



Item No: 16.5

File No: 5.14.5.6

Date: 16 April 2018

Attachment: A - I

Meeting: Council

Title: ERA Water – Acquisition Offer

Responsible Manager: Chief Executive Officer, Kiki Magro

Author: Chief Executive Officer, Kiki Magro

Key Focus Area 3: transparent and accountable local tier of Government that is respected for its forward thinking approaches and cross-Council collaborations.

Type of Report: **Decision Required**

Pursuant to Section 83(5) of the *Local Government Act 1999*, the Chief Executive Officer indicates that the matter contained in this report may, if the Council so determines, be considered in confidence pursuant to Section 90(2) of the *Local Government Act 1999* on the basis that the information contained in the attached report is information of the nature specified in subsections 90(3)(d) of the Act being to prejudice the commercial position of the person who supplied the information and / or to confer a potential commercial advantage on a third party.

Recommendation Public

Pursuant to s90(3)(d)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except the Chief Executive Officer Kiki Magro and the Acting Council Secretariat Jo Biskup be excluded from attendance at the meeting for Agenda Item 'ERA Water – Acquisition Offer'.

The Council is satisfied that, pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information and / or to confer a commercial advantage on a third party as financial details will be disclosed.

In addition, Council has further considered that the information would on balance be contrary to the public interest because the disclosure of this information may result in a competitor receiving the information to the detriment of Council.

Recommendation (Public)

1. That Council having considered Water Utilities Australia (WUA) offer dated 9 March 2018 to acquire the assets of ERA Water and the response letter from the ERA Water Board Independent Chairperson dated 27 March 2018, agree with the Board's recommendation not to proceed;
2. That Administration write to ERA Water Board advising its decision and in so doing inform ERA Water Board that should it wish to actively pursue expressions of interest from other viable third parties, Council would support this approach, recognising that any final decision would require the unanimous resolve of the Constituent Council members.

Recommendation (Public)

Pursuant to s.91(7)

That having considered Agenda Item 'ERA Water – Acquisition Offer' in confidence under section 90(2) and (3)(d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report and Attachments relevant to this Agenda Item be retained in confidence for a period of 2 years excepting that Council authorises the release of the minutes and that pursuant to Section 91(9)(c) of the *Local Government Act 1999* the Council delegates to the Chief Executive Officer the power to review and revoke this Order;

and

That Council resolves to end its confidential deliberations pursuant to Section 90(2) of the *Local Government Act 1999* Council and re-admit the public.

Summary

Water Utilities Australia (WUA) presented an unsolicited proposal to ERA Water to acquire its assets. The ERA Water Board considered WUA's proposal(s) and resolved on 27 March 2018 that the offer was not acceptable. The Independent Chairperson subsequently wrote to the Constituent Councils advising of the 'offer' and outlined the Boards reasoning for recommending that the offer be rejected.

Background

22 March 2017, WUA presented the ERA Water Board with a written proposal to 'invest in the Eastern Regional Alliance Water Scheme'. At that time they advised that they were interested in the ERA stormwater harvesting system as it was 'a natural extension of their Lightsview business serving 3,000 residences and more than a dozen parcels of Council owned irrigated open space both within Lightsview and nearby'.

WUA presented a 2-step proposal:

1. Provide an indicative offer for ERA to the Councils. The offer would be unqualified and non-binding;
2. Subject to the Councils agreeing that the non-binding offer, or any agreed variation of it, reasonably meets their needs, to lodge a final binding offer, based on their review of more detailed information evaluated during a due diligence phase, which would also include technical evaluation and site inspections.

25 March 2017 the ERA Water Chairperson, via Commercial in Confidence email, provided the Board Members with a copy of the WUA proposal. The Chairperson strongly recommended that the Board needed to acquit its commitment to the Commonwealth before entering into any discussions that may

result in the sale of the assets and knowing that the Subsidiary's prime focus was on completing the construction of the network.

The ERA Water Chairperson subsequently (25 March 2017) sent a reply email to WUA advising that the letter of interest was received and the Board will consider it in due course.

14 July 2017, the ERA Water Chairperson advised WUA that the Subsidiary had officially discharged its obligations to the Commonwealth and was in a position to explore potential options for collaboration with WUA. An invitation was extended to Mr. Graham Dooley (WUA) to meet with the Board in order for the Board to better understand WUA's interest. Due to travel and work commitments, Mr. Dooley was not available to meet with the Board until 1 September 2017.

1 September 2017, the Board met with Mr. Dooley to discuss and better understand the proposal presented in WUA's unsolicited letter dated 22 March 2017.

9 October 2017, subsequent to the Board meeting held on 1 September 2017, Mr. Dooley provided the Board with a letter clarifying WUA's actual proposal (Attachment B), which was:

1. WUA would assume the current debt (*sic*)
2. WUA would pay a premium to the three Councils of a few \$M's (*sic*)
3. WUA would enter into a binding water supply contracts with the three Council which gave assurance of a water price that is measurably lower than the current SA Water Tier 2 price (*sic*)
4. Assume all risks associated with running an ESCOSA-regulated water utility in SA (*sic*)

9 October 2017, by way of email, the ERA Water Chairperson acknowledged receipt of the WUA letter clarifying WUA's proposal.

29 November 2017, ERA Water Board met and inter alia discussed in confidence the letters dated 22 March 2017 and 9 October 2017 from WUA with respect to acquiring the assets of ERA Water. The Board resolved not to continue with discussions with WUA.

1 December 2017, ERA Water Chairperson wrote to Mr. Dooley and advised of the Board decision and in particular that 'the long term goals of both ERA Water and the Constituent Councils will be best served by owning and managing the assets and business through its own resources' (Attachment D).

21 December 2017, Mr. Dooley wrote by way of email to the Constituent Council CEOs advising of the letter he had received from the ERA Water Chairperson and specifically seeking to meet with the Constituent Council CEOs to '*renew his offer and to see if we do or don't want to engage in a transaction with WUA*'.

21 December 2017, Walkerville CEO responded via email to Mr. Dooley advising him that this is a matter for ERA Water Board to consider and determine and as such would decline the invitation to meet with him.

19 January 2018, Burnside CEO emailed the ERA Water Board members and requested that the Board consider undertaking an EOI to receive formal submissions to be presented to the Constituent Councils.

Sometime between 21 December 2017 and 29 January 2018, the CEO and Mayor of Burnside Council met with Mr. Dooley to discuss his 'offer'.

29 January 2018, Mayor David Parkin (Burnside Council) emailed the Constituent Council CEOs and Mayors outlining his request to seek the ERA Water Board to 'progress to the stage where a formal offer for ERA Water is received for consideration by the Board and constituent shareholder councils' (*sic*) (Attachment F).

2 February 2018, ERA Water Board met and inter alia discussed in confidence, Mr. Dooley's meeting with City of Burnside and Mayor Parkin's email dated 29 January 2018. The Board resolved to write to Mr. Dooley (WUA) and seek further and better particulars that were not previously provided to the Board.

8 February 2018, ERA Water Chairperson wrote to WUA seeking further and better particulars of his 'offer' (Attachment G).

9 March 2018, Mr. Dooley (WUA) provides ERA Water Chairperson with an updated indicative offer to acquire the assets of ERA Water (Attachment H). The 'updated offer' is set out in four parts:

1. Acquisition Price
 - a. the whole of ERA Water assets and business are valued at \$14.3m
 - b. if the outstanding debt is higher than \$12.1m, the cash payment will be reduced to reflect the increased level of debt
 - c. the LGFA debt facility is to remain in place
2. Irrigation Water Price
 - a. a price equal to 15% discount to SA Water tier 2 (currently would equate to \$2.81/kl
 - b. each year the water price will escalate by index comprising 50% labour and 50% electricity
3. Customer Connection Costs
 - a. allowed a cost of \$300,000 to connect all Council reserves (which is factored into the total value of the business)
4. Hydrogeology, Engineering and Approvals
 - a. Assumed that all relevant licences, rights of access and regulatory instruments are in place

9 March 2018, ERA Water Chairperson (via email) acknowledged receipt of the 'indicative offer' from WUA; advised WUA that the matter would be considered by the ERA Water Board at its meeting on 27 March 2018 and also sought permission to forward the letter to the respective Councils for their information and consideration. On the same day, WUA provided authority to share the 'indicative offer' with the Constituent Councils.

13 March 2018, City of Burnside CEO wrote to ERA Water Chairperson seeking that ERA Water should bring the matter (WUA offer) to the attention of the Constituent Councils and recommend a strategy in how the matter should be dealt with (Attachment I).

27 March 2018, ERA Water Board met and inter alia discussed in confidence the letters from WUA dated 9 March 2018 and from Burnside Council dated 13 March 2018. The Board resolved (public resolution) as follows:

ERAW92/17-18

That the Board having considered the revised offer to acquire the assets of ERA Water from a third party agrees to:

- 1. notify the constituent Councils that an offer has been received;*
- 2. write to the Constituent Councils advising that the Board does not support proceeding with the offer and sets out the details as to its reasoning.*

27 March 2018, the ERA Water Chairperson wrote to the Constituent Council CEOs advising of the offer presented by WUA, a brief background to the discussions held and the Boards reasoning for recommending to the Constituent Councils that the offer be rejected (Attachment J). The primary reasons listed were:

- the offer provides an indicative offer of only \$14.3m inclusive of the debt that has a ceiling of \$13m;
- the offer is reliant on maintaining the LGFA debt facility and its low interest rates, which whilst possibly legally possible, is unlikely to be acceptable to the Councils from a risk perspective;
- the future water supply price will be escalated to labour and electricity costs, which may well cause prices to rise in excess of CPI and in excess of SA Water prices, which are already high by comparison with prices in other states;
- there is no explicit guarantee regarding the security of supply to the Councils, although this might be a matter for negotiation.

Discussion / Issues for Consideration

WUA made an unsolicited offer to ERA Water on 22 March 2017. Since that time there has been a number of discussions between ERA Water and WUA culminating in the final offer dated 9 March 2018, which falls short of the 'assertions' made by WUA over the last 12 months.

Whilst the Board can accept an unsolicited bid, it is not the recommended approach. There is an expectation that Local Government and by association its Subsidiaries ensure due diligence and warrant that transactions are in line with procurement policy. ERA Water's procurement policy, which was fashioned on Walkerville's policy (circa 2015), does not confer a right to accept unsolicited bids. This does not mean that it cannot consider unsolicited bids, however by definition any unsolicited approach is required to be unique to the point that there is no one else in the market.

Further, the three Constituent Councils would be required to unanimously agree to the sale of real property, as set out in ERA Water's Charter. The Board has an obligation to ensure that the interests of its Member Councils are upheld.

The offer, should it be acceptable to the Member Councils is only likely to deliver a cash windfall in the order of \$1m to be shared (equally) between the three member Councils. The offer as it stands makes it clear that the future water supply price will be escalated to labour and electricity costs, which may well cause prices to rise in excess of CPI and in excess of SA Water prices, which are already high by comparison with prices in other states.

One of the key conditions to the WUA offer is the LGFA debt facility be maintained. This can only occur if the Subsidiary continues under the auspices of its local government Member Councils. In order to effect this, a complicated ownership / contractual partnership would need to be agreed between all parties. This in itself is highly unlikely to occur and is high risk.

Options for Consideration

Option 1

1. That Council having considered Water Utilities Australia (WUA) offer dated 9 March 2018 to acquire the assets of ERA Water and the response letter from the ERA Water Board Independent Chairperson dated 27 March 2018, agree with the Board's recommendation not to proceed;
2. That Administration write to ERA Water Board advising its decision and in so doing inform ERA Water Board that should it wish to actively pursue expressions of interest from other viable third parties, Council would support this approach, recognising that any final decision would require the unanimous resolve of the Constituent Council members.

Option 2

That Council having considered the letters from Water Utilities Australia (WUA) dated 9 March 2018 and ERA Water Chairperson dated 27 March 2018, instruct Administration to write to ERA Water requesting that the Board actively pursue expressions of interest from viable third parties.

Analysis of Options

Option 1

The Board's recommendation (and reasoning) not to progress with further discussions with WUA appears sound. Furthermore, the offer requires that the Board enter into an exclusive negotiation with WUA; this is not in line with the Boards procurement policy, or indeed the policies of the Constituent Councils. WUA is not unique in the sector and it would not be prudent to enter into discussions with any one organisation without an appropriate expression of interest process undertaken to ascertain other viable and interested parties.

The offer, should it be acceptable to the Member Councils is only likely to deliver a cash windfall in the order of \$1m to be shared (equally) between the three Member Councils. The offer as it stands makes it clear that the future water supply price will be escalated to labour and electricity costs, which may well cause prices to rise in excess of CPI and in excess of SA Water prices, which are already high by comparison with prices in other states.

Option 2

Whilst the offer from WUA may not be 'attractive', it does not preclude ERA Water from exploring whether there are other interested parties in the sector. Undertaking an expression of interest does not bind ERA Water (or the Constituent Councils) into any contractual arrangement. Furthermore, clause 2.6 of the ERA Water Charter, clearly outlines that all property held by the Subsidiary is held on behalf of the Constituent Councils and the real property of the Subsidiary cannot be sold, encumbered or otherwise dealt with without the approval of the Subsidiary by way of, and evidenced by, a resolution of the Board.

Further, clause 2.1.4 of the ERA Water Charter requires that the Subsidiary must obtain the prior approval of the Constituent Councils, to sell any real property or interest therein.

Financial Implications

As an equal Member Council, Walkerville ultimately is financially responsible for ERA Water. Council can consider selling the assets of ERA Water; however, the offer presented by WUA is not enticing enough. Whilst it will clear the debts of ERA Water, it does not provide long-term water security at an affordable price and Walkerville may be expected to sacrifice (handover) the injection / extraction bore.

Community Implications

The Communities of the Member Councils are expecting that the Member Councils will deliver water security at a water price less than SA Water mains water pricing. After the extensive public consultation process undertaken across the three Council areas, the suggestion of selling the 'asset' may not be politically acceptable. Furthermore, it is unlikely that NPSP will ever handover rights to its Felixstow Wetland.

Governance Implications

ERA Water operates under a Charter. The Board has considered the WUA offer over a 12-month period (as evidenced in the background above). The Board believes that the WUA offer is not reasonable and has recommended not to accept it. The Board has written to its member Councils advising of the offer received and its reasoning for rejecting it. ERA Water has complied with its Charter. It is now for each Member Council to consider the recommendation of the Board not to proceed with the WUA offer.

Preferred Option & Reasoning

Option 1 is the preferred option. There has been significant background and discussions between ERA Water and WUA since 22 March 2017 (all in confidence). The Board has considered this matter at

length, have sought legal advice, subsequently determined that the WUA offer, as presented in the updated offer dated 9 March 2018, is not acceptable and provides no financial benefit to the Constituent Council members.

Further, the offer is contingent on a number of conditions, which prima facie are not seductive or enticing enough to benefit the shareholders of ERA Water. One of which is highly unlikely to be achievable (maintaining the LGFA debt facility).

Option 1 does not preclude ERA Water from ascertaining (on behalf of the Member Councils) if there is any other interest in the sector to acquire the assets of ERA Water. It should be noted however, that the ERA Water Board would need a unanimous decision of its member Councils before it could actively pursue (or undertake) any expression of interest (EOI) process.

Attachments

Attachment A	Letter from WUA – unsolicited proposal to invest – 22 March 2017
Attachment B	Letter from WUA – confirmation of valuation methodology – 9 October 2017
Attachment C	Letter from ERA Water Board to WUA dated 1 December 2017
Attachment D	Email from WUA to Constituent Council CEO's dated 21 December 2017
Attachment E	Email from Mayor David Parking to Constituent Council Mayors & CEOs dated 29 January 2018
Attachment F	Letter from ERA Water to WUA dated 8 February 2018
Attachment G	Letter from WUA to ERA Water Board dated 9 March 2018
Attachment H	Letter from Burnside Council to ERA Water Board dated 13 March 2018
Attachment I	Letter from ERA Water Board Independent Chairperson dated 27 March 2018

22 March 2017

John O'Brien
Chairman, Eastern Regional Alliance
Via email: john.obrien@auscleantech.com.au

Cc Paul Deb, CEO, City of Burnside, pdeb@burnside.sa.gov.au
Kiki Magro, CEO, Town of Walkerville, kmagro@walkerville.sa.gov.au
Mario Barone, CEO, City of Norwood Payneham & St Peters,
mbarone@npsa.gov.au

Dear John,

COMMERCIAL - IN - CONFIDENCE
Unsolicited Proposal to Invest in the Eastern Regional Alliance Water Scheme
("ERA")

PROPOSAL

The purpose of this letter is:

- To update you on a significant change that has occurred to the Water Utilities Australia ("**WUA**") business,
- To re-state our previously expressed interest in ERA (in 2015), and
- To seek the opportunity to acquire the assets and business of ERA under terms that deliver Councils a lower cost irrigation water supply.

Our proposal is that we engage with the three ERA Partner Councils in a 2-step process to:

1. Provide an indicative offer for ERA to the Councils. This offer would be as comprehensive and as well informed as we can make it on the information that you can give us rapid access to. This offer would be as unqualified as we can make it, but will be non-binding.
2. Subject to the Councils agreeing that the non-binding offer, or any agreed variation of it, reasonably meets their needs, to lodge a final binding offer, based on our review of more detailed information evaluated during a due diligence phase which would also include technical evaluation and site inspections.

We realize that the Commonwealth and Local Government Financing Authority funding tranches may impose some constraints on financial completion of a transaction such as this, so the transfer of responsibility and ownership might need to be managed over a suitable period. Our initial assessment is that the major benefit to the three Councils will be through perpetually lower irrigation water prices.

We would prefer to acquire the whole of ERA in one transaction, given its modest size and value, but recognize that there might be a desire to offer less than 100% for sale. We will evaluate that.

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CHANGES TO WUA

On 23 December 2016, the entire business of Water Utilities Australia Pty Ltd and its subsidiary companies and trusts was acquired from the previous shareholders by Colonial First State Global Asset Management (“**CFSGAM**”), the investment arm of the Commonwealth Bank.

As a result of this acquisition, I have been appointed as the CEO and Director, and the business is now trading under the slightly different name of **Water Utilities Australia**. CFSGAM has made available an initial amount of funding around \$100M that is to be rapidly deployed through investing in water utility style assets, initially in South Australia. The following progress has been made:

1. Willunga Basin Water Company, an irrigation utility for McLaren Vale, has been acquired
2. Lightsview Re-Water, an ESCOSA regulated urban re-water utility has been acquired
3. A larger SA Council’s CWMS and stormwater utilities are in Due Diligence with an expected acquisition in 2017
4. An unsolicited offer is being considered by a smaller SA Council for their CWMS system
5. An industrial water utility in NSW is in final binding offer phase
6. The Northern Adelaide Plains Irrigation Scheme is in sole tenderer phase
7. A formal EoI has been submitted for the Playford Alive precinct being developed by Renewal SA
8. An offer has been submitted for the acquisition of a national water utility services contractor that has both investments and operations
9. Several other SA Councils have indicated a desire to consider a proposal from WUA and an initial letter along the lines of this letter is being prepared for each of them.

WHO IS CFSGAM?

CFSGAM is the global asset management business owned by the Commonwealth Bank of Australia. CFSGAM is the steward of Assets Under Management (AUM) of approximately A\$200B on behalf of Australian institutional investors, superannuation and pension funds and other institutional investors worldwide. CFSGAM is one of Australia’s largest overall investors. The superannuation funds and investment institutions of Australia provide most of the funds.

Within the total investment portfolio, CFSGAM is also one of Australia’s largest investors in infrastructure, managing A\$9B in direct infrastructure investments and currently ranked the 6th largest infrastructure investor in the world¹. CFSGAM has long investment horizons and has been a foundation investor in large Australian assets such as Brisbane and Adelaide Airports since their privatisation in the 1990’s.

CFSGAM intends to further build, develop and manage infrastructure investments in Australia by acquiring businesses with a long-term horizon and steady rates of return with the intention of investing A\$500M-1B in Australia over the next five years.

CFSGAM has acquired WUA as a platform to create a national, investor-backed source of

¹ Towers Watson Alternatives Survey 2016, includes listed and unlisted infrastructure investments.

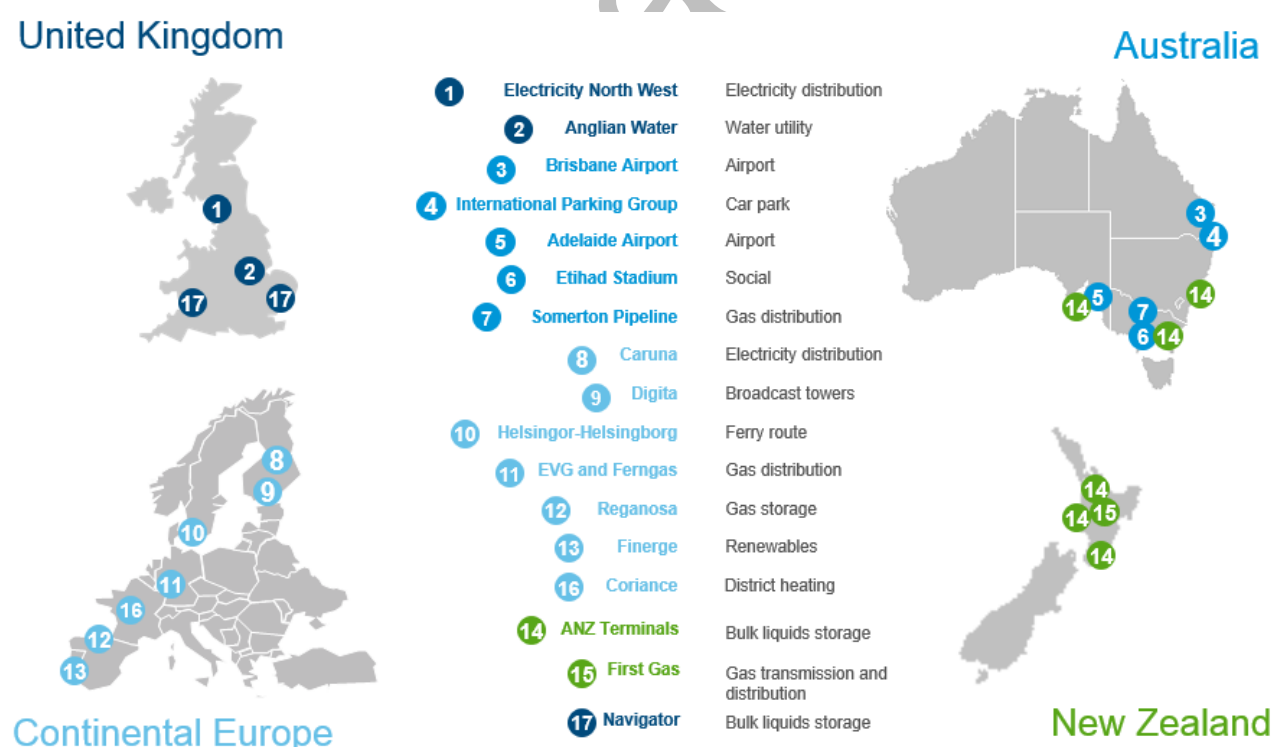
new capital to invest in water infrastructures in the municipal, agricultural and industrial sectors. A window of opportunity has been created to immediately invest \$100M on highly advantageous terms to build the initial platform of both assets and customers. All of CFSGAM's water infrastructure investments will be made though and managed by WUA.

In doing so, WUA provides an injection of new capital into Councils and communities when we invest in their water and wastewater assets across Australia. We have found that many Councils value such an injection into their creation or upgrading of community facilities. Many Councils are now contemplating recycling capital tied up in their water businesses for other higher priority community needs.

The CFSGAM investment philosophy is to grow and develop its investments to ensure that they can deliver appropriate outcomes for customers. This includes injecting whatever expertise is needed as well as new capital. This is evident now in the McLaren Vale where expansion capital is being planned and deployed. Playford Alive presents a similar, urban re-water investment opportunity.

CFSGAM investors have an infrastructure return expectation of very long, steady and moderate returns, quite different from the return expectations and horizons of contractors and private equity investors. We believe that this is more suitably aligned to the expectations of the three ERA Council partners.

CFSGAM currently owns and manages seventeen infrastructure assets globally comprising substantial investments in water and other regulated utilities, transport assets and other infrastructure assets that you may be familiar with:



We are keen to leverage our experience in owning and managing regulated utilities to invest substantial funds in Australia's water infrastructure in all of the municipal, agricultural and industrial water sectors. We are actively pursuing a number of opportunities currently, and

are attracted to investing in South Australia.

WHY WE ARE INTERESTED IN THE ERA WATER BUSINESS

Our target investment size is A\$100m-500m so we are trying to assemble a number of smaller water infrastructure investments to help reach this threshold and would greatly value the inclusion of a number of the Council-owned municipal water utilities that are present in SA and whose owners are evaluating the possibility of divestment.

Your ERA stormwater harvesting system is a natural extension of our Lightsview business that serves 3,000 residences and more than a dozen parcels of Council owned irrigated open space both within Lightsview and nearby. The economies of scale in running a single re-water utility that extends over multiple Local Government areas enable us to keep downward pressure on prices, compared with the upward pressure on the SA Water prices. We also have an advantageous cost of capital in this initial investment phase that the ERA partners will find attractive.

We are confident that we can provide abundant irrigation water to the three Councils at a price lower than the prevailing SA Water price just as we do with our customers of the Lightsview utility, including the City of Port Adelaide Enfield.

We note that there are substantial irrigated areas owned by adjacent Councils, schools and others to the east, west and north of Lightsview that are possible to serve by re-water harvested by the ERA scheme.

THE UNIQUE CHARACTERISTICS OF OUR PROPOSAL

Unsolicited proposals are generally only capable of acceptance if they have a set of unique characteristics that cannot be equaled or bettered. In our case, we submit that these are:

1. In your previous 2015 EoI process, it became clear that greater water volumes being harvested, stored and sold resulted in lower water prices. This is fundamentally a volume business. An entirely stand-alone ERA scheme could not achieve the same volumes as could be achieved through the inter-connection with Lightsview which is assured on a long-term basis if we own both systems.
2. Lightsview is the only fully ESCOSA compliant, regulated, investor-backed re-water utility in the Adelaide Plains. There are no others.
3. The additional cost for WUA to own and operate the ERA scheme is lower than any other configuration of ownership and operations. It will be lower than any Council cost structure.
4. Only through an infrastructure investor like CFSGAM is a supply of new capital at infrastructure investment rates available to fund ongoing system expansions and improvements. Funding of any bolt-on acquisitions that may arise, such as Playford Alive, which adjoins Lightsview on the northern side, will not require Government action or grants at any level.
5. WUA has no restriction in operating across multiple Local Government areas and requires no Ministerial approvals to do so.
6. We already have the required credentials (e.g. ESCOSA, EPA, QA, OHS, Dept of Health) specifically attuned to water utility activities in SA.
7. This proposal fits within the ambit and governance of the previous EoI process in 2015 that is still on foot. Therefore, the proper governance remains in place.

EXCLUSIVE DUE DILIGENCE and OFFER PERIOD

We propose that the 2-step process mentioned above be conducted expeditiously and exclusively with us. If our proposal is not accepted by the Councils at either step, then we understand that. While we are in this process, we seek to be exclusively undertaking the preparation of our offer in the following two steps:

Step 1:

We propose:

- Entering a Confidentiality Agreement between the appropriate parties: WUA, ERA and Councils in relation to this subject
- Preparing an initial offer based on the information you may have already to hand, such as a financial model, engineering reports, water harvesting and supply modeling and the like
- Submitting our indicative, non-binding offer to you as quickly as we can

Step 2:

Subject to your broad acceptance of our initial proposal, we would like to undertake a more detailed evaluation to confirm our earlier offer:

- Undertake a period of detailed due diligence in which ERA tables more comprehensive information, including technical material, funding documentation, contracts entered into etc
- Make a binding offer to the Council partners, subject only to any final confirmation of outstanding matters discovered during the due diligence which have not been able to be resolved, eg land matters
- Negotiate a suitable purchase and investment agreement with the Councils, either in the form of a Heads of Agreement or a full Agreement

There will be some commercial parameters that the Councils wish to propose and we suggest that this be done expeditiously by your officers and advisors in parallel with the due diligence we undertake. Inevitably, there will be issues about current staff, specific assets, payments, land and planning approvals that the Councils will want to have resolved before a final recommendation can be tabled to the Elected Members of each Council. We propose that these be undertaken expeditiously so that a rapid conclusion can be reached.

Our experience of acquiring smaller assets from Government bodies is that all parties end up with a superior result if a friendly, good faith engagement is embraced from the beginning. This is our preferred *modus operandi*. We also wish to not be the owner of extensive land holdings so seek to enter into appropriate land access arrangements (leases, easements, occupancy rights etc) with the current owners who are presumably the Councils.

We have an open mind on what commercial terms might be and are happy to explore all feasible scenarios in developing a long-term position as the re-water utility for the eastern Adelaide region. We have some ideas that might be helpful to discuss at an early stage.

As you may be aware, we are engaged in a similar, parallel set of negotiations with several

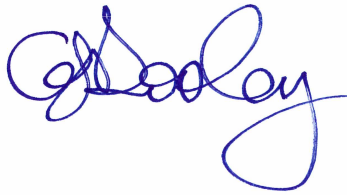
Local Government owners of other owners of water and wastewater assets and we seek an orderly and timely completion of any negotiation with ERA and the Councils. While not dependent on each other, it is advantageous for all parties to draw these multiple transactions to a close in parallel to take full advantage of the advantageous funding currently available.

We are fully aware that all the full Councils and our own Investment Committee and Board will give final approvals. We will work expeditiously to conclude a suitable transaction. We hope to move sufficiently quickly to enable you to table a formal recommendation to each Council before the end of the FY17 financial year, if that is possible.

We also note that there are quite a number of add-on investment opportunities arising from extending the network further afield, including a connection to our Lightsview system and we would be pleased to discuss those additional investments to facilitate growth and development.

I would be pleased to meet up more formally and discuss these matters and map out a process with each Council's nominated senior officers and advisers at their earliest convenience. I am also happy to meet with and make appropriate presentations to the Mayors and Elected Members if that is helpful.

Yours sincerely,



Graham Dooley
Chief Executive Officer

9 October 2017

John O'Brien
Chairman, Eastern Regional Alliance
Via email: john.obrien@auscleantech.com.au

Cc Paul Deb, CEO, City of Burnside, pdeb@burnside.sa.gov.au
Kiki Magro, CEO, Town of Walkerville, kmagro@walkerville.sa.gov.au
Mario Barone, CEO, City of Norwood Payneham & St Peters,
mbarone@npsa.gov.au

Dear John,

COMMERCIAL - IN - CONFIDENCE
Confirmation of Valuation Methodology and Water Pricing
Re: Unsolicited Proposal to Invest in the Eastern Regional Alliance Water
Scheme ("ERA")

Thank you for the opportunity to meet with the ERA Board on 1 September 2017.

Upon reflection, I am concerned that I might not have been clear enough, either in the presentation document, or in our Q&A session, about the way we would value the ERA business. I also may not have been clear about why we are in a unique position to supply water to the three ERA Councils and other customers below the SA Water Tier 2 price.

The Value of ERA

The value an investor ascribes to a water utility, particularly one like ERA that is at the beginning of its life, is quite a complex piece of arithmetic, so I am inclined to confirm our approach in writing.

As I understand that facts:

- ERA has spent in the order of \$22.2M building the scheme, which is now effectively complete
- A grant of \$7.6M was received from the Commonwealth, and \$2M from the AMLRNRM Board
- A debt of \$12.6M has been raised by ERA
- ERA has just reached the point where the scheme is being commissioned prior to commencing operations
- The pricing of water from the scheme relies very much on achieving considerable sales of water to third parties, including to our Lightsview utility.

During the presentation on 1 September, I did not, I think, make it clear in specific terms what our commercial proposal is in relation to how much we would pay for the acquisition of ERA from the three Councils.

Our view, without the benefit of due diligence, and hence not a binding offer, is that ERA is worth the current debt plus a premium of a few million dollars. We can confirm the precise number in a binding offer after a period of due diligence.

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The book value of the assets constructed is a different number to this value. I recall talking about why this is so.

Therefore, if the three Councils wanted to divest ERA Water to WUA, then:

1. WUA would assume the current debt
2. WUA would pay a premium to the three Councils of a few \$M's.
3. WUA would enter into binding water supply contracts with the three Councils which gave assurance of a water price that is measurably lower than the current SA Water Tier 2 price.

Pricing of Irrigation Water to the Three Councils

It is very clear, in all the financial modelling that has been carried out on ERA Water's business, that the volume of water sold to third party customers has a critical influence on the selling price of that water. If more water is sold, the price is lower.

Because WUA already holds an ESCOSA Licence and already owns the adjacent Lightsview utility it has the infrastructure and staff in place to sell more water now. It also has multiple other sources of water in the event of upstream failure of an ERA source. We are therefore firmly of the view that WUA is in a far better position to sell more water and deliver it reliably to all of the ERA customers.

Our proposal is to sell more water from ERA's water storages both via the Lightsview network as well as to all the potential customers within sensible reach of the newly constructed ERA network. We are continuing to expand the Lightsview network to meet demand and would expect to do the same with the ERA network over time. Therefore, we are very confident that we can increase water sales.

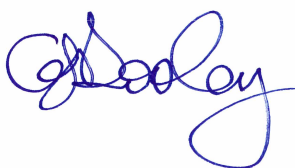
Added to this, if the operating costs of ERA can be kept low, the price of water will be lower. We can achieve this better than ERA can, because we would not need to recruit any further sales or operations staff beyond those we have for Lightsview already.

In summary, we are confident that:

- We can pay a premium to the three ERA Councils of a few \$M's plus assuming the current debt to acquire ERA
- Achieve the necessary economies of scale and upstream reliability to provide irrigation water to the three Councils and other customers at a measurable discount to the SA Water Tier 2 price
- Assume all risks associated with running an ESCOSA-regulated water utility in SA.

I'd be pleased to have further meetings with your Board and the three Councils as needed.

Yours sincerely,



Graham Dooley
Chief Executive Officer

ERA WATER

1 December 2017

Graham Dooley
Chief Executive Officer
Water Utilities Australia Pty Ltd
Suite 1005
147 Pirie Street
Adelaide SA 5000

Via email: GDooley@wua.com.au

Dear Graham

Water Utilities Australia and ERA Water

Further to the ERA Water Board meeting on 29 November 2017, I would like to formally respond to your letters dated 22 March 2017 and 9 October 2017.

The Board would like to thank you for your interest in the assets and business of ERA Water and to advise that it understands the rationale for your current proposal. After some discussion however, the Board believes that at this stage, the long term goals of both ERA Water and the Constituent Councils will be best served by owning and managing the assets and business through its own resources.

On this basis, I would like to advise you that at this stage ERA Water will not be continuing with our discussions. We will be commissioning and operating the assets and will work to build the customer base and revenue of the business until, at the very least, it has established its revenue generating potential. It may be that, once the business is more established, ERA Water could be interested in considering other operating models and we would welcome your further engagement should that occur.

In the meantime, we would welcome an ongoing discussion regarding supply of water to your other assets if that may be of interest.

I would like to thank you for your interest in building a collaborative partnership and I look forward to continuing this conversation in due course.

Please do not hesitate to contact me if you would like to discuss this matter further.

Yours sincerely



John O'Brien
Independent Chair
ERA Water

cc. Kiki Magro, CEO, Town of Walkerville

Paul Deb, CEO, City of Burnside

Mario Barone, CEO, City of Norwood, Payneham & St Peters

From: Graham Dooley
To: [Kiki Magro](#); [Mario Barone](#); [Paul Deb](#)
Cc: [Craig Heidenreich](#)
Subject: Surprise at ERA Water Decision
Date: Thursday, 21 December 2017 2:48:35 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[171201-ERA Water-Response to WUA-FINAL.pdf](#)

Kiki and Gentlemen,

I'd have to say I was very surprised to receive the attached letter, particularly reading that the 3 Councils had explicitly endorsed this high-risk approach. My previous understanding is that several of the Councils were not happy with the high-risk nature and likely subsidy of this business.

To reiterate, we offered:

- To buy ERA Water for a sum approximately \$15M, being the current debt PLUS \$1M each to the 3 Councils (all subject to detailed due diligence)
- To guarantee and lock in a water price for the 3 Councils for a long period, that would be lower than SA Water's Tier 2 retail price
- To connect ERA Water (at our cost) to our Lightsview system and start delivering cheaper irrigation water to the 3 Councils from our surplus supply immediately the connection is made
- To accept all risk of the business going forward, subject to any enduring matters we agree between us

Our acquisition of ERA Water changes the risk profile exposure for all 3 Councils immediately. ERA Water goes from a high-risk, subsidised regional subsidiary to a contracted supplier. Both the divestment payment and lower water supply price result in very favourable financial outcomes to all Councils.

There is just no way that ERA Water can deliver water as cheaply to the 3 Councils and other customers as WUA can. Connection to Lightsview guarantees supply and has the potential to lower costs than a stand-alone ERA Water ever could. We have no additional staff to employ and already have the required ESCOSA Licence, Dept of Health relationship and all of the systems to deliver quality and compliance on all fronts. That cannot be matched.

Therefore, it seems to me, and I am using approximations, that the 3 Councils face injecting cash into ERA Water to cover:

- Making the connections to all the sites – say \$0.5-1M, based on our current rollout costs with another Council
- Paying interest on the debt – say \$0.8M pa ongoing
- Paying new staff and on-costs, setting up a complete business, paying site supervision costs for all the connections – say \$0.3-0.5M pa ongoing
- Waiting until Spring of 2018 to generate any revenue from water sales, and then only a small amount as demand ramps up

We proposed an alternative that gives each Council a cash payment of \$1M

(indicative) and guaranteed low-price irrigation water from the date of the inter-connection onwards.

If ERA Water delivered a cash surplus from Day 1 and sold water at an acceptable discount to its customers already, then the terms of letter attached would be entirely reasonable.

But the reality is that the 3 Councils will now have to underwrite the operating deficits of ERA Water for at least a year, possibly several, one way or another. Since a median case is something like \$0.5M for each Council for 2018/19 at least, I would think this is a material amount for each Council to include in its budget. One can imagine that this is not welcome when the alternative is a \$1M surplus each, lower water prices and no ongoing risk.

I would very much like to meet with the three of you, separately or together, to renew our offer and see if you truly do or don't want to engage in a transaction with WUA. I am available back in the office after 5 January, but can meet informally prior to the 5th if needed.

Regards, Graham

Graham Dooley

Chief Executive Officer & Director | Water Utilities Australia



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From: John O'Brien <john.obrien@auscleantech.com.au>

Date: Monday, 4 December 2017 at 1:22 pm

To: "Graham Dooley (WUA)" <GDooley@wua.com.au>, Kiki Magro <kmagro@walkerville.sa.gov.au>, Mario Barone <mbarone@npsp.sa.gov.au>, Paul Deb <pdeb@burnside.sa.gov.au>

Cc: 'Geoff Vogt' <vogt@adam.com.au>, "jminney@electedmembers.npsp.sa.gov.au" <jminney@electedmembers.npsp.sa.gov.au>, Nathan Silbey <nsilby@wga.com.au>, Carmen Tkalec <ctkalec@wga.com.au>

Subject: RE: Clarification of Certain Aspects of Proposal re ERA: COMMERCIAL-IN-CONFIDENCE

Dear Graham

As discussed, please find attached the formal response from ERA Water to your recent correspondence. Also as discussed, there is certainly an ongoing interest in the potential for

water supply from ERA Water in the 2019/10 summer and potentially in sourcing water to enable earlier connection of additional customers for 2018/19 summer

Please feel free to call me at any stage to progress the conversation on these matters.

Kind regards
John

John O'Brien
Chair, ERA Water

8 Arunga Close - Goodwood - SA 5034
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john.obrien@auscleantech.com.au
skype: johnkcobrien - Twitter: @jkwob
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www.sinocleantech.com

From: John O'Brien [mailto:john.obrien@auscleantech.com.au]
Sent: Monday, 9 October 2017 8:18 PM
To: 'Graham Dooley' <GDooley@wua.com.au>; 'Kiki Magro' <kmagro@walkerville.sa.gov.au>; 'Mario Barone' <mbarone@npsa.gov.au>; 'Paul Deb' <pdeb@burnside.sa.gov.au>
Cc: 'Geoff Vogt' <vogt@adam.com.au>; 'jminney@electedmembers.npsa.gov.au' <jminney@electedmembers.npsa.gov.au>
Subject: RE: Clarification of Certain Aspects of Proposal re ERA: COMMERCIAL-IN-CONFIDENCE

Dear Graham

Thank you for your clarification of those points and I look forward to our further discussions in due course.

Kind regards
John

John O'Brien
Independent Chair
ERA Water

Managing Director
Australian CleanTech
Sino CleanTech
Celebrating 10 Years of Driving Cleantech Growth

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From: Graham Dooley [mailto:GDooley@wua.com.au]
Sent: Monday, 9 October 2017 3:28 PM
To: Kiki Magro <kmagro@walkerville.sa.gov.au>; Mario Barone <mbarone@npsa.gov.au>; Paul Deb <pdeb@burnside.sa.gov.au>; John O'Brien <john.obrien@auscleantech.com.au>

Subject: Clarification of Certain Aspects of Proposal re ERA: COMMERCIAL-IN-CONFIDENCE

Kiki and Gentlemen,

Following my earlier proposal to you, I met with the Board of ERA Water on 1 September 2017 (thank you). Upon reflection, there are a couple of matters that seemed to be not quite so clear. I have prepared the attached letter as a clarification.

I'd be pleased to meet up with ERA Water again or with any of the three Partner Councils, if that is desired.

Regards, Graham

Graham Dooley

Chief Executive Officer & Director | Water Utilities Australia



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From: "Graham Dooley (Private)" <gjdooley@bigpond.com> on behalf of "Graham Dooley (WUA)" <GDooley@wua.com.au>

Date: Wednesday, 22 March 2017 at 1:51 pm

To: Kiki Magro <kmagro@walkerville.sa.gov.au>, Mario Barone

<mbarone@npsp.sa.gov.au>, Paul Deb <pdeb@burnside.sa.gov.au>, John O'Brien

<john.obrien@auscleantech.com.au>

Cc: Craig Heidenreich <CHeidenreich@wua.com.au>

Subject: Proposal re ERA: COMMERCIAL-IN-CONFIDENCE

Kiki and Gentlemen,

Herewith, please find attached a proposal from Water Utilities Australia in relation to this subject.

I'd be pleased to meet up and discuss it if that is helpful.

Regards, Graham

Graham Dooley

Chief Executive Officer & Director | Water Utilities Australia



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Released

From: David Parkin
To: mbarone@npsa.gov.au; [Kiki Magro](#); [Paul Deb](#); rbria@electedmembers.npsa.gov.au; [Ray Grigg](#)
Cc: [Robert Dabrowski](#); [Martin Cooper](#)
Subject: ERA Water
Date: Monday, 29 January 2018 9:44:25 AM

Good morning ERA Water Mayors and CEOs.

I have had the opportunity to discuss this matter with each of you other than Mayor Bria.

I understand the decision of the ERA Water board to discontinue discussions with Graham Dooley and his Lightsview Water Venture re a purchase of ERA Water by Lightsview. The basis of the decision was, I understand, that ERA Water is progressing well and it will have a higher value in due course when it is fully proven and operational. The board may be right, but for the following reasons I encourage the board to progress now to the stage where a formal offer for ERA Water is received for consideration by the board and constituent shareholder councils:

1. Security of water

The primary reason for the ERA Water initiative is as an insurance policy. Under water restrictions, parks cannot be watered and water restrictions will occur in times of drought.

Lightsview extracts its water from the Salisbury aquifer and there is plenty of water already banked in this aquifer to service ERA Water councils. I understand it to be a more 'stable' aquifer than the aquifer to which the ERA Water system has access. Lightsview provides a better insurance policy. I also understand that Lightsview doesn't really need the water provided by ERA Water to service the ERA Water client base. Proving up the adequacy of the ERA Water aquifer is a bonus but not critical to the Lightsview position.

2. Timing

ERA Water has yet to build up an Administration. The time to consider alternative arrangements is before long term commitments are made. Lightsview already has an administration and the ERA Water network can be managed by this Administration without expansion. Further, and importantly, each council has several EMs highly critical of the ERA Water project and a number who don't really understand it. These EMs have made progress tedious within councils and Burnside, at least, remains vulnerable to a poor participation decision based on ignorance of value. A formal bid by Lightsview which gives ERA Water serious value will silence the naysayers for ever, even if the bid is not accepted.

3. Escalation of progress

I understand the Lightsview offer includes a complete takeover from this point. Lightsview will complete all connections at its cost and all parks will have access to all water required by next summer rather than staged availability over several years under

ERA Water. This brings forward cheaper water benefits to ERA Water councils and adds considerable value to the offer.

4. No guarantee sought

Under ERA Water, each participating council has undertaken to purchase a minimum volume of water per annum. Lightsview seeks no such guarantees. It will be simply a water provider with the three councils among its clients. This adds considerable value to the offer.

5. Third party purchasers

Lightsview assumes responsibility for all sales. No longer will EMs agonise over 'what ifs' under a continuing ERA Water management. Not having to deal with an evolving regional subsidiary adds efficiency value to each council.

6. ESCOSA control

Lightsview will remain subject to ESCOSA scrutiny and all water price increases will be subject to ESCOSA approval based on proven cost increases. Cost increases once the system is established should remain well within inflation. In the event that Lightsview ceases to operate, ESCOSA will take control of the system - the assets are secure.

7. Unsolicited bid

If the Lightsview bid is determined to be unsolicited, then ERA Water should open the process. Lightsview is in a special position in relation to ERA Water. As an operating neighbour it can assume control of ERA Water without many additional overheads. This should be reflected in the bid offer.

8. Price

It all comes down to this. The indicative offer I understand to be the purchase of the 'entity' of ERA Water from the three councils for \$1M each plus water considerably cheaper than SAWater. A mix of cash and price is reasonable. Let's see what it is! Lightsview wishes to undertake due diligence but this should be easy - there is not much to ERA Water at this stage other than an infrastructure that has been constructed to budget. A great time to consider an alternative operating process.

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*** Think before you print ***

This is one of Council's LA21 Sustainable Environmental Management initiatives.

Released

ERA WATER

8 February 2018

Graham Dooley
Chief Executive Officer
Water Utilities Australia Pty Ltd
Suite 1005
147 Pirie Street
Adelaide SA 5000

Dear Graham

Water Utilities Australia and ERA Water

Further to my letter to you dated 1 December 2017 in which I set out the decision of the ERA Water Board regarding your indicative and conditional proposal, I understand that you have since been communicating and meeting with various ERA Water stakeholders.

The Board discussed your proposal again at our recent meeting. It appears that your communications with the ERA Water Constituent Councils have provided additional information and assertions that were not previously provided to the Board. To ensure that all the communications are consistent, we now request that you clarify in a single document the exact terms under which you are making your current offer. In particular, we would request that the proposal includes, at a minimum, the proposed offer price, water sale price, water supply security, timing of any proposed transaction and any other substantive matters. We understand that this offer, should it be progressed in any form, would be subject to your final due diligence process.

I note that in compliance with the Charter of ERA Water, the ERA Water Board is the only body that has authority to deal with matters of this nature.

I look forward to receiving the full details of your proposal in due course and please feel free to call me at any stage.

Yours sincerely



John O'Brien
Independent Chair
ERA Water

cc. ERA Water Board members

9 March 2018

COMMERCIAL-IN-CONFIDENCE

John O'Brien
Independent Chair
ERA Water
PO Box 55
WALKERVILLE SA 5081

Via email: john.obrien@auscleantech.com.au

CC: Jo Biskup, Acting EA to CEO, Town of Walkerville, jbiskup@walkerville.sa.gov.au

Dear John,

Indicative Offer to Acquire the Eastern Regional Alliance Water Scheme ("ERA")

Further to our correspondence on this subject, we are pleased to submit this indicative offer to acquire ERA Water (the "**Offer**"). This Offer is not binding because we are unable to confirm the exact parameters on which it is based.

We will replace this Offer with a binding offer, capable of acceptance by you, and binding on us, once we confirm the assumptions contained in this letter through a due diligence process or vary them appropriately in any clarifying consultation with you. We are hopeful that any adjustments are minimal.

If you accept a binding offer we make, the terms of that offer can be drafted into a straightforward sale agreement between the parties and then executed. We can take the lead on the drafting if you wish. With expeditious action on the part of all parties, we feel this could be concluded by 30 June 2018.

As per your directions, we have used only the information we can find on the public record by diligently searching the websites containing the agenda papers and meeting minutes of the Councils of the City of Burnside, the City of Norwood, Payneham & St Peters and the Corporation of the Town of Walkerville (collectively the "**Three Councils**"). We have therefore made a list of assumptions in the Schedule attached to this letter. To the extent that our due diligence reveals a departure from these assumptions, the value and terms of our Offer may vary.

Our Offer is in four parts:

1. Acquisition Price

We value the whole of the ERA Water assets and business at a total of **\$14.3M**. This comprises:

- \$1.4M in cash payment
- The assumption of the existing debt facility of \$12.1M including its ongoing interest rate and terms (see Schedule for further details)
- The assumption of \$300,000 on the connection of reserves of the Three Councils to the ERA Water network which would have otherwise been incurred by the Three Councils
- The assumption of \$500,000 on the inter-connection of the ERA Water and Lightsview systems which provides security of supply to the benefit of the Three Councils.

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If the final outstanding debt facility on completion of the construction of the project is estimated to be higher than \$12.1M, the cash payment will be reduced to reflect the increased level of debt (i.e. if debt at project completion is \$12.5M, the cash payment will be \$1M).

It is a fundamental assumption, essential to our Offer, that the LGFA debt facility remains in place. If we had to replace the LGFA debt with commercial debt, then our offer will vary materially.

There is a tradeoff between our acquisition price and the irrigation water price we propose below. We are happy to change the balance if you wish.

2. Irrigation Water Price

From the commencement of operations, we will supply water to every connected irrigation offtake point of the Three Councils at a price equal to a 15% discount to the current SA Water Tier 2 price. This means that the price in 2017/18 would be \$2.81/kL versus the SA Water Tier 2 price of \$3.31/kL.

Each year, the water price payable by the Three Councils will be escalated by an index comprising 50% labour and 50% electricity. This will give the Three Councils certainty of the irrigation price year by year.

3. Customer connection costs

We are not sure how many council reserves are currently connected to the ERA Water network, but it is our intention to make each connection from the main to the irrigation water meter at our cost. We have allowed \$300,000 to do this. We have carried out similar work already for another Council whose reserves are irrigated via our Lightsview network so are experienced in working with Local Government in this regard. Any minor plumbing work beyond the irrigation water meter, such as the separation of irrigation and potable uses within the reserve, would be at the relevant Council's cost.

Subject to rapid completion, approval and execution of all documents, and the construction of reserve connections, we intend to commence supply of irrigation water to the reserves of the Three Councils that are connected in the summer irrigation season of 2018/19.

Additionally, we have assumed that there are no further capital costs required to connect "other" / private customers to the ERA Water network and the current network as constructed is capable of delivering water volumes to these "other" customers in line with the LTFP forecasts. We will also need to confirm there is sufficient demand for the water from "other" customers.

4. Hydrogeology, Engineering and Approvals

We have no knowledge of the harvesting and storing water in aquifers by ERA Water in the last 12 months. This remains to be assessed in our due diligence. We also need to be assured that the ASR aquifer storage system is functional as designed and built.

Our suggestion is to define an interface point at each location between the stormwater and wetlands assets (which would be retained by each Council) and the pumps and pipelines that draw water from these Council assets for pumping into the aquifers (which would be owned by us).

We have assumed that all the relevant Licences, rights of access to land and other regulatory instruments will be transferred to WUA and that no transfer charge applies. We also assume that access to Council land attracts no charge or rent. We will fully cooperate with each Council to undertake whatever works are needed in these public places, e.g. water meters, pumping stations, balance tanks etc, to the high standard required.

Rather than have an exchange of questions and answers in writing between us, after you receive this letter, I suggest that we meet, including any relevant staff of the Three Councils, in a confidential workshop session to go through this Offer and answer any of the questions that will arise. Answers or clarifications that are important to this Offer being acceptable to the ERA Water Board or the Three Councils can then be transmitted in writing.

I'd be pleased to have further meetings with your Board and the three Councils as needed.

Yours sincerely,



Graham Dooley
Chief Executive Officer

Released

SCHEDULE

ASSUMPTIONS

1. Financing

- 1.1. We have assumed that the outstanding balance of the Local Government Financing Authority debt is \$12.1M.
- 1.2. We have assumed that the Local Government Financing Authority debt finance package is repayable on a principal and interest basis over 20 years on a Credit Foncier basis at a fixed 4.3% interest rate.
- 1.3. We have assumed that the grants from Adelaide & Mount Lofty Ranges Natural Resources Management Board (AMLRNRMB) are not repayable and the assets thereby created will generate depreciation deductions for us.
- 1.4. We have assumed that the Commonwealth grants have no surviving obligations and the assets thereby created will generate depreciation deductions for us.
- 1.5. We have assumed the normal business tax deductions relating to depreciation and interest apply.

2. Revenue

- 2.1. We have assumed the scheme is capable of producing at least 540ML of water volume annually and the scheme as constructed is able to deliver the forecast sales volumes underpinning the Long-Term Financial Plan ("LTFP") prepared by BRM Holdich presented in May 2017.
- 2.2. We have assumed that the water supply arrangements for each Council are on a take-or-pay basis but are happy to discuss the minimum volume of the take-or-pay amount. There is a recognition that we need to accommodate some flexibility here and are happy to do so.
- 2.3. In the initial year(s), when the ASR balances may be low (we don't know), we may need to provide irrigation water that we purchase from the City of Salisbury. We can accommodate up to \$150,000 of such purchases, without any adjustment of irrigation water price, but if the ERA Water ASR system failed to perform and we needed to spend more than \$150,000 purchasing water, we would need to adjust the water price temporarily until the ASR system regained its functionality. We are happy to withdraw this qualification once we confirm the functionality of the ASR system.

3. Recurrent Costs

- 3.1. We have assumed the electricity costs in the LTFP.
- 3.2. We have assumed maintenance costs based on the LTFP.
- 3.3. We have assumed employee costs in line with the LTFP. We have reduced the employee / contract labour costs in our analysis to a level that gives the Three Councils the benefit of the synergies with our adjacent Lightsview utility.
- 3.4. We have assumed the depreciation expense per the LTFP.
- 3.5. We have assumed the other overhead expenses (Administration, Contingency etc) based on the LTFP estimates.

4. Capital Costs

- 4.1. We have allowed for \$300,000 to be spent, beginning in 2018/19, on the connection of reserves of the Three Councils to the ERA Water network.
- 4.2. We have allowed for \$500,000 to be spent in 2018/19 on the inter-connection of the ERA Water and Lightsview systems.
- 4.3. We have made no allowance for capital costs to connect "other" customers to the network and that all of these costs will either have been / will be incurred in the FY18 year or will be borne by the end customer.

4.4. We have made no allowance for any remediation of any of the capital works created by ERA Water, particularly the ASR system. In other words, we have assumed that the whole of the system has achieved the proper level of functionality. If our due diligence found that remediation costs were necessary, there would need to be an adjustment to this Offer.

5. Regulatory Assumptions

- 5.1. We have not allowed any cost in the transfer of the ESCOSA, DEWNR or any other Licence from ERA Water to WUA.
- 5.2. We have allowed for ongoing annual Licence Fees as contained in the LTFFP.
- 5.3. We have not assumed that ESCOSA would require the ERA Water and Lightsview entities to be amalgamated as a single regulated entity. Such a move may cause an adjustment in Irrigation Water Price. We would hope that there would be no adjustment, but we are unsure of how ESCOSA would handle this.

Released

13 March 2018

Mr John O'Brien
Chair
ERA Water
PO Box 55
WALKERVILLE SA 5081

Dear John

CONFIDENTIAL – PROPOSAL FROM WATER UTILITIES AUSTRALIA

I refer to a proposal which has been submitted to the Board of ERA Water from Water Utilities Australia.

I understand that the Board has considered this proposal and that by letter dated 1 December 2017, ERA Water advised Water Utilities Australia that “...*at this stage ERA Water will not be continuing with our discussions.*”

I also understand that the Board has received advice from Mr Sean Keenihan of Norman Waterhouse Lawyers, regarding how the proposal from Water Utilities Australia should be treated.

Notwithstanding the provisions of the ERA Water Charter, insofar as the *Clause 2 Functions Powers and Duties of the Board* are concerned, the proposal from Water Utilities Australia is, in my view, one which should not be determined by the Board. In this respect, it is a significant issue and whilst the Board can certainly have a view and put forward a recommendation to the Constituent Councils, it is an issue which needs to be considered and determined by the Constituent Councils.

In this respect, to progress the matter to the Constituent Councils, the Board should bring the proposal to the attention of the Constituent Councils, with a recommended strategy in respect to how the matter should be dealt with. To this end, based upon the advice which has been received from Norman Waterhouse, it appears that the proposal from Water Utilities Australia, may not be able to be considered under the call for Expressions of Interest which was called by ERA Water a couple of years ago.

On that basis, the Board should confirm via legal advice, the most prudent method of dealing with the proposal (i.e. unsolicited bid, undertake another Expression of Interest call, under which Water Utilities Australia could lodge its proposal) and then refer the matter to the Constituent Councils with a recommendation.

Should you wish to discuss this matter or require any clarification, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Deb', with a stylized flourish at the end.

Paul Deb
Chief Executive Officer

27 March 2018

Dear Constituent Council CEOs

RE: Indicative offer to acquire the assets of ERA Water - CONFIDENTIAL

As you may be aware, following its Board meeting on 2 February 2018, the ERA Water Council wrote to Water Utilities Australia (WUA) on 8 February requesting clarification and details of the various previous written and verbal offers that had been made both to ERA Water and to various constituent Council stakeholders.

ERA Water received the attached written response from WUA on 9 March 2018 and this was considered at our Board meeting of 27 March.

Having considered the indicative and conditional offer, the ERA Water Board believes that, in its current form, the offer is not acceptable and recommends that the constituent Councils reject the offer.

The primary reasons for this assessment by the Board are as follows:

- The offer provides an indicative offer of only \$14.3 million inclusive of the debt that has a ceiling of \$13.0m;
- The offer is reliant on maintaining the debt LGFA debt facility and its low interest rates which, whilst possibly legally possible, is unlikely to be acceptable to the Councils from a risk perspective;
- The future water supply price will be escalated to labour and electricity costs which may well cause prices to rise in excess of CPI and in excess of SA Water prices which are already high by comparison with prices in other states; and
- There is no explicit guarantee regarding the security of supply to the Councils, although this might be a matter for negotiation.

The Board continues to believe that the value of the assets will be enhanced as the commissioning process is completed and commercial operations are commenced.

As you are aware, I am stepping down from the Board to take up a fulltime executive position and will hand the reins over to the rest of the Board. I would like to take this opportunity to thank you for the support I have received whilst on the Board and to congratulate you on instigating and delivering such an impressive project that is set to provide long term benefits to the Councils and their communities.

I look forward to seeing the ongoing success of the project.

Yours sincerely



John O'Brien
Independent Chair
ERA Water

9 March 2018

COMMERCIAL-IN-CONFIDENCE

John O'Brien
Independent Chair
ERA Water
PO Box 55
WALKERVILLE SA 5081

Via email: john.obrien@auscleantech.com.au

CC: Jo Biskup, Acting EA to CEO, Town of Walkerville, jbiskup@walkerville.sa.gov.au

Dear John,

Indicative Offer to Acquire the Eastern Regional Alliance Water Scheme ("ERA")

Further to our correspondence on this subject, we are pleased to submit this indicative offer to acquire ERA Water (the "**Offer**"). This Offer is not binding because we are unable to confirm the exact parameters on which it is based.

We will replace this Offer with a binding offer, capable of acceptance by you, and binding on us, once we confirm the assumptions contained in this letter through a due diligence process or vary them appropriately in any clarifying consultation with you. We are hopeful that any adjustments are minimal.

If you accept a binding offer we make, the terms of that offer can be drafted into a straightforward sale agreement between the parties and then executed. We can take the lead on the drafting if you wish. With expeditious action on the part of all parties, we feel this could be concluded by 30 June 2018.

As per your directions, we have used only the information we can find on the public record by diligently searching the websites containing the agenda papers and meeting minutes of the Councils of the City of Burnside, the City of Norwood, Payneham & St Peters and the Corporation of the Town of Walkerville (collectively the "**Three Councils**"). We have therefore made a list of assumptions in the Schedule attached to this letter. To the extent that our due diligence reveals a departure from these assumptions, the value and terms of our Offer may vary.

Our Offer is in four parts:

1. Acquisition Price

We value the whole of the ERA Water assets and business at a total of **\$14.3M**. This comprises:

- \$1.4M in cash payment
- The assumption of the existing debt facility of \$12.1M including its ongoing interest rate and terms (see Schedule for further details)
- The assumption of \$300,000 on the connection of reserves of the Three Councils to the ERA Water network which would have otherwise been incurred by the Three Councils
- The assumption of \$500,000 on the inter-connection of the ERA Water and Lightsview systems which provides security of supply to the benefit of the Three Councils.

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If the final outstanding debt facility on completion of the construction of the project is estimated to be higher than \$12.1M, the cash payment will be reduced to reflect the increased level of debt (i.e. if debt at project completion is \$12.5M, the cash payment will be \$1M).

It is a fundamental assumption, essential to our Offer, that the LGFA debt facility remains in place. If we had to replace the LGFA debt with commercial debt, then our offer will vary materially.

There is a tradeoff between our acquisition price and the irrigation water price we propose below. We are happy to change the balance if you wish.

2. Irrigation Water Price

From the commencement of operations, we will supply water to every connected irrigation offtake point of the Three Councils at a price equal to a 15% discount to the current SA Water Tier 2 price. This means that the price in 2017/18 would be \$2.81/kL versus the SA Water Tier 2 price of \$3.31/kL.

Each year, the water price payable by the Three Councils will be escalated by an index comprising 50% labour and 50% electricity. This will give the Three Councils certainty of the irrigation price year by year.

3. Customer connection costs

We are not sure how many council reserves are currently connected to the ERA Water network, but it is our intention to make each connection from the main to the irrigation water meter at our cost. We have allowed \$300,000 to do this. We have carried out similar work already for another Council whose reserves are irrigated via our Lightsview network so are experienced in working with Local Government in this regard. Any minor plumbing work beyond the irrigation water meter, such as the separation of irrigation and potable uses within the reserve, would be at the relevant Council's cost.

Subject to rapid completion, approval and execution of all documents, and the construction of reserve connections, we intend to commence supply of irrigation water to the reserves of the Three Councils that are connected in the summer irrigation season of 2018/19.

Additionally, we have assumed that there are no further capital costs required to connect "other" / private customers to the ERA Water network and the current network as constructed is capable of delivering water volumes to these "other" customers in line with the LTFP forecasts. We will also need to confirm there is sufficient demand for the water from "other" customers.

4. Hydrogeology, Engineering and Approvals

We have no knowledge of the harvesting and storing water in aquifers by ERA Water in the last 12 months. This remains to be assessed in our due diligence. We also need to be assured that the ASR aquifer storage system is functional as designed and built.

Our suggestion is to define an interface point at each location between the stormwater and wetlands assets (which would be retained by each Council) and the pumps and pipelines that draw water from these Council assets for pumping into the aquifers (which would be owned by us).

We have assumed that all the relevant Licences, rights of access to land and other regulatory instruments will be transferred to WUA and that no transfer charge applies. We also assume that access to Council land attracts no charge or rent. We will fully cooperate with each Council to undertake whatever works are needed in these public places, e.g. water meters, pumping stations, balance tanks etc, to the high standard required.

Rather than have an exchange of questions and answers in writing between us, after you receive this letter, I suggest that we meet, including any relevant staff of the Three Councils, in a confidential workshop session to go through this Offer and answer any of the questions that will arise. Answers or clarifications that are important to this Offer being acceptable to the ERA Water Board or the Three Councils can then be transmitted in writing.

I'd be pleased to have further meetings with your Board and the three Councils as needed.

Yours sincerely,



Graham Dooley
Chief Executive Officer

Released

SCHEDULE

ASSUMPTIONS

1. Financing

- 1.1. We have assumed that the outstanding balance of the Local Government Financing Authority debt is \$12.1M.
- 1.2. We have assumed that the Local Government Financing Authority debt finance package is repayable on a principal and interest basis over 20 years on a Credit Foncier basis at a fixed 4.3% interest rate.
- 1.3. We have assumed that the grants from Adelaide & Mount Lofty Ranges Natural Resources Management Board (AMLRNRMB) are not repayable and the assets thereby created will generate depreciation deductions for us.
- 1.4. We have assumed that the Commonwealth grants have no surviving obligations and the assets thereby created will generate depreciation deductions for us.
- 1.5. We have assumed the normal business tax deductions relating to depreciation and interest apply.

2. Revenue

- 2.1. We have assumed the scheme is capable of producing at least 540ML of water volume annually and the scheme as constructed is able to deliver the forecast sales volumes underpinning the Long-Term Financial Plan ("LTFP") prepared by BRM Holdich presented in May 2017.
- 2.2. We have assumed that the water supply arrangements for each Council are on a take-or-pay basis but are happy to discuss the minimum volume of the take-or-pay amount. There is a recognition that we need to accommodate some flexibility here and are happy to do so.
- 2.3. In the initial year(s), when the ASR balances may be low (we don't know), we may need to provide irrigation water that we purchase from the City of Salisbury. We can accommodate up to \$150,000 of such purchases, without any adjustment of irrigation water price, but if the ERA Water ASR system failed to perform and we needed to spend more than \$150,000 purchasing water, we would need to adjust the water price temporarily until the ASR system regained its functionality. We are happy to withdraw this qualification once we confirm the functionality of the ASR system.

3. Recurrent Costs

- 3.1. We have assumed the electricity costs in the LTFP.
- 3.2. We have assumed maintenance costs based on the LTFP.
- 3.3. We have assumed employee costs in line with the LTFP. We have reduced the employee / contract labour costs in our analysis to a level that gives the Three Councils the benefit of the synergies with our adjacent Lightsview utility.
- 3.4. We have assumed the depreciation expense per the LTFP.
- 3.5. We have assumed the other overhead expenses (Administration, Contingency etc) based on the LTFP estimates.

4. Capital Costs

- 4.1. We have allowed for \$300,000 to be spent, beginning in 2018/19, on the connection of reserves of the Three Councils to the ERA Water network.
- 4.2. We have allowed for \$500,000 to be spent in 2018/19 on the inter-connection of the ERA Water and Lightsview systems.
- 4.3. We have made no allowance for capital costs to connect "other" customers to the network and that all of these costs will either have been / will be incurred in the FY18 year or will be borne by the end customer.

4.4. We have made no allowance for any remediation of any of the capital works created by ERA Water, particularly the ASR system. In other words, we have assumed that the whole of the system has achieved the proper level of functionality. If our due diligence found that remediation costs were necessary, there would need to be an adjustment to this Offer.

5. Regulatory Assumptions

- 5.1. We have not allowed any cost in the transfer of the ESCOSA, DEWNR or any other Licence from ERA Water to WUA.
- 5.2. We have allowed for ongoing annual Licence Fees as contained in the LTFFP.
- 5.3. We have not assumed that ESCOSA would require the ERA Water and Lightsview entities to be amalgamated as a single regulated entity. Such a move may cause an adjustment in Irrigation Water Price. We would hope that there would be no adjustment, but we are unsure of how ESCOSA would handle this.

Released