29 accountability of State Water's performance to government,
30 customers and community. It sets performance standards
31 because as a monopoly business there is no choice for
32 customers to move to another service provider if the
33 service falls below an acceptable level. It also fosters
34 compliance through ongoing monitoring, auditing and
35 enforcement of State Water's performance with its
36 regulatory obligations.

37
38 There have been a number of views put forward by
39 stakeholders as to the role of the operating licence. The
40 key point of difference we would like to discuss further
41 with you today is whether or not the licence should be an
42 overarching instrument. An overarching instrument would be
43 one which provides an integrated view of State Water's
44 overall performance, including compliance with other
45 regulatory instruments - for example, water sharing plans
46 or the Dam Safety Act. Or, alternatively, should the
47 licence only cover or provide a view of State Water's

1 performance in areas not already covered by other
2 regulatory instruments.
3
4 One of the challenges of delineating the role of the
5 operating licence is because State Water has only recently
6 been corporatised, the regulatory framework surrounding
7 State Water is still evolving. Key instruments, such as
8 some of the water-sharing plans and works approvals, are
9 not yet finalised. Other initiatives, such as the
10 Government's cold water pollution strategy, have not yet
11 been implemented.
12
13 This raises the question, while the regulatory
14 framework is still evolving, should the operating licence
15 play a role in ensuring adequate reporting or
16 accountability for performance in areas that may be
17 regulated by other instruments in future? Environment
18 groups generally felt that it should. Should the
19 operating licence steer clear of any areas that may be
20 directly regulated in future? Other stakeholders, such as
21 DIPNR, were of this view.
22
23 If we take the approach of the environment groups,
24 this could result in a possible level of duplication once
25 those other regulatory instruments are in
26 place. For example, it may require State Water to report
27 data to more than one regulatory agency. However, it may
28 not be particularly onerous or costly for State Water to do
29 that and that level of duplication may not occur at the
30 outset of the initial licence. Determining what
31 the role of the licence should be will be important for
32 establishing a guiding principle for determining the detail
33 of the licence.
34
35 I will now turn to the last section of my presentation
36 and take you through the structure of the licence. This
37 has been touched on by Jim already in his introduction to
38 today's session. Basically, as we've established, the
39 principal functions of State Water are set out in the
40 State Water Corporation Act. However, under that Act
41 functions under the various Water Acts can also be
42 conferred on State Water through the operating licence.
43 Those functions can only be conferred with the agreement of
44 the Minister for Natural Resources or the Premier.
45 Under the initial licence these functions have been
46 conferred on State Water non-exclusively: that is, they
47 share these functions with the Minister or the Ministerial

1 Corporation or, in effect, DIPNR.
2
3 These functions have also been conferred subject to
4 ministerial arrangements between the Minister for Energy
5 and Utilities and the Minister for Natural Resources. The
6 point of these ministerial arrangements is to qualify or to
7 set out any conditions that State Water's exercise of those
8 functions are subject to. For example, under the interim
9 licence State Water has been given enforcement powers.
10 However, under the old ministerial arrangements the
11 exercise of those functions or powers has been confined to
12 allow State Water only to suspend access licences, for
13 example, and not cancel them.
14
15 Turning to other instruments that are required under
16 the interim licence, we also have Memorandums of
17 Understanding, or MOUs. These are required to be entered
18 into with the Department of Environment and Conservation,
19 DIPNR and the Department of Primary Industries. There are
20 some other instruments, namely, the Customer Service
21 Charter and the Environmental Management Plan, but I won't
22 discuss these in this session as they will be dealt with in
23 later presentations.
24
25 However, I would like to take a little bit of time to
26 discuss the role of MOUs. As Jim outlined earlier,
27 basically these are an agreement between two parties and
28 they rely on the cooperation between those parties to
29 implement. It is generally not appropriate for an MOU to
30 contain obligations that should be legally enforceable.
31 These types of obligations should be in the operating
32 licence.
33
34 However, the operating licence can set some parameters
35 for how these MOUs are to be entered into. Under the
36 interim licence it currently sets the following parameters-
37 it says the MOUs must deal with issues such as "how water
38 quality and fish passage impacts from State Water's operations
39 are to be dealt with, information sharing arrangements and
40 the making and announcement of available water
41 determinations."
42
43 The interim licence also states that State Water must
44 abide by the MOUs and it has also given IPART the
45 discretion to audit performance of obligations under the MOUs.
46 Lastly, and just quickly, dealing with the Memorandum of
47 Understanding which is intended to be finalised between

1 DIPNR and State Water. This MOU is intended to clarify the
2 respective responsibilities between the two agencies. In
3 doing so the MOU will reflect the functions conferred under
4 the licence and any ministerial arrangements that have been
5 entered into. However, it is not the role of the MOU to
6 confer functions on State Water. It is merely clarifying
7 cooperative arrangements between the parties.
8
9 There are a number of disadvantages and advantages
10 with the current structure to the licence. One of the key
11 advantages is that it provides flexibility as to how
12 functions are conferred and any qualifications they are
13 subject to because under the ministerial arrangements they
14 could be changed later in time, for example.
15
16 DIPNR has submitted that this flexibility is desirable
17 while coordination between operator and resource manager is
18 still being bedded down. DIPNR has also submitted in the
19 initial licence it is appropriate for functions to continue
20 to be conferred in a non-exclusive fashion, but that
21 exclusive conferring of functions could be considered in
22 later licences.
23
24 Another advantage is transparency and clarification of
25 responsibilities is provided through the MOU between
DIPNR
26 and State Water, as this will reflect the licence and the
27 ministerial arrangements. DIPNR has also submitted it is
28 appropriate for coordination issues to be handled via the
29 MOU between the parties initially and under the initial
30 licence, and once clear demarcation is achieved, it may be
31 that some of the responsibilities illuminated in that MOU
32 could be addressed directly in later licences.
33
34 Another advantage is accountability that is provided
35 through compliance and audit of the licence and also
36 discretionary audit of the MOUs. However, there are some
37 disadvantages. There is a lack of clarity and transparency
38 for stakeholders, as arrangements in relation to the
39 conferral of functions on State Water and other
40 responsibilities that State Water has agreed to undertake
41 are not clearly set out in one publicly available document.
42
43 There may also be perceived to be some lack of clear
44 accountability as a result of the non-exclusive conferring
45 of functions, the fact that arrangements could be subject
46 to change as agreed between parties under the ministerial
47 arrangements or the MOUs and the discretionary auditing of

1 the MOUs.
2
3 Some options that may address these concerns would be
4 for the initial licence to include any of the following:
5 it could include a copy of the ministerial arrangements as
6 a schedule to the licence. However, this would be trading
7 greater flexibility for greater transparency and it may not
8 be appropriate at this point in time. The licence could
9 also require MOUs to be publicly available and their
10 effectiveness to be publicly reported on or subject to
11 mandatory auditing rather than discretionary auditing.
12 Alternatively, you might consider it inappropriate to audit
13 MOUs at all.
14
15 The licence could also require MOUs to include
16 timelines, targets and review requirements. Timelines and
17 targets would facilitate reporting on and auditing of the
18 effectiveness of the MOUs. Lastly, the interim initial
19 licence could also impose or consider imposing performance
20 indicators or standards in relation to any administrative
21 or other responsibilities agreed to via the MOUs, if that
22 was appropriate: for example, in relation to the making of
23 available water determinations or the undertaking of fish
24 passage measures. However, it should be noted if the
25 parties reach a different agreement later, these indicators
26 or standards would cease to operate.
27
28 An alternative point of view is that, given the
29 regulatory uncertainty with State Water's framework, it
30 might be more appropriate to maintain the existing
31 structure and maybe consider reviewing the effectiveness of
32 the existing structure in three years time as part of the
33 review of the initial licence.
34
35 We would appreciate views from the panel on whether
36 the current arrangements under the interim licence for
37 conferring functions on State Water and clarifying the
38 respective responsibilities of State Water and DIPNR are
39 appropriate for the initial licence and what, if any,
40 requirements should be imposed on the MOUs required under
41 the licence in relation to content, transparency or
42 accountability, or are the current requirements
43 satisfactory?
44
45 That concludes the presentation. This is just a
46 summary of the issues raised for discussion throughout the
47 presentation, which I'll leave up, and I'll now hand back

1 to Jim. Thank you.
2
3 MR COX: Thank you very much, Lil. We will now take
4 initial comments from people sitting around the table.
5 Just a reminder - can you limit your opening remarks to
6 five or seven minutes and not interrupt each other?
7 Geoff Borneman has kindly volunteered to lead off.
8
9 MR BORNEMAN: I will keep my comments fairly brief.
10 State Water believes that the operating licence is
11 certainly the overarching document. We certainly believe
12 there should be no duplication. We don't believe the
13 operating licence should be duplicated in any other
14 documents, such as the MOUs. We also believe that anything
15 that is in the operating licence shouldn't limit
16 State Water's ability to act more efficiently or to develop
17 something in conjunction with either a stakeholder or a
18 regulator in terms of being more efficient.
19
20 In terms of how the operating licence may point to
21 something like the MOU, State Water's belief is that the
22 operating licence should indicate that there should be a
23 consultative process developing within the MOUs. It should
24 indicate there should be some sort of review process for
25 the MOUs. It believes there should be some sort of
26 reporting process and also a renewal process for the MOUs.
27 Basically, those are some general comments to start with.
28
29 MR COX: Thank you. Warren, do you want to add anything
30 at this stage?
31
32 PROF MUSGRAVE: No, Jim, I don't think I have anything to
33 add at this point.
34
35 MR COX: Barbara?
36
37 MS RICHARDSON: Just briefly. I want to remind the
38 audience that DEC, the Department of Environment and
39 Conservation, now has responsibility not only for water but
40 also for broader conservation responsibilities, such as
41 biodiversity and threatened species and Aboriginal
42 heritage. That is not a major issue but, nevertheless, you
43 should just be aware of our broader ambit nowadays.
44
45 Given that State Water's operations do have
46 considerable potential to affect the health of riverine
47 ecosystems, we are not a major player in terms of being a

1 direct regulator per se of State Water, but many of their
2 activities have significant consequences for riverine
3 health and the environment and therefore we're pleased to
4 be able to be at the table.
5
6 We believe that State Water should be subject to an
7 obligation to operate in a way that minimises its impacts
8 on the environment and to work towards mitigating impacts
9 where these are significant, such as cold water impacts,
10 for example. For equity reasons we also think that the
11 operating licence should provide for an operating
12 environment broadly consistent with that required of other
13 State-owned corporations and authorities, particularly, for
14 example, Sydney Water and the Sydney Catchment Authority.
15
16 In terms of the role of the operating licence, which
17 we are particularly focusing on here, DEC considers that
18 the operating licence should include aspects of State
19 Water's operations that should be regulated, so that it be
20 an overarching document and includes performance monitoring
21 and reporting requirements. The Memorandums of
22 Understanding are cooperative agreements and should
23 therefore cover aspects such as allocation of
24 responsibilities between the parties, agreeing on the MOU
25 and how and on what matters to consult between the parties
26 and on information sharing.
27
28 DEC would see the MOUs as the less appropriate means
29 of specifying performance requirements per se. One object
30 of the licence would be to minimise regulatory overlap.
31 However, State Water is operating in a new regulatory
32 environment and while responsibility is still being bedded
33 down, there may be a need to have to a degree or some degree
34 of regulatory overlap. This is better than a regulatory
35 gap. However, any overlaps can be removed when the
36 operating licence is reviewed. Until the water supply
37 works permits are in place it may be necessary to include
38 relevant performance indicators and monitoring
39 requirements within the operating licence.
40
41 MS YOUNG: As Lil stated in her presentation, the groups
42 are concerned with the new regulatory environment at the
43 moment and the fact that so much of the framework in relation to
44 determine State Water's operations is yet to be completed.
45 Some of these documents are in draft form, some of them
46 don't exist yet, and for us that is leading to a great deal
47 of uncertainty and so in the interim, for the period of

1 this initial licence, we would like to see the operating
2 licence be a broader document that allows for these
3 documents to be developed and incorporated and reported on,
4 both within the operating licence and within themselves, so
5 that the gaps, if they occur, do not fall through the net.
6

7 I guess our greatest concern is that there will be
8 aspects of State Water's operations that would then not be
9 reported on and once these things start falling through the
10 gaps it is then very difficult to pick them up, so we would
11 like to see a broader framework initially to deal with
12 this.
13

14 Going on from that, once the regulatory framework is
15 in place and is showing that the reporting is occurring,
16 that it is accountable, that the public has access to it
17 and that all measures have been reported on, we would then
18 be happy to see a lessening of that overlap and perhaps a
19 sunset clause within the operating licence or after that
20 three-year review of the initial operating licence, moving
21 on to a more long-term licence, that that would be an
22 appropriate time to review any potential overlap that
23 exists, is it onerous on State Water, or is it actually of
24 public benefit to have State Water reporting on a broader
25 framework in the long term, because we also see that the
26 operating licence can act as a clearing house for all of
27 State Water's performance.
28

29 So, rather than going to their report to the Dam
30 Safety Committee to find out about dam safety issues, or
31 going to the report on the MOU for Fisheries to find out
32 how fish passage is going, that you can look at the audit
33 of the operating licence and have a look at State Water's
34 submission to that and actually see how it is performing
35 across the board. Instead of having to go to seven or
36 eight different documents, actually require State Water to
37 simply reproduce a lot of that information that they have
38 already reported on in the one place. So we are not
39 saying, collect this set of data for fisheries and then
40 this set of data for the operating licence, what we are
41 saying is, bring it altogether into the one place so that
42 when we want to see what is going on, it is all right there
43 in front of you.
44

45 I think a big part of that as well is also making the
46 MOUs clarify responsibilities, who does what and when they
47 do it. That is a really critical part of this overall

1 reporting format because it is no good having a look at the
2 operating licence and seeing that State Water is doing some
3 things, then the question is raised, who is reporting on
4 this other thing, and if you don't have the access to the
5 Memorandum of Understanding then it is not clear who is
6 doing what. So for clarity and public transparency I think
7 it is very critical that the MOU actually incorporate or is
8 incorporated in that reporting process, that it is publicly
9 transparent and that it is actually reported on.
10

11 If you have a public responsibility to do something
12 then you should report on it. It should not be hidden in
13 an agreement and secret report, or non public reports,
14 between government departments and State owned
15 corporations, so I think that is really the key thing we
16 would like to see come out of the operating licence, that
17 it is a broader clearing house for State Water's performance
18 and that all aspects of State Water's operations that are
19 included within the operating licence and the MOU actually
20 be reported on in the one place.
21

22 MR NEAL: A quick comment about the MOU. They are really
23 good instruments for allowing flexibility in the way that
24 things are handled and it allows the various departments to
25 have responsibility for those areas to work out
26 arrangements for themselves. That flexibility should not
27 be at the expense of accountability, so if something is not
28 going to be specified in the operating licence, but it is
29 in the MOU, I think there are a lot of advantages in making
30 that process public.
31

32 MR MURRAY: I guess we support State Water's position in
33 that we would like to see the licence more of an
34 overarching instrument rather than duplicating a lot of the
35 other regulations that are there and we make the point we
36 don't want to see State Water burdened with any more
37 requirements than any other private or public business
38 operating in a similar sort of environment. So I think we
39 have to be careful on that.
40

41 On the subject of MOUs, I have no problem with them
42 being a public document but I don't see the need for
43 mandatory reporting on them. I would see value in things
44 like the Customer Service Committee being able to get full
45 information on performance of such things as MOUs and
46 arrangements that are done there, so that is that area.
47

1 I think the operating licence does need to very
2 clearly define the functions of DIPNR and the functions of
3 State Water and in particular I think State Water should
4 have all the functions that evolve around the actual
5 operations of the water delivery business. Within that I
6 think it should be controlling the operations of the
7 hydrograph assessment, supplementary flow announcements and
8 available water determinations. They are all clearly part
9 of the operations side and should be defined as part of
10 State Water's role.

11
12 They are all my comments for now.

13
14 MR MIELL: I would just like to reiterate that the
15 operating licence must recognise that State Water operates
16 as a commercial entity and that its core customer base, New
17 South Wales irrigators, own and operate significant
18 commercial business operations that are dependent upon its
19 performance in the conduct of its water delivery
20 operations. So we turn to State Water's clear objective to
21 capture, store and release water in an efficient, safe and
22 financially responsible manner so that is laid out in the
23 Act and we believe the operating licence really must ensure
24 that that is delivered in full without any ambiguity at
25 all.

26
27 Other issues spelt out, other objectives, must also
28 support that State Water has to be a successful business
29 and to that end to operate at least as efficiently as any
30 comparable business and that it maximise the net worth that
31 the State is investing in the corporation and to exhibit a
32 sense of social responsibility by having regard to the
33 interests of the community in which it operates and, where
34 its activities affect the environment, to conduct its
35 operations in compliance with the principles of ecological
36 sustainable development as contained in section 6.2 of the
37 Environment Administration Act and to exhibit a sense of
38 responsibility toward issues such as decentralisation in
39 the way it operates. Those points are clearly articulated
40 in the Act and the licence must also aim to deliver on
41 that.

42
43 In establishing the scope of the operation, the
44 primary focus must be really maintained on State Water's
45 core business of providing service to around the 6,000 to
46 6,500 who purchase water sourced from irrigated rivers. As
47 the operating licence is one of the regulatory instruments

1 that provides the framework for its operations, the
2 Irrigators Council agrees it must articulate the terms
3 and conditions under which it must operate, enhance its
4 accountability to its shareholders, stakeholders and
5 customers, measure performance and quality standards and
6 provide for timely auditing and public reporting of its
7 performance in all areas of its operations. As Michael and
8 State Water have said, it is probably preferable for it to
9 be an overarching document.

10
11 With respect to MOUs, I believe they must be public,
12 must be accountable and not subvert the role of the Act or
13 regulations established under the Act, so therefore they
14 must not be used by departments or those organisations
15 developing them to extend the scope, but they must be very
16 consistent with the terms of the State Water Corporation
17 Act, so that would be our submission.

18
19 MR ALVAREZ: We are seeing a change in 90 years of history
20 with the establishment of this operating licence. Like it
21 or not, DIPNR and State Water will be devolved in time.

22
23 We support all the previous statements about it being
24 a flexible arrangement and an overarching arrangement
25 initially. We still have a long way to go since DIPNR's
26 business continues to be the resource management, and that
27 covers the resources of water, being groundwater,
28 unregulated water and regulated water. It is in the public
29 interest that our operations are symbiotic and seamless and
30 therefore we must establish properly the operations that
31 are lawfully required under the works approval that is a
32 statutory requirement under the Act.

33
34 MOUs, as Lil pointed out before, cover things that are
35 not statutorily required, not legally enforceable, but are
36 seeking to make sure the government provides a seamless
37 service across the whole water resource.

38
39 To add to that with the evolution of catchment
40 management role in environmental outcomes into the future,
41 it too will need to be flexible in its arrangements to
42 allow the CMAs to start taking on those rules to make sure
43 that the MOU can handle the involvement of the CMA in water
44 management.

45
46 I have another statement I guess about, certainly I
47 agree with no duplication, that is inefficient and the

1 government should not be promoting that. In regard to
2 efficiency, I think we need to be a little bit careful. I
3 have no doubt that State Water's performance, indeed in the
4 operating licence looking for financial efficiency, quite
5 obviously, should be clearly stated. When you start talking
6 about water efficiency, you have to be a little bit
7 careful. Any redefinition of water efficiency means water
8 comes from somewhere in place in time to go to somewhere
9 else in place in time. One person's efficiency is another
10 person's loss. So I hear Geoff's statement about not
11 limiting efficiency.
12
13 I agree that there should be no impediment to State
14 Water seeking efficiencies. However, I don't think it
15 should be presumed that State Water has the power to change
16 its operation in terms of that without actually getting
17 sign-off from the regulator because they could be affecting
18 a change in water shares by so doing.
19
20 I think that is about everything.
21
22 MS CIFUENTES: Just one comment, more for clarification.
23 We have had a bit of discussion about the desirability of
24 not having too much duplication in the licence, and that is
25 really my question: duplication of what? Are we talking
26 about duplication of obligations, of performance
27 requirements or of monitoring and reporting. I think that
28 they are three elements that are quite distinct and I am
29 not quite clear when we discuss duplication which of those
30 three are meant. So it would be helpful if in more
31 detailed discussions we could tease that out.
32
33 MR MARTIN: TEC's view I guess is similar in most respects
34 to NCC's view and that is that it is important that the
35 operating licence be a broad overarching instrument.
36 Certainly we agree that it needs to acknowledge the
37 objective of the environment service to its customers but I
38 think it is important that there also be a recognition that
39 State Water's operations have a significant environmental
40 impact so the protection of the environment should be equal
41 and should be acknowledged in the licence.
42
43 I note that State Water is concerned that they have a
44 complex regulatory environment, that they are heavily
45 regulated. I think that complexity points to the need to
46 have a single overarching instrument. No other instrument
47 that I am aware of can perform the role that the operating

1 licence is capable of doing in providing a simple and
2 transparent mechanism to regulate the organisation's
3 overall activities and it is very important in terms of
4 accountability and audit perspective.
5
6 We need to acknowledge I guess the primary role of
7 other instruments in other agencies, but the obligations
8 contained in them should be referenced in the operating
9 licence so that performance against those can be examined
10 in the operational audit. There is a danger that, if you
11 don't do that, you can have aspects of performance which
12 may be missed in the regulation and more particularly the
13 auditing of performance.
14
15 It is very important, particularly with a new
16 corporation, that performance against all those
17 requirements is easily and clearly auditable. The MOU is a
18 critical issue. Again there is a danger that if they are
19 not adequately captured by the operating licences in those
20 areas it can be missed in the audit performance. There is
21 a lesson to be learnt from the problems that occurred with
22 Sydney Water's licence around the time of the giardia
23 cryptosporidium outbreak, and certainly the McLellan
24 inquiry found some weakness as to the way the MOU was dealt
25 with in Sydney Water at the time and those are lessons that
26 should be learnt. And some of the lessons should be
27 reflected in the licence.
28
29 Whether it is sufficient to codify those requirements
30 in the MOU, that it be included as a schedule to the
31 licence, that would allow performance against those to be
32 assessed and provides a clear and transparent mechanism.
33
34 The licence should also require that those MOUs be set
35 in a publicly accountable manner with transparency and any
36 amendment or review of those MOUs should also follow a
37 public transparent process. The overriding message that we
38 want to convey is that we see that the operating licence
39 has an important role to play as an instrument that allows
40 a broad overview of performance in the organisation and
41 that its performance in that respect needs to be managed.
42
43 MS McLEOD: Murray Irrigation would like to comment on the
44 issue of the operating licence based on our experience as
45 an irrigation corporation which is licensed by government.
46 We have a water management works licence and an
47 environmental protection licence and we are nearly 10 years

1 old and have had gathered over that time quite a lot of
2 experience in terms of producing annual reports to
3 government which are audited and we have learnt a lot from
4 our experience of having a licence that very clearly
5 defines the functions that we must do and report on in our
6 licence.

7
8 Some of these things are useful to the discussion
9 about what should be in State Water's operating licence
10 which, as Lil has pointed out, is a legal instrument
11 Whilst the regulatory regime
12 is changing and evolving, as the other speakers have
13 mentioned, State Water's activities, the core things that
14 it does, may be changing slightly but they are not new.
15 They have been done by their predecessors, so it is not as
16 if we are creating this whole new thing that needs to be
17 regulated in a different way.

18
19 I suppose that where we differ from some of the other
20 interest groups is we think initially the operating licence
21 should provide very direct guidance on the performance of
22 State Water for its core functions, which is the capture,
23 storage and release of water, provision of water to
24 regulated customers and the things that go with that, like
25 processing annual transfers, debt management, water
26 management, those sorts of things.

27
28 Our licence is very specific in terms of the things we
29 need to do and then report on to government and I think in
30 developing the operating licence for State Water, given
31 that the initial licence will actually be for three years,
32 that should be the focus. I am a bit concerned about
33 comments about it being an overarching instrument because
34 if it is too overarching the things even the different
35 stakeholder groups are looking for won't actually be met
36 when you get to read the report because it will be too high
37 level.

38
39 In terms of the whole range of legislation that State
40 Water has to comply with, how that is dealt with in our
41 licence is a requirement to comply with the EPA Act and I
42 think things like that can be included in the operating
43 licence.

44
45 In relation to the MOUs, we have expressed some
46 concern that the MOUs will be used to describe how
47 organisations will relate together. I suppose this

1 particularly relates to DIPNR, where agreement can't be
2 reached on referral of functions, and we would encourage
3 IPART to try to resolve those issues.

4
5 We have provided some things that we think can be
6 conferred on State Water, available water determination,
7 for example, so they are not in the MOU, whereas the MOUs
8 have a really valuable role for things that State Water is
9 involved with but can't control. You can't put things in
10 their operating licence that they can't be responsible for
11 the management of. Things like the installation of fish
12 passage is an example of that.

13
14 The other issue that we think is also important is we
15 have outlined some things that we believe DIPNR is currently
16 doing that State Water should be doing under the operating
17 licence - and I am talking here particularly about
18 available water determinations - where we try to codify how
19 State Water is going to manage the storage and release of
20 water according to the rules but that process, given the
21 nature of the water resource, could result in sub-optimal
22 outcomes if there isn't some way of negotiation between
23 DIPNR and State Water for changes to rules where it is
24 sensible and that could reflect on the environment and
25 irrigators. So we think the operating licence should
26 perhaps include some mechanism for liaison between those
27 two organisations for functions that we have said should be
28 conferred on State Water.

29
30 The other comment about the MOUs that I agree on is
31 that they must be publicly available documents. We are
32 quite concerned that MOUs between State Water and different
33 organisations we may only see the State Water side of it.
34 It is important that both aspects of both organisations
35 involved in the MOU, that that information is publicly
36 available, and the discussion paper talks about audit of
37 State Water's role in the MOUs but the other parties' role
38 in the MOU should also be audited because failures by State
39 Water may not be actually their fault.

40
41 There is one issue that hasn't come up, and it is very
42 minor, but DIPNR refers to a transfer of assets on
43 unregulated streams, that it should be transferred to State
44 Water. We don't support that proposition. We think those
45 assets are of probably dubious quality. If State Water is
46 going to be asked to take over responsibility for them, it
47 should be a commercial contractual arrangement.

1
2 MR COX: Thank you very much. I am interested now in
3 further comments from people sitting at the table. I guess
4 probably my sense of the majority view was that most people
5 thought it should be an overriding overarching instrument,
6 but I am not sure everybody means the same thing, so some
7 clarification of that would help.

8
9 PROF MUSGRAVE: Can I ask Jenny some questions for
10 clarification first. Jenny, you referred to an overarching
11 operating licence possibly resulting in too high a level of
12 reporting. I am not sure what you mean by too high a
13 level?

14
15 MS McLEOD: If we are serious about looking at the
16 performance of State Water we need to be able to report
17 valley-by-valley almost about their performance and if it
18 is State Water at a state level I think the detail of it
19 you will get in terms of varying interests by irrigators
20 and environmentalists won't be adequate, it won't provide
21 you with enough detail.

22
23 PROF MUSGRAVE: You refer to MOUs being good for
24 activities that State Water is involved with but can't
25 control. Can you give an example?

26
27 MS McLEOD: I used the example of the fish passage because
28 constructing fish ladders are providing fish passage and
29 regulators, certainly the Department of Primary Industries,
30 I said DIPNR before, but through Fisheries it has a major
31 role to play in deciding prioritisation, there are design
32 issues, a whole lot of things that are not just State
33 Water's responsibility in terms of installing fish passage.

34
35 Once a decision has been made to fund it, to put it in
36 a certain place and a design has been agreed to,
37 State Water might be responsible for actually ensuring that
38 it is constructed, and constructed according to design and
39 operating, then that's for the operating licence to
40 include, but until that point is reached it is not
41 necessarily within the control of State Water.

42
43 MS YOUNG: There is probably some disagreement there.

44
45 MS RICHARDSON: Some clarification might be helpful. I
46 think there is an MOU already with DPI about fish passage
47 procurement, if you like, but the fundamental thing is once

1 there are priorities agreed and there is a program for
2 works to be undertaken, then there will also be a very
3 important component to remember that once the structure is
4 in place, the operation and maintenance of that structure
5 is equally important to its ongoing viability and that will
6 be a responsibility, clearly, of State Water into the
7 future as well. It will have operational responsibilities
8 as well.

9
10 MS McLEOD: Once it is installed, yes.

11
12 MS RICHARDSON: Yes. It will have responsibilities on the
13 negotiation side in terms of setting priorities, looking at
14 where there are opportunities for refurbishments and
15 allocation of priorities for installation of works, as well
16 as, then, the negotiation on funding and design and
17 construction. I think State Water will have a role through
18 all of those functions.

19
20 Why do you think, then, with the example of fish passage, it's
21 up until the point that you've actually constructed it?

22 MS McLEOD: I don't believe it's appropriate to be in
23 the operating licence because there are too many things
24 influencing when it actually happens. We have a good
25 example in our system on Stevens Weir where funding has
26 been available for several years but there's no fish ladder
27 there, no design has been agreed to, so it wouldn't be
28 appropriate for that to be in an operating licence.

29
30 I don't argue once it has actually been installed and
31 State Water is responsible for managing it, that ensuring
32 it is operating properly and is maintained is their
33 responsibility: that's the difference I was talking about.

34
35 MS YOUNG: State Water will actually own the structures in
36 the regulatory systems; is that correct?

37
38 MR BORNEMAN: Yes.

39
40 MS YOUNG: My understanding is that State Water actually
41 has a responsibility to provide for fish passage under
42 various pieces of Government policy and so that's really
43 the driver behind the MOU between State Water and
44 Fisheries, that there is that shared responsibility.
45 Fisheries obviously is the conservation manager for fish in
46 the State and State Water is the owner of the structure and
47 so I think that it is quite appropriate that aspects of

1 fish passage, the actual determination and prioritisation
2 and the implementation of the State's policies with regards
3 to fish passage, actually be included in the operating
4 licence as an obligation that State Water has to perform
5 on.

6

7 It might be that not all structures can be upgraded
8 with fish passage, but that process of identifying the
9 priorities and the responsibilities and the obligations of
10 State Water to perform in those areas has to be in the
11 operating licence because it is a core area of its
12 responsibility in meeting goals for ESD.

13

14 MR BORNEMAN: I think this gets down to your question,
15 Jim, what do we mean by "overarching"? What concerns me
16 with what you're saying is that with fish passage the
17 legislation states if we touch something we put a fish
18 passage on it. There is no point us touching something and
19 spending \$2m on that location when 100m upstream there's
20 fish blockage. The DPI recognised that in terms of our
21 negotiations and said, "What we're after is improving the
22 environment and fish passage within this river system, so
23 where is best to target the dollars?"

24

25 That is something we'll work through in the MOU. That
26 is what I talked about in terms of efficiency. We don't
27 want something specified in the document which says we must
28 comply with the legislation that limits us to saying that
29 if we touch something we spend the money on it: that is a
30 negative outcome. We want to make sure we have the best
31 results for the dollars we spend. In my opinion, the
32 operating licence should specify that we negotiate a MOU
33 about how we achieve things technically - and the MOU
34 documents are technical documents - and how we actually
35 implement legislation, it is a lower level document than an
36 action level, and that we sit down with DPI, DEC or DIPNR
37 in terms of how we actually do these things. That is what I
38 see as the difference, in answer to your original question, as
39 between the overarching and the directive.

40

41 MR MARTIN: I think it is an important issue in terms of
42 what do we each mean by an overarching instrument? We
43 think it ensures that all aspects of the organisation's
44 performance can be covered. There needs to be commonsense
45 applied. We don't want the operating licence stipulating
46 at what time staff take their tea breaks, for instance. I
47 think there is a general recognition that going into that

1 level of detail would be an absurdity.

2

3 I agree with Jenny's comment. There will be some
4 areas where there need to be quite specific requirements,
5 particularly those areas that aren't regulated well by
6 other instruments and the operating licence has a crucial
7 role in terms of fulfilling those gaps. Also where there
8 are other instruments where agencies have the primary role,
9 the operating licence has to acknowledge not to seek to
10 replicate that but ensure it is an obligation of the
11 licence to fulfil those requirements in other instruments
12 and fulfil the requirements of other current regulatory
13 agencies and simply make it possible under the operational
14 audit to assess, in whatever level of detail required or to
15 whatever brevity may be necessary, performance against
16 those other instruments to make sure that they are being
17 complied with and that there are no aspects of the agency's
18 performance that are missed in the audits. The operating
19 licence needs to be somewhat of a varied instrument, in
20 that in some areas it needs to be quite specific, whereas
21 in other areas less is expected or other instruments apply.

22

23 PROF MUSGRAVE: I might ask the question: What has
24 commonsense got to do with an operating licence?

25

26 MR MARTIN: Some commonsense.

27

28 MS RICHARDSON: Could I comment a little further on the
29 same point? I agree with the sort of rationalisation that
30 Leigh is putting forward there. I think an example would
31 be cold water pollution where this would be an issue too, I
32 think we need to make sure that the operating licence has
33 clear, explicit recognition of this as being an important
34 aspect of its environmental performance, but that it would
35 then clearly cross-reference to the MOU, a specific MOU,
36 that would have the detail in it about the sort of
37 indicators for measurement of performance and the reporting
38 requirements. I think we need to give some careful thought
39 to what sort of indicators are going to be useful and
40 effective and meaningful to have in that cross-reference
41 from the licence.

42

43 MS CIFUENTES: Could I just cut in? This is where I start
44 to get a little bit lost, whether the indicators themselves
45 would be contained in the MOU and the operating licence
46 will merely require compliance with the MOU, so it is not
47 actually auditing compliance with those performance

1 standards. The Tribunal will be relying on the other
2 parties to audit compliance with the MOU and so all we will
3 require is a reporting and a compliance with the MOU
4 generally, or are you saying the Tribunal should conduct
5 its own audit of compliance with those specific indicators
6 in the MOU? It is quite a different process. One, we're
7 relying on a secondary instrument that has no legal
8 force and, yet, we're discharging some obligations in a
9 legal instrument by relying on that MOU: so it is quite a
10 different structure.

11
12 MR ALVAREZ: I think we've got a bit of a problem in that
13 these MOUs are a bit of an amorphous mass. Nobody seems to
14 know what's involved in them. Certainly, from DIPNR's
15 point of view, the MOU in draft that we have at the moment
16 is really about how the two organisations work together.
17 It is not about mandatory outcomes. What we seem to be
18 focusing on here are things like cold water pollution. It
19 has always been DIPNR's view that when and if a structure
20 ends up with a work on it that is required to be operated,
21 that the operation of that work would then be codified and
22 would be put into the statutory instrument; so the actual
23 mandatory operation eventually ends up in a mandatory form
24 of standard set by the legislative requirements under the
25 works approval.

26
27 I am a bit worried about where the discussion is going
28 with regard to the MOUs. It is our belief that it handles
29 such things as, for example, we would want to make sure
30 that State Water operates the water usage database on a
31 regular basis. It is really about the way the business is
32 worked together to make sure that we can cooperate
33 properly.

34
35 MR MARTIN: It was an important point that Cristina raised
36 as to what level of compliance you would have in terms of MOU
37 requirements. I think the Tribunal needs to have the power
38 to go and audit those things if it feels the need to do so.
39 There is a danger that you can become too reliant on
40 self-reporting. It is not necessarily certain the data
41 you're getting is as reliable as the Tribunal may wish: it
42 may not be. The Tribunal needs to be able to verify that
43 for itself and if it finds it necessary to do so, it needs
44 to have the power to regularly audit compliance themselves.

45
46 MS CIFUENTES: And, by extension, water approvals. I am
47 taking into account Kim's comment that a lot of those

1 actual mandatory performance requirements won't be in the
2 MOU, they'll be in the works approval. Do we, by
3 extension, look to the Tribunal to say has there been
4 compliance with those work approvals? It is a big step.

5
6 MS RICHARDSON: I think that's where it comes down to
7 exactly what sort of indicator is developed and to draw
8 that linkage in the relationship and what is specifically
9 good in the operating licence: not all the detail, but
10 what is a very well considered indicator that would be the
11 sort of measurement that you would be looking for to be
12 represented in the operating licence.

13
14 The duplication of detail from the MOU is not what
15 it's about. I think it is more about what is going to be
16 an effective way of capturing that that really has
17 happened. Often this is all about process and that's an
18 endless thing to report on. It has nothing to do with
19 outcomes. We need to think carefully about what sort of
20 indicator we might put that's effective and meaningful in
21 an operating licence to make the link to give legs to
22 whatever is in an MOU, or whatever, because we all see
23 MOUs, I think, as being just as Kim said, that they can be
24 anything and they have no real statutory force and they can
25 be all about process in relationships and who'll talk to
26 who when, and that's really not the nub of the matter here.
27 It is the outcomes we need to focus on in the operating
28 licence.

29
30 MR MIELL: What I would say about the overarching aspect
31 is that the operating licence must allow State Water to
32 deliver on its functions as objectives as outlined in the
33 Act, so it is overarching to that extent, that it directs
34 State Water to meet those objectives as laid out in the
35 legislation.

36
37 With respect to the MOUs, clearly, the Act,
38 Regulations and other legislative requirements upon which
39 State Water is obliged to act must deliver those and the
40 MOUs must not in any way weaken those or detract from what
41 those legislative requirements are; so that it can be
42 helpful in establishing relationships, but it is the Act
43 and Regulations and things that are legislated for that
44 must guide what State Water is held accountable to.

45
46 MR MURRAY: On the subject of the MOUs and whether they
47 should be part of the formal reporting process, it seems to

1 me to be quite difficult given that you guys are providing
2 a operating licence to State Water but not to the other
3 parties of the MOU. It is very hard to report against
4 that. Maybe the appropriate way is whenever this licence
5 comes up for renewal again in three years, you go to both
6 parties of the MOU and say, "Has it been working from your
7 point of view?" If it hasn't, maybe it is an area that
8 needs to be addressed in the specific operating licence,
9 but if both parties are happy, then they're happy, and, as
10 Doug says, it has to, obviously, operate in the wider
11 legislative framework anyway.

12
13 MR BORNEMAN: We have an MOU in place with DPI with
14 Fisheries: we've had one for quite a while. We undertake
15 a annual review of that and both parties review the
16 progress against it and that has been working in an
17 excellent form. What I am trying to say is the principles
18 we've been talking about in terms of what's in the MOUs
19 we've already had in place and it has been working well.
20

21 MS RICHARDSON: Could I just make one comment? I think
22 the important thing we're looking for here is a rigorous
23 and transparent reporting of that relationship. I think
24 that the crux of the matter is with respect to the role the
25 operating licence would play in defining how that
26 assessment of an MOU was measured, how it was reported on,
27 and that that be done in a regular and transparent way. I
28 think the role of the operating licence is to make that
29 meaningful.
30

31 MR ALVAREZ: I support that in that the function of
32 State Water is really quite simple. They operate storages
33 which put water into rivers and the way they operate will
34 be covered by the works approval. All the conditions on
35 how they operate those works are in the works approval.
36 How they relate in terms of delivering water to their
37 customers, which is taking water out of rivers, is covered
38 by, I believe, the operating authority because that's the
39 business they're in, delivering the water.
40

41 The operating licence should definitely prescribe
42 performance measures on how it delivers water to its
43 customers, timeliness, business arrangements, but
44 fundamentally the operation of the river is constrained to
45 what they put into rivers and that's clearly covered by the
46 works approval.
47

1 MS RICHARDSON: It might also be how they put it in.
2

3 MR ALVAREZ: The operation of that storage is covered by
4 it. It is a detailed description of how that storage is
5 operated and that will include quality of water released
6 from the storage, temperature of water released from the
7 storage, and all of that will be codified in the works
8 approval on how they operate that storage.
9

10 PROF MUSGRAVE: I have a question of Leigh. The question
11 has arisen from Doug about whether the operating licence
12 will cover the implementation of the works approval and I
13 gained the impression that you said from your definition of
14 an overarching licence that it would; is that right?
15

16 MR MARTIN: I think the Tribunal needs to have the power
17 to audit if it finds it necessary to do so. It is
18 difficult for me to give you that without a detailed
19 knowledge of how the approval process works, but I think
20 the Tribunal needs the power to do that if it find it is
21 necessary to do so. We don't want a situation where if the
22 Tribunal feels there's an area it needs to examine, it
23 doesn't have the power to do that.
24

25 PROF MUSGRAVE: I wonder if all the others who have
26 referred to an overarching licence share that view.
27

28 MR ALVAREZ: I have a little bit of concern about it in
29 that we've just established the Natural Resources
30 Commission whose role is to set standards and targets which
31 are implemented through plans. The Minister for Natural
32 Resources has an obligation under the implementation
33 program under the Act to report compliance with that plan,
34 which involves how water is put into and taken from rivers
35 and environmental outcomes. It seems to me that if we then
36 put the load on IPART to do this - remember, there's also a
37 new one. There is the National Water Commission.
38 Professor Matthews has stated that he will also look at and
39 report upon these outcomes under the National Water
40 Initiative. It seems to me that if we're not too careful
41 we'll have about 55 reporting instruments to report on and
42 that's the duplication. I am a little bit concerned about
43 that duplication.
44

45 MS CIFUENTES: I have one quick question of Kim. On the
46 works approval you were saying that a lot of the
47 requirements would be codified. Presumably, DIPNR would

1 also be looking for compliance by State Water of those
2 mandatory requirements, so then you would have your own
3 monitoring reporting and compliance auditing program.

4
5 MR ALVAREZ: Absolutely, and the requirement for the
6 Minister to report against the plan. Clearly, the Minister
7 is required to report, so any failure of State Water or,
8 indeed, DIPNR to implement the elements of the plan to
9 deliver the outcomes are required by statute to be reported
10 annually in DIPNR's annual report.

11
12 MS CIFUENTES: That will be the principal public
13 disclosure document, the annual report.

14
15 MR ALVAREZ: Absolutely: that's what the Act says.

16
17 MS CIFUENTES: From the perspective of some of the other
18 parties around here that have wanted perhaps IPART to have
19 a role in putting forward the water management plan or the
20 works approval, would it be sufficient if the Tribunal was
21 to require some inclusion of the compliance reporting
22 framework in the Tribunal's process, rather than the
23 Tribunal actually going out and conducting its own separate
24 audit, which is also going to be done as part of DIPNR and
25 State Water's plan, that we just require reporting under a
26 central mechanism; because that's the impression I got from
27 the Nature Conservation Council, that they were more
28 concerned about having the information under the one
29 grouping so that you didn't need to go to several different
30 agencies, not necessarily that you wanted us to do the work
31 again. Is that more in line --

32
33 MS YOUNG: Definitely. It would be good to have that
34 pulled in. However, some of our concerns come back to the
35 works approval which isn't necessarily relevant to this
36 forum either because the works approval is a 20-year
37 document and it is a 20-year approval under the Act because
38 it is a major utility approval, from my understanding of
39 it.

40
41 MR ALVAREZ: Yes. The works approval has to fit the
42 requirement of the Act and that is a living document. If
43 anything changes in either its operation or its physical
44 relationship it has to be reissued, it has to be applied to
45 be altered and has to go through certain requirements,
46 particularly the Environment Protection Act, before the
47 Minister would allow it to be changed.

1
2 MS YOUNG: Our concern is that there is a lack of
3 transparency in some of that process and that is where
4 having that linkage between the operating licence and the
5 works approval I think is important because it allows for
6 flaws in the works approval to actually be brought out and
7 discussed in a public forum and out of that closed cycle of
8 being within DIPNR's machinations. That is where our
9 concern lies. That is why we want that linkage to be a
10 reasonably strong linkage because the works approval has a
11 massive impact on State Water's performance and operation
12 and also it impacts on the environment and we see the
13 operating licence as a good place to actually pool all of
14 that information together and allow it to be assessed and
15 allow for improvements to be made.

16
17 MR NEAL: SKM would support the view that if there is
18 already a legislative requirement for the Minister and the
19 Department to report on the works approval, then it would
20 be IPART's role to bring back and report it into its
21 deliberations and if there are gaps identified that perhaps
22 do need to be legislated to beef it up, then that's
23 probably its role, but certainly this is one area where we
24 do not need more duplication of effort by IPART. If it is
25 already done, I'm sure it is being done correctly, it is
26 delivering the required standard of accountability and is
27 incorporated into the report. It would be critical if it
28 is not.

29
30 MS McLEOD: I would like to comment from the point of view
31 that it is an operating licence. It shouldn't be used as a
32 policy development mechanism. We are going through a
33 process of creating catchment management authorities and a
34 mechanism for the community providing input and
35 prioritising what they want to try to do to improve the
36 environment. There is always the issue of funding. A lot
37 of our aspirations just can't be met because there are not
38 enough dollars available to do it. I am concerned
39 where are we leading to is because State Water has an operating
40 licence and we have this better structure for looking over
41 their shoulders to check up on them, that we're going to
42 ask them to do things that are not appropriate.

43
44 MS RICHARDSON: I don't know whether this will confuse
45 things a little bit, but I think it is a matter of
46 boundaries and territories here. What I see is that we're
47 looking at, say, an example of things that will go in the

1 water management approvals process and they will be
2 reported in, say, DIPNR's annual report. We all know how
3 riveting annual reports are to pick up and read in great
4 detail. They're something that isn't often given a lot of
5 weight. Yours might be different, Kim.

6
7 I feel that what we're trying to tackle here is the
8 role of other regulatory instruments and how they relate to
9 the business of State Water. I can see how this could bog
10 down in a process and what I feel is we should perhaps try
11 and lift it up into a mechanism that draws attention to the
12 relevance and the effectiveness of that reporting in terms
13 of State Water's response. It is about State Water and
14 what happens under the works approval and it is important
15 to somehow report on it in a transparent and rigorous way,
16 but as it is it will get bogged down into who are auditing
17 who or whose performance we are actually trying to measure.

18
19 I think these other regulatory instruments have their
20 own processes and they should remain and their integrity
21 needs to stand alone, but it is almost like the response of
22 State Water to those instruments is what I think we're
23 trying to pick out of this and how well that has been
24 reflected. In essence, I think it needs to cross-reference
25 it, but it needs to come up to a level to say, really, how
26 well is it that State Water has responded to that
27 regulatory requirement.

28
29 MR ALVAREZ: Yes. It would be a mistake to use
30 State Water's operating licence as a way of exposing maybe
31 a lack of diligence on DIPNR's part in reporting on its
32 function as a regulator. I don't think that's the right
33 instrument for that. If DIPNR's reporting as required
34 under the Act is insufficient for public needs, we should
35 be addressing DIPNR's shortfalls, not addressing it through
36 State Water's regulatory process.

37
38 MR MIELL: There would need to be an opportunity for it to
39 be identified that DIPNR's performance is inhibiting
40 State Water's ability to meet its obligations.

41
42 MS RICHARDSON: Yes, then it is relevant.

43
44 MR MIELL: Yes, that is the critical part: not just
45 DIPNR, any other agency that is having a regulatory impact
46 on State Water's performance.

47

1 PROF MUSGRAVE: It seems to me that the point that has
2 been made here is not so much a question of regulating the
3 regulator as the openness and transparency of the auditing
4 process of individual regulators. DIPNR as a regulator
5 should be as open and as transparent as, say, IPART.

6
7 MS RICHARDSON: And the significance of it to State Water.

8
9 PROF MUSGRAVE: Yes, indeed.

10
11 MR MIELL: I think also important is the timing of it.
12 State Water is a fairly immediate business, so we need to
13 make sure there are no lags in the performance of the
14 regulator that impact on the operations of State Water. We
15 recognise that State Water has commercial imperatives and
16 that the people who rely on State Water have commercial
17 imperatives in their businesses.

18
19 MS YOUNG: The environment has pressing imperatives also.

20
21 MR ALVAREZ: Remember that State Water's role is the
22 delivery of water, not the allocation of water. That is a
23 primary function of the resource manager. Again, if DIPNR
24 fails in its function of allocating the water, then there
25 is a dispute with DIPNR, but it is not through State Water.
26 Its function is not to allocate water but to deliver it.

27
28 MS YOUNG: The thing is that if you don't do what you need
29 to do on time then it affects State Water's ability to
30 either respond to the plans or customer needs in terms of
31 service delivery, so they have to be able to report on that
32 and then that is also a clear mechanism to start pointing
33 the finger as well.

34
35 MR ALVAREZ: I don't know that we want to debate that.

36
37 MR COX: I don't think we will.

38
39 MS RICHARDSON: That is where we might be able to use the
40 operating licence to actually strengthen this MOU concept
41 to be far more accountable and to be able to call it up
42 where there are problems that are directly impeding the
43 business of State Water. That is where this might be able
44 to give some greater force and effectiveness to MOUs to
45 actually have to address that issue and report on it. That
46 is what I guess I am trying to tease out.

47

1 MS YOUNG: It might be an initial thing. All these other
2 documents that we are talking about don't exist so it is
3 not like we can go to those other things and say, that is
4 what they are talking about, I see how that works now. I
5 guess that comes back to our broader overarching. If in
6 three years time we see that the situation is a very
7 different one to where we are now, the cold water strategy
8 is in this and all these other documents, the MOUs are
9 there, so there might be a need for an adjustment. But up
10 front I would like to see something a bit more broad.

11
12 MR COX: I wonder if there are some comments from people
13 sifting at the side of the room.

14
15
16 MR WRIGHT: Tony Wright, Chairman of State Water. I found
17 it very difficult to sit here while this discussion took
18 place. I do congratulate the round table on coming
19 gradually to a sort of consensus. I agree on the
20 difficulty with words and it is one thing to get over.

21
22 I just wanted to say a few words in support of our
23 chief executive, particularly about standards of
24 performance. One of the problems with having a licence
25 where standards of performance are set is that those
26 standards tend to be the ones that are strived for. It is
27 a hurdle, but it is not an encouragement to superior
28 performance. Geoff asked, can we find a way of encouraging
29 superior performance, and I really support that view, some
30 way of providing an incentive for better performance for
31 our customers and stakeholders. I think it would be
32 wonderful if licences could also facilitate comparison of
33 performance between water corporations. That might be a
34 big ask but I think that maybe one day we will get there.

35
36 On the question of clarity of roles and purpose, there
37 is another term that has crept into the discussion and that
38 is water resource management. And that is one that has
39 shades of grey as well because although Kim might disagree,
40 I think it is true to say that State Water in some ways
41 manages water and I think maybe at the end of the day there
42 will need to be some clarity about what that actually
43 means, what that term actually means. But it would be
44 wonderful if, from State Water's point of view, the licence
45 could clarify the distinction between the roles of State
46 Water and DIPNR.

47

1 On the question of an overarching instrument, I think
2 that has been conclusive. The question of MOUs is
3 interesting because I agree they should be transparent but
4 I think there is a whole issue of regulating. The issue is
5 something that as a State we just can't afford not to do
6 and I think both DEC and DIPNR are quite capable of
7 regulating. An MOU is supposed to be about agreement and
8 maybe other stakeholders need to get a seat at the table on
9 some MOUs as well.

10
11 That is enough, thank you.

12
13 MR COX: Any further comments?

14
15 MR OXLEY: Dennis Oxley from Lachlan CSC. I would just
16 like to make a comment that I believe that it is very
17 important that we don't tear the new corporate business of
18 State Water apart in our regulation and the way we go about
19 this because if we regulate from too many different
20 directions, we will tear them apart, we will tear them from
21 their real core practice and the things they want to try to
22 achieve within their business.

23
24 Be very careful to clearly indicate who is the
25 regulator and who is the arbitrator. I think it is so
26 important that we keep one peak body as arbitrator and the
27 other as regulator, as other agencies have an input into that
28 regulation process which is arbitrated upon, or else we
29 will tear this business apart and take away the
30 commerciality of the new entity that we are trying to
31 promote as a water delivery business within the State of
32 New South Wales, which I am pretty excited about actually,
33 and I think that this operating licence is an avenue of
34 delivering that regulation without being restrictive within
35 their business.

36
37 When I heard about the overarching, my explanation of
38 that was that it have broad enough terms that they can
39 write some MOUs, write some agreements underneath the broad
40 terms and the overarching so the broadness of the terms
41 could be delivered within that licence agreement. Thank
42 you.

43
44 MR CONLON: Jerry Conlon, Namoi Valley. I chair the
45 Customer Committee up there representing the irrigation
46 industry. I am amazed here this morning with the to-ing and
47 fro-ing between the different agencies and I share Dennis's

1 concern that State Water has some huge impediments and I
2 would suggest with great respect that quite a lot of that
3 is the interagency warfare and lack of performance and I
4 have real concerns about that, and the round table this
5 morning did four circles, because the operating licence
6 can't be, it is not going to be able to force all the
7 agencies and regulators to perform on time, so there are
8 some real issues there that you have to tease out.

9
10 The MOU to me might be one way you can do it. I can't
11 see how the regulations that drive State Water could make
12 DIPNR or DPI perform on time. There are some difficulties
13 that are nothing to do with State Water and are a huge
14 impediment to its business. Somewhere in the operating
15 licence the MOU will have to sort it out because a business
16 can't function if your primary suppliers, and in this case
17 it will be the agencies, can't perform. That has to be
18 sorted out.

19
20 MR COX: Thank you. Does anybody on the panel want to
21 make some final comments on a possible way forward?

22
23 MS RICHARDSON: I think what we need to really do is look
24 at actually putting a draft framework together so that we
25 can start to put the bones on it and test some of the
26 things we have said this morning about the boundaries of
27 the operating licence. I don't pretend to have the answer,
28 I am afraid, but I do think it is not an easy task. But
29 what we need to do is get down in black and white the bones
30 of an operating licence that we can actually then test
31 through its relationship with these other instruments and
32 other responsibilities.

33
34 MS McLEOD: I agree with Barbara, but perhaps from a
35 slightly different perspective in that it is an operating
36 licence for State Water to capture, store and release
37 water, and IPART, if it sat down with State Water through
38 some sort of interim process, could come up relatively
39 quickly with the sorts of things that should be in the
40 operating licence for you to report on and that should be
41 the bones of it, then this whole issue of regulatory
42 overlap and environmental improvements I think actually
43 will be quite easy to resolve.

44
45 It is an operating licence for three years and at the
46 end of that time it will be rewritten. I would argue that,
47 first of all, get the water side of it sorted out because

1 there are opportunities for improvement later. And they
2 will be pretty important for a whole range of people.

3
4 MR ALVAREZ: We had some problems in the past with
5 developing water sharing plans, sharing water between the
6 environment and customers. The water sharing plan is not
7 an environmental management plan, it has environmental
8 components in it, but it was the only plan being developed
9 at the time and we fell into the trap of trying to make it
10 into an environmental management plan which it was never
11 designed to be. We should avoid the propensity to use the
12 IPART process to yet again establish an environmental
13 management plan. That is not what it is. As Jenny says,
14 it is an operating licence to allow State Water to deliver
15 water to its customers. Yes, there will be some
16 environmental components of that because they are using a
17 natural resource, not a pipeline, to do that function, but
18 we should not fall into the trap of trying to turn it into
19 an environmental management plan.

20
21 MS RICHARDSON: It is really quite important that we
22 actually try and use, as Tony suggested, the licence to
23 actually clarify those roles and try to draw those
24 boundaries. Just in response to Kim, we are about a
25 business operation that has economic, social and
26 environmental responsibilities and that is where the
27 environment sits. It is one of its fundamental elements.
28 It is not an environmental management plan, it is a
29 business responsibility, so there is a difference between
30 those two.

31
32 MR MURRAY: We need to remember that State Water is not
33 new. It may have been a new corporation on 1 July, but it
34 has been around for a long time and it works reasonably
35 effectively. We don't need this opportunity to reinvent
36 everything. On the subject of MOUs, my understanding is
37 that Fisheries works very well. It should be a model we
38 aspire to. Strangely enough, since 1 July State Water has
39 not had the wobbles up too much, it won't fall over, so
40 let's not reinvent it all.

41
42 MR COX: Thank you very much for that. It has been a most
43 interesting discussion. It is not an easy task. Everyone
44 knows what they want but actually doing something about it
45 is very difficult. Thank you for your help.

46
47 SHORT ADJOURNMENT

1
2 PERFORMANCE STANDARDS AND INDICATORS
3
4 MR COX: In this session we will start off with a
5 presentation by Brad Neal and John Wall, so I hand over to
6 them for their presentation, then we will follow it up with
7 round table discussion, as with the previous and very
8 interesting session.
9
10 MR NEAL: Our presentation is on performance standards and
11 indicators and SKM has been engaged by IPART to advise it
12 on this particular issue. By way of introduction I will be
13 covering the overall approach that we took in developing
14 performance standards and indicators for the operating
15 licence, including the selection criteria, then I will be
16 focusing on the outcomes, the particular performance
17 standards and indicators and general reporting standards
18 that we recommended, and hopefully that should help to
19 remove the abstract debate this morning and turn it into
20 something more concrete that people can directly relate to.
21
22 I will only be talking about some areas of State
23 Water's operation and they are the water delivery
24 functions, flood management, water accounting,
25 policing, asset management and State Water personnel and
26 business development.
27
28 I should stress at the outset that even though we have
29 provided advice to IPART on environmental indicators and on
30 the Fish River scheme and customer service, they will be
31 covered in a later session today, so I will not talk about
32 them specifically.
33
34 The way that we went about this task was first of all
35 to examine the regulatory framework in which State Water
36 operates. We heard this morning that it is a fairly
37 dynamic framework, lots of things, lots of regulatory
38 instruments are being developed as we speak. We started by
39 looking at State Water's core functions under the Act and
40 those that have been conferred on it in the operating
41 licence by ministerial agreement and we also had a look at
42 what sort of performance reporting State Water has to do,
43 or is likely to do, to other regulatory bodies. That was
44 the first step of understanding the regulatory framework.
45
46 Then we undertook a series of workshops with various
47 stakeholders, many of whom are here today, to discuss what

1 stakeholder needs are in relation to monitoring State
2 Water's performance. Then finally we looked at current
3 industry practice. That includes what State Water is doing
4 at the moment in terms of reporting on its performance
5 and, secondly, what other similar businesses are doing,
6 and what other performance standards and indicators
7 are reported in industry benchmarking reports.
8 There are a number of national industry
9 benchmarking reports for the water industry.
10
11 In terms of selection criteria for selecting which
12 particular performance standards and indicators should be
13 developed, we started off with the first question, which is
14 the area of operation part of State Water's core functions.
15 If it is not part of their core functions then there is not
16 really a role for it to be regulated in the operating
17 licence. Those core functions are as identified under the
18 State Water Corporations Act and functions conferred on
19 State Water as part of the operating licence.
20
21 Functions and powers that another authority are
22 responsible for or accountable for: we have not recommended
23 performance standards and indicators for those areas other
24 than some particular circumstances, which I will discuss
25 shortly.
26
27 The second question was, is there another suitable
28 regulatory mechanism available. And that comes back to the
29 question of regulatory overlap which we have discussed a
30 fair bit this morning already, and there are quite a few
31 regulatory instruments. We talked about DIPNR's water
32 supply works approvals, the Dam Safety Committee, reporting
33 on capital expenditure and operation maintenance to
34 Treasury. There are also the contracts with DIPNR for
35 metering and billing of unregulated and groundwater
36 customers where the controls for those activities will be
37 specified in those contracts with DIPNR, and, lastly, there
38 are a number of functions conferred on State Water which
39 require notification to DIPNR or other agencies, and so we
40 feel that that notification process provides a regulatory
41 check on State Water's exercise of its powers in those
42 areas.
43
44 The third question is, is there a stakeholder need for
45 regulation, so that was as identified in our stakeholder
46 consultation with various groups, and also I guess, because
47 of the limited time that we had to consult with those

1 groups, we also examined what standards were available in
2 the industry to look at whether there was a stakeholder
3 need that was not necessarily expressed in our consultation
4 but where there is a reasonable expectation that an area
5 of performance should be regulated.
6
7 I guess those first three questions cover what State
8 Water does, how it is controlled and is there a need by
9 stakeholders to report on State Water's performance in
10 those areas.
11
12 The next question as part of our selection criteria
13 was whether that performance is controllable by State
14 Water. If it is not controllable by State Water then State
15 Water should not be expected to report on its performance
16 in that particular area. In our consultation with various
17 groups there tended to be a set of indicators which weren't
18 directly attributable to State Water's performance but
19 which State Water had the potential to affect and in which
20 State Water was in the best position to monitor those
21 indicators, and for those areas we set a general reporting
22 requirement. So it is not looking at State Water's
23 performance per se but specifying a general reporting
24 requirement in the operating licence.
25
26 The next question was whether performance standards
27 and indicators were the most appropriate mechanism to
28 achieve the desired outcome. In some situations it may be
29 better to actually direct an action in the operating
30 licence rather than to measure an outcome. An example of
31 that would be in the initial licence there is a directive
32 to make State Water develop a total asset management
33 strategy rather than specifying performance standards and
34 indicators on a raft of asset management performance areas.
35
36 It is a fairly obvious question, is there a measure of
37 performance available, and generally there was, so that is
38 not a particular constraint. But we also took it into
39 consideration, that if the information isn't available to
40 measure performance, then we need to take some sort of
41 action to remedy that. We have gone through the process of
42 working out whether we should specify a general reporting
43 requirement, whether we should direct an action, and then
44 we come to the point of saying that we've got an area of
45 performance where we want to specify a performance standard
46 or indicator and the question becomes, "Which do you
47 specify?"

1
2 The important thing to note here is that a performance
3 standard is an objective measure. If you specify a
4 performance standard then State Water must meet that
5 criteria and if it doesn't, then it has failed in its
6 performance. An indicator, on the other hand, is a
7 subjective measure of performance which requires
8 interpretation and it also allows some flexibility and
9 allows for factors which may be beyond State Water's
10 control.
11
12 Both standards and indicators are directed at
13 measuring performance outcomes. The process for assigning
14 a standard to an indicator would be if there is a mandatory
15 requirement to meet a certain standard elsewhere. That
16 tended not to come into play for this review.
17
18 Secondly, is there a commonly accepted industry
19 standard? Is there a standard which is used throughout the
20 industry which would be reasonable to expect State Water
21 to meet? Thirdly, does State Water have a previously
22 agreed standard with its customers as expressed in its
23 customer service charter? Fourthly, if none of the above
24 criteria are met and there is still considered to be an
25 unacceptable consequence of not meeting the standard and
26 the data is available to support that standard, then we
27 consider recommending a standard rather than an indicator.
28
29 I might just skip over this table, but you can see
30 where we are addressing a core function, where it is not
31 regulated by other means and where there's a stakeholder
32 need for regulation, then IPART has a reasonably clear
33 mandate to regulate that area of performance and to look at
34 developing a performance standard or indicator. That is an
35 overview of the logic behind developing these performance
36 standards and indicators and I will just jump in straight
37 to the recommendations. You would have received the
38 executive summary of our report as part of the material
39 that was sent out by IPART, so hopefully you've had a
40 chance to digest some of these already.
41
42 The first one - this is in the area of water delivery - is
43 looking at addressing the stakeholder need for the timely
44 delivery of water and that really comes back to one of
45 State Water's core functions. The first one is
46 100 per cent of licence holders to be contacted within one
47 working day of a non-complying order being placed. If you

1 place an order as a customer and you make some inadvertent
2 mistake, you really want to know about that straight away
3 so that you're not sitting on your hands waiting for the
4 water to be delivered and it doesn't arrive.

5
6 The next indicator was about the timing of the
7 delivery of water and we've said 95 per cent of complying
8 orders to be delivered within plus or minus one day of the
9 scheduled day of delivery. That is consistent with
10 standards that are adopted by one of the reasonably
11 comparable businesses, of Goulburn-Murray Water, and they
12 illustrated that that's reasonably achievable for their
13 systems and there has been an argument about whether that
14 tolerance of plus or minus one day should perhaps be
15 lengthened where the delivery times are longer and that is
16 a point for debate today.

17
18 Finally, there was a strong need expressed by a lot of
19 irrigator groups for the timely announcement of
20 supplementary water events and previously State Water had a
21 standard of making that announcement within 12 hours. We
22 are suggesting that that should occur within four hours of
23 a supplementary water event being detected and we have also
24 recommended that that whole process of codifying
25 supplementary water events should be explicitly worked out
26 and codified. I should say on that last point that
27 State Water's revised customer service charter has
28 incorporated that four hour response time for the
29 announcement of supplementary water events.

30
31 The indicators, the volume of operational surplus,
32 which is the amount of water over and in excess of minimum
33 flow requirements that flows out of the end of the river
34 valleys, that would indicate that State Water has released
35 more water than it needs to as part of its delivery focus
36 and I guess one of the debates around that area is there
37 some environmental benefit in that operational surplus? I
38 would argue that it is better to aim for a low operational
39 surplus so that you can more strategically use that extra
40 water that is saved in a more strategic way for the
41 environment.

42
43 We have also got some general reporting requirements
44 and really the general reporting requirements are focused
45 on being able to compare State Water's performance with
46 other businesses, which relates back to one of its
47 objectives under the Act, and, secondly, to enable adequate

1 interpretation of the performance standards and
2 indicators and to be able to reasonably interpret those.

3
4 In the area of flood management we haven't made any
5 specific recommendations because we feel that those areas
6 of flood management are adequately regulated by other
7 instruments and DIPNR has indicated that compliance with
8 the flood operations manual will be covered in the report
9 of the water supply works approval.

10
11 With respect to water accounting and billing, the first
12 one is about metering, so it is about understanding how much
13 water is taken. If you receive a bill from State Water you
14 want to make sure that the metering that's used to specify
15 the amount on that bill is accurate, and that first target
16 relates directly to the State Water management outcomes
17 plan target and it could be argued that that target is
18 focused on a percentage of water management works which are
19 metered and it might make more sense to specify a
20 percentage or to specify an amount to be metered by volume
21 so that you're targeting not the number of meters that you
22 install, but the amount of water that you're actually
23 metering.

24
25 The second one is specifying a minimum time for
26 intra-valley transfers. We haven't looked at inter-valley
27 and interstate transfers because they require notification
28 or approval by other agencies.

29
30 The policing recommendations are focused on
31 State Water's responsible use of power and under the State
32 Water Corporation Act State Water has various powers to
33 penalise access licence holders if they take water in
34 excess of their licence conditions and this is really, as I
35 said, just about keeping a tab on that monopoly power.

36
37 With respect to the area of asset management, we
38 haven't specified any performance standard and indicators
39 because we feel that dam safety is adequately regulated by
40 the Dam Safety Committee. On the area of capital and
41 operation maintenance expenditure, that has already been
42 reported to Treasury in its annual report, and the final
43 point is that there is a directive in the operating licence
44 for State Water to develop a total asset management
45 strategy which it is felt is a better vehicle for setting
46 State Water's performance in this area rather than
47 specifying performance standards and indicators, such as

1 the percentage of assets in a particular risk category.
2
3 On the area of State Water's personnel and business
4 development, these are some of the key result areas for
5 State Water as specified in its annual report. We haven't
6 recommended any performance standard and indicators because
7 this area is really looking at reporting on performance
8 that may affect State Water's future performance. For
9 instance, if they've got a problem with their personnel it
10 may not affect State Water's ability to deliver water this
11 year, but over time it may affect their ability to deliver
12 water in subsequent years. After discussing that with the
13 Tribunal Secretariat, we feel it is probably better to
14 actually just monitor their performance directly on water
15 delivery rather than going into this sort of area.

16
17 The other point to make there is that for business
18 development State Water knows its business. It is in the
19 best place to know where it should be investing its money
20 to improve its performance. We don't think we should be
21 specifying any particular performance standard for
22 indicators as to how it should undertake its business
23 development.

24
25 In conclusion, we have gone through a process and you
26 can see the flow chart there which is really what I
27 described up front. We have derived a set of performance
28 standards and indicators that we've recommended IPART to
29 adopt and to bring to this forum to discuss and where
30 performance standards and indicators aren't the most
31 appropriate method of monitoring State Water's performance,
32 we've recommended actions or we've recommended general
33 reporting requirements as appropriate.

34
35 These are some issues for discussion. Before we break
36 into the discussion, I should reiterate that I have only
37 presented the performance standards and indicators as a
38 subset of State Water's areas of operation and we will be
39 talking about the environmental performance indicators,
40 Fish River and customer service in later sessions. Rather
41 than going through those now, I might just leave them for
42 people to have a look at while we embark on the discussion.

43
44 MR COX: Thank you very much. We will now proceed to
45 comments from the panel members. We should welcome
46 Brendan Fletcher to the panel. Our first speaker will be
47 Jenny MacLeod. Can I remind you to speak into the

1 microphone? Thank you.

2
3 MS McLEOD: Thank you. I have only got a few brief
4 comments on this area. We do support the use or
5 development of performance standards and indicators.
6 Combined with the operating licence, they will be very
7 valuable for assessing the performance and also improving
8 the operations of State Water. We believe that the
9 operating licence should focus on operational and
10 performance standards that State Water is actually
11 responsible for and can manage and I think that's
12 consistent with the comments from SKM.

13
14 Also, in relation to State Water's business management
15 and planning, we think they are things for State Water's
16 business plan. They are not things to be put into the
17 operating licence.

18
19 We have in our submission made a number of suggestions
20 for things that could be used to measure State Water's
21 performance. They are quite detailed. They are probably a
22 mixture of general reporting, performance indicators and
23 standards. I will leave IPART to sort out those sorts of
24 things rather than get into a discussion about that issue,
25 but they in general are more comprehensive and specific
26 than some of the things that have been proposed by SKM.
27 The original draft that we saw had some performance
28 standards in relation to customer service. I assume
29 that --

30
31 MR NEAL: That is going to be part of a subsequent
32 discussion.

33
34 MS McLEOD: Okay. I won't talk about that. In relation
35 to some of the things you've suggested, we think things
36 like supplementary water events being announced within four
37 hours is great, but that should be seven days a week, not
38 on working days only. General reporting talks about
39 available water determinations, initial, conditional and at
40 the end of the season. Our irrigation season starts in
41 July and it ends in May, so we need far more frequent
42 allocation announcements than what's proposed. Timeliness
43 of allocation announcements is really important, so I think
44 you need tougher requirements there.

45
46 You talk about asset management and we don't have
47 really strong views about whether it is through the

1 Chairman or what. The issue of appropriate asset
2 management and audit and checking to make sure that the
3 assets are being adequately maintained because they are
4 long lived, you need to have a reasonable audit process and
5 if that's to be contracted out, I think certainly asset
6 management needs to be covered. The interruption to water
7 supply - some of the --

8
9 MR NEAL: I think that is the Fish River.

10
11 MS McLEOD: As I say, it didn't make any sense at all.
12 They are the main comments. I do refer you to what we've
13 put in our actual submission because they are more specific
14 in terms of actually measuring performance in a more
15 meaningful way to customers.

16
17 MR FLETCHER: I didn't realise this session was not going
18 to cover environmental indicators and standards, so I will
19 not discuss that right now. I did defer a comment I
20 actually had on the last session until this moment because
21 I thought it would be quicker. My apologies for looking
22 backwards. I might as well do it while it is fresh in my
23 mind. I wanted to talk a little bit about some of the
24 background reasons why we see an overarching role for this
25 licence and I still think they're worth going through.

26
27 One is the nature of State Water under its new
28 arrangement as a corporatised entity. My understanding of
29 the reason for that is to separate the operating regulator
30 functions and to introduce commercial discipline to
31 State Water's operations. Having said all of that, it
32 remains a public corporation and we see the operating
33 licence really as a forum for the public to be able to
34 track its performance in all of those areas which it's
35 statutorily mandated - "mandated" is a harsh word - that it
36 is supposed to perform. A lot of what we're seeking in the
37 reporting requirements that we spent a lot of time on last
38 time, is the chance to be able to see how it performs in
39 relation to the ESD requirements and the kind of impacts it
40 has.

41
42 I think incorporating the reporting requirements that
43 it is required to do for other regulatory agencies is
44 probably a fairly efficient way of dealing with that, so
45 the idea is not to have a report in two different places,
46 but to have in one forum a place for the public to assess
47 its performance.

1
2 Similarly with auditing, the primary regulatory
3 agencies are going to be responsible for the auditing at
4 first instance as appropriate. I do think it is worthwhile
5 to have - I don't know what you'd want to call it - maybe a
6 reserve power to audit if there's some trigger for feeling
7 that the regulatory auditor is inadequate to judge
8 State Water's performance on the operating licence. I
9 think that's an appropriate power for IPART to have: not
10 a duplicative one, just a reserve power.

11
12 You can follow that kind of principle all the way
13 through to delegations and conferrals of authority. Those
14 are really things for the agencies to work out. I think
15 IPART has a role in ensuring that those delegations and
16 conferrals are specified with clarity and should have a
17 reserve role to make sure that those delegations and
18 conferrals work in such a way that enables State Water to
19 fulfil all of its functions, including its ESD one.

20
21 The same principles apply to MOUs. I think it's
22 worthwhile to have those attached - not duplicated,
23 attached - and for those processes to be transparent to the
24 public, not just a two-way conversation between the
25 regulator and the operator, and for IPART to have some
26 reserve power to make sure those are functioning in a way
27 that allows State Water to fulfil its functions under the
28 corporatisation Act. I am sorry for looking backwards a
29 bit.

30
31 MR COX: I am not sure I want to reopen the debate.

32
33 MR FLETCHER: I don't particularly want to reopen it, I
34 should have said that before, but for time reasons I
35 thought it would be better to do it at the moment.
36 Environmental PIs we'll take care of later.

37
38 MR ALVAREZ: Working through, I have, I think, three areas
39 that I would like to comment on. I think the four hours of
40 supplementary announcements is ambitious but it is a good
41 start. I think you'll find it difficult when you actually
42 have to perform the function of sharing this water amongst
43 its users. It is ambitious but it's a good start.

44
45 Some speakers spoke about operational surpluses.
46 Certainly, I think that's an indicator, but I think
47 State Water will need to be mindful that in a lot of our

1 systems "operational surplus" is actually now defined and
2 locked in through the plans as being environmental water.
3 As you dry that up by becoming more efficient, before it
4 happens then a strategy for making sure that that saving of
5 water, so to speak, is otherwise allocated to its original
6 owner, which is the environment, needs to be put into place as
7 part of that strategy. It shouldn't just be seeking
8 efficiency gains because if it is efficiency gains, it
9 delivers more water to irrigation, basically you break the
10 plan limit. That is just a bit of a warning.

11
12 By the same token, as I said before, it is good to
13 have State Water focusing on that, with a view to raising
14 it if they feel there are ways of changing the operation of
15 a river. If they wish to make a change, bring it to the
16 fore, discuss it, see if it is good for all parties and, if
17 it is, put it into effect.

18
19 With respect to metering, one speaker also talked
20 about 90 per cent of works or 90 per cent of volume. From
21 DIPNR's point of view, I would like to see a higher
22 percentage of volume and not particularly from a global
23 resource management point of view. I am not particularly
24 interested in how many licences go through. I would like
25 to see about 95 per cent of the water go through
26 well-qualified meters rather than simply buying 90 per cent
27 of meters, because if it was ill-advised in a priority
28 sense, in fact, if you missed out seven of our large users,
29 you are only going to capture about 5 per cent of the
30 water. It is strategically between the 90 per cent of
31 works and 95 per cent of volume where I think State Water
32 should focus on.

33
34 I should point out that the making of available water
35 determinations is a DIPNR function and I know there was
36 some debate about that in the previous session, as there is
37 again now. We have to be a little bit mindful that there
38 are a couple of drivers there. I can see a lot of users
39 are also concerned about the timeliness of the making of
40 AWDs, yes, but we also must note that there is a huge
41 amount of money around these regions as a result of water
42 trades. There is a rigour in the way that announcements
43 are made on the stockmarket for the informing of the market
44 of relevant bits of information. There is a very formal
45 way that that must be done.

46
47 We have found in the past that the untimely making of

1 an AWD can inform one or other party to a million dollar
2 trade that can make that trade fall over at a day's notice.
3 In many valleys, particularly the two lower valleys, we
4 stick to a specified day of the month. It is the 10th day
5 of the month that AWDs are made irrespective of whether
6 there's increase in water for not. That is to allow
7 everybody who is involved in transactions to know that that
8 is the day the AWD will be made and that way it doesn't
9 interfere with the tidy operation of the market where
10 millions of dollars are at stake.

11
12 I hear what is being stated around the table that the
13 making of AWDs is important to individual farmers, but it's
14 also important to the market and we need to work our way
15 through what is the best way to go. Do we stick to a
16 specified day or is it within four days of a significant
17 rainfall event? We can go either way, but whichever way we
18 go we're going to displace one or the other. I think it is
19 an area of continued debate.

20
21 MR MIELL: Could I just reiterate Council's submission that
22 we support the introduction of an objective measurable
23 performance standard and performance indicators that are
24 clearly unambiguous and demonstrate State Water's asset
25 base and associated water delivery monitoring and service
26 delivery system. In every instance, State Water's
27 performance standards and indicators must relate to its
28 objectives and functions as outlined in the Act and be cost
29 effective to implement and administer.

30
31 Certainly, all the points that Jenny raised I would
32 concur with. I would probably put a bit more weight on
33 asset management because of State Water's ability to
34 perform, depending upon how it has been maintaining and
35 managing its asset. We need to make sure there's a lot of
36 attention to making the indicators very transparent and
37 very accurate and very timely, so as to make sure that
38 asset maintenance is not slipping in a way that impacts on
39 the performance of its commercial activities.

40
41 I think also with all of the indicators the timing of
42 their release is important, because I think in a
43 commercially sensitive business it would not be good to see
44 these things all reported in an annual report that gets
45 through at least six months after the end of the financial
46 year, when they could very well be impacting on the
47 operations of State Water, and that may very well be

1 identified two or three days after the start of the
2 financial year. There has to be a discipline to encourage
3 immediate reporting once an issue is identified so that it
4 is not left to be actioned at a later point.
5
6 IPART should be encouraged, with State Water, to
7 establish foundation standards that set the benchmark for
8 what the corporatised State Water entity inherited from its
9 previous life, so that we have a meaningful benchmark of
10 how State Water as a corporate entity has improved its
11 performance and its delivery against its objectives. One
12 thing - and it might well be in the SKM report - I would
13 like to know from the SKM presenter is what organisations
14 were used during the benchmarking so we can have an
15 indication of the other entities that you saw as being a
16 like business to State Water, be they both private or
17 public.
18

19 I noticed in the descriptors here that we started off
20 with 100 per cent of licence holder to be contacted, then
21 we got to 95 per cent, then we got to 90 per cent, then we
22 got down to 75 per cent. I think that's heading the wrong
23 way. With all of these indicators we have to work out how
24 can we drive each of those as close as possible to the
25 magic mark of 100 per cent? I think there has to be a
26 clear focus on all these indicators so as to give an
27 understanding of how State Water operates its business. It
28 must drive its performance as high as possible and as early
29 as possible and maintain it as often as possible.
30

31 MR COX: We will get back to SKM at the end.
32

33 MR MURRAY: I have just a couple of points. I don't doubt
34 the various performance indicators relating to internal
35 business, if you like, like lost time due to injury frequency
36 rates, et cetera, except to make the point, in terms of
37 going through the IPART pricing round every three years,
38 it would be very handy for stakeholders to have access to
39 that sort of information in terms of knowing are we dealing
40 with an efficiently run business and these are a reasonably
41 good guide to the level of efficiency. From that point of
42 view, I don't think they're going to cost a lot to collect.
43 They're probably going to be collected anyway by State
44 Water for their own business and one way or another making
45 that information available to stakeholders I think would be
46 valuable.
47

1 The issue of supplementary access announcements and
2 the timeliness of those - I think probably it is a great
3 idea to have performance indicators and standards for that,
4 but it is probably going to have to be developed on a
5 valley-by-valley basis. The concept of saying within four
6 hours of a passing by an indicator gauge - if we use the
7 Gwydir situation, for example, the key gauge that measures
8 our rules is below a bridge called Yarrem, which happens to
9 be about halfway down the system, and yet above the system
10 there are three or four branches of the river where if you
11 want to make a supplementary water distribution, you
12 actually have to pre-empt the decision of what's going to
13 occur at Yarrem and then make it happen.
14

15 I think it is something that we really want to do on a
16 valley-by-valley basis and look at those. Certainly, from
17 the irrigators point of view, we want those announcements
18 made as timely as possible and certainly on a 24-hour basis
19 and seven days a week because we all know these events only
20 occur on long weekends or whenever the customer service
21 manager has to be in Fiji, so.
22

23 Turnaround time for the lodging of temporary
24 intra-valley transfers at four days, I am afraid I think it
25 was Geoff mentioned earlier he would like encouragement
26 towards efficiency and I don't think a four days target is
27 much of an encouragement towards efficiency. There is
28 absolutely no reason why those sort of transfers, with
29 general security allocated water, can be achieved within 24
30 hours. The water is in the dams. It is a matter of
31 shifting it from one account to another. I think we can
32 lift that. But probably it needs to differentiate between
33 temporary transfers of supplementary water where further
34 time would have to be allowed because you have to adjust
35 the shares and make announcements on that basis. Again, a
36 little bit more work in that area.
37

38 One indicator that has not come up, I guess it comes
39 down to who is auditing what, it goes back to this
40 morning's discussion, but absolutely key to us in the
41 Gwydir is how supplementary water is actually shared
42 between the environment and irrigators. Our rules are
43 relatively simple. In the main they say the first 500 megs
44 of an unregulated flow must pass through to the wetlands,
45 after that we can share remaining water 50/50. That sounds
46 simple in theory. In practice, it is actually quite
47 difficult to get that balance close to 50/50. Issues such

1 as pump capacity limits the amount irrigators can take out,
2 and large flows, so it is absolutely critical that there is
3 some sort of measurement of how State Water achieves that
4 50/50.

5
6 We don't feel that if they muck up one event they
7 should get massive demerit points and then, if they get it
8 right the next time, big brownie points. At the end of the
9 year there has to be some sort of gauge saying, there were
10 four or five events, the environment won one and the
11 irrigators won three times - which would be a fair result!
12 That is really key to us. Whether that is actually an
13 IPART role or whether that is in DIPNR's role in terms of
14 auditing the performance of a river management plan where
15 those rules are outlined, that is something we need to give
16 some consideration to.

17
18 They were the main points.

19
20 MS YOUNG: I guess I will just respond to some of the
21 comments I have heard around the table so far. I agree
22 with Kim in terms of metering, that it would be great to
23 have 90 per cent of the volume of water being metered. The
24 number of metres is not really important, it is the amount
25 of water that is being taken and how much of that water is
26 being taken, so that balance between the number of meters
27 and the volume of water being metered is critically
28 important. That will also be important for State Water in
29 actually determining where its performance lies in a whole
30 range of areas of its operations.

31
32 In terms of asset management, I guess if you look at
33 asset management purely in terms of the maintenance regimes
34 and things like that, that is well covered under dam
35 safety. But if you are talking about asset management in
36 terms of part of its operational aspects of those assets
37 then there is a need for some indicators to determine how
38 State Water is complying with the rules and the obligations
39 that it is under with DIPNR, so it might simply be pulling
40 out one or two key indicators there and reporting on those
41 as part of that broader framework.

42
43 For example, if there is a small weir
44 or regulator that has to be opened to provide stock and
45 domestic supplies or replenish flows and things like that,
46 you report the compliance with that rule, so if the
47 regulator is to be opened at a certain weir height as part

1 of the rule, you simply report your compliance with that
2 rule, not all of the reporting that is required with that,
3 if that makes sense.

4
5 MR BORNEMAN: You are saying fit for purpose; when you
6 need it, it works.

7
8 MS YOUNG: Yes, and that the rules that are governing the
9 operation of that structure are also being met, so again it
10 comes down to those compliance things.

11
12 With regard to intra-valley transfers, I would hate to
13 see State Water rushing to make decisions on intra-valley
14 transfers without necessarily looking at the impacts of
15 that transfer on the system. If it can be done simply and
16 by checking a list and making sure that list is checked off
17 and all the relevant information has been provided then I
18 see no problem with that. But there also needs to be that
19 capacity to actually make a full assessment of the impact
20 of that transfer, whether it be on other customers or on
21 the environment or the capacity to deliver.

22
23 If you are having an intra-valley transfer from maybe
24 two or three kilometres below the dam to 400 kilometres
25 downstream, there are some significant changes that have to
26 occur, particularly when it comes to the amount of water
27 that it takes to actually deliver that water to the end
28 point. The environmental impacts of that in terms of the
29 way the dam is operated also needs to be considered.

30
31 MS RICHARDSON: I don't have a lot to say on this area,
32 particularly since it has excluded the environmental
33 issues. I guess I could quickly make the point, be
34 cautious about excluding the environmental issues because
35 it is hard to even deal with these issues in isolation.
36 Basically I guess we should be thinking that customers are
37 not limited water because the environment is a
38 customer in this arena as well, so when
39 you talk about how we operate, we need to meet the needs of
40 the environment as well as the customers. That is pretty
41 obvious but I just say that. We certainly support clear
42 and unambiguous indicators and link those to the management
43 outcomes that are really the vital drivers for this
44 business across all of its responsibilities to those users
45 and customers.

46
47 The resource aspect is pretty vital in terms of how

1 State Water measures and collects data and how it feeds
2 that data into the decision-making processes and sometimes
3 there are many aspects, particularly to do with things like
4 supplementary water, which has already been canvassed, and
5 I agree with the previous speakers on the need for that to
6 be available 24 hours a day. But there is also the need
7 for there to be operational data and information being fed
8 into decision-making tools like models and other things
9 that are actually going to help make those decisions about
10 how to operate the system and there is really no
11 consideration, I don't think yet, about how that will
12 happen.

13
14 I guess I just throw those on the table at this point.

15
16 PROF MUSGRAVE: I don't have anything in particular to say
17 at this point except to just flag an interest in the
18 accountabilities concerning intra-valley and temporary
19 transfers. I think there are a few questions there that
20 might be addressed throughout the day in relation to those
21 areas.

22
23 MR BORNEMAN: I just make some comments I guess on
24 the comments around the table. The AWD announcement, as Kim
25 pointed out, I fully agree with. I would have to think
26 through the solution he is proposing but certainly the
27 principle is a very valid one in terms of insider trading,
28 so we have to have a system in place that is fair and
29 equitable to people.

30
31 The other issue, a more broad one, is I am a little
32 bit concerned that we are not putting indicators or targets
33 that are just so soft that they are not doing anything. I
34 said in our last session that we don't want something in
35 the operating licence that doesn't drive us to efficient
36 limits. State Water has certainly in the past looked at
37 benchmarking itself against other organisations and has
38 found that a very difficult process because of the
39 regulatory environment and the nature of State Water. We
40 are certainly very committed and our corporate plan has a
41 strategy to looking to try to establish realistic
42 benchmarks to try to improve our performance.

43
44 I very much support the concept of moving forward and
45 proving our efficiency and benchmarking so I am very
46 concerned that some of these things here I see are very
47 soft. The argument over 90 per cent volume and 90 per cent

1 meters, I am sure we meet that on our
2 ear right at the moment, so why put it in? We can just
3 tick that off now. If everyone agrees in the room, it is
4 gone. I am being slightly flippant but you will appreciate
5 that I don't think there is any point in putting something
6 in here that either doesn't send a clear message for
7 improvement or efficiency gains or is not relevant.

8
9 There is one other measure here that we are not sure
10 actually achieves an environmental intention and that is
11 the minimum flow indicator. We are not convinced that the
12 intent of that indicator actually adds up - it is something
13 we can do, it is no problem, we just have a concern that it
14 doesn't tell you anything. .

15
16 The asset management, I agree with Rachel, there are
17 some things that we need to look at. Fit for purpose -
18 certainly one of the things that State Water is doing at
19 the moment is looking at the level of service that
20 customers want and then the service level that its assets
21 require to provide that, so that is a fit for purpose.

22
23 I think that about covers it.

24
25 MR COX: Thank you; and let's go to SKM for any comments.

26
27 MR NEAL: A few responses: First of all, the available
28 water determination indicator that I put up is really just
29 a general reporting requirement so that you can understand
30 how State Water is performing in very dry years or in low
31 allocation years versus very wet years. Obviously the
32 stress on State Water's performance is greater, the need to
33 perform is greater when the available water determination
34 is lower. I acknowledge that it is a DIPNR responsibility
35 to actually make the available water determination
36 announcement and that is not what we are targeting.

37
38 The total asset management strategy we fully support
39 the auditing of, and I think that is IPART's intention
40 anyway.

41
42 On the supplementary water announcements being made 24
43 hours a day, I don't know, Geoff, whether you have to think
44 about the resourcing implications of that.

45
46 MR BORNEMAN: I should have mentioned a valley-by-valley
47 basis. It is simply not possible in all valleys, but in a

1 lot it is possible and it is not an issue.
2
3 MR NEAL: In our recommendations we made a
4 recommendation for those supplementary water
5 announcements, the process of making them, to be codified
6 more explicitly so that there is an explicit process to say if an
7 indicator gauge measures a certain flow that is the trigger for
8 making that supplementary water event occur.
9

10 On the question of the 50/50 share between the
11 environment and irrigators with supplementary water
12 requirements, one of the other general report requirements
13 we have recommended is that a water balance is specified
14 for each river valley at the end of the year and I think
15 that would probably cover that sort of aspect and that is
16 relating back to the stakeholder need for transparency and
17 where has the water been delivered over the last year.
18

19 The like businesses question: we looked at quite a
20 few. I know State Water has done its own benchmarking
21 investigations as well and the upshot of that is that there
22 is no identical business to State Water and that is why we
23 really need those general reporting requirements so that
24 when you are auditing State Water's performance you can
25 look at how it compares with other businesses, and you have
26 got those supporting indicators to say, well, State Water
27 has so many orders to fill versus Goulburn-Murray Water has so
28 many orders to fill. That sort of information can help
29 with the comparison between businesses. We probably looked
30 at half a dozen. The main ones would be Goulburn-Murray
31 Water, Sun Water and Southern Water.
32

33 I think that is probably it at the moment.
34

35 MR COX: Thank you. I invite further comments from
36 members of the panel? My sense of this is that the
37 indicators put up are broadly well accepted by this group,
38 but perhaps with a certain amount of refinement.
39

40 MR MIELL: There are two I would like to add that I
41 forgot. I note there was no mention of an indicator for
42 personnel. I am not so sure that that is necessarily the
43 way we want to go. The staff have to relate to the
44 business function that State Water has, so somehow or
45 another it must be thought that the staff they have are
46 appropriate for the tasks they have to perform, so perhaps
47 there might need to be some reporting against that sort of

1 thing.
2
3 The other one that is critical is we believe State
4 Water should not be used as a vehicle by other departments
5 to simply go and get it to be its lap dog to do some sort
6 of measuring or monitoring or gathering of information that
7 is not part of State Water's core function unless it is on
8 a user pays system. If State Water wants to enter into an
9 arrangement, that is fine, but it should not be seen as a
10 vehicle that can just be, because it is a government owned
11 entity, thrown assignments to do at the cost of others.
12

13 MR ALVAREZ: Transfers was raised around the table in
14 respect of Rachel's comments mostly. I think we have to be
15 careful that we are attending to the matter of trying to
16 facilitate proper transfers very quickly and I agree four
17 working days is too long for transfers. The whole idea of
18 the reform agenda was to make sure that these things can be
19 handled within an acceptable framework very quickly.
20

21 I would like to see a faster response time to that for
22 those that fit in a triage process. We know that the plans
23 need to specify trading zones and there will be areas where
24 simple transfers can occur. If it is going from one side
25 of the river to the other side it should be very quick.
26 The plans need to be able to distinguish between the easy
27 ones and the hard ones, and the easy ones should be very
28 quick. There should be a standard of 24 hours I think on
29 those that fit within the trading zones, and trading zones
30 will have limits. So as long as the limit has not been
31 reached then that should be very quick. Once it starts to
32 get outside that, you are starting to get into prescribed
33 cautionary zones where we know that where the volume
34 transferred across zones gets large, or that it is crossing
35 tributary streams, then the plan should say that is the
36 time where that extra delay - and it must be much more than
37 four days - is pursued.
38

39 In unreg groundwater, we would still like State Water
40 to perform that function for the simple ones, but where
41 they are difficult, the answer is, no, we can't perform
42 that, that has a resource implication and it must go back
43 to DIPNR to be properly analysed.
44

45 Doug raised the last issue of being used as a vehicle
46 by others. That is an interesting question because there
47 is one thing that State Water has done for DIPNR in the

1 past and that is what we call the customer information.
2 That is a good question, as to whether the area being
3 irrigated, or the type of irrigation, the stuff that DIPNR
4 needs for the purpose of resource management to run the
5 models, et cetera, is State Water doing that for DIPNR or
6 is this a fundamental function of delivering water.

7
8 I think that is a valid question and I am not sure I
9 know the answer to it. One solution is to go back to what
10 is the primary purpose test. And that is efficiency. The
11 last thing I would like to see is a great tribe of DIPNR
12 people having to run down in the dust of State Water going
13 down to the meter, State Water meter, and in their dust
14 collecting the water usage data. This is an efficiency
15 issue, and I think Doug was implying, or Geoff was
16 implying, that if you want it then you pay for it. Okay,
17 that is one way around it, but the other one is to
18 understand, well, in State Water performing its function of
19 delivering this water should not in fact State Water know
20 what is going on with its customers, should it not be
21 actually gathering that for its own business to make sure
22 it is addressing it and should not maybe DIPNR get that
23 information as a by-product.

24
25 MR COX: Free of charge?

26
27 MS McLEOD: Do you mean the information about putting
28 water on?

29
30 MR ALVAREZ: Yes.

31
32 MS McLEOD: Is it relevant to State Water?

33
34 MR ALVAREZ: I would suspect it should be. If you knew up
35 front there was 20,000 hectares of rice being irrigated in
36 a valley at the start of the zone, the way you would plan
37 to operate that river would be entirely different than if you
38 had twice that amount. I would have thought that State
39 Water's main business is to find out what it is going to
40 face in the year coming, what is planned, in fact, what is
41 in the ground. How do you actually manage your business
42 through the year in terms of choke problems that might turn
43 up if you don't know what your customer is going to do in
44 the zone? How in hell can you manage your year's delivery?

45
46 My argument is, should State Water do that as part of
47 its business, its customer service business, know what its

1 customers are doing in advance, and behind, so it can retro
2 look at it, or should DIPNR be paying a service fee for
3 that to happen? My preference is that it is a fundamental
4 requirement of State Water. They are delivering water,
5 they should know what it is going to do.

6
7 MS McLEOD: It is not what they are using it on but what
8 their profile of demand is going to be.

9
10 MR ALVAREZ: True. You can't work out the profile of
11 demand without knowing what they are using it on.

12
13 MS YOUNG: What Kim is saying raises two propositions.
14 If DIPNR sets all the rules for State Water operating
15 the dams under the works approvals, then that actually
16 leave State Water very little room to manoeuvre in terms
17 of responding to customer demand and how they actually
18 operate the dam, whether there is 20,000 hectares of rice
19 or two.

20
21 The other question is that, as someone who provides
22 water, why should they care what their customers do with
23 it, if their customers choose to let it run down the river.
24 Like buying a cup of coffee, the barista does not follow
25 you out of the cafe and make sure you drink it. It is your
26 choice. It raises two issues: that they have some really
27 strict rules that they have to operate within and how do we
28 incorporate that flexibility to respond to customer demand
29 whilst also meeting environmental requirements; and is it
30 really in State Water's interest to know what their
31 customers are doing with the water once they have ordered
32 and paid for it.

33
34 MR BORNEMAN: I guess, as I said softly before, but loud
35 enough to be on the speaker, we are talking about
36 intellectual property. Yes, is the simple answer to both
37 your questions. Yes, we need that information, but we can
38 also put it under resource assessment in the sense that we
39 cannot run our systems adequately unless we undertake a
40 resource assessment and phase that resource assessment,
41 gather this knowledge and gain that understanding. That is
42 a point of difference between State Water and DIPNR at the
43 moment. So you are broadening the argument. It broadens
44 into that area as well. I would say you are completely
45 right, we need that information, but we also need to
46 undertake the resource assessment to run our business
47 effectively.

1
2 PROF MUSGRAVE: I am just a bit bothered by this question
3 of the operational surplus and efficiency gains which Kim
4 has raised which has come up in the reports and so on. I
5 understand, I hear what is being said by Kim, but I just
6 have this intuitive feeling that to minimise operational
7 surplus is a good thing, so I would like Kim to talk a bit
8 further about it, to explain that.

9
10 MR ALVAREZ: For example, the very best of examples is the
11 Murrumbidgee Murray. There may be minimum flow criteria of
12 50 or 300 megalitres a day. The fact of the matter is
13 because of the operational surplus there is significantly
14 more water than that goes to Balranald. Where does that
15 water passing Balranald go? It provides in stream ecological
16 outcomes from Balranald through to the Murray. Once it
17 reaches the Murray, it then actually is a source of supply
18 to the Murray Valley, so getting more efficiency in being
19 able to pool the average flow, and if you could hit that 200
20 or 300 megalitres a day every day, all you are doing is
21 reallocating water that is currently in the environmental
22 share and the Murray irrigators' share that flows from that
23 tributary back into the Murrumbidgee system, so you are
24 just reallocating.

25
26 The question is, is that an increased efficiency. The
27 Murrumbidgee irrigator will ask that. Why, because I get
28 more water. Will the environment say it is more efficient?
29 They will say, no, you are taking it from me. Will the
30 Murray say it is more efficient? They will say, definitely
31 not, that is part of our supply, we are part of a tributary
32 basin system.

33
34 PROF MUSGRAVE: Are you recommending that the
35 recommended performance indicator is appropriate?

36
37 MR ALVAREZ: I am saying it needs to be treated very
38 carefully. A blind statement of setting up an operating
39 surplus as a target - and the minimisation of that
40 difference as a target - would simply drive expenditure on
41 systems to become more so-called efficient but not being
42 more efficient at all.

43
44 PROF MUSGRAVE: What you are referring to could be
45 generalised into a fundamental concern about the use of
46 performance indicators.

47

1 MR ALVAREZ: That particular one, yes. I still believe
2 that State Water's role is the supply of water. It has the
3 function of delivering water, not allocating water. If it
4 is being done at a price, I don't want to stray into the
5 pricing area, but fundamentally I would say that State
6 Water's role is to stick to the rules as efficiently as
7 possible as defined and to do it for cheaper.

8

9 Efficiency often is referred to as dollars on the top
10 and something else on the bottom. You can increase
11 efficiency by changing the denominator or the numerator. I
12 would say State Water's function is to minimise the
13 numerator, the dollars, and continue with the same
14 megalitres, that is how to increase efficiency, rather
15 than striving to say, I am much more efficient, it is
16 costing me exactly the same to do it but I deliver more
17 water so that is more efficient.

18

19 MS McLEOD: I have got a few comments. Jim, you mentioned
20 that we are happy with SKM's indicators. I think the bar
21 could be lifted on some of them, particularly in the area
22 of water usage monitoring and metering. We have suggested
23 some higher performance levels. I think it also needs to
24 be done by category of licence. We have supplementary
25 water licences and general security licences and the
26 metering of supplementary water use once the event has
27 finished is actually quite important because in most
28 valleys supplementary water is limited to a certain amount.

29

30 Kim raised the timeliness of available water
31 determinations and the issues in relation to we have a
32 market, which is very, very important, but possibly not for
33 the operating licence. We need to have very clear and
34 prior knowledge about the things that will trigger when we
35 stray away from dates and we can publicly communicate that.
36 The communication pathways are actually very open, so if we
37 are going to do an allocation assessment and an
38 announcement because there has been a rainfall event above
39 a certain amount, it is sensible to do that as it provides
40 better information, we can flag that quite clearly so
41 people know it is coming so it is not a surprise. That
42 should happen.

43

44 With the transfers, I think you need to be aware that
45 the transfer forms must be completed correctly before you
46 impose your timeliness figures and also for the majority of
47 transfers the issues that need to be assessed there should

1 be prior knowledge by the people doing the transfers about
2 the sorts of things that are allowed and aren't allowed and
3 that should be publicly available and it should not be in
4 hindsight. Even when you have got limits, if there is a
5 limit on 10,000 megalitres year to year, as you are
6 reaching the limit you should let people know, put that
7 information out in the marketplace, because we are talking
8 about millions of dollars.

9
10 On this issue of water measurement, I think it is a
11 really important area. The issues Kim has raised are
12 correct in terms of an improvement in efficiency here
13 actually will take water from somewhere else. From our
14 perspective the issue is the better measurement of where
15 water is will help inform our decisions of where we can
16 actually make a change that is a genuine operational
17 improvement so the environment and other irrigators are not
18 the losers from it and some of the technology that is now
19 available could be installed.

20
21 MR MIELL: I just want to follow up on the issue of water.
22 efficiency Jenny just touched on it, but efficiency is one
23 person's gain and another person's loss. If somebody had 1,000
24 megalitres, but it takes 1300 to deliver it, I cannot see
25 how the person can say they have lost something if only
26 what was required to be delivered was delivered. Kim used
27 the example of 300 going down the river for the
28 environment. If there was more than that on top of that,
29 the environment would lose out, but if it was not the
30 environment's water in the first place, if the environment
31 is getting what was planned, I can't see how the
32 environment is losing. It is not losing against what it
33 should be getting.

34
35 The efficiency says that if there has to be X
36 megalitres for the environment and that goes down there
37 accurately and the irrigators' requirement is 100
38 megalitres and that goes down exactly, nobody has lost
39 anything. But if it takes more, Y plus 10 to deliver,
40 sure, there is an inefficiency. If you are sending down
41 exactly what is required to deliver, I can't see personally
42 how one person wins and one person loses.

43
44 PROF MUSGRAVE: If it is perceived that management of
45 water allocation is to reduce the operating surplus then
46 this implies the need for adaptive management of the total
47 water management plan for the valley or river and to the

1 extent that if we don't have adaptive management I can see
2 from what you say that there would be a problem. The
3 inadequacy that you were referring to is fundamental and it
4 should not be concerned with the operating licence but the
5 total management system of the river.

6
7 MR ALVAREZ: The problem is the confusion. Doug is
8 talking about operational loss, which is actually what is
9 lost in transit. Operational surplus is what actually goes
10 beyond. Clearly if you change the operational surplus you
11 are taking it from somebody else. Indeed, even the
12 operational loss, a lot of our groundwater systems are fed
13 by the river. Some of our losses are seepage from the
14 river, so if you reduce the seepage in the river to the
15 groundwater you are simply replacing groundwater access,
16 groundwater ecosystems from the groundwater pumpers. To
17 understand, there is no new water, all the water is
18 basically allocated so that any changes that appear to be
19 efficient are actually simply rebadging the water that is
20 going elsewhere. I do not want to overstate this because I
21 do know that in some areas things like seepage are being
22 lost to water that eventually is of no use, it is going to
23 saline water.

24
25 We want to prevent that. That is clearly not a good
26 outcome, going saline, but there are plenty of seepages
27 that are occurring at the moment that actually go and feed
28
29 groundwater pumpers. You've got to be mindful and careful
30 that any so-called saving is not a saving simply of
31 rebadging the water that's going elsewhere. We're not
32 saying that we shouldn't seek to understand them better
33 and, as Warren says, we need to properly define what those
34 are and yes, seek improvements in the processes of our
35 water-sharing plans, yes, asset management within them,
36 fine, but that's not the process of this licence and this
37 agreement. I go back to this point: be very careful about
38 setting efficiency targets that are related to megalitres
39 when you know that is a rebadging.

40
41 MR NEAL: First of all, on the operational surplus, I
42 agree with you wholeheartedly, Kim. We're not talking
43 about river losses. River losses, yes, do have
44 environmental benefits for groundwater dependent
45 ecosystems, et cetera. It is more about, coming back to
46 your example, if you've got excess water going down the
47 Murrumbidgee and if State Water is able to improve its

1 operations such that it reduces the amount above its
2 minimum flow target, then that water ends up back in the
3 reservoir because they haven't released it. If it is back
4 in the reservoir then you can use the adaptive management
5 Warren is talking about to use that water strategically.
6 If there is an environmental benefit in having a higher
7 minimum flow, then that allows State Water to improve its
8 business so that extra water can then be released
9 strategically to meet that environmental value.

10
11 The other point I would make there is that we are
12 conscious of the potential conflict and for that reason we
13 haven't specified a minimum standard on the operational
14 surplus. We're really just specifying it as an indicator
15 while at the same time saying that, as we will discuss
16 later on, there is a minimum standard that must be met for
17 the provision of those minimum flows.

18
19 MR ALVAREZ: That is very important, Mr Chairman. It is a
20 measurement because from both users' sides if we were to
21 see that that figure was dropping a lot, I would expect the
22 environment to start jumping up and saying, "Where the hell
23 did that come from? Where was it going before? I might be
24 being robbed." It would be the same way for the
25 irrigators. They'd say, "If it is going the other way,
26 hang on, what's going on?"

27
28 MR COX: It is useful information.

29
30 MR ALVAREZ: It is a stake in the ground now that you
31 measure variance from. As it varies someone is going to be
32 missing out to someone's gain and that may be good, but it
33 may also be bad.

34
35 MR NEAL: Can I conclude? The other point I wanted to
36 make was about the metering. Initially, we did have a
37 target based on the volume of water metered and we
38 subsequently realised that the State Water Management
39 Outcomes Plan has a target based on the percentage of works
40 that are metered. I would wholeheartedly support volume as
41 the important thing. I am not sure what that does to the
42 State Water Management Outcomes Plan, but I think measuring
43 volume is much more meaningful in setting a high target for
44 that. State Water has said they would be able to meet
45 that, but it's also about ensuring that that standard is
46 maintained. If the standard is set high it ensures that
47 that standard is maintained.

1
2 MR COX: Thank you very much.

3
4 MR MURRAY: I have just two points to raise. Earlier on I
5 was a bit concerned about one of Rachael's comments as to
6 the turnaround time of temporary transfers, when she was
7 talking about there may be downstream impacts if you're
8 sending it down. That is beginning to stray back from what
9 we were trying to get away from with corporatisation -
10 separation between the operator and the regulator - and if
11 there are to be limitations on those transfers, they should
12 be in the rules set by DIPNR and then State Water operating
13 to it.

14
15 As long as that's clear and maybe checking whether the
16 rules have been met may take a little longer than 24 hours,
17 but it shouldn't be a case of State Water trying to make
18 assessments on whether there's going to be an impact. It
19 is either possible or not possible.

20
21 The second thing in the debate on efficiency savings
22 has a slightly different take on that. I notice in
23 State Water's submission to this inquiry, on page 20, they
24 basically suggested that if they achieved efficiency gains,
25 they should be able to keep the benefits of those for the
26 business itself. While as a general rule as irrigators we
27 believe whoever pays should gain the efficiencies, we have
28 a little bit of concern that they are actually identified
29 efficiency gains because of additional investment that was
30 funded from State Water's own resources, rather than
31 efficiency gains that may well have been achieved by
32 State Water managing its current resources in a more
33 efficient manner.

34
35 In other words, if they could have been doing the job
36 better and they suddenly decided they would do it better,
37 they shouldn't be getting the bonus from that: that's the
38 way they should have been performing. If they go out and
39 borrow some money in their own name to put in some
40 infrastructure that improves efficiency, yes, they can get
41 the gains from it.

42
43 MS McLEOD: I must make a comment about the focus on
44 volume. Volume is extremely important but water is an
45 extremely valuable commodity. There are major equity
46 issues. If you just focus on the big water users when you
47 have smaller individual pumpers that may not be meeting

1 compliance conditions, attention has to be applied
2 to those people and you need to use technology to do a
3 better job of measuring their water use.

4
5 MR COX: Are there any further comments from members of
6 the panel?

7
8 MR FLETCHER: Just on that, there are two issues. I am
9 not informed enough to know what percentage of actual users
10 should be and what volume should be, but there's no reason
11 we can't have two indicators. They really measure two
12 different things.

13
14 MR COX: We might take a comment or two from people
15 sitting in the side of the room.

16
17 MR KILLEN: I am a bit amazed once again, around the
18 circle, by a couple of speakers who shall remain nameless.
19 Adaptive management really is not available under the
20 prescriptive water sharing plans that were presented.
21 Adaptive management is not available, it is not an option, so
22 whether you call that a policy issue or not I'm not quite
23 sure. The other thing I need to talk about is once again
24 the available water determinations aren't random: they're
25 quite prescribed. In our valley they've been prescribed
26 for as long as I can remember and that goes back to quite a
27 long time ago. As far as the market privileges from the
28 AWDs, I'm a bit amazed. My irrigators - and I'm
29 representing 280 or 290 of them - if you rang them up now
30 they would be able to tell you exactly what the percentage
31 is in the dam, exactly what the requirements are for stock,
32 domestic and riparian reserves, and they would do a very
33 quick and simple division by the numbers in the water
34 sharing plan and they would tell you exactly within
35 probably 0.2 of 1 per cent what the volume of water is.

36
37 I really need to
38 make a comment on this metering volume versus licences. I
39 am only speaking on behalf of the regulated section of the
40 Namoi Valley from Keepit Dam to Walgett. I can tell you it
41 is at least 15 years since the Association of Irrigators in
42 our valley virtually had to demand some accountability and
43 we have been adamant for at least 15 years that no
44 irrigator will irrigate unless he has a working meter and
45 the meter is sealed with a lead seal.

46
47 Interestingly enough, 10 years ago we also were quite

1 instrumental in getting ratings done on those meters.
2 Despite some of the rhetoric we're hearing in the media,
3 and I noticed yesterday Professor Peter Cullen said that a
4 lot of water is disappearing, inferring it might be
5 irrigators in the Namoi - that's not so. Thank you very
6 much, Mr Chairman, for the privilege.

7
8 MR COX: Thank you. Yes?

9
10 MR BERRY: Dan Berry, Manager Information Operations with
11 State Water. If I could, I'll take the opportunity to do a
12 bit of a link between this performance indicator session
13 here and the previous one on the overarching operating
14 licence.

15
16 MR COX: A very dangerous thing to do.

17
18 MR BERRY: I will draw a few examples out of the
19 performance indicators for delivering water which is the
20 core thing, that we have to release water for delivery to
21 customers and to the environment. That is important to
22 State Water and it is important to the operation of the
23 business. It is important to all of our stakeholders and
24 customers and so we could very quickly get into duplication
25 and overlap.

26
27 Because it is an important indicator, you have
28 suggested we have this 95 per cent of complying orders
29 within one day as a performance indicator in the operating
30 licence. The operating licence also calls for a customer
31 service charter and in the customer service charter one of
32 the indicators they're looking to is the delivery of water
33 to the customers in their particular valley: valley by
34 valley. At the moment our customer service charter is
35 designed to cover the whole State, but there's natural
36 tension amongst the CSCs about those customer service
37 implications of our delivery, so there are different
38 standards for that particular performance indicator for
39 their valleys.

40
41 The other one that we're delivering to - we may
42 release customer-to-customer, but we're also trying to
43 measure our flow at the end of the system, the gauging
44 stations, in terms of what's in the water sharing plan and
45 the details drawn up in the implementation manuals. Since
46 our releases, we are negotiating targets in the
47 implementation manuals with DIPNR as to how often and

1 whether we meet it 95 per cent of the time or go above or
2 below, or weekly averages, or whatever. The same
3 implications exist in getting water into the system. It's
4 important to the stakeholder or regulator in terms of how
5 we're getting water into the system, so we've got some
6 standards for each of the valleys, each of those system
7 things that are in the implementation manuals.

8
9 This indicator is also important for the Board of
10 State Water in its negotiations with Treasury. The Board
11 has to set aside a whole range of performance indicators in
12 delivering water. Obviously, the Board and the Treasury
13 recognise that's important as well. We have a performance
14 indicator in the statement of intent about delivering
15 water, in how many days, whether it is at the end of the
16 system, or delivering of water to customers as well.

17
18 You can see that everybody recognises that delivering
19 water is important and so every one of our regulators has a
20 performance indicator on it. We in State Water, in
21 management, try to get these performance indicators to line
22 up roughly similarly, but you'd recognise there's some
23 potential for us to have different standards for the same
24 performance indicator for the whole range of it. I am not
25 talking about only now: this is my experience of the last
26 20 years in this industry. Everybody wants to regulate us
27 in this particular way and I think this is an opportunity
28 for the operating licence to try and clarify that.

29
30 Going back to the previous discussion about
31 overarching, perhaps the operating loss doesn't need to set
32 the standard here. It needs to say that State Water needs
33 to negotiate a customer service charter with the customers
34 as to what the standard should be and the implementation
35 manuals would be the beginning system targets, rather than
36 specify another standard for that particular indicator.

37
38 MS KERR: My name is Deborah Kerr. I am the Manager of
39 Policy for the Rice Growers Association of Australia. I'm
40 also a member of the Murray-Lower Darling Customer Service
41 Committee. I've got a number of comments to make, some in
42 support of some of the comments around the table, and I
43 will start with the supplementary water announcement.

44
45 Critical to rice is the very timely announcement of
46 both AWDs and supplementary water between about September
47 and at the end of November. It is critical to us at

1 planting time that those announcements are made in a timely
2 manner. For us the ability to have 24 hours a day, seven
3 days a week supplementary water announcements, as have been
4 previously negotiated with State Water through the customer
5 service committee, is very critical.

6
7 The customer service committee supported the
8 resourcing by State Water to be able to do that. For the
9 operational surplus what hasn't been discussed so far is
10 this is making State Water responsible for things that they
11 may not be responsible for and here I'm talking about
12 perhaps misorders: so there are some issues that haven't
13 been thought about that may not be totally under
14 State Water's control.

15
16 The available water determinations - the discussion so
17 far has focused on the majority of State Water's control,
18 but in the Murray we have a different system. In the
19 Murray the MDBC actually makes the available water
20 determination for each State and then it becomes the
21 State's responsibility for processes within the valley.
22 That process can take two weeks: that's not an
23 understatement. That is the interstate determination
24 process which Kim is very aware of and has been actively
25 involved in for a number of years. Having a performance
26 indicator for State Water on an interstate process may not
27 be totally valid for the Murray.

28
29 The allocation announcements themselves are really
30 dependent on data, We would say that the collection of
31 data is probably more critical to those announcements than
32 anything else.

33
34
35
36 Certainly, I am aware of the issues with the water
37 markets and I can support both Jenny's and Kim's comments
38 there, but again, as Jenny indicated, there's a
39 communication process and there's also an education
40 process. With irrigators, once they're aware of the rules
41 then they adapt very quickly, as Jenny said.

42
43 With the metering of water, there has been no
44 discussion of high standards for the current metering
45 protocols and I'm talking here about real-time telemetry
46 metering. If we're talking with raising the bar on some of
47 these standards then perhaps we should be raising the bar

1 on the metering that's actually being done so as to have
2 real-time telemetry metering. The issue then is not so
3 much the volume of water or the number of meters, it is the
4 actual timing of the metering and then, flowing from that,
5 the volume that has been metered.

6
7 The standard for intra-valley transfers I see as a
8 step back. Currently, State Water reports to the
9 Murray CSC on intra-valley, intervalley and interstate
10 transfers. To have one standard is actually a step back
11 from what we're already doing. We probably should have
12 some inclusion there, particularly in the southern valleys
13 or the border valleys, for both interstate and intervalley
14 transfers. I should probably leave it there, but I think
15 there are some new things I've raised that perhaps should
16 be included.

17
18 MR COX: Is there a comment on this side of the room?

19
20 MR BURTON: Gerald Burton. I am with
21 Macquarie Generation. We operate the largest power
22 generating facility in the State and in doing so we
23 obviously consume a fair amount of water. I understood
24 that SKM indicated that they didn't look at instream
25 losses. In the Hunter we actually lose 30 per cent of the
26 regulated releases from our dam for a 10km stretch of the
27 river. That's a significant amount of water. They
28 average, I think, around 1,000 megalitres a day, 0 to
29 1,000, so up to 300 megalitres has been lost every day -
30 day in, day out. I think there should be some performance
31 indicators that highlight that, that measure that, to sort
32 out where that water is going, because, as I understand it,
33 it is not going to the environment, it is going to
34 groundwater. I think performance indicators could actually
35 highlight those sorts of losses and improvements in
36 efficiencies that can be gained from sorting those issues
37 through really need to be addressed. Thank you.

38
39 MR HECKENDORF: Rel Heckendorf, from Murrumbidgee
40 Irrigators. I have just a couple of issues to address. I
41 agree with Jenny on the available water determinations.
42 Most of the big irrigation companies and the big irrigators
43 and the smaller irrigators in the Murrumbidgee Valley won't
44 understand what performance indicators actually do. When
45 DIPNR actually announces it, the market is in place, it's
46 alive and well, based on the business these people do. By
47 the time DIPNR actually announces it, a lot of these trades

1 have already happened.

2
3 The other thing I don't agree with is the 90 per cent
4 figure. I think it should be 100 per cent. There's no
5 reason why it can't be 100 per cent. They're not making an
6 effort. The other thing is that the general performance
7 indicators are pretty useless across the State. It should
8 be on a valley-by-valley basis because if you lose a couple
9 of hundred megalitres in the Murrumbidgee it is not a big
10 deal, but if you lose it from a little stream somewhere
11 else it is big. In other words, it should be weighted if
12 you're going to have a statewide performance indicator,
13 which is not really much use to the customers anyway. It
14 might be all right for the academics and the politicians,
15 but the customer wants to know how they're performing in
16 that particular valley. They're not interested in how it
17 performs somewhere else.

18
19 MR BENTLEY: James Bentley, from Murray Irrigation. I am
20 wondering how you can calculate the percentage of water
21 metered if you don't know how much water is not being
22 metered, or you don't know what sort of volume is there,
23 how you can work out a percentage that's accurate,
24 accountable, that State Water can be held to if you've got
25 a section of your water use that you're not actually
26 metering? How is it ever going to be accurate?

27
28 MR COX: Thank you.

29
30 MR NEAL: Could I respond to that question? Obviously,
31 you'd target your metering to the very large customers and
32 if it is an issue about not metering everyone, then you can
33 make a reasonable estimate of what the smaller customers
34 are using. That is how that would be calculated, but
35 that's not to detract from the general consensus that
36 people seem to be saying that there is a desire to meter
37 all water users.

38
39 MR ALVAREZ: Could I just add that the National Water
40 Initiative that has just been signed by the joint
41 governments actually requires national standards to be
42 worked through in regard to metering. I think it would be
43 important at this stage of the game that the operating
44 licence identifies or recognises that that process is in
45 train and that the standards are going to be quite
46 variable.

47

1 Quite clearly, the standard that will be set for a
2 meter that takes thousands of gigalitres is going to need
3 to be different to one that takes one or two megalitres and
4 to this day we've got many systems that already use, for
5 example, power consumption, not a water meter as a
6 surrogate for extraction. There are many different ways
7 that you can assess the water taken other than using an
8 inline meter, there are many different varieties, and I'm
9 pretty sure that the national standard that is trying to be
10 set up across Australia will recognise that there are
11 different horses for different courses.

12
13 MR COX: I am anxious to bring this session to an end.
14 Would any person on the panel like to suggest any possible
15 ways forward? I think we have to take all the comments on
16 board and work out how to proceed. We had originally hoped
17 to finish this session at 12.10: it is now 25 past 1. I
18 suggest we break for lunch now and give ourselves lunch,
19 say, until about quarter past 2 and then try to do the
20 three main sessions this afternoon. Thank you very much
21 for your attendance so far. We will see you at a
22 quarter past 2.

23
24 LUNCHEON ADJOURNMENT

25
26 ENVIRONMENTAL ISSUES

27
28 MR COX: We move on now to the very important issue of
29 environmental issues and we ask Matt Edgerton to lead this
30 session.

31
32 MR EDGERTON: Good afternoon, everyone. The aim of my
33 presentation today is to facilitate discussion on potential
34 environmental requirements for inclusion in the State Water
35 operating licence. This presentation will basically follow
36 the structure in the "environment" section which is in your
37 workshop materials.

38
39 My presentation will be comprised of three parts:
40 firstly, for the bulk of the presentation I will look at
41 five major environmental impacts or issues associated with
42 State Water. For each of these I will give a brief
43 description of the issue, then look at any regulatory
44 issues and the extent to which the impact is likely to be
45 covered by a regulatory instrument other than the operating
46 licence, then I will look at the SKM recommendations in
47 terms of addressing each particular impact.

1
2 Towards the end of the presentation I will also
3 briefly discuss State Water's environmental management
4 plan. I will then conclude by leaving a slide up for
5 discussion which will list some questions arising from the
6 presentation. Just to give you a bit of warning, these
7 questions will basically ask whether SKM's
8 recommendations are appropriate, should the operating
9 licence specify any additional obligations and what should
10 State Water's environmental management plan cover.

11
12 The first impacts or issue that I will look at is water
13 quality. Poor water quality in State Water storages can
14 affect the amenity value of the storage and potentially
15 downstream river health and the health of water users. For
16 example, blue-green algae can lead to the death of aquatic
17 animals, pose health problems to animals and to humans and
18 obviously affect water quality. In saying this, it has to
19 be recognised that like other aspects of water quality, the
20 formation of blue-green algae in State Water storages and
21 in streams can be caused by a range of factors which may be
22 beyond State Water's control, such as agricultural activity
23 in the wider catchment area. Nevertheless, several
24 stakeholders have suggested that the operating licence
25 should require State Water to monitor and report on water
26 quality in stream and in storage.

27
28 Currently in terms of water quality parameters and the
29 scope of monitoring there appears to be uncertainty as to
30 what water quality monitoring requirements DIPNR will
31 impose by its works approvals. State Water's MOU with
32 DIPNR may also outline water quality monitoring and
33 management responsibilities, although again the details
34 of this are also uncertain.

35
36 For the purposes of public reporting, SKM's sole
37 recommendation is that the operating licence should require
38 State Water to report on the number of algae bloom events
39 in storages and weirs by alert level.

40
41 The next environmental impact is cold water pollution.
42 As you can see from the diagram, cold water pollution is
43 caused by the release of cool layers of water near the
44 bottom of dams. Cold water pollution can reduce
45 temperature downstream hundreds of kilometres away and
46 impacts significantly on river health and biodiversity and
47 is one of the key factors behind declining native fish

1 species in New South Wales. Currently many State Water
2 storages do not have the capability to control cold water
3 pollution and the structural solutions to enable it to do
4 that are generally very costly.

5
6 However, there is a proposed statewide cold water
7 pollution strategy which would include implementing works
8 at priority dams to enable the control of cold water
9 pollution. The key regulatory mechanism for implementing
10 this strategy will be DIPNR's works approvals. Works
11 approvals will be able to specify the dams where
12 investigation and works must be undertaken over a nominated
13 time frame, ongoing operating protocols for the nominated
14 works once they are in place to minimise cold water
15 pollution, and reporting requirements.

16
17 It is also worth noting that we have been informed
18 that State Water's new MOU with DIPNR, which is scheduled
19 to commence on 1 January 2005, will include a couple of
20 cold water pollution performance indicators. These are
21 listed in your workshop materials.

22
23 SKM does not recommend that cold water pollution
24 standards or indicators be included in the operating
25 licence because cold water pollution will be regulated by
26 works approvals and because of the performance indicators
27 that are scheduled to be in State Water's new MOU with DPI.

28
29 The next issue or impact that I will look at is fish
30 passage. Dams and weirs act as barriers to fish passage.
31 This can restrict the migration and breeding of native
32 fish. Such barriers have been identified as one of the
33 major causes in the decline of native fish species in New
34 South Wales. State Water has an MOU with DPI which now
35 includes New South Wales Fisheries, and this has been in
36 place since 2004. Its main purpose is to outline the
37 obligations of both parties in ensuring that State Water
38 complies with the requirements of the Fisheries Management
39 Act.

40
41 Under this Act, State Water can be required to include
42 a fish way when proposing to construct or modify a dam or
43 weir. As mentioned in the previous slide on cold water
44 pollution, a new MOU with DPI is scheduled to commence
45 soon. As well as a couple of cold water pollution
46 indicators, there will also be performance indicators
47 relating to fish passage and aquatic habitat. These

1 indicators are also listed in your workshop materials.

2
3 DPI believers that fish passage issues are effectively
4 dealt with by this MOU. SKM agree. However, they do
5 recommend that the operating licence requires State Water
6 to report on any performance indicators that are in its MOU
7 with DPI.

8
9 Environmental flows: by capturing, storing and
10 releasing water State Water's operations can change the
11 volume and pattern of river flows. It has the potential to
12 significantly impact on the environment by altering the
13 timing and volume of water to downstream ecosystems. For
14 example, according to the Department of Environment and
15 Conservation, the Macquarie Marshes, which are listed and
16 are featured in this slide, now receives only half the
17 flood water that it did prior to river regulation and it
18 has shrunk to 40 to 50 per cent of its original size.

19
20 Water sharing plans set out the rules for releasing
21 water to the environment and they are intended to address
22 this issue of environmental flows. Works approvals, to be
23 issued by DIPNR, will require State Water to release water
24 in accordance with these water sharing plans and it is our
25 understanding that they will also require State Water to
26 notify DIPNR of any noncompliance with the water sharing
27 plans, including the environmental flow provisions.

28
29 Daily minimum flow targets are part of the
30 environmental flow provisions of water sharing plans. If
31 these minimum flow targets are not met then not enough
32 water is being released from State Water storages for the
33 daily needs of the environment. Even with the DIPNR
34 regulatory requirement for State Water to comply with water
35 sharing plans, SKM recommends that the percentage of time
36 that daily minimum flow targets are met should be adopted
37 as a performance indicator under the licence. I would like
38 to stress that the recommendation is that this is a
39 performance indicator, not a performance standard.

40
41 According to SKM, the recommendation is based on the
42 concerns of environmental groups, the ease in which this
43 indicator can be reported on and the potential consequences
44 of not meeting or not providing minimum environmental
45 flows.

46
47 The next issue is closely related to the previous

1 slide on environmental flows, which is river bank slumping
2 or erosion. As well as changes to the volume and timing of
3 water to the environment, changes to the pattern of river
4 flows can also cause river bank erosion. This can occur
5 when dam operations result in rapid reductions in river flow
6 levels, causing bank slumping and increasing sediment loads
7 in rivers.

8
9 According to DIPNR, State Water's obligations in this
10 area will be met when it complies with works approvals,
11 which will require State Water to operate in accordance
12 with water sharing plans and DIPNR's implementation manuals
13 for each river system. Water sharing plans can contain
14 rules regarding the rate of changes of release from
15 storages and it is our understanding that when necessary
16 implementation manuals will specify the rate of river rise
17 and fall for each valley so to protect against bank
18 slumping and erosion.

19
20 SKM does not recommend that the operating licence
21 subject State Water to performance indicators in this area
22 as it believes that the implementation manuals provided in
23 works approvals is the appropriate place to specify these
24 requirements.

25
26 As a separate general recommendation, SKM do suggest
27 that State Water's MOUs with DIPNR, DPI and DEC should
28 contain protocols or reporting requirements for dealing
29 with cases of environmental harm. This could include State
30 Water reporting on cases of bank slumping which results
31 from it following DIPNR's release rules as well as any
32 other general environmental incidents such as fish kills or
33 adverse water quality outbreaks.

34
35 I will now move to looking at State Water's
36 environmental management plan. State Water's interim
37 licence requires it to prepare an environmental management
38 plan by 1 July 2005. The plan is required to set up
39 targets over its five-year term. According to the interim
40 licence, the environmental management plan must also
41 include an energy management policy, apply appropriate
42 targets of the New South Wales Government Energy
Management

43 Policy, include indicators to measure the environmental
44 impact of State Water's asset operations and maintenance,
45 and the plan must be made available to the public.

46
47 It is important to note that an environmental

1 management plan is usually intended to guide an
2 organisation's environmental performance and communicate
3 this to its stakeholders and the wider community. The
4 scope of State Water's environmental management plan could
5 potentially range from a relatively narrow approach which
6 looks at issues such as energy consumption, pollution
7 minimisation while undertaking construction works, waste
8 minimisation and procurement practices, to a more
9 comprehensive plan that addresses all of its environmental
10 obligations and all potential environmental impacts of its
11 operations.

12
13 State Water's environmental management plan could also
14 vary the extent to which it is reviewed, subject to
15 stakeholder consultation and reported on. An important
16 consideration in this sense is that an environmental
17 management plan should remain sufficiently stable so
18 time that its performance over can be assessed.

19
20 I will now conclude by leaving this slide up which
21 highlights some points for discussion. These can be summed
22 up in a few basic questions: what do you think of SKM's
23 recommendations; should the operating licence specify
24 additional standards, indicators or reporting requirements;
25 and what should the content and scope of State Water's
26 environmental management plan cover.

27
28 I will now hand over to the panel for discussion.
29 Thank you.

30
31 MR COX: Thank you very much. We'll now move on to
32 comments from members of the panel. Perhaps in this
33 instance we might start with the Nature Conservation
34 Council.

35
36 MS YOUNG: I guess what we are really looking for, what
37 are our overall goals when we are asking for reporting on
38 environmental indicators, is for State Water to comply with
39 its obligations in the objectives of its Act in terms of
40 ESD, which are critically important to their overall
41 operations. Part of their reporting under that is to
42 actually report on the impact of their operations. ESD is
43 quite a broad thing, as defined, so it's important that
44 State Water not only look at the impact - I guess it is the
45 impact of their operations, is what we are really getting
46 at. So whilst a lot of these things are not directly
47 within their regulatory control, issues such as cold water

1 pollution do have impacts on river health.
2
3 With our overall objective, which is to make sure that
4 we have healthy functioning ecosystems, we need for State
5 Water to report on some of those issues in relation to that
6 so that we get a view of where their operations are
7 impacting on the environment and actually what that impact
8 is. The other thing we are looking for is an incentive for
9 State Water to be actually able to improve its
10 environmental performance.

11
12 As was mentioned, I think in the Total Environment
13 Centre's, submission and was also mentioned by Tony
14 previously, when you set a performance indicator sometimes
15 it also acts as a ceiling for performance. So, in this
16 case, I guess across the board, with State Water's
17 performance, we would actually like to see incentives for
18 them to continue to improve their whole process of adaptive
19 management and improving business and improving
20 environmental operations. So we would like to see, I
21 guess, some mechanisms for environmental and business
22 improvement. I guess that's really it. What we are
23 looking for across the board is to ensure that State Water
24 delivers its product in a way that minimises environmental
25 harm.

26
27 MR COX: Thank you. Now we will hear from DEC.

28
29 MS DUNKERLEY: Thank you. Gillian Dunkerley, I'm sitting
30 in for Barbara who has had to leave. We agree that State
31 Water has obligations to perform in a manner that satisfies
32 the ecologically sustainable development. We believe,
33 therefore, that that puts somewhat of an obligation on
34 State Water to conduct their operations in a manner that
35 minimises impact on the environment. They also should be
36 monitoring those impacts on the environment, even though
37 those impacts might not necessarily be wholly due to State
38 Water's operations, and there should also be some incentive
39 for environmental improvement of environmental management,
40 and, where possible, we believe that State Water has a role
41 in contributing to general catchment and ecosystem health.
42 Although, obviously, with immediately downstream of
43 storages, for instance, no-one would argue that State
44 Water's releases are probably one of the major determinant
45 of ecosystem health or otherwise in those stretches of
46 river.

47

1 However, there's obviously going to be a continuum
2 whereby other catchment influences gradually increase in
3 intensity and, therefore, there's a sort of distance
4 downstream at which it becomes very much more the resource
5 manager's role to monitor those impacts. So I think that
6 that's something that the provision within the licence to
7 require for monitoring of certain aspects would be
8 something we would support. However, I think there also is
9 a case for sorting out in the MOU where State Water's
10 responsibilities diminish, if you like, and where DIPNR's
11 increase.

12
13 I think State Water should be required to contribute
14 to broad environmental outcomes, and these are in those
15 areas because of the impact that their operations have on
16 those areas. I won't repeat those here, but they are up
17 there.

18
19 My last comment on the environmental management plan,
20 in terms of how broad a scope that is, is that I think the
21 environmental operating licence is probably more properly
22 an avenue for setting the targets and for environmental
23 issues. They may not be performance targets, but they may
24 be a requirement to monitor and a requirement to contribute
25 to certain outcomes without necessarily specifying that,
26 you know, they are something that they have to achieve on
27 their own.

28
29 However, also in developing that environmental
30 management plan, which we see as the avenue of how State
31 Water proposes to meet the targets that have been set, or
32 if monitoring has been required, to set out how State Water
33 will carry out that monitoring, in developing that plan
34 they should consult with relevant agencies. They should
35 develop suitable targets for progress, recognising that
36 some of those environmental outcomes may not be achievable
37 immediately.

38
39 Cold water pollution is a point in case because that's
40 something that may be triggered when there's major upgrade.
41 Obviously with major upgrades, we don't know necessarily
42 when the timing of those major upgrades are going to be, so
43 you might have a requirement to work towards targets in
44 terms of operating protocols, or whatever. They should
45 collect information on relevant indicators, indicate how
46 they are going to do that and report on those indicators
47 periodically. There should be a reporting requirement in

1 the operating licence, but not necessarily specifying
2 exactly what they are going to report on when.
3
4 MR COX: Thank you very much. Warren?
5
6 MR MUSGRAVE: Thanks Jim. Once again, I'm inclined to be
7 quiet and listen to others. I notice there is a tendency
8 to return to things that bothered us greatly in the first
9 session. Since then, I am led to observe that when it
10 comes to the core business matters, we seem to be
11 confronted with questions of refinement - that is, to a
12 large degree of agreement, there is a question of whether
13 we could refine it, whether we could raise the bar, express
14 something somewhat differently.
15
16 Here, I feel we are dealing with a matter where there
17 are fundamental issues that someone argued strongly should
18 be resolved, and that possibly the scope for the operating
19 licence to deal with these issues should be seen to be very
20 limited, and IPART will have to bother itself with this
21 before we are agree to progress the issue, the extent to
22 which the operating licence deals with these matters. But
23 if it is to deal with these matters, I'm worried about some
24 of the complexities that might emerge.
25
26 I notice that on the question of fish passage and
27 aquatic habitat we have a suggested number of performance
28 indicators which almost exceed those of the total set of
29 performance indicators suggested by SKM in relation to the
30 core operating business, and I think the report is to be
31 praised in its economy, in offering such standard
32 indicators, but it seems like it is out of control - fish
33 passages and aquatic habitat. So that's just about all I
34 want to say at the moment, I think, Jim, and I hope to come
35 back to some other matters later.
36
37 MR COX: Michael.
38
39 MR MURRAY: Just on Warren's comments about returning to
40 concerns from this morning, as a general rule or general
41 point on algae control, reporting on that, yes, State Water
42 probably has a role in reporting from the public safety
43 point of view on the quality conditions in the dam at the
44 time, and any limited access to it. At the same time, it's
45 not something that they really have any responsibility for
46 in terms of can they control the algae bloom in the dam.
47 They have very limit choices there. They don't have any

1 control over really what water comes into a dam. That's
2 flowing out from the areas outside of their controls, so it
3 gets a bit hard to have some performance indicator on
4 turbidity or things like that, when really we are using
5 these performance indicators to assess their overall
6 performance, and yet they can't impact on the performance.
7 I have concerns about that.
8
9 Cold water pollution, clearly, you know, some dams can
10 do something about it; some dams can't. But where there is
11 the infrastructure in place to diminish cold water pollution,
12 I guess that's covered by the operating licences. Again, I
13 don't need to double up. So in terms of that doubling up,
14 we have got a situation where the water sharing plans are
15 in place, they set a share for consumption users,
16 environmental, so the shares are determined by that.
17
18 The operating licence, in terms of how this water is
19 delivered, MOUs cover those areas where, you know, specific
20 agreement can be made between agencies. State Water has to
21 cover, you know, comply, with all other legislation that's
22 out there within the EPA Act and others. So I think
23 there's no shortage of regulation out there for them
24 already and I think they are pretty well covered by those.
25 So, on the whole, I don't really see the need for too much
26 at all that's come out in this section.
27
28 MR COX: Thank you, Geoff.
29
30 MR BORENMAN: I guess one comment, I think there is a
31 fundamental difference here. What's been presented is, to
32 me, not our role in terms of this monitoring. Basically,
33 we have a set of principles by the regulator, and what we
34 are audited against is complying with those principles. If
35 we have an agreement to build structures, we build
36 structures in accordance with the agreement. If we have an
37 agreement to operate structures, then we operate them in
38 accordance with the agreement. It's not up to us to
39 specify that that agreement actually achieves the
40 environmental outcome. That's the regulator's role. So
41 what you are asking for is State Water to undertake
42 something like how long is a piece of string, which is not
43 its role. So, to me, the basic principle is that the
44 regulator sets how we do this, we get monitored against
45 that, we get judged against our compliance with what the
46 regulator says to us to do. It's the regulator's role as
47 to whether what he says to do is acceptable or not.

1
2 MS McLEOD: I agree with the two former speakers, that we
3 do have some fundamental differences in how we believe the
4 environmental issues should be tackled by State Water.
5 Murray Irrigation is really concerned that there appears to
6 be a shifting of responsibility from environmental
7 monitoring from government to State Water, whereas, as a
8 logical consequence, it will actually be funded by
9 regulated water users, and I ask the question of why should
10 we be asked to pay for activities that government have
11 never performed adequately in the past, which is why there
12 are these demands being made for information?
13

14 While I don't dispute there is a need for better
15 information about what's actually happening in terms of
16 river health, that is very much a valley by valley, reach
17 by reach issue, which needs to be addressed. I don't think
18 it's the role of State Water. To a certain extent, Murray
19 Irrigation's licensing requirements, when it was created,
20 placed a lot more accountability on us for environmental
21 monitoring and reporting. But I think the issue is
22 different there, because with an organisation like us, the
23 benefits and impactors are much more direct and focused and
24 specific. It's obviously in our mutual interests of
25 government and ourselves to be able to try and manage
26 environmental issues at our local level where we can
27 actually control what happens.
28

29 In the case of issues like cold water pollution, fish
30 passage, water quality and storages, some of those issues
31 are actually beyond the control of State Water.
32

33 Specifically in relation to water quality, it's really
34 complex. It has many diverse courses and impacts, and is
35 best managed on multiple scales that, in the past, DIPNR's
36 been responsible for. That's what's happened in our
37 valley. We've actually got some quite good cooperative
38 arrangements in terms of coordinating regulatory
39 committees. State Water have a role in being part of the
40 discussions, and obviously there are releases that can be
41 really important to help mitigate the consequences, but it
42 shouldn't be an indicator in any licence.
43

44 I have similar comments on the cold water pollution
45 and fish passage that I made earlier today, and, once
46 again, in terms of reporting and monitoring, these are
47 really dam by dam, valley by valley issues. They are not

1 sort of broad-scale State issues.

2
3 It appears that from some of the issues that the
4 environmentalists are raising, the works approval is
5 actually going to require compliance with water sharing plan
6 release rules, which I agreed State Water should be
7 releasing water as the sharing plan says. Works approvals
8 is going to be a really important document, and I think
9 IPART, through their operating licence, are going to have
10 to sort out how they deal with compliance with the works
11 approval, or whether they can't, and it's just the
12 responsibility of DIPNR.
13

14 In relation to the minimum flow requirement that was
15 proposed by SKM, I highlight that in the Murray the actual
16 minimum flow is actually more related to stock and domestic
17 water supply. It may not be the case in other rivers, but
18 in our rivers, in terms of environmental performance, it is
19 not as strong an indicator. That will be enough.
20

21 MR COX: Thank you, Brendan.
22

23 MR FLETCHER: There doesn't appear to be different views
24 of what the operating licence should deal with. Some of
25 the things that Rachel and Gillian said, I wanted to make
26 some comments on, if I may.
27

28 I see a set of distinctions here that largely attract
29 one another. They probably overlap, but, from our point of
30 view, all fall within the purview of ESD. I guess we would
31 see them encompassing on the one hand, of course, State
32 Water's obligation to perform according to its regulatory
33 requirement. The regulatory requirements, more or less,
34 they are set within the EPA and DIPNR.
35

36 Beyond that, we see a realm where State Water can
37 actually raise its environmental performance above that
38 regulatory baseline. It might be able to do that from
39 incentives, and I'm not an environmental economist, but I
40 think an environmental management plan might be a good
41 place to investigate what kind of financial incentives to
42 be put in place, consistent with State Water's operating,
43 to figure out ways that it can raise its performance above
44 regulatory requirements. It seems to me that's a function
45 of what they might do.
46

47 A second sort of distinction that attracts that

1 regulatory incentive distinction is that between
2 performance standards and performance indicators.
3 Performance standards, from our point of view, there are
4 things that should be within State Water's control. They
5 should be met and, if they aren't, consequences might flow.
6
7 Nevertheless, State Water has a lot of impacts that,
8 as a result, from past decisions, continue to have impact
9 on the environment. One is algal blooms. Now, alga blooms
10 probably take place with great frequency because of State
11 Water's infrastructure than if that infrastructure wasn't
12 there. That doesn't mean they can control it on a
13 day-to-day basis. It doesn't mean that it's an impact that
14 flows due to decisions, the fact that they operate into the
15 future. I think those impacts are relevant for a number of
16 reasons. One is because of the cooperation. Basically it
17 has an impact by virtue of its infrastructure on those.
18 Secondly, it may actually be possible to use that
19 information to construct some kind of improved performance.
20 So I think that impact related information can be used in a
21 non-regulatory sense, to improve future performance. The
22 key is really to draw that distinction. Nobody is being
23 held accountable for things they can't control. Nobody has
24 an interest in that. But that's not the use of this
25 information.
26
27 Then I guess, following from that, a final distinction
28 I want to make would be between IPART's role as a primary
29 regulator and, in that instance, it's probably best to, when
30 we're talking about these kinds of obligations to just pull
31 in the things that the regulators do and look at them.
32
33 I talked earlier about reserve powers. IPART does not
34 have jurisdiction over making sure that DPI and DIPNR does
35 its job. That's fine. I'm not sure it's completely out of
36 the realm of feasibility to have some kind of reserve role
37 in which the nature of that relationship remains
38 functional. You may have a limited ability to do anything
39 about it, but, nevertheless, continue to monitor that.
40 Those are the kinds of distinctions I'd want to make. I do
41 think if you are careful in making those distinctions, you
42 end up with an operating licence that's useful to the
43 public.
44
45 MR ALVAREZ: As I said before, operation of rivers is
46 quite complex, yet really quite simple. State Water
47 releases water into rivers and it does so to fulfil three

1 functions: one is that there are very highly codified
2 rules of release that flow from the plan through the works
3 approval as to what they must release for the environment.
4 Number two is that they release water for orders for their
5 customers. Number three is what we commonly now have
6 referred to as bucket water, and that's the environment's
7 share of water in storage that's operated similar to the
8 way an irrigator might call on water storage. So these are
9 the three types of water that we have to deal with.
10
11 State Water can't fiddle with the release rules. They
12 are specified in the plans, they are specified in the works
13 approval, they must comply with those. Their relationship
14 with their customers, in terms of meeting orders, well,
15 that's dealt with elsewhere. The third one, the bucket
16 water, the government has made the decision of late that
17 the CMAs will be responsible for fine-tuning that release
18 of water so that it maximises environmental outcomes. We
19 must be very careful that we don't set up in specifying
20 State Water in any way to be an environmental manager that
21 starts coming in conflict with the CMA. We don't want to
22 put State Water in a position where it is required to
23 comply with its operating licence to put it in conflict
24 with either the rules of the plan, or the orders that have
25 been put on it by the CMA, who is effectively the
26 environmental manager of the bucket water.
27
28 I agree that certain measures need to be made along
29 the way so that when we revise plans, or for the CMA to be
30 able to fine-tune its core of its water, there are certain
31 things that should be recorded. And I believe the
32 recommendations of SKM are appropriate. I would not like
33 to see them set up as any more than measurements, not of
34 standards.
35
36 MR COX: Thank you, Doug.
37
38 MR MEILL: I would certainly agree with the comments of
39 Michael, Geoff, Jenny and Kim with regard to environmental
40 issues. The council believes that the environmental
41 management plan is the appropriate process for State
42 Water's obligations to be articulated and must be
43 transparent and have a monitoring and auditing process
44 attached to it. We also believe, as Jenny says, it
45 constitutes a community service obligation and must be
46 fully funded by government.
47

1 Of course, we pick that up in the pricing submission
2 which will come up later. So, really, I would only
3 reiterate the comments about plans and all the other rules
4 of State Water, where they are, and mustn't be in conflict
5 with environmental managers. I just reiterate and say the
6 points that have already been made.
7
8 MR COX: Brad?
9
10 MR NEAL: I don't have anything to add to that.
11
12 MR COX: Are there any further comments from members of
13 the panel?
14
15 MS DUNKERLEY: I think we have agreed in previous
16 discussions about monitoring for information about the
17 resource condition. I don't see that you can have
18 monitoring for information for resource condition about
19 water quantity, and then decide that monitoring for
20 condition about water quality is relevant or someone
21 else's problem.
22
23 However, that's very much different to requiring a
24 certain standard of performance, and I don't think anyone
25 here is arguing that State Water should be required to
26 deliver outcomes on something over which they have no
27 control. That is a different manner from monitoring
28 things. So we would argue that such factors as the
29 temperature of releases, compliance with water sharing
30 plans, algae blooms in storages and such like are very much
31 factors that affect or are affected by State Water's
32 operations and should actually be reported on by
33 State Water.
34
35 All environment protection licences - as does Sydney
36 Water's and Sydney Catchment Authority's water licences -
37 include monitoring requirements. That's part of it. So if
38 you are looking for equitable treatment with other
39 state-owned corporations and other regulated entities, then
40 I think that needs to be taken into account in deciding
41 what is and what isn't in State Water's operating licence.
42
43 MR COX: Are there further comments?
44
45 MR BORENMAN: We simply don't do any of that at present,
46 when you are talking about a massive cost associated with
47 it. Currently that cost would be in the IPART submission,

1 from the regulator, not from State Water. So you are
2 talking quite a massive shift in dollars.
3
4 MS DUNKERLEY: No, I don't believe so.
5
6 MR ALVAREZ: Certainly our direction is that DIPNR is
7 accountable for the water quality in the state. That's
8 recently declared. So while it's in the natural habitat -
9 that is, in the river - it's DIPNR's responsibility to
10 monitor it and report on it. That's what the resource
11 manager does. However, we believe that while it's in the
12 built-in environment, that is, it's contained within State
13 Water's storage, since they do have, I believe, as the
14 operator, a public liability for informing them, it is
15 right and appropriate that they report on water quality
16 in their storages.
17
18 Once it leaves their storage, they have no control
19 over it. If they have released water under the
20 requirements, cold water pollution, fish passage or
21 whatever the other dictatorial instruments are, once they
22 have done those, it's out of their control. So I agree
23 that monitoring needs to take place, but I don't think it's
24 State Water's business to do that. You have got to
25 remember, of course, that downstream from these dams, of
26 course, it's getting also a whole lot of catchment
27 contributions over which they have no control. The
28 tributaries, the unregulated tributaries, the local
29 inflows, which may or may not be flow-back from works
30 approvals, again, is over which State Water has no control.
31 It tends to be more of a catchment issue about the water
32 quality once its in the river. Albeit reluctantly, we have
33 put our hand up and said we are responsible for water
34 quality in the rivers and State Water in the dam.
35
36 MS DUNKERLEY: Including areas immediately downstream of
37 storages?
38
39 MR ALVAREZ: Basically, yes. If State Water has complied
40 with their works approval, that's what they have done.
41 That's what they are required to do. .
42
43 MS DUNKERLEY: When might we have works approvals?
44 At the
45 moment there are no such works approvals.
46
47 MR ALVAREZ: They are required for the operating licence
to begin on the full operating licence, to begin on July 1.

1
2 MS DUNKERLEY: The works approvals will be in place then?

3
4 MR ALVAREZ: Yes. I won't fool anybody to think that
5 they will be complete, because there are a number of things
6 that are still in practice. Some of our areas, for
7 example, in the Murray, we know what rate of rise and fall
8 of rivers are. Others we don't. So we'll be monitoring
9 those sorts of things. If there is an erosional problem
10 that requires a specification of rates of rise or falls,
11 we'll notify. We can't put in what we don't know.

12
13 MS McLEOD: I think there is a bit difference between
14 quality in relation to State Water's functioning. If you
15 are going to manage a storage, you need to know about flow
16 into the storage, flood mitigation, all your storage
17 management things. It is absolutely fundamental that you
18 have information about quantity. It's not necessarily the
19 case with quality.

20
21 In relation to your distinction, Kim, I see that DIPNR
22 should still be responsible for the storage issues, because
23 they are also influenced by the catchment. Look at Lake
24 Hume where you have got urban residential development
25 around it. It is not regulated by State Water. You have
26 got resorts, all of those sorts of things. It's not a
27 State Water responsibility if we have water quality issues
28 in those storages, caused by all these things that other
29 people actually regulate.

30
31 The other issue is that you then are creating a
32 communication problem, because you have got the river,
33 where DIPNR are going to do it; you have just got up stream
34 for storage and public safety and information and all of
35 that sort of stuff. I think one organisation would be
36 better.

37
38 MR ALVAREZ: I think you may have misinterpreted me. I
39 did not say that they were responsible for the water
40 quality in the storage. However, as the managers, one
41 would assume, because of their presence at the dam, that if
42 you had a water quality problem, not that they are
43 responsible for it, but if they have presence and they are
44 the operator of that dam, it would be expected that they
45 would then tell those visiting that dam whether they are at
46 risk or not. That's just a basic public liability issue.

47

1 MR BORENMAN: A duty of care.

2
3 MR ALVAREZ: It's a straight duty of care issue. In
4 regards to the communication, we have the Department of
5 Health responsible for water quality, local government,
6 State Water responsible for water quality and DIPNR
7 responsible for water quality. There are probably a number
8 of others as well. Generally what we have is a regional
9 algal coordinating committee whose responsibility is to try
10 and get all those government or semi-government
11 organisations together to make sure the government is
12 protected and we have a consistent way of working. It's
13 not about being dictatorial about it; it's about
14 coordination. I think coordination takes place. I think
15 that there is a logical distribution between what's in the
16 storage and what's downstream of the storage.

17
18 Everyone has to recognise that, at the end of the day,
19 water quality is an indication of catchment health, not
20 river health. So it's what's happening at the catchment
21 that's most important for water quality. There is one very
22 small window where we can do something about it, and that's
23 at the release point from a large storage. Your ability to
24 do anything even at a weir is very, very limited. But,
25 fundamentally, it's about the release from storage.

26
27 So if we limit State Water's activities to complying
28 with whatever the scientists say is the best way to operate
29 a dam, and they operate it that way, then they are resolved
30 of their responsibility.

31
32 MR COX: Are there any further comments?

33
34 MR KILLEN: I would just like to follow up on a couple of
35 relevant issues. Water quality - I just want to reinforce
36 what Kim's saying - often I hear that the water managers at
37 the State Water are going to make a difference to water
38 quality. That is not so. The irrigation industry
39 influence in the catchment on average is less than 2 per
40 cent in land area. Interestingly enough, the only major
41 area of influence you could have on water quality is
42 actually the temperature.

43
44 In terms of bank slumping, bank slumping is really
45 interesting if you look at it in a practical sense. If you
46 look at the northern rivers - I know a little bit about the
47 Namoi - the highest ever peak demand is 4,000 megalitres a

1 day. The channel at Narrabri, for those of you who have
2 driven there, at the top of the bank, is about 45,000
3 megalitres a day.

4
5 Peak demand, in old fashioned terms, would be no more
6 than three feet deep in the Namoi channel. If you can tell
7 me that that's going to influence bank slumping you've got
8 another thing coming, because we have a major flood event
9 at Narrabri as I speak, the town is half full of water and,
10 mark my words, the bank slumping will be from the flood, it
11 won't have anything to do with irrigation. You need to
12 start thinking about practicalities, really, in your
13 considerations of these issues.

14
15 Multi-level offtake towers are an interesting thing
16 for me. We're talking about water temperatures.
17 Interestingly enough for the people I represent here today,
18 we've actually been paying for a multi-level offtake tower
19 and fish passage in the Namoi River since the last
20 determination. I am pretty sure, if we look up the book,
21 that's the fact. We would like to see one dollar of that
22 money we paid in the past to be put to some action. There
23 is a proposed State Government strategy to deal with these
24 issues. By and large, the fish passage has been improved
25 by the regulation of the Namoi River. The Namoi River
26 never, ever ran 365 days a year - never ever - until
27 regulation. Now, with the water sharing plan there is
28 demand to have it running 365 days a year and that's called
29 an environmental outcome. If I was an environmentalist I
30 would be somewhat upset because that's not a natural
31 occurrence and fish passage in the Namoi, by and large, is
32 better than it has ever been. Thank you very much,
33 Mr Chairman, for the opportunity to respond.

34
35 MR COX: Are there any further comments?

36
37 MR BURNS: Arthur Burns, Hunter Valley Water Users
38 Association and Coastal Valley Services. I would just like
39 to back up what Jenny said about bank slumping on coastal
40 rivers, which are usually short-climb and come up very,
41 very quickly. Certainly, there's very much flooding;
42 there's nothing for Glenmore Dam to be emptied out. The
43 other issue I thought was interesting in the MOU on page 7,
44 about the Fisheries Department - I wouldn't have thought
45 that State Water would have been responsible for clearing
46 willows and riparian vegetation. I would have thought that
47 was CMAs' responsibility.

1
2 MR KILLEN: I have a question arising from that,
3 Mr Chairman. I had taken that as a typo, because I agree
4 that there would be a couple of thousand kilometres of
5 willows across the river system that State Water would be
6 responsible for. I'd hate to take that dot point
7 literally, the removal of willows, because I suspect the
8 budget would blow out very quickly.

9
10 MR HECKENDORF: Mr Chairman, I have a bit of concern here
11 with the overlap between river management plans and the
12 operating licence. I think they are two distinct things
13 altogether. It was said that all these things are major
14 things - the fish, et cetera. When you're looking at an
15 overall river management plan there are a whole lot of
16 other things that cause native fish to decline or change
17 population patterns and the European Carp is one of them.
18 I would like to see a lot of this stuff, including the
19 river management plan, given a priority rather than just
20 picking out three or four that happen to be part of
21 State Water's responsibility and earmarking these
22 priorities. There are many priorities all the way down
23 the list.

24
25 MR COX: Thank you. Are there any further comments?

26
27 MS YOUNG: I think we'd all have to agree with what was
28 just said. It would be fantastic to actually have an
29 integrated river management plan that dealt with all of
30 these issues. Our fundamental problem is that we don't
31 have one. That is why we're looking to the operating
32 licence to give us indications of what's going on.

33
34 MR ALVAREZ: It is my understanding that it is the
35 Government's intention that the CMAs will facilitate the
36 production of that report and that is to maximise the
37 environmental outcomes flowing from the operation of the
38 river. Clearly, despite the fact that we have plans that
39 are in place for 10 years, they can be changed and if
40 they're changed in a way that doesn't change the bulk
41 access regime, then there's no compensation payable and the
42 Government would change those in accordance with
43 recommendations from the CMAs and indeed the Natural
44 Resources Commission.

45
46 However, we've got to be mindful that if we try and
47 change in midstream, change the shares, then compensation

1 can be payable. So, again, I would encourage you to watch
2 this space as the CMAs start to do that very thing, fill
3 that gap that to date has tried to be filled by a water
4 sharing plan as opposed to a river management plan and now
5 through the operating licence. We shouldn't try and feed
6 it all just because we've got it.

7
8 MR MOXEY: Dennis Moxey from the Lachlan CSC and also I'm
9 a board member on the CMA. I would just like to back up
10 the words that Kim has given us there because it is part of
11 our strategy to take on the environmental and water
12 monitoring programs within the catchments down the full
13 length of the catchments. We talked about overlap before,
14 the overlap of functions and the waste of resources and
15 money and time and things like that. I believe that it's
16 already in an MOU between the CMAs and DIPNR to take on
17 this monitoring and in the Lachlan it will also take up the
18 community monitoring program, which the irrigators have
19 been paying 50 per cent of for the last five years, to
20 monitor bank slumping and those sort of issues and fish
21 passage and numbers and the ecological effects of water
22 going down the river, which we don't want to pay twice for
23 by paying into a State Water fund where they have to charge
24 us because they're going to do the monitoring.

25
26 Please let it be put into the right basket and go into
27 the MOU between DIPNR, because they are the monitor,
28 because it is still within the realms of resource
29 management and that will then be passed on to the new
30 monitor, who will be the CMAs, in the role that they'll
31 take in that overall catchment management.

32
33 MR FLETCHER: I will try to be brief because we have
34 stated our position a couple of times now . We have veered
35 off into talking about fairly general river management
36 matters. We are not asking for this licence to be about a
37 river management plan, much as we'd like to see river
38 management. We're asking for it to be a document that
39 integrates reporting of State Water's impacts and its
40 regulatory compliance by using other available information.
41 We're really not looking for this to be a general river
42 management plan, but we are looking for it to be an
43 integrated view of State Water's performance.

44
45 MR COX: I left here with the sense of rather different
46 views on what the operating licence should be, clearly.
47 There is, I think, probably general agreement State Water

1 should not be held responsible for standards over things it
2 cannot control and there may also be some sense that SKM
3 has indicated in the right ballpark; is that right?

4
5 MS CIFUENTES: Could we have bigger nods?

6
7 (Laughter)

8
9 MR COX: Thank you for that. Let's move on to the next
10 session which is on customer service. We will start off
11 with the presentation from Felicity Hall. Over to you,
12 Felicity.

13 14 15 CUSTOMER SERVICE ISSUES

16
17 MS HALL: Before we begin, I just thought I might ask
18 anyone who has been involved in State Water's customer
19 service committees to put their hands up. Great. There
20 are a few people in the room. My name is Felicity Hall and
21 I'm going to talk to you about customer service and
22 consultation issues in State Water's operating licence.

23
24 I have five things I want to talk to you about today.
25 The first is to be very clear about the nature of the
26 relationship of State Water and its customer and the
27 relationship with DIPNR as well. I would like to overview
28 the interim requirements in the operating licence. I would
29 like to talk a little bit about the customer service
30 charter and I understand that there are some processes
31 which many people in this room have probably been involved
32 in in developing those charters.

33
34 Also, SKM has made a number of recommendations, so I
35 would like to put those on the screen for people to look at
36 and discuss. The last point is to look at the issue of
37 community and customer consultation in the licence. At the
38 end of this presentation I will put up a list of points for
39 discussion. Just in terms of this diagram, DIPNR has a
40 legal relationship with customers. The actual legal entity
41 of "a customer" is created through a DIPNR licence. This
42 is either through the Water Management Act or the
43 Water Act.

44
45 State Water has a relationship with its customers.
46 For those of you who are irrigators, you'll receive a bill
47 from State Water. You'll put an order into State Water for

1 some water and State Water will then deliver that water to
2 you. That relationship at the bottom of the graph is
3 really the relationship between those regulated water
4 customers and State Water.
5
6 State Water also has a relationship with DIPNR which
7 is the other part of that triangle. Those are for
8 contracted services for the
9 unregulated and the ground water customers and those
10 services are focused on billing and the reading of meters,
11 so it's quite a limited role.
12
13 I want to focus a little bit more on that relationship
14 between State Water and the customer and what its role is
15 in the licence. At the centre part of this figure I have
16 three dot points which the operating licence currently
17 deals with. They are in complaints handling, so
18 State Water has a responsibility in its licence to develop
19 its internal complaints handling process which is based on
20 the Australian Standard. It has to establish an external
21 complaints handling process as well and this is must be set
22 up by December of this year. It also has to develop a code
23 of practice and procedure on debt management which is also
24 to be set up in December, so State Water, as you can see,
25 has been quite busy.
26
27 The other element of this is the reporting and
28 recording of complaints. One of the questions in this
29 licence that we have to deal with is what is the
30 relationship between the operating licence and the customer
31 service charter and the diagram has been drawn here to show
32 that there is currently an overlap between the operating
33 licence and the customer service charter. I thought I
34 would just explain to you the requirements that are in the
35 licence at the moment on the customer service charter.
36
37 Firstly, State Water has to develop this charter in
38 consultation with the customer service committees. The
39 charter has to outline the levels of service and mutual
40 obligations between both State Water and a customer. It
41 has to set out performance standards and obligations:
42 for example, timely delivery of water to licensed
43 customers. You can see already that there is some overlap
44 between whether we set performance measures in this
45 document, the customer service charter, or whether we
46 prescribe them in the operating licence. We are really
47 asking the question what is appropriate to go into the

1 licence versus the customer service charter?
2
3 We wanted to raise a question in terms of the customer
4 service charter, what requirements should be placed into
5 the operating licence about developing, reviewing and
6 reporting on performance, and there were a few other points
7 I just wanted to raise in terms of this document.
8 Currently, there's no periodic review mechanism of the
9 charter in the licence. There is no requirement for
10 State Water to comply with this charter. Also, when we're
11 looking at this document of the customer service charter
12 and its relationship to the licence, it will also have an
13 impact on the scope of the audit because where you put
14 those obligations will have an impact on how you audit
15
16
17 I would next like to move on to SKM's recommendations.
18 In this morning's presentation Brad put up some performance
19 indicators to do with water delivery, billing and policing.
20 The recommendations that I've got up on this slide are
21 basically to do with customer service satisfaction and some
22 measures to do with complaints reporting. The first one is
23 at least 75 per cent of respondents to customer
24 satisfaction surveys should be satisfied with State Water's
25 services. The next two dot points deal with customer
26 complaints and the last point on that slide deals with
27 customer inquiries to State Water.
28
29 We already have a number of stakeholder views on some
30 of these measures and one of the key things that has come
31 out of submissions is whether customer service performance
32 standards and obligations should be contained in the
33 customer service charter or whether it should be contained
34 in the operating licence, and it was mentioned before that
35 State Water has been negotiating separate service levels
36 with different valleys, so should we actually be trying to
37 prescribe something broad and general in the licence, or
38 should we actually be trying to tailor something more
39 specific to the valleys?
40
41 Also, State Water and the irrigator groups have made
42 the comment that the operating licence should require
43 compliance with the charter and not enclose separate
44 obligations. Given these stakeholder views and given SKM's
45 recommendations, what customer performance standards or
46 indicators should be specified in the licence?
47

1 The last part of my presentation is really dealing
2 with the issue of customer and community consultation.
3 Currently, the operating licence specifies three types of
4 committees. The customer service committees are committees
5 that have been operating already for a number of years.
6 There are eight committees and they generally meet
7 quarterly. There is a new body which has been set up
8 through the licence, which is the community consultative
9 committee. This is a statewide body which is to have
10 certain representation. The last element is the local
11 reference committees and these are bodies which State Water
12 could set up on a periodic basis when undertaking major
13 capital works or programs.

14
15 I am just going to focus on the first two, on the
16 customer service committees and the consultative committee,
17 because that really is where we had the most discussion in
18 the submissions.

19
20 Customer service committees are the main forum for
21 State Water to consult with its customers and in the
22 operating licence it also must include representatives from
23 the unregulated water and groundwater customers and the
24 catchment management authority. These unregulated water
25 and groundwater customers are included even though in that
26 first diagram I showed you they're not technically a
27 customer: State Water is contracted through DIPNR to provide
28 those services.

29
30 Another point that was raised in the submission is
31 there are generally high levels of support for the customer
32 service committees. There was a feeling that membership
33 and the terms of reference of these committees needed to be
34 reviewed. Also, there was general support for the
35 membership to include the catchment management authority
36 as well as the unregulated and groundwater users as well.

37
38 One other point that came out from the submissions was
39 that there was a concern by some parties about the quality
40 of information which was being supplied by State Water to
41 these committees. The issue for discussion is should the
42 membership and terms of reference for the customers service
43 committees be specified in the licence and is there any
44 other thing that, really, we need to have prescribed in the
45 licence to deal with customer service committees, or is the
46 arrangement working as well as it is now and the
47 prescription is not needed?

1
2 Probably one of the more contentious areas in this
3 review is the issue about community consultative
4 committees. Under the licence, the committee must include
5 representation from customer, environment groups, basic
6 water right holders, regional businesses, consumer groups,
7 the catchment management authorities and local government.
8 Stakeholder views on the relevance and effectiveness of
9 this forum was questioned. State Water and most
10 irrigator groups were not confident that this body would be
11 an effective forum. Some of the points that came out were
12 that different valleys have different concerns and that
13 this body wouldn't necessarily be a peak or representative
14 body. However, there was very strong support from the
15 environment groups and some other stakeholders for this
16 body.

17
18 In terms of where we go from here, one option is to
19 discontinue this committee, but this has the disadvantage
20 of not providing a consultative mechanism for the broader
21 community and also for the environment groups. We could
22 change the representation of the community consultative
23 committee. We could include representatives from the
24 customer service committees on this body to make it a more
25 effective peak body. The other option is to change the
26 representation on the customer service committees to
27 include environment groups, but the environment groups here
28 have actually made the argument that because there is such
29 a large number of customer service committees that meet
30 quarterly, the resource implications for that are really
31 too large for them to attend those meetings on a regular
32 basis.

33
34 However, if you take the view that the environment is
35 also a customer, then perhaps there is some value in
36 environment groups attending those meetings as well. In
37 terms of some of the issues for discussion, one area is
38 should this community consultative committee be retained?
39 Can this statewide peak body make an effective contribution
40 to State Water policy? If so, how could it be set up to
41 make sure it is a peak and representative body?

42
43 Another issue that we would like to raise is the
44 reporting arrangements for these committees. Should the
45 operating licence require public reporting of these
46 committees's progress and performance? There are currently
47 the three types of committee which I showed in that first

1 slide and perhaps there is a need for some sort of public
2 reporting on what these committees actually do and what
3 they achieve.

4
5 There are also arguments for the audit to perhaps look
6 at the effectiveness of these committees, so if there is
7 some sort of public reporting then it is a much easier job
8 for an audit to actually look at. Whether they actually
9 effective in achieving their functions?

10
11 That is the end of my discussion. I have put up some
12 summary issues for discussion and it basically is in those
13 three areas: firstly, the customer service charter, should
14 the operating licence require the development, review and
15 reporting on performance of the customer service charter
16 and, more broadly, what is the relationship of the
17 operating licence with the customer service charter.

18
19 The second area is SKM's performance standards and
20 indicators, what do you think of them and where should they
21 be? Should we actually tailor something more specific to
22 valleys or should we look at some broad parameters which
23 should be recorded for State Water basically across the
24 State? In the last area of community and customer
25 consultation should the membership and terms of reference
26 for the customer service committees be specified in the
27 licence? Is there a need to specify information in the
28 licence? I guess that is one of the questions which I
29 would like to hear from the panel.

30
31 Should the community consultative committee be
32 retained and if we are going to retain it how can we
33 actually improve it? The last issue is should the various
34 committees be required to publicly report on their progress
35 or performance? Thank you.

36
37 MR COX: Thank you very much, Felicity. We will move on
38 to the panel discussion and Geoff will start off.

39
40 MR BORNEMAN: On the first point there, the customer
41 service charter, I believe that it is reasonable to have
42 that specified in the operating licence, the fact that it
43 develop a customer service charter in consultation with its
44 customers and have some sort of review, renewal,
45 development and reporting process associated with that. I
46 believe that will cascade out to the performance indicators
47 and measures that we need, so I don't believe that we

1 should specify SKM - them - in the operating licence. I
2 believe that part of that development of a customer service
3 charter should be in terms of the establishing the
4 appropriate measures and standards that should be included.

5
6 With respect to the customer service charter, as you
7 indicated, we are in the process of and have started
8 developing a consultation and we're very close to getting a
9 sign-off on that. With respect to the terms of reference,
10 we've started the initial consultation and are developing
11 that with the customers as well and we're hoping to have
12 that signed off before December in accordance with the
13 interim licence. I believe, again, it should be specified
14 in our initial licence that we should have that and, as I
15 said, with the customer service charter having the same
16 basic parameters.

17
18 I think you've got the questions around the wrong way
19 in your presentation. Should the customer service
20 consultative committee be retained, and then you said,
21 basically, "Well, what's its purpose?" I think we should
22 work out what its purpose is and whether it should be
23 retained. The stakeholder's view is it is seen to have an
24 effective purpose. Taking into account its cost, I think
25 it's reasonable to retain it, and then you work out what
26 the best structure is to achieve that purpose.

27
28 Should the various committees be required to report
29 publicly? No, I don't believe so. I believe their
30 internal committees offer advice and work with State Water,
31 so I believe, yes, internally they should report, but I
32 don't think there should be public reporting.

33
34 MR MURRAY: In terms of actually a performance indicator
35 on, effectively, the customer service committee, I think
36 the only one that may be considered in the operating
37 licence is that 75 per cent of customer service committee
38 members are happy with the customer service charter and
39 the
40 process of the customer service committees. If they're not
41 then you've got a problem with those committees. Within
42 the committees themselves they'll have a whole list of
43 performance indicators that they'll be expecting
44 State Water to report back to them, but really those
45 performance indicators don't have to be outlined in the
46 operating licence.

47 In terms of the community consultative committee, I

1 really do not see the point. I take Geoff's comments on
2 board. So far it hasn't been explained to me what its role
3 will be and what it can achieve, so I'm very doubtful about
4 it. It is a little bit like if we see State Water as a
5 logistics company delivering services. It is a bit like a
6 truckdriver running around the roads. As long as he's
7 sticking to the rules, he's performing as he should
8 perform. He doesn't actually require a whole heap of
9 people sitting in the sleeper box telling him how to drive
10 the truck. I just don't see the value at this stage of any
11 committee. If the Tribunal does decide to go down that
12 path, it must be fully funded as a community service
13 obligation and not by the customers of State Water because
14 I do not see any value at all for the actual organisation.
15 I think that covers my comments.

16
17 MS EWING: Mary Ewing from Lachlan Valley Water,
18 representing groundwater and fixed-water irrigators in the
19 Lachlan Valley. We support the development and review of
20 the customer service charter as a term of the operating
21 licence. We also support strongly that the operating
22 licence should require compliance with the customer service
23 charter and, therefore, that the terms of the performance
24 standards do not actually need to be included in the
25 operating licence itself.

26
27 We support valley-by-valley reporting. In terms of
28 the customer performance standards or indicators that SKM
29 referred to, we support those and one of the key benefits I
30 think for customers from the separation of State Water is
31 that it provides the opportunity for better business
32 performance, greater flexibility and responsiveness and one
33 of the keys to that is provision of clear information to
34 customers and customer service committees.

35
36 In terms of another performance indicator, we see that
37 inclusion of information to enable customers to actively
38 participate is a key indicator and by extension from that
39 State Water has a role in customer education. The other
40 factors of improved business performance and delivery
41 performance for us is financial management and this touches
42 on the presentation that Felicity gave in terms of
43 provision of information. We see an opportunity for better
44 performance in terms of delivery of financial information
45 to customer service committees.

46
47 I think water delivery and temporary transfers

1 issues, some of those other performance issues have been
2 dealt with already this morning. In terms of customer and
3 community consultation, the membership of the CSC is, from
4 our point of view, working well at the moment. The
5 delivering of environmental water and to other non-paying
6 clients, basic rights customers, the terms of that
7 contained in the water sharing plans and specified in the
8 works approval.

9
10 So we see those issues already being handled through
11 there rather than handled through the customer service
12 committee. The community consultative committee, again, we
13 share the same concerns about whether it will be effective.
14 However, I guess, if the CCC does operate with the optional
15 terms, the CCC shares plus the other stakeholder
16 representatives, to members of the CCC, and reporting, we
17 see more as an internal function rather than an external
18 function.

19
20 MR MUSGRAVE: I would just like to ask a couple of
21 questions in relation to the CCC, which subsequent speakers
22 have already spoken about in their address. The first one
23 is whether they see a need for certain state-wide generic
24 issues to be addressed; then, having identified that,
25 whether CSC-type organisation would be the appropriate way
26 of addressing it. Then perhaps to ask a question that the
27 environmental NGO representatives would well ask
28 themselves, but I will just repeat the question: where do
29 the environmentalists have their input into the consultative
30 process, if we don't know, and their representation at
31 regional CSC, it is not seemingly the way to go.

32
33 MR BORNEMAN: What we have attempted to do, when we
34 have state-wide issues, have the CSC chairs together, or, as
35 we have in developing the customer service charter, the
36 representatives in CSC groups to nominate representatives
37 and --

38
39 MR MUSGRAVE: On that basis, yes. Thank you.

40
41 MR COX: Rachel?

42
43 MS YOUNG: It's interesting to hear the views, as someone
44 who doesn't get to sit at the customer service committee
45 table. I see a fairly important role for the community
46 consultative committee in terms of some of the broader
47 state priorities that Warren was talking about. I think

1 that's an important forum for discussing and perhaps
2 determining the relative priority given to some of those
3 differing priorities. No doubt DIPNR have priorities as to
4 what should be done, DPI will also have priorities, as will
5 DEC, so I think that broader forum is possibly a very good
6 place to actually determine how those priorities sort out
7 and provide some actual direction to State Water at that
8 broad overarching level.
9
10 I also see it as an opportunity for broader engagement
11 of the community. We obviously have some interest in the
12 operations of State Water and what it does and how it does
13 it. I'm sure there are other stakeholders that are also
14 interested in that. I think recreational fishers would
15 be very interested in seeing how State Water is working
16 with fisheries in terms of fish passage. I'm sure
17 aboriginal people have a great interest in water management
18 as well as in terms of native title, and all of these
19 stakeholders deserve the right to have some input into the
20 operation of a state-owned publicly funded corporation.
21 There's no doubt that the customers fund part of the
22 activities of State Water, but the taxpayer and the broader
23 community also have a significant input into those costs,
24 so we have the right to also have the opportunity to talk
25 about those issues.
26
27 I also think that some of the major outcomes and the
28 major directions that are decided upon in the customer
29 service committees should also be reported on. If the
30 customer service committees make broad recommendations, I
31 think it's in the public interest to know where that's
32 going, because, again, it's all part of a public
33 corporation. So I think, again, transparency - and it
34 doesn't have to be detailed minutes of every meeting, but
35 if there are three or four key actions, or key decisions
36 that are made by the customer service committees, I'd be
37 very interested in knowing what those are. That's my idea
38 on what the community consultative committee would
39 engender.
40
41 If it was decided that that forum was inappropriate,
42 and it may not be appropriate for that forum to meet four
43 times a year, as do the customer service committees, it may
44 simply be maybe once every six months, it might be twice a
45 year, to discuss broader issues, if there was not that
46 forum available then the environment, as a silent customer,
47 and also as part of the obligations of State Water, then I

1 think it's important that that representation is provided
2 at the customer service committees. There has to be an
3 opportunity for environment groups and other stakeholders
4 to have their say in what's going on.
5
6 MR COX: Thank you. We might pass by Brad and move on to
7 Doug.
8
9 MR MIELL: To support Geoff, Michael and Mary's comments,
10 with respect, as to the customer service committees, we
11 would certainly agree that they should be retained and
12 perhaps the opportunity taken with the corporatisation to
13 review membership terms of reference, aims and objectives,
14 et cetera, of these, and our suggestion for membership
15 would possibly be irrigators from regulated and unregulated
16 ground water, representatives of irrigation corporations in
17 private irrigation districts, local government authorities,
18 catchment management authorities. That perhaps may bring
19 in some of Rachel's concerns. And government agencies in
20 an advisory role as they relate to the activities of a
21 region. We'd also suggest that perhaps the members should
22 be resident in the particular valley so that can really
23 bring in the knowledge and understanding of that region to
24 bear on the activities of those CSCs.
25
26 With respect to the customer service charter, I have
27 full support for that, but for it to be effective it has to
28 have some accountability attached to it, otherwise it just
29 becomes a piece of paper pinned on a wall and has no
30 bearing to anything. That has to be addressed. Obviously
31 it is best incorporated into the operating licence so it
32 really does compel State Water to commit. Also, on the
33 other hand, there's the commitment to the customers, and
34 the obligation for them to have a reciprocal input into how
35 they deal with the corporation so that it does both ways
36 impact on the efficiency of the operations.
37
38 Regular meetings. Obviously, the customer service
39 chairman and State Water senior executive, perhaps that's
40 another opportunity for higher level input and, in our
41 submission, it might be the board of directors of the
42 irrigators council, for example. So there's other
43 opportunities where perhaps, from time to time, that allows
44 a different sort of consultation. Again, it might bring in
45 opportunities for some of the NGOs to be involved at those
46 levels.
47

1 Another area that I would see fits into this area is
2 obviously State Water may from time to time have a lot of
3 delegated authorities from the other departments and they
4 need to be accounted and demonstrated how they are
5 operating and accountable. So there's a bit of
6 transparency and understanding of those.
7
8 As for the customer and community consultation, I just
9 reiterate that at that State level I would not see that as
10 being successful. Perhaps one of the things we would
11 promote is the use of the natural resources advisory
12 council that Minister Knowles set up when he established,
13 in his second reading speech for the Natural Resources
14 Commission bill, if I can quote a little bit of what he
15 said:
16
17 I'm establishing the Natural Resources
18 Advisory Council to replace many of the
19 disparate advisory bodies that have
20 previously advised government on a wide
21 range of natural resource issues. Bringing
22 these under one high-level advisory council
23 represents another element in our
24 consistent efforts to integrate natural
25 resource management, to focus government on
26 the central issues affecting natural
27 resource management and to be a powerful
28 single source of stakeholder advice to
29 Government.
30
31 I think that's important, that there is a body there and
32 perhaps again it could be very worthwhile for State Water
33 to be incorporated into it to get a feel for how State
34 Water fits into the broader state objectives of natural
35 resource management. If you look at the membership of that
36 body, everybody around this table, probably everybody in
37 this room one way or another, is probably either directly
38 involved or one step from the membership of that. So I
39 would suggest that that body is set up, and it probably
40 could very easily accommodate a state-wide consideration of
41 generic issues and perhaps successfully take them into the
42 broader arena as well. They would be my comments there.
43
44 MR ALVAREZ: Generally I don't think DIPNR particularly
45 wants to buy into the relationship that State Water has.
46 That's its business; that's up to State Water.
47

1 Having said that, I do have a little bit of concern
2 about the boundaries, and that's simply about making sure
3 that the customer service committee, or the relations they
4 have, constrain themselves to State Water business. I
5 would caution against straying into environmental matters,
6 which are the purview of the CMAs. They will set up their
7 own consultation process.
8
9 I support what Doug's saying entirely there. The high
10 level steering group would probably be a better forum to
11 bring the high level matters out, and the same thing as to
12 caution against trying to reinvent river management
13 committees with the purview to try and change resource
14 shares as a result of the plans. So that's simply about
15 boundaries.
16
17 There is one other area that was raised, that DIPNR
18 and State Water still have fairly close ties, and that's
19 the legal relationship with licences to the extent that
20 those committees might discuss such things as performance
21 under trading scheme. We are symbiotic in that trading
22 relationship between the fundamental access licence and
23 temporary transfers carried out by State Water. We would
24 just simply like to be involved in that process so that
25 government's approach to the way we deal with those matters
26 is as something being carried out by DIPNR, something being
27 carried out by State Water.
28
29 MR COX: Thank you. Rel?
30
31 MR HECKENDORF: I have a vested interest in this as well.
32 I live on the river and I have an access licence and works
33 approval as well. So I am probably one of the few here
34 today that has a vested interest in the social economic
35 outcomes of what the licence really means.
36
37 I want to get down to something Kim just said then. I
38 I live on the flood line and I want to know how the river
39 operates. I don't want spilling water or anything else.
40 So if Kim thinks that I am not going to be vitally
41 interested in environmental issues, then he has got other
42 things coming. So have the rest of the customers.
43
44 I get sometimes a little bit confused now, because
45 river irrigators and people like that don't want more red
46 tape, they want less red tape.
47

1 It appears to me now that the State Water have got
2 turf wars and all sorts of things going on. As far as I'm
3 concerned, if it's an issue that is commercially focused
4 with delivering water, it should be part and parcel of the
5 quality. Any commercial business that's not part and
6 parcel of State Water can be hived off to private
7 enterprise, that's fine. But from a customer's point of
8 view, I don't think we're all that fussed about dealing
9 with the whole pile of red tape and going to different
10 departments, and what have you, to find out how to operate
11 our businesses.

12
13 In relation to the CSC, most of the issues that I've
14 seen over the years - and it is about 20 years - are valley
15 by valley issues. A lot of the big ticket issues or the
16 state-wide issues are generic. You know, the
17 environmentalists said, "Well, we are not represented", but
18 the environment's represented on CMAs, it's represented on the
19 board of State Water. You know, I am not too sure how often
20 it might be represented. Some of the generic issues are not a
21 lot of interest to customers, because they are more interested
22 in what happens in the valley.

23
24 I'm in favour of the CSCs reporting activities. I
25 don't think we have got anything to hide. That's not an
26 issue. The charge should evolve over time; it's not a
27 fixed in concrete arrangement between customers and State
28 Water. There's a lot of things that can be done within the
29 river system that will improve it. I think over time most
30 things can be improved, and the charter should reflect that
31 if and when the changes happen.

32
33 MR COX: Jenny?

34
35 MS McLEOD: Thank you. I have just got a few comments to
36 add. The customer service charter to me sounds a little
37 bit like a supply contract, like a water supply contract
38 between the customer and State Water. I think it's good
39 and it should be in the operating licence, and the mutual
40 obligations aspects of it will be helpful, I think, for
41 clarifying where there's disputes and those sorts of
42 things, to actually define those.

43
44 Murray Irrigation has a board member that's on our
45 customer service committee. I actually don't participate
46 in the customer service committees. A lot of other people
47 around here have got a lot more knowledge about their

1 operation.

2
3 Their terms of reference, I think, need to be really,
4 really clear, so that it's clear that the members don't
5 have expectations that can't be met. I think they will
6 actually only be advisory. No-one here, apart from Rel,
7 referred to the board. The board of State Water will have
8 obligations on it as board members, whereas the customer
9 service committee, I see, will actually be more advisory.
10 But that needs to be clear in your terms of reference if
11 they are going to operate effectively.

12
13 Some of the KPIs that have been recommended by SKM
14 that refer to customer satisfaction and surveys, Murray
15 Irrigation's not necessarily supportive of those sorts of
16 things necessarily being a good measure of customer
17 service, and the customer service issues are probably much
18 better defined through valley by valley customer service
19 committees sorting out some real KPIs for performance of
20 State Water's functions that actually reflect the service
21 people, rather than surveys.

22
23 In terms of the effectiveness of the actual
24 committees, it's going to be very reliant on the quality of
25 the information that goes to the committees, and that's
26 hopefully picked up in the terms of reference, but I don't
27 think it's actually something that needs to be in the
28 operating licence.

29
30 In terms of membership, I suppose I have a general
31 question about ground water and unregulated people being on
32 the customer service committee, because, as pointed out,
33 they are a different type of customer. They are not really
34 a customer in terms of billing meterages. So there are
35 costs involved in running customer service committees.

36
37 In terms of the community consultative committee, we
38 have suggested in our submission that the Natural Resources
39 Advisory Council can perform that function. One suggestion
40 I do have is that we do produce an annual environment
41 report which is audited by governments, and then we hold a
42 workshop with a whole range of stakeholders invited to
43 participate and comment on. We'll actually make
44 presentations and do a report, and it's a workshop where a
45 whole range of different stakeholders can comment. It is
46 an informative and learning exercise. Maybe that's
47 something that could be considered to provide, you know,

1 people like Rel Heckendorf, who is not on any committees
2 but likes to see what's happening, an opportunity to
3 contribute. That sort of concept might be more useful, not
4 necessarily included in the operating licence, but might be
5 more useful if the committee proposed.

6
7 MR COX: Bob?

8
9 MR DOYLE: Thank you. I am Chair of the coastal valley's
10 customer service committee. I just want to broaden the
11 issues a little bit on the discussion that's on the board
12 up there. I suppose I want to make three key points. The
13 first one today is that the coastal valleys, as a
14 committee, were quite concerned about the corporatisation
15 process. The regulated customers were fairly happy and
16 supported it. The unregulated customers had a lot of
17 concerns, but were prepared to accept it, but weren't sure
18 where they stood.

19
20 The coastal valley's customers are made up of about
21 7,500 unregulated customers. So someone may have
22 mentioned before that there's 6,000 or 6,500 regulated
23 customers in the State. Well, the coastal valley has 7,500
24 unregulated customers, so it represents a big number of
25 customers, but with quite low water usage.

26
27 So the issues on the coast for customer service have
28 been quite different to most of the rest of the State. So
29 in listening to today's process, with the original concerns
30 that were there for corporatisation, the advantage of
31 corporatisation was that there were going to be some
32 commercial business efficiencies that were going to be
33 gained by this process.

34
35 Because there's an organisation which is accountable,
36 which has been very transparent, has been very open in the
37 customer service committee process, we have a very good
38 understanding of their business. It appears today that,
39 you know, everyone's trying to hang on to some more
40 services and more workload, and it's going to cost more
41 money to deliver. It's not their core business, and it's
42 not, as we see it, the reason for the original
43 corporatisation process.

44
45 So there are some fears there with how this is going
46 to look after the customers on the coast. Now,
47 specifically the unreg customers, your committee, from the

1 beginning of the corporatisation process, has put it's hand
2 up and asked for State Water to look after unreg customers,
3 primarily because there was great dissatisfaction, and this
4 dissatisfaction varied with DIPNR being able to fully
5 service the unreg customer.

6
7 In terms of the technical service in managing the
8 water and managing the rivers, the support varied with
9 different parts of the State. Some customers have an
10 exceptionally good working relationship with DIPNR, some
11 have got quite a poor relationship. In terms of
12 accountability on costs across the board, the customers
13 aren't very happy.

14
15 So only at the death of our submission into the
16 Tribunal did we really make the decision that the unreg
17 customer probably should be serviced by DIPNR, given that
18 there's not a lot of water sharing plans that have been
19 developed on the coast, and the issues are still quite
20 complex, there's a lot of issues to be resolved, to have
21 two organisations trying to manage the customer is going to
22 be very difficult.

23
24 In saying that the fundamental responsibility should
25 be with DIPNR, it was done on the proviso that DIPNR
26 improve their performance in a number of areas.
27 Consultation was a key part of that. One of the successes
28 of the State Water process has been, from our perspective,
29 the customer service committees, and there isn't the
30 commitment by DIPNR to consult with the customers to deal
31 with the issues.

32
33 The second issue in looking at that is accountability.
34 The customers from State Water's perspective have been very
35 satisfied with the transparency. I think Mary might have
36 said there is a need for an improvement in the financial
37 accountability and transparency. Our customers basically
38 have been very happy with the transparency and the
39 willingness of State Water to provide information. We
40 would expect that if DIPNR is going to have responsibility
41 for unregs, they make a commitment to guarantee that same
42 sort of transparency and openness with accountability.

43
44 I suppose the fear that the unreg customer has is tied
45 up with just the fact that even now, coming up to the
46 second stage of this IPART process, when we are looking at
47 pricing we don't know where we stand with DIPNR.
Obviously

1 DIPNR is the major area of costs for our unreg customers.
2 So, in addressing some of the issues that are on the board,
3 as far as our customer service committee membership is
4 concerned, if DIPNR took responsibility and made those
5 guarantees to service, you would say that there's probably
6 not a lot of need for an unreg customer to be on the
7 committee.
8

9 But because the history of performance has not been
10 very good, we would say that there is a need for the unreg
11 customer to stay there, and some of the issues that the
12 regulated customer is dealing with are common. So there is
13 some advantage to stay there. Obviously if State Water
14 have full responsibility for the unreg customer, we would
15 like to see that the membership basically is the same.
16

17 Our committee, and I think we are a bit different to
18 most, was in support of having the community, the CCC, the
19 community consultative committee, and basically felt, along
20 the lines that Rachel was saying, that there is a need for
21 the CCC and similar body to have a say, and that is
22 probably an appropriate process, and we accepted - we
23 discussed, what do you call it, the NRAC as being possibly
24 the model for the group. Certainly the customer service
25 committees should be made up of customers and if there are
26 any additional members, it should be DIPNR and CMA. It
27 shouldn't be open to other stakeholders.
28

29 In terms of being public, given that we have a very
30 good relationship with State Water and we discuss quite
31 sensitive issues and they make open to us quite detailed
32 financial information, we would say that that information
33 not be made available to the public because it would limit
34 the information which was provided to us, and it provides
35 us with the level of detail that they give us now, to be
36 able to provide very detailed advice and comment on how
37 State Water can improve.
38

39 So the only other issue I would say in all of this is
40 that, for our regulated customers - and the point's been
41 made by quite a few people - it needs to be valley by
42 valley. There is a need in the service charter to account
43 for valley by valley because, on the coast, we are not at
44 cost recovery. We have a long way to go to achieve cost
45 recovery. Some of the service levels that some areas want,
46 we don't want because we can't afford to pay for them.
47

1 MR COX: Thank you very much. We will now have further
2 comments from members of panel.

3
4 MS YOUNG: Would I be able to respond to some of the
5 points that have come up?
6

7 MR COX: Certainly.
8

9 MS YOUNG: It's interesting that it's been pointed out
10 that the water sharing plans provide a lot of the rules for
11 environmental delivery, because if that was the case, the
12 water sharing plan equally provided the rules for the
13 customer service delivery, in terms of how much water is to
14 be delivered. I think the issue here is that we are
15 discussing water delivery and water sharing beyond the
16 water sharing plan rules, so there is a need for the
17 environment to have some representation in those committees.
18

19 People have suggested that the CMAs might provide for
20 this. The CMAs will be there helping government policy and
21 government viewpoint as to how the environment should be
22 managed and should be dealt with. Sometimes the
23 environment NGO views and government views differ quite
24 considerably in how they should be done.
25

26 We are always there to push that barrier. If you
27 think about the reverse situation, which would be an
28 environmental flow committee and it was to be
29 environmentalists and governments sitting on that
30 committee, how would you actually feel about having all of
31 that and having no say into how that process was to be
32 undertaken? I imagine that you wouldn't feel very
33 comfortable with that process because you had no input into
34 it. That is why we feel when it comes to the customer
35 service committees and the community consultative committee
36 there has to be some forum for us to be able to interact
37 with you guys and talk with you guys about what you do.
38

39 That leads me on to another point. Having that forum
40 for actual interaction will provide for greater
41 understanding on all issues of everybody's values and why
42 people have an interest in these things. I would really
43 like to sit down and talk to Rel about some of his
44 environmental goals and aspirations and what he looks for
45 in river health, because I would like to understand where
46 he's coming from; just the same way as I think you would
47 probably find very interesting what some of my goals for

1 long-term environmental sustainability involve and how I
2 would like to see irrigation and a sustainable irrigation
3 industry moving forward into the future and being an
4 important part of Australia's economic environment.
5
6 There are a lot of things that we can share. That is
7 another opportunity for us to actually sit down and talk
8 about these things without being put in situations where we
9 just confront and knock heads all the time. It is
10 something that I really want to avoid. I want to develop
11 relationships with people to be able to talk about these
12 things in an environment where we learn and share and
13 things can progress. That is what we all want. We want a
14 sustainable, long-term solution to the problems that we're
15 facing now and these opportunities for discussion are where
16 we might be able to actually achieve some of those things.
17 That is what I really wanted to say.

18
19 MR COX: Thank you.

20
21 MR BORNEMAN: Could I make one comment on what Rachel
22 said? I probably don't disagree with what you're saying.
23 The question is whether the CSC is the right forum to do
24 that. That is State Water's view as to whether that's
25 going to achieve the outcomes you want, or whether we
26 should be looking at another forum. That's why I said
27 Felicity put it up the wrong way. We need to work out if
28 that forum can achieve any of the sorts of goals we want
29 and then we work out how we go about it.

30
31 MS YOUNG: Following on from that, there was discussion
32 about NRAC taking up some of that. Again, I'm not sure
33 whether NRAC is the right forum because it reports to the
34 Minister for Natural Resources and not to your Secretariat.
35 I am sure there's a lot of room for overlap there. NRAC
36 has an enormous breadth of issues it has to deal with,
37 water being just one of them. It has to deal with mineral
38 resources, land issues, vegetation, coastal, estuarine,
39 marine, there's a vast number of things it's got to deal
40 with, and I don't know whether some of the specific issues
41 that are really important as to the impact of State Water's
42 operations and how State Water should perform as a good
43 corporate citizen, that they will have space in their
44 agenda for that.

45
46 MR COX: Are there any further comments?
47

1 MR HECKENDORF: I would like to respond, Mr Chairman. I
2 think we probably agree on a lot of things, but the point
3 I'm trying to make is that there is a whole pile of forums.
4 I'm not too sure whether we want another one. There are
5 CMAs, indigenous and environmental forums. How many
6 forums do we want to deal with? What I'm trying to do is cut
7 down the workload probably for you and a lot of other people by
8 not having another forum. My experience is the more forums
9 you have the less outcomes you have because there are a
10 whole lot of views coming out of different forums. The
11 average person says, "I can't understand any of this. I'll
12 do it myself", so we all lose out. I'm quite happy to sit
13 down and talk with you, but I am not too sure I would want
14 to do it every day of the week.

15
16 MS YOUNG: Every day of the week might be pushing it.

17
18 MR HECKENDORF: There are another couple of issues I
19 didn't mention before that Mary alluded to. The quality
20 and timeliness of the information: that is of concern to
21 us. We've had that problem for some time. I don't blame
22 anyone: it's the way the system has been evolving.

23
24 MS McLEOD: Could I make a comment in relation to Rachel's
25 observations? My view is that a lot of these issues that
26 the environmental groups are wanting to deal with have to
27 be dealt with on a valley-by-valley basis, if you're going
28 to deal with them in a really meaningful way, where your
29 discussion actually leads to perhaps a change, and also to
30 reach an agreement between the different interests to work
31 together collectively, with your knowledge, to work out is
32 it recognising what you're looking to achieve, and what is
33 it that we can do differently in a way that minimises any
34 negative impacts or destructive uses.

35
36 I participated in the development of the Murray Water
37 Sharing Plan and we did make a genuine effort to try and
38 work with a range of different interests to come up with a
39 plan that was going to be better than it was in the past
40 and not everyone was entirely satisfied with the result.
41 It took a lot of time, but at the end of the day you really
42 need to apply your knowledge at a local level or else you
43 possibly come up with something that can't be implemented.

44
45 MR ALVAREZ: I agree entirely with what Jenny is saying.
46 What I've heard around the table is a whole lot of concern
47 about natural resource management. I have to reiterate

1 that the catchment management authorities are charged with
2 the task of doing total natural resource management that is
3 integrating the catchment processes with the river
4 processes. This is a State Water customer service
5 committee about the dealings that State Water undertakes.
6

7 This is very quickly straying into another river
8 management committee and I don't see that that's what the
9 Catchment Management Act actually provides for. It says
10 that the CMA is responsible for integration of the
11 catchment and the river. I know it is handy to have a nice
12 committee set up funded through irrigator payments and all
13 of that, it's a nice forum to make all of these statements,
14 but it is not the right forum and, yes, the CMAs are set up
15 on a catchment basis and that's where those debates need to
16 happen.

17
18 MS YOUNG: There's a fundamental difference now. Before
19 the environment was not considered a customer, was not
20 considered a user of water, and now it is.
21

22 MR ALVAREZ: What I am saying is the outcomes that you're
23 seeking are ones of fundamental resource shares, they're
24 fundamental resource management, and that's what the CMAs
25 have been set up to do. That's not what State Water is set
26 up to do.
27

28 MS EWING: Following on from Kim's point, I suppose, we're
29 not looking to have customer service committees taking over
30 a whole overarching management role again. The current
31 terms of reference talk about advice on operational issues,
32 pricing strategies, debt management and levels of service.
33 It is quite a constrained role.
34

35 MR ALVAREZ: Absolutely.
36

37 MS EWING: I think for any committee to work well it needs
38 to maintain its focus on the goal.
39

40 MR COX: I am interested in further comments.
41

42 MR MOXEY: Dennis Moxey is my name and I'm the Chair of
43 the Lachlan Customer Service Committee and I've been the
44 Chair since its inception and I believe that the work
45 that's been done by customer service chairs in the years
46 that have led up to this process have been unmeasurable
47 because it has bred real customer relationships and today I

1 think we've lost sight of where the customer service
2 committee's role is in that it provides advice to the State
3 Corporation Board of State Water and that board has just
4 been formed and it has the overarching authority to run
5 State Water and we've become the valley's eyes and ears for
6 that statewide board.
7

8 Anything that we want to do, any project that we want
9 to get through, any changes that we want to get made to the
10 operations of State Water as a customer service committee
11 we need to get them through that board. We are answerable
12 to that board. I wonder whether a lot of the discussion
13 we're having today is not relevant to the IPART submission,
14 but more a housekeeping issue within the realms of the
15 corporation of State Water.
16

17 That is what I believe about the terms of reference.

18 It is unmeasurable the good that these committees have done
19 in the past because of the community consultation that has
20 been built up, the connection that State Water now has with
21 its customers out there. I'm on that committee because I'm
22 a bill payer and that was the requirement when I was
23 nominated for that committee. Nobody came on to that
24 committee unless they were a bill payer and I believe that
25 was the greatest driver of what that committee could do
26 because they all had a vested interest in the way water was
27 run, the efficiency of the whole scheme and the efficiency
28 of State Water and its operations and now the direction
29 toward a commercial attitude that State Water is
30 undertaking.
31

32 I believe that that's a crucial thing that we maintain
33 within the whole realms of this new entity which has been
34 formed, so I would advocate there is no change to that
35 customer service committee other than if we could force
36 State Water to take more notice of it it would be good. I
37 don't think we want to do that. It's been one of my roles
38 as the Chair to try and bring that about without force and
39 I think we've been able to achieve that.
40

41 I think we've been able to achieve mutual agreement
42 where now the central area of State Water are doing a lot
43 of the things, taking a lot of the advice, following the
44 programs, renegotiating asset management deals because of
45 the knowledge that's out there from the customers, the
46 knowledge that's out there from the communities on what
47 should be done, the way the valleys should run on a

1 valley-by-valley basis. I can't give it any more praise
2 than what I have.
3
4 It is a really good process and the need for the
5 overarching committee, if it is seen to be needed there and
6 somebody wants to fund it we can report to it, but I think
7 that we've got to be accountable in this process because
8 every day we do something with State Water. Every project
9 we take on has an environmental assessment process as it
10 goes through, so every time we do something it is
11 considered by all different agencies and everybody else in
12 the community. Thank you.
13
14 MR BRYANT: My name is Michael Bryant. I'm Water Manager
15 with the Tamworth Regional Council. Mr Chairman, I thank
16 IPART for inviting local government along here today. May
17 I ask the question who else is here representing local
18 government? Could they put their hands up, please?
19
20 MR ALLEN: I am from Midcoast Water.
21
22 MR BRYANT: I must say within regional New South Wales
23 there are a million-plus people supplied with treated town
24 water and the high security users. In amongst that you've
25 got a lot of industry, like in Tamworth. In the
26 Namoi Valley over 60 per cent of the population is within
27 Tamworth Regional Council. Dams up in the Namoi supply
28 water to 20,000 customers, including major industries.
29 Some of them take up to nearly 2 megs a day, anywhere from
30 starch manufacturers through to beef processors, rendering
31 plants, a whole host of industries, hydroponics, so we have
32 a lot of customers and a lot of the industry is very high
33 value. Only about half of the water we supply goes to the
34 residential customers, a lot more is used by industry, so I
35 believe that local government needs to be better
36 represented.
37
38 The customer service committee works very well in the
39 Namoi. DIPNR are notable by their absence. They're on the
40 committee but no-one shows up. That has been going on for
41 years. Basically, the people who show up are the bill
42 payers. I believe the customer service committee works
43 well. It's focused. I do not believe it should be lumped
44 in with environmental issues. All the members of the
45 committee are very environmentally focused. There are
46 other venues through DIPNR and catchment management
47 authorities to address those.

1
2 What I will say is we have some of the dam safety
3 upgrades in our area: Chaffey Dam, Keepit Dam. The
4 environment groups help, EPA, Nature Conservation Council,
5 they're all represented on those groups for any major
6 capital works, with any infrastructure. The things you're
7 talking about today they've all been addressed, so I don't
8 see the need to drag that into the customer service
9 committees.
10
11 Mr Chairman, whether you have the community
12 consultation committees or not, I do believe that there
13 needs to be a mechanism there for local government to feed
14 through to the senior level in State Water. At present,
15 with the customer service committees, it's only natural,
16 like in my case, my colleague has just left, he's our
17 Chairman, Gerry Killen, but he is engaged by the local
18 irrigators, he's a great advocate, he does a terrific job
19 for them, but in our situation, in the Peel particularly,
20 we've been left out in the cold a bit, so we've requested
21 somehow in this mechanism of customer charter that
22 certainly local government be recognised and also in the
23 terms of reference. Thank you.
24
25 MS FURNESS: I am Lee Furness from the Murrumbidgee
26 Private Irrigators. You need to question what performance
27 indicators for customers service that you actually put in
28 the operating licence and I would really caution against
29 crude ones like number of customer inquiries, number of
30 customer complaints, because, in effect, someone could ring
31 up with an inquiry which is to do with, "Well, the river is
32 ruining my pump", but it's actually a complaint about their
33 neighbour or who is pumping; or they could ring up and say,
34 "You've sent me this notice to turn my water off."; it's a
35 complaint but they haven't paid their bill or they've
36 pumped too much water. That is actually a good thing. It
37 is a great thing that State Water is actually doing
38 something. I think you need to be really careful about
39 what you put in the operating licence, making sure it is
40 actually sensible, because it's like those policing things:
41 if you're policing it, is low good or is high good? Who
42 knows? Just make it sensible.
43
44 MR COX: Thank you. I will bring this session to a close
45 now. It has been interesting. I think we had fairly
46 strong support for the idea that performance standards
47 should be regionally based. There was strong support that

1 standards should be in the customer charter. There was
2 also strong support that the customer charter needed to be
3 enforceable, which was interesting. There was also support
4 for the role of the customer service committees and widely
5 diverging views on the role of the customer consultative
6 committee.

7
8 SHORT ADJOURNMENT

9
10 OTHER ISSUES

11
12 MR COX: Ladies and gentlemen, when you are ready, we'll
13 discuss other issues, which I think are the operational audit
14 and the fish river scheme and also issues of water
15 conservation, which may turn out to be controversial. I
16 will hand over to Lil Cullen.

17
18 MS CULLEN: Thank you, Jim, I will try and keep this
19 fairly short and sweet, because I'm sure everyone's
20 actually having to rush off and catch planes.

21
22 As Jim said, this session is going to cover some of the
23 remaining issues. Firstly, the Fish River Scheme, then the
24 operational audit of the licence and water conservation. I
25 will now turn to the Fish River Scheme. I will begin by
26 outlining the issues we are seeking your views in relation to.
27 Then I will give some background to the Scheme to set these
28 issues in context, and outline, some of the submissions
29 made, and, lastly, I will set out some of the performance
30 indicators and standards recommended by SKM in relation
31 to the Scheme for inclusion in the licence.

32
33 So the issues for discussion are: should the Fish River
34 Scheme be included in the operating licence? If so, should
35 the licence formalise the existing customer committee for
36 the Scheme? Should State Water develop a Customer Service
37 Charter with customers of the Scheme and should SKM's
38 recommended performance indicators or standards for the
39 Scheme be included in the licence?

40
41 So the operating licence covers State Water's area of
42 operation, and this will include the Scheme from 1 January
43 next year. The Fish River Scheme supplies bulk water
44 services to four major customers, and they are the Sydney
45 Catchment Authority, Oberon and Lithgow councils and Delta
46 Electricity. It also supplies bulk water services to 200
47 individuals. It has customer contracts in place with all

1 of its customers. They are 20-year contracts in terms of
2 its major customers and ongoing contracts with minor
3 customers. It has also established a customer advisory
4 committee with all the major customers represented on it.

5
6 There were a number of stakeholder submissions in
7 relation to the Scheme. State Water and DIPNR submitted
8 that the Fish River Scheme should not be included in the
9 licence. This was based on a belief that any customer or
10 other service or performance issues are adequately covered
11 in the existing contracts with customers and also the
12 licences and approvals to be issued by DIPNR.

13
14 However, the Sydney Catchment Authority and the Total
15 Environment Centre believes that the Fish River Scheme should
16 be separately covered by the licence and that appropriate
17 performance indicators and standards should be imposed. In
18 addition, the Sydney Catchment Authority also submitted
19 that any standards needed to be settled in consultation
20 with the existing customer committee.

21
22 Turning now to the performance indicators and
23 standards, SKM's recommended a number of indicators and
24 standards to be included in the licence and for them to be
25 separately reported on. As the Fish River Scheme is a
26 distinct and separate business to the rest of State Water's
27 operations, a number of the indicators and standards
28 recommended are quite different to those recommended for
29 the rest of State Water's business. So these standards and
30 indicators are reproduced in table 2 on pages 25 and 26 of
31 your workshop materials.

32
33 SKM had recommended standards and indicators in the areas
34 listed on the slide. In relation to water quality, SKM
35 recommended 100 per cent compliance with the Australian
36 Drinking Water Guidelines, as unlike the rest of State Water's
37 business, the Scheme supplies some potable water. In
38 relation to the environment, SKM have suggested that if any
39 other environmental indicators or general reporting
40 requirements are considered appropriate for the rest of
41 State Water's business, then they should also apply to the
42 Fish River Scheme.

43
44 In relation to business development, unlike the rest
45 of State Water's business, the Scheme has statutory
46 obligations to conduct research, collect information and
47 develop technology in relation to water management. For

1 this reason, SKM included some recommended indicators on
2 business development.

3
4 I will reiterate the issues that we are seeking your
5 views on today. Should the Fish River Scheme be included
6 in the operating licence? If so, should the operating
7 licence formalise the existing customer committee for the
8 Scheme? Should State Water develop a Customer Service
9 Charter with customers of the Fish River Scheme? Should
10 SKM's recommended performance indicators or standards for
11 the scheme be included in the licence?

12
13 I will now move on to operational audits under the
14 licence. I will briefly take you through the key issues we
15 would like you to consider today. There are current audit
16 provisions under the interim licence. However, it should
17 be noted that these have no effect as no auditing was
18 required within the term of the interim licence, which was
19 only for one year. I will then take you through
20 stakeholder comments in relation to audits, and some
21 possible options or a way forward.

22
23 The key points for discussion in relation to auditing
24 are; is the approach to auditing under the interim licence
25 appropriate or how can it be improved upon? Should there
26 be an initial comprehensive audit? Should there be
27 periodic comprehensive audits or reporting on unaudited
28 areas or is the current approach to auditing appropriate?

29
30 As a starting point, it should be noted that it is the
31 operating licence that defines the approach, scope and
32 timing of the operational audit. Under the interim
33 licence, it's adopted a flexible or targeted approach to
34 auditing, and it provides for selective auditing from a
35 field of licence areas, with audits required every two
36 years. The interim licence also proposes that the first
37 audit is to occur within one year of the initial licence
38 commencing.

39
40 In general, there appears to be agreement amongst most
41 stakeholders that there should be initial comprehensive
42 auditing and a risk management approach to auditing would
43 be suitable once a record of performance is established.
44 There were also some further suggestions on how to
45 implement a risk management approach, such as using audit
46 holidays. Audit holidays allow certain areas of the
47 licence not to be audited for a specified maximum period of

1 time, and it is a similar concept to that of selective
2 auditing, which is the approach that the interim licence
3 currently adopts. Alternatively, the suggestion was
4 requiring comprehensive audits every five years.

5
6 So in view of the submissions, a possible way forward
7 may be to have a mix of external auditing and direct
8 compliance reporting. This could involve an initial
9 comprehensive audit, then selective auditing of an
10 auditable field of areas or fields in the licence,
11 based on risk as determined by the initial comprehensive
12 audit. The initial licence could then require areas not
13 being audited to be subject to a requirement for State
14 Water to report on their compliance and progress with its
15 obligations in these areas.

16
17 The licence could also specify that areas not being
18 audited can only remain unaudited for a maximum specified
19 period, for example, maybe two or four years. I should
20 stress that this idea is only being floated to stimulate
21 discussion, and the Tribunal has made no decisions on this
22 approach. So that concludes the presentation on auditing
23 issues.

24
25 Last but not least, I will talk about the water
26 conservation obligations in the licence. I will start with
27 the issues, then look at the current provisions and some of
28 the stakeholder views. And, lastly, proposed measures that
29 could be adopted in the initial licence.

30
31 The issues we are seeking your views on are: whether
32 the existing provisions in the interim licence are
33 appropriate, what water conservation measures can or should
34 State Water realistically pursue, and is SKM's
35 recommendation to publish an annual water balance
36 appropriate? Under the interim licence currently in place,
37 State Water's required to consider any additional scope for
38 demand management strategies of customers when considering
39 whether to augment water management works. It is also
40 required to take reasonably practicable steps to conserve
41 water and minimise operational losses.

42
43 There was general agreement amongst stakeholders that
44 it was legitimate for State Water to pursue what has been
45 variously referred to as water conservation, water savings,
46 or minimising operational losses. However, there was a
47 lack of clarity amongst stakeholders and concerns as to

1 what should be considered an efficiency or a water
2 conservation measure. I think that was reflected in some
3 of the discussion we had earlier today.
4
5 For example, DIPNR was concerned that water savings
6 would in fact result in less water for the environment. A lot
7 of the water loss is actually replenishing groundwater.
8 State Water and some irrigators were also seeking for the
9 licence to provide greater incentives to pursue efficiencies
10 and reduce operational losses.
11
12 Some obvious measures that State Water could pursue
13 would be in relation to improving detection and prevention
14 of water theft and gaining a greater understanding of where
15 operational or other efficiencies can be made.
16
17 As discussed in the session on performance indicators
18 and standards earlier today, SKM's proposed a number of
19 indicators in relation to policing that should provide an
20 incentive for State Water to perform strongly in this area.
21 SKM have also made two recommendations that have the
22 potential to foster a greater understanding of where water
23 conservation or efficiencies could be found. Firstly, they
24 propose an indicator on operational surpluses which will
25 require State Water to monitor operational surpluses and
26 may foster a greater understanding of why these occur.
27
28 Secondly, they propose a general reporting requirement
29 to present an annual water balance, which will include the
30 volumes supplied to customers, including to the
31 environment, changes in storage and the volume of water
32 loss to groundwater or evaporation. It may be that, for
33 the water balance to be complete, it also needs to report
34 on the volumes of rainfall rejections - that is water
35 that's ordered and supplied but not actually used by the
36 customer, thanks to the rain.
37
38 What we are interested to hear your views on today is
39 whether the existing provisions in the interim licence in
40 relation to water conservation are appropriate or not;
41 should the proposed measures just discussed be included in
42 the operating licence, and whether there are any additional
43 measures State Water could realistically pursue and how the
44 operating licence might support these actions. That
45 concludes the presentation. The slide summarises the three
46 areas that we've raised questions in relation to and I will
47 hand back to the panel.

1
2 MR COX: Thank you very much. We'll now take comments and
3 questions from members of the panel. We'll start off this
4 time perhaps with Jenny.
5
6 MS McLEOD: In relation to Fish River, I mean, Murray
7 Irrigation have no comments there because that's an issue
8 for the stakeholders, the Fish River and IPART to sort out.
9 I suppose the only issue that other water users would be
10 concerned about would be the potential cross-subsidies
11 between State Water and the Fish River, but I imagine there
12 is probably some sort of marginal cost benefits associated
13 with State Water actually being responsible for the Fish
14 River Scheme.
15
16 I will move on to the operational audits where we
17 support the proposal that IPART is suggesting that the
18 first audit is comprehensive, and that that informs
19 subsequent audits in terms of prioritising areas.
20
21 The next issue is water conservation. We discussed
22 this issue earlier today, and we are supportive of looking
23 at creating some sort of structure that provides State
24 Water with incentives to at least identify where losses are
25 occurring and suggestions about trying to create a water
26 balance is important.
27
28 Obviously, creating a water balance relies on being
29 able to measure where the water is. We think that losses
30 caused by inadequate metering and licence compliance should
31 be addressed by State Water. There is a tendency in the
32 Murray to group mismeasurements as losses, and some of it
33 is probably diversions, but it's called losses, that focus
34 very hard on the big water diverters, quite rightly,
35 because they have enormous influence over operations of the
36 rivers.
37
38 In terms of the licence compliance issues, perhaps
39 State Water, with DIPNR's cooperation, could perhaps look
40 at the works approval and what is required there. In
41 Sunraysia, in Victoria, they are in the process of putting
42 flow meters behind electric pumps hooked up to a telemetry,
43 powered by solar power, and the telemetry goes up to a
44 satellite which can be interrogated. It's not expensive
45 technology. They can measure whether the pump's operating,
46 the megalitres of flow rate that it's taking it at, and
47 they can also have the total flow. They are doing that

1 from the point of view of managing the actual volume
2 diverted and also demand management in that section of the
3 river. So that's something worth pursuing.

4
5 State Water, and I suspect some of the SKM has touched
6 on the concept of the audits. That really, in our system,
7 is a major issue just for the major water suppliers, given
8 the nature of the river, and I'd like to see other measures
9 put in place rather than the introduction of audits.

10
11 They are my main comments, thank you.

12
13 MR COX: Thank you. Kim?

14
15 MR ALVAREZ: With regard to, firstly, the Fish River
16 Scheme, DIPNR believes that the operating licence should
17 allow State Water to act as an incorporated body, and any
18 incorporated body can apply for a licence under the Water
19 Management Act to operate as a water supply authority, or,
20 what we now refer to as a major or local water utility.

21
22 DIPNR believes it would be unfair to treat State
23 Water, due to its peculiar nature, as a major water
24 supplier in regulated rivers any differently to the way
25 that any other major or local water utility is treated. In
26 other words, if IPART issues an operating licence to Sydney
27 Water, or to Hunter Water, or any other major water
28 utility, then State Water should be treated in exactly that
29 way, and it not be confused with this operating licence
30 that we are talking to at the moment.

31
32 MR COX: So it will be a separate licence?

33
34 MR ALVAREZ: Separate licence. Because, fundamentally,
35 its operation is entirely different to what is operating as
36 State Water per se. State Water at the moment owns no
37 water. They have no water access licence. They only have
38 a works approval. So they don't own water, they can't sell
39 water, and, as an entity, shouldn't buy water. I might
40 qualify that later, but I guess that's really about
41 self-trading. But operating as a local water utility,
42 there is no reason why State Water should not operate as a
43 local or major water utility, but it should be subject to
44 the same scrutiny that any other water utility should be
45 subject to, under both the IPART schedule or, for that
46 matter, the way it's treated under the Water Management Act
47 in applying for a licence to operate as a utility.

1
2 I won't buy into the other items under Fish River Scheme,
3 because I feel that they would be adequately dealt with if
4 they were issued a separated operating licences to the
5 operations utility.

6
7 The operational audits, again, I don't think I would
8 really like to buy into that. I think that's more of the
9 business nature of State Water and its relationship to its
10 customers and to its Board.

11
12 Water conservation, you have heard my comments in
13 regards to the concerns I have with a mandate for State
14 Water to go seeking savings. It's just dangerous.

15
16 MR COX: Thank you. Doug?

17
18 MR MEILL: Just with respect to Fish River Scheme,
19 obviously that's not an area that we have great expertise
20 in, but we don't have any problems incorporating where
21 there might be economies of scale, delivery, et cetera, as
22 argued in the corporatisation paper, but we say it must
23 not compromise State Water business operations. So there
24 must be a clear delineation of those operations.

25
26 That would pick up Jenny's point, that there be no
27 cross-subsidies of any sort between the operations. If
28 economies of scale do deliver savings, then they are
29 equitably shared across both the Fish River business and the
30 existing bulk water business.

31
32 With respect to the operating licence, the Council
33 certainly supports the auditing of State Water in
34 compliance with its operating licence by IPART. We would
35 add that there probably should be a process where the
36 performance of departments and authorities, agencies that
37 delegate authority to State Water, be measured, so that the
38 impact of the performance of those authorities can be
39 measured against what does it mean as to the State Water's
40 performance. Is it State Water's fault that it's not in
41 compliance with its audit or is it because the departments
42 it relies on, et cetera, works with, et cetera, are not
43 cooperating in delivering the support necessary, so that we
44 really do know where the buck stops, et cetera.

45
46 The audit must be undertaken with due recognition that
47 State Water's operations are subject to a lot of regulation

1 by departments, agencies and authorities. In that instance
2 we suggested a light touch as to the asset management
3 approach that should be adopted, but recognised the whole
4 degree of regulations that State Water is already subject to.
5 Irrespective of the audit approach adopted, the audit
6 results must be provided to stakeholders in a timely manner
7 and incorporate recommendations to rectify any shortcomings
8 in either the performance of State Water or what I would
9 call a delegating authority.

10

11 If you have an operating licence that imposes certain
12 obligations and State Water does not meet those, does that
13 mean there will be a penalty regime and if there is a
14 penalty regime and that is a financial cost, then we would
15 say that should be debited against the business and should
16 not be passed on to bulk water users: so it clearly lays
17 the onus back with the actual ownership.

18

19 State Water should have as its clear and unambiguous
20 objective to identify water efficiency projects both in
21 systems under its direct control and, if appropriate, on
22 joint ventures with others. With respect to the issue of
23 water savings - we discussed that one this morning - there
24 is the potential for conflicts of interest and how any
25 losses a project suffers are identified and where they rest.
26 A project which does not deliver what it was deemed to or
27 projected to would bear the loss. We would say that that
28 should be a business loss and not passed on to bulk water
29 users. We do have an issue as to is it a new investment or
30 is it something they should be doing in the course of their
31 own operations. That whole area is complex - who might
32 own savings and who should pay for investments, et cetera -
33 but the principle I think is they should be working with
34 stakeholders to identify water conservation projects at all
35 points. That is probably about it, I think. Thank you.

36

37 MR COX: We might move on to the Sydney Catchment
38 Authority.

39

40 MR EMANUEL: I will talk mostly about the Fish River,
41 that's our interest, and support what was said by DIPNR,
42 that we believe it should be licensed and licensed as a
43 major utility. We would see that would be equitable and
44 that would then deliver the benefits of a licensing process
45 to us. One of the questions was whether there should be
46 customer counsel within that. We certainly believe there
47 should be. We have with our customers a relationship which

1 seeks regular meetings, where we work through our operating
2 issues and that has been happening to date, and we would
3 certainly like that process to continue as it has been
4 very useful.

5

6 Could I make a comment on auditing. We have an
7 operating licence we've audited. I have to be careful I
8 follow the party line, I am not the expert in this area,
9 but from what I understand we presently are being audited
10 every year. We see that as a quite onerous situation.
11 There are some things we benefit from from a regular audit;
12 there are other things that don't benefit us by having one
13 every year. We've got to find the right balance of
14 advancing the organisation's objectives through being
15 audited without spending the time on something that doesn't
16 actually deliver any benefit.

17

18 On conservation, we have some similar provisions about
19 not doing new works without there being a demonstration of
20 alternative demand management measures and so on. There
21 has got to be something controllable. That is the
22 experience that has come from Sydney Water and ourselves.
23 Some issues are bigger than the individual organisations,
24 they require a cross-government approach, and the licence
25 which includes something that's bigger than the
26 organisation may not be a good measure of the actual action.
27 If there is some way to work through customers to achieve
28 conservation and that benefits everybody, if the licence
29 encourages that then that would be where we're coming from.
30 That is consistent with how we work, as I see it.

31

32 MS YOUNG: Again, there's a lot of stuff in here that's
33 not directly relevant. As to the Fish River, we would
34 definitely like to see them licensed very similar to what
35 Kim was talking about. As to the operational audit, I
36 think what we said in our submission was pretty much all I
37 want to say. Regular transparent auditing is really what
38 we're about and then making sure that where there are areas
39 of shortfall there are actually methods for penalising
40 State Water and actually ensuring compliance in those
41 areas. Likewise, if State Water performs beyond the
42 operating licence and actually --

43

44 MR BORNEMAN: A bonus?

45

46 MS YOUNG: I think so. As part of that broader tax base
47 that funds part of State Water's operations, if State Water

1 outperformed in certain areas in delivery of service and in
2 things like reporting environmental harm, it's something
3 that State Water can do. As State Water officers are out
4 and about doing things, they can report the harm that they
5 see. It shouldn't be accompanied with a penalty because it
6 is not within their direct sphere of influence, but if that
7 results in DIPNR and State Water sitting down and adjusting
8 things, resulting in a better outcome for everyone, there
9 should be an incentive to do that. That's how business
10 works. If do you well you make money and if you don't do
11 so well you lose money and we would like to see that
12 incorporated into the operating licence. That
13 stick-and-carrot approach, I guess, is what I'm looking
14 for.

15
16 The other thing is when it comes to some of the water
17 conservation issues, I share some of Kim's concerns that if
18 water is saved it's just being rebadged and because there
19 is no new water, some of those water savings that Kim was
20 talking about I completely agree with and I would be very
21 hesitant in actually looking at some of those efficiency
22 gains.

23
24 Also, I would like to look at if they were undertaken
25 where the funding is coming from. If it is Government
26 funding then it is Government water and that should go to
27 the public good. If there are joint-venture arrangements
28 it needs to be considered in terms of a cost-sharing
29 arrangement and how those costs are shared in relation to
30 the proportion of the water saved. Again, that saving then
31 comes back to whether that's pulling out transmission
32 losses that are actually feeding an aquifer that supports a
33 whole series of groundwater users a couple of kilometres
34 away. There needs to be a strong understanding of the
35 linkages between rivers and groundwater and that comes back
36 to what Jenny was saying in regards to metering and having
37 that detailed information about where water is and where it
38 is going.

39
40 MR COX: Thank you. Warren?

41
42 PROF MUSGRAVE: I must apologise for Christina. She had
43 to dash off in relation to other matters. I have a few
44 comments. I would be interested in what State Water's
45 reaction would be to two issues: the suggestion that Kim
46 made about an operating licence, and also I would like to
47 have your comments on this question of conservation which

1 Kim expressed some concerns about. I think once again that
2 question, when we discussed it earlier today, brought our
3 attention to fundamental issues which are not necessarily
4 matters that should be the concern of the operating
5 licence. There have been a few of those that we've
6 encountered today and we have a limited ability to address
7 them and, indeed, perhaps we should not.

8
9 To conclude, Jim, and perhaps to anticipate you, I
10 would just like to say how grateful I am for the
11 contributions everyone has made. I think it has helped us
12 greatly - certainly me - to define issues, understand
13 issues, answer some questions, perhaps find some new
14 questions, some of which are not yet answered, but we may
15 need to come back to some of you for further advice. I
16 believe it has been an absolutely wonderful day in terms of
17 helping the Tribunal.

18
19 MR BORNEMAN: It should be included in the licence? No.
20 If it is included in the licence, yes, I think the customer
21 committees need to be ratified in some form similar to the
22 CSCs. Does it need a customer service charter? No, because
23 of the customer contracts. We're not comfortable at all with
24 the performance indicators that SKM has developed. I don't
25 think they're useful for that business and if we're going
26 to include them we would like to have a bit more detail on
27 those.

28
29 In answer to your question, Warren, I would certainly
30 like to get back to you. In principle, I can't see any
31 objection to the direction Kim was suggesting. Operational
32 audits, the recommendation of IPART, water conservation -
33 how long's a piece of string on that one. All the discussion
34 that's gone on in principle I don't think State Water would
35 object to. Rachel said, basically, if we spend money,
36 whoever spends the money - if the Government spends the
37 money then the Government gets the benefit; if the users
38 spend the money the users get the benefit, or some
39 proportion of it.

40
41 I take on board what Kim said about shifting water and
42 certainly with any project you've got to think about all
43 the aspects of what you're doing. There's no point in
44 simply saying you're saving water if you're only just
45 shifting it around, but if you're generally getting some
46 benefit in the system then that benefit should be realised
47 to the person that has contributed the money. I don't

1 think water conservation is a simple issue at all.
2 However, I think it's got to be dealt with. State Water
3 has to be given the opportunity to be able to pursue
4 efficiencies, as the CMA is also looking at that process as
5 well, and it is a vexed question in terms of what the
6 methods are and how we fund them.
7
8 There were a couple of others things - the annual
9 water balance, we have no problem with that. We believe
10 we're already doing that. Whether that's to the standard
11 that's required, we believe we're doing it to the standard
12 that we have with the information resources we have at the
13 moment.
14
15 The water theft issue that was raised we don't believe
16 is an issue. We believe we've covered that virtually
17 completely now. Obviously, something will always get past
18 us, but we believe we've got a very good handle on that at
19 present. That doesn't really address your water
20 conservation comment, but that's the best I can do.
21
22 MR ALVAREZ: I have just one more statement that does go
23 back to water savings or to conservation. People
24 instinctively jump at the presumption that who pays gets,
25 but that's a little bit like poaching. Everyone seems to
26 have skipped a step and that is who owns gets and who owns
27 gets the chance to negotiate with who pays and who gets is
28 as a result of those negotiations. For example, everyone
29 seems to know that Murray Irrigation owns the water behind
30 its licence. There is no imprimatur for State Water to
31 simply spend money and line the channel and say, "I'm
32 taking the savings."
33
34 There is a presumption that you go to the owners of
35 the water first, you do a deal and whatever deal you come
36 up with, it may be savings in water you own, given that
37 that's the presumption, the first thing that anybody has to
38 identify - I'm talking about State Water, private
39 irrigators, the Commonwealth Government - before they go
40 jumping around and saying, "We're going to invest and build
41 something here" - is who owns it.
42
43 If it happens to be water that's leaking out on to the
44 floodplain feeding the groundwater or feeding trees, the
45 presumption is it is owned by the environment. The first
46 thing you do is go to the environment manager and say, "We
47 think that we might be able to do a deal. We think that if

1 we do this we'll get a benefit." If the environmental
2 manager says, "You're right, that's good for the
3 environment" and there is a water saving, then whatever the
4 saving is, whatever the deal is, that's the deal.
5
6 I should also advise the Tribunal that there are some
7 fairly high commitments by government that at this stage of
8 the game any savings that we find in the basin, which is
9 where State Water's operations are, are dedicated firstly
10 to southern Riverina toward meeting its obligations under
11 the River Murray Initiative and the northern basin under
12 the National Water Initiative to actually address
13 environmental degradation problems. I think the process is
14 there: come and talk to the environmental manager. If we
15 can do a deal and it is good for the environment and there
16 are some savings to be done, then we can do a deal.
17
18 MS McLEOD: Just on this issue of risk savings, my
19 interpretation of where the proposal has come from is
20 because of concern that State Water hasn't actually got
21 enough incentive with what's being proposed to really look
22 hard at their organisation to see how they can improve,
23 whereas I suppose I have a different view and I agree with
24 a lot of what Kim is saying about the problematic nature of
25 trying to pursue water savings: even measuring them and
26 working out whether they're here.
27
28 Many of them are going to be here one year and not in
29 another year and I think from IPART's perspective what
30 water users are looking for is the operating licence
31 actually does provide the right discipline on State Water
32 to actually improve as an organisation and that should be
33 the priority and not get too sidetracked.
34
35 MR ALVAREZ: I had a brief discussion with the Chairman at
36 lunchtime. I think SKM's recommendation of a rigorous
37 water balance is a very good one, in that basically what
38 the water sharing plan has done is it has put the spike in
39 the sand and said, "That's the shares now." I think it is
40 very wise for the water operator to detect what's happening
41 and actually look which way is it drifting. Are things
42 actually moving and is more water going to the environment
43 than was envisaged by the plan? If it's going the other
44 way, less water is going to the environment and more is
45 being consumed, you would be concerned about that as well.
46 I certainly think there's a very big role for the
47 operator to understand what that water balance is and keep

1 track of drift in any one of the elements, whether losses
2 are increasing or decreasing, whether any system flows are
3 increasing or decreasing, because whatever way it drifts
4 someone is going to benefit, someone is going to be
5 at a disadvantage.
6
7 MR BORNEMAN: We talked earlier today about the two
8 aspects of this water efficiency. One was efficiency in
9 terms of how we actually operate, so we put better tools
10 and systems in place. That was driving it as a matter of
11 process. We're making sure we have more real-time
12 information and better accuracy as to how we actually
13 achieve efficiencies in operation.
14
15 The second aspect of that is where we go and spend
16 dollars on structures or piping, or something of that
17 nature. That is probably more where we're saying if you
18 put bulk dollars into that who gets the benefits of that,
19 rather than efficiencies in the system to improve how we
20 operate.
21
22 MR ALVAREZ: Not necessarily. I again go back to the
23 Murrumbidgee circumstance where, dare I say, inefficiencies
24 in the state of their operation resulted in a fair bit of
25 water running out the bottom of that valley. Just by
26 putting in a real-time response on every tributary so that
27 every drop of water coming in and out you can immediately
28 get it into Tom Bullen storage and reregulate it and reduce
29 the system flow might be seen to be inefficient but, in
30 fact, it is reducing the end of system flow which will impact
31 on Murray River actions.
32
33 MR BORNEMAN: Debit auditing would fix that.
34
35 MR ALVAREZ: Whatever the change is we just have to be
36 mindful that when a change is put into effect it will
37 change the balance and we need to know and be able to
38 evaluate what that change in balance is, otherwise
39 someone's going to be hurt, and we need to be mindful of
40 who is affected by any change in the operation. I am not
41 saying don't do it. I am saying find it, evaluate it,
42 watch what the drift is and if it's drifting away from one
43 party it might still be a good outcome, but we need to then
44 be mindful of the fact that we might have to do something
45 else to restore the balance. We may be able to reduce the
46 end of system flows at times when it doesn't benefit the
47 environment and the saved water could then be put down at a

1 time that does benefit the environment. You haven't
2 changed the balance. You've changed your daily operation.
3 You've got a better outcome for maybe lesser inputting.
4
5 MS YOUNG: I think what you're saying is it can't change
6 the shares as they currently stand.
7
8 MR ALVAREZ: That's right. I'm not saying that the water
9 sharing plans or, indeed, our operation now is optimal.
10 What I'm saying is the community has said, "Whatever it
11 was, that's what it is for a time" and during the life of
12 that plan we should be looking at optimising it. Providing
13 that optimisation doesn't change the share: you can still
14 get better outcomes.
15
16 MR COX: Are there further comments before we wrap up?
17
18 MR EMANUEL: In terms of the standards of service and
19 reliability of supply, as we put in our submission, we
20 reiterate that we think that needs to be negotiated with
21 the customers. It needs to be discussed with the customers
22 and developed in that consultation. It is a starting
23 point. It is not what we would see to be the final
24 arrangement.
25
26 MR HECKENDORF: Mr Chairman, there are a couple of issues.
27 I would be very careful about debit auditing. It should be
28 done on a valley-by-valley basis with different issues
29 simply because in the Murrumbidgee's case if State Water
30 doesn't deliver the water to a certain place, how is it
31 going to restore that water because it hasn't followed
32 allocation? Is it going to pay money or whatever?
33
34 We are vitally interested in water balance because at
35 the end of the day we want to know where the positives and
36 negatives come out of that water balance. If DIPNR hasn't
37 issued enough allocation and it has a positive balance in
38 the dam at the end of the year, we'll want to know why and
39 have that extra allocation. It's basically compensable
40 under the water management. I am not going along with
41 Kim's idea of putting it down over five or six years. I
42 think irrigators will want to know pretty well straight way
43 why that's happening.
44
45 MR COX: Are there further comments people want to make?
46 I think it is time to wrap up now. From this session I
47 think the messages are fairly clear. I think there has

1 been some support for the idea of exploring licensing
2 implications with respect to the Fish River as if they were a
3 major water utility. I think we should explore that. There
4 was broad support for the strategy we put forward on a water
5 balance. I think there is agreement - we need to be
6 careful about this area - that a water balance would be a
7 very useful thing to look at. That is where we got to in
8 that session.

9
10 Thank you very much for that. Thank you also for the
11 day as a whole. May I, in particular, thank Felicity and
12 her team for organising the session and for making the
13 presentations which I thought were excellent. Of course, I
14 need to thank SKM for their very constructive contribution to
15 the process and I want to thank the members of the panel
16 for their contributions and also the members of the
17 audience who participated so fully in the day. I think it
18 was an excellent session and we've learnt a lot from doing
19 it. We will be better able to make our recommendations,
20 difficult though they may well be, at the end of the day.

21
22 Thank you very much.

23
24 AT 5.33PM THE WORKSHOP CONCLUDED

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