



Response to the Select Committee Inquiry into the future management of water rights and associated assets administered by Tasmanian Irrigation Pty Ltd

January 2019

The Government supports the Select Committee's findings that highlighted Tasmanian Irrigation has successfully developed and rolled out irrigation infrastructure schemes in Tasmania, boosting agricultural productivity and supporting growth in post farm-gate investment in Tasmania. The irrigation scheme infrastructure owned by Tasmanian Irrigation provides substantial benefits to Tasmania as a whole, and in particular, supports significant regional development outcomes for the local communities within which the infrastructure is located.

The Government has recently announced its Pipeline to Prosperity proposal and has committed a further \$70 million towards constructing a third tranche of Tasmanian irrigation schemes, to continue our successful relationship with farmers and the Commonwealth Government. This supports the Government's Agrivision 2050 plan which aims to increase the value of agriculture to \$10 billion per annum by 2050.

The Select Committee's report demonstrates that whilst Tasmanian Irrigation has and will continue to create very significant opportunities for growth in the Tasmanian agricultural sector, as with any business there are ongoing opportunities for improvement. The Government notes that as Tasmanian Irrigation has transitioned from predominantly building irrigation infrastructure to managing and operating a growing portfolio of operational schemes, the business has been required to make significant changes to its management and communication processes, including greater engagement with irrigator representative committees and exploring options to facilitate self-management of schemes. The Government acknowledges the progress that Tasmanian Irrigation has made in this regard already and expects Tasmanian Irrigation to continue making improvements, in consultation with irrigators.

The Government acknowledges that the Select Committee findings also highlighted a range of views offered through submissions to the Inquiry, including concerns raised by some parties. Nevertheless the views expressed still demonstrate that there is clear support for Tasmanian Irrigation as a developer of irrigation schemes and support for the benefits that Government-funded irrigation development has brought to the State and to local communities. Some parties have raised concerns which are related primarily to communication by Tasmanian Irrigation and a perceived lack of transparency of information about the operation and management of schemes, including cost levels and price determinations. Concerns about a lack of facilitation of local irrigator management of schemes and concerns about the representativeness of the Tasmanian Irrigation Board were also raised. These concerns have been reflected in the Select Committee's five recommendations.

Select Committee Recommendations

Careful scrutiny has been given to the Select Committee's recommendations and the Government is supportive of the majority of the recommendations. Table I provides a brief summary of the Government's position with further details provided below.

Table I. Tasmanian Government response to the Committee's recommendations.

Select Committee's recommendation	Government Response	
1. Facilitate a clear pathway for each scheme to determine its own future, whether this be: <ul style="list-style-type: none"> • Self-management; • A hybrid model using the resources of Tasmanian Irrigation; or • Management remaining with Tasmanian Irrigation. 	Supported	<p>The Government supports facilitating greater irrigator involvement in the operation and management of publicly owned irrigation schemes and for the ownership of the associated assets to be retained by the Government (through Tasmanian Irrigation).</p> <p>Facilitating a clear pathway will require legislative change and development of a policy framework to guide the application of changes in legislation.</p> <p>DPIPWE, in conjunction with Tasmanian Irrigation and irrigators from particular schemes, is considering models for future scheme management.</p>
2. Ensure that irrigator groups remaining with Tasmanian Irrigation have the opportunity to provide input into the management of their schemes.	Supported	<p>Tasmanian Irrigation is expected to engage effectively with local irrigators in relation to operating and managing schemes. It is understood that Tasmanian Irrigation has instigated an approach of regular meetings with Irrigator committees and chairs.</p> <p>The Government intends to require Tasmanian Irrigation to report on a regular basis in relation to the means of delivering this outcome.</p>
3. Facilitate local community management groups, together with the means for smaller schemes to pool resources, for example, to share the costs of a business manager	Supported	<p>The Government will continue to support greater irrigator involvement in the operation and management of publicly owned irrigation schemes.</p> <p>DPIPWE will continue to work with local groups to facilitate local governance structures as necessary.</p> <p>The Government expects that Tasmanian Irrigation will collaboratively engage with local communities to deliver outcomes that are consistent with this recommendation.</p>
4. Ensure that Tasmanian Irrigation continues to be transparent, accountable and responsive to its users, including making all relevant information publicly available	Supported	<p>Tasmanian Irrigation is already moving towards greater transparency in engagement and communication as it transitions its focus from construction towards scheme management. It is understood that Tasmanian Irrigation has implemented an approach of regular meetings with Irrigator committees and chairs regarding scheme operation, financial performance and pricing.</p> <p>The Government will outline to the Tasmanian Irrigation Board its continuing expectations in respect of this recommendation.</p>
5. Review the Tasmanian Irrigation Board membership with a view to making it more representative of its customer base	Not supported	<p>The Government sees no immediate need to review the membership structure of the Tasmanian Irrigation Board to increase irrigator representation. The current requirements and criteria applied to selecting the Board of Tasmanian Irrigation strikes an appropriate balance and the Government does not consider it necessary to review either the processes or the selection criteria</p>

		<p>applied to selecting the Board. It is good governance practice to have a skills based Board, in this case, irrigator representation has been included to optimise the Board's expertise.</p> <p>Current representation balances the company's responsibilities in relation to all aspects of the business, and is consistent with established policy in relation to the makeup of boards of government businesses. It is also consistent with the requirements of the <i>Corporations Act 2001</i> (CW) and <i>Irrigation Company Act 2011</i> (Tas), the latter which specifically requires a Director with experience or expertise in irrigated agriculture.</p>
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Recommendation 1: Facilitate a clear pathway for each scheme to determine its own future whether this be: self-management; a hybrid model using the resources of Tasmanian Irrigation; or management remaining with Tasmanian Irrigation

The Government's policy has been consistent and is to where feasible and appropriate facilitate community management of the irrigation schemes,. It is also Government policy that given the significant public investment in each scheme that the assets remain publicly owned. Accordingly, for the schemes it currently owns, Tasmanian Irrigation will retain ownership of the assets of those schemes – infrastructure and water licences.

The Government is currently considering some potential models that could be utilised to provide for greater self-management of publicly owned schemes, where local interests seek greater involvement, and will be working with Tasmanian Irrigation and irrigator groups to develop the most appropriate model.

There are likely to be a number of models for irrigator self-management of publicly-owned irrigation schemes. What is clear, is that for any self-management model to succeed in the longer term, there needs to be a mechanism to effectively distribute relevant functions and powers, risk and cost, between Tasmanian Irrigation and an entity operated by irrigators.

Whatever management model is adopted, it should be recognised that the Government as owners will remain ultimately responsible for any risks arising in the event of a systemic failure relating to any irrigation infrastructure or compromise of contractual obligations and, as such, reinforces the need to retain an appropriate level of input and control over the operation and management of irrigation schemes. Consideration also needs to be given to the potential for conflicts of interest to arise where a self-management model is implemented, and how these risks can be managed satisfactorily, which are currently resolved through TI being the independent responsible entity.

Since the conduct of the Inquiry, ongoing policy investigation by DPIPWE has determined that the existing legislation does not currently provide a legal framework to facilitate greater irrigator involvement in managing publicly-owned irrigation schemes. In particular, under current legislative arrangements, the powers needed to undertake all aspects of successfully operating and managing a publicly-owned irrigation scheme cannot be effectively split to enable the ownership of assets, water licences, environmental and dam safety responsibilities to remain with Tasmanian Irrigation, while allowing responsibility for the supply of water, management of the asset base, setting of pricing, issuing bills and monitoring compliance to be vested in an entity operated by irrigators.

At the direction of the Minister for Primary Industries and Water, the Department of Primary Industries, Parks, Water and Environment (DPIPWE) is considering appropriate legislative changes that might be required. In addition, consideration is being given how to best design a framework which will align with the Government's position to retain Tasmanian Irrigation ownership of irrigation scheme assets, whilst also providing for effective irrigator involvement in the management of publicly-owned irrigation schemes. This work will consider the most appropriate way to provide the legislative support necessary for irrigators to effectively manage and operate publicly-owned irrigation schemes.

DPIPWE has commenced work in conjunction with Tasmanian Irrigation and irrigators from two of the sixteen irrigation schemes to develop a supporting framework that needs to be in place to effectively implement models of greater irrigator involvement in running irrigation schemes. This work is looking at the detail of activities that are undertaken in managing and operating schemes. Once models for greater irrigator involvement in management are better understood, engagement will be broadened.

It is essential that a framework for self-management is fit for purpose and continues to support the provision of irrigation water supply through publicly owned schemes. It must also provide adequate protection for irrigators and government-owned infrastructure. Critically the legislation and supporting framework will need to accommodate the full range of potential models to deal with the spectrum of self-management: from schemes managed fully by Tasmanian Irrigation to fully 'self-managed' schemes where irrigators do everything (except own the scheme infrastructure).

It stands to reason, on the basis of the Government's position set out above, that where publicly-owned irrigation schemes are already self-managed, the Government's intention is to allow that situation to continue and to ensure that the supporting arrangements are effective.

Recommendation 2: Ensure that irrigator groups remaining with Tasmanian Irrigation have the opportunity to provide input into the management of their schemes

In the case where management of a scheme remains with Tasmanian Irrigation, the Government expects Tasmanian Irrigation to engage and consult with local irrigators in relation to management and operational decisions for the scheme.

It is important to note that the Government sets the strategic expectations for Tasmanian Irrigation in relation to what the business is to achieve - it is then the Board that sets out a pathway for delivering these obligations. Tasmanian Irrigation's CEO is responsible for interpreting and implementing the Board's directions through relevant on-ground actions. The Government notes that Tasmanian Irrigation is already moving to be more inclusive and transparent.

It is understood that Tasmanian Irrigation has implemented an approach of regular meetings with Irrigator committees and chairs regarding scheme operation, financial performance and pricing.

The Government will require Tasmanian Irrigation to report on a regular basis through its normal reporting channels in relation to how it is delivering this outcome and, where necessary,

will work with Tasmanian Irrigation to develop policy, protocol and mechanisms to ensure that an appropriate level of input from irrigators is facilitated.

In order for this to work in practice it is envisaged that, for each scheme, Tasmanian Irrigation and irrigators will need to agree on how, when and in relation to what, this engagement takes place.

Recommendation 3: Facilitate local community management groups, together with the means for smaller schemes to pool resources, for example, to share the costs of a business manager

As detailed in the response to Recommendation 1, it is the Government's policy is to where feasible and appropriate facilitate community management of Tasmanian irrigation schemes.

DPIPWE is already working with a selected number of local groups to facilitate local governance structures. This has tended to occur on a case-by-case basis according to identified local need or demand. The Government is open to supporting the networking of groups within or between regions where there may be opportunities to pool resources or knowledge or collaborate in other ways.

The Government understands that Recommendation 3 goes towards an element of detail which may be necessary to effectively implement greater irrigator involvement in operating or managing publicly-owned irrigation schemes, in some cases. The Government will continue to assist local communities to implement the most appropriate governance arrangements for public irrigation infrastructure that is embedded in those communities.

Recommendation 4: Ensure that Tasmanian Irrigation continues to be transparent, accountable and responsive to its users, including making all relevant information publicly available

The Select Committee report noted that Tasmanian Irrigation has made significant changes to its management and communication processes, including improved communications with irrigators via its website; greater access to financial information; greater engagement with irrigator representative committees; and exploring options to facilitate self-management of schemes. As Tasmanian Irrigation moves towards being predominantly an asset manager and service provider rather than an infrastructure developer, it has been working proactively to be more responsive to customer requirements, with greater transparency in engagement and communication including making reasons for decisions publicly known.

Indeed the Inquiry Committee credited TI for in the course of the Inquiry having made significant changes to its management and communication processes, including improved communication and financial information.

The Government welcomes this finding which aligns with Government expectations of how Tasmanian Irrigation should operate as a business, including ongoing efforts to establish more collaborative relationships with irrigators and to enhance the transparency of management and operational decisions. In order to make the Government's expectations very clear, the Shareholding Ministers will outline to the Board the Government's expectations with respect to this recommendation. The Government will use existing mechanisms to ensure this recommendation is acted upon.

To the extent that this recommendation relates to scheme operational and management data, the Government is of the view that available data should be shared where it is not private, confidential or commercially sensitive and where there is a demonstrable net benefit in sharing.

Recommendation 5: Review the Tasmanian Irrigation Board membership with a view to making it more representative of its customer base

Tasmanian Irrigation is a large commercial enterprise, formed as a corporation under Corporations Law and its own establishing legislation. Tasmanian Irrigation has a Board of Directors made up of five members who are appointed by the Shareholding Ministers. The Directors are selected based on their experience and skills as they relate to the mix of skills and expertise necessary to enable Tasmanian Irrigation to achieve its objectives. It is good governance practice to have a skills based Board, in this case, irrigator representation has been included to optimise the Board's expertise.

Section 23 of the *Irrigation Company Act 2011* provides for the appointment of the Board of Directors and states:

- (1) Subject to subsection (2), the members of the Company are to ensure that it has a Board of Directors who have the experience and skills necessary to enable the Company to achieve its objectives.
- (2) The members of the Company are to ensure that one of the directors has experience or expertise in irrigation agriculture and may, for that purpose, seek nominations from such body of persons as, in the opinion of those members, best represents the common interests of Tasmanian farmers and graziers.
- (3) The members of the Company are to appoint the Board in accordance with the constitution.

This requires that the Government, through the Shareholding Ministers, ensures that the Board of Tasmanian Irrigation is selected to provide the skills and experience necessary to enable the business to meet its objectives, and ensure that one member of the Board has experience or expertise in irrigated agriculture. This ensures that irrigators always have a voice on the Board.

The Board has a range of corporate governance obligations that it is required to fulfil. The range of expertise and skills held by Tasmanian Irrigation board members reflects this. The current Tasmanian Irrigation board members hold strong expertise in irrigated agriculture; commercial sector practices and corporate governance; and water delivery.

The appointment of members to boards of Tasmanian government businesses is based on merit. The Government expects that boards of Government businesses will be comprised of directors who have a range of skills, experience, qualifications, expertise and vision appropriate to the business. As a collective, each board should have expertise in the following areas, as a minimum:

- relevant industry knowledge;
- corporate governance;
- finance and accounting;
- strategic planning; and
- an understanding of the Government context in which the business operates.

In the case of Tasmanian Irrigation, board members are selected to ensure the Board has the full range of necessary skills and expertise to run an irrigation water supply business, effectively oversight infrastructure development, meet Corporations Law obligations and remain a functional board while managing any potential conflicts of interest. It is critical that the Board has a significant depth of expertise regarding all aspects of the business – irrigation scheme infrastructure, energy generation, customer servicing, agriculture, as well as corporate requirements such as finance, workforce wellbeing, obligations under Corporations Law; and shareholder and government engagement.

As a result of the merit-selection policy for government business boards which has been applied, the Board has strong skills in all the areas it requires to function effectively, including one director who is a well-respected Tasmanian irrigator.

The current requirements and criteria applied to selecting the Board of Tasmanian Irrigation strikes an appropriate balance and the Government does not consider it necessary to review either the processes or the selection criteria applied to selecting the Board.

The Government does not support Recommendation 5 as it sees no immediate need to review the membership structure of the Tasmanian Irrigation Board to increase irrigator representation beyond what is already required under the *Irrigation Company Act 2011 (Tas)*.

Other matters

The Government takes this opportunity to address a number of matters raised in the Findings of the Report which it has not yet addressed fully in responding to the Recommendations in the Report.

Costs and pricing

With more schemes coming on-line, the operations and costs of water delivered by Tasmanian Irrigation are naturally being scrutinised by irrigators. The Government welcomes the interest of irrigators in seeing the implementation of efficient cost structures and as part of this, the potential for greater irrigator and local community involvement in scheme operation and management.

The Government notes that the Productivity Commission's recent inquiry into National Water Reform in the Australian water resources sector identified that, across most jurisdictions, pricing for rural bulk water services do not represent full cost recovery (upper bound pricing). In this context the Productivity Commission noted that pricing tends to be towards the lower bound outcomes. In the Tasmanian context this means that Tasmanian Irrigation is not earning a commercial return on the capital used to provide the supply of water. The Commission also noted that prices are set by Tasmanian Irrigation and are not regulated.

The Board of Tasmanian Irrigation and its management team are working to the very clear expectation from the Government that Tasmanian Irrigation runs its operations as efficiently as possible. As such they are actively seeking to minimise costs, to be more customer focused and take into account the business and climatic environment farmers are operating in. The Board have undertaken a comprehensive review of Tasmanian Irrigation's operating costs and have improved the transparency of information available to irrigators about annual pricing.

To fully understand the business, it is important to understand the commercial basis on which Tasmanian Irrigation has been established. Since its inception, Tasmanian Irrigation's water delivery business has been intended to be cost neutral, with its operating costs recovered at an individual scheme level, or sub-scheme level in some cases. Tasmanian Irrigation receives revenue through fixed and variable charges that are matched to the costs associated with the operation of its irrigation schemes and the delivery of water.

Annual fixed charges seek to recover the costs not directly impacted by the volume of water delivered by each scheme. These include wages, insurance, asset maintenance and administration. The variable charges seek to recover the costs directly associated with delivery of water, including water purchase costs from Hydro Tasmania or TasWater and electricity costs associated with pumping.

As a result of variability in the costs associated with different schemes (and within schemes in some cases), the level of fixed and variable charges can vary within and between schemes. Tasmanian Irrigation works diligently to ensure that cross-subsidisation between schemes does not occur.

Individual schemes receive approval to proceed on the basis of assumptions in respect to scheme construction costs, operating costs and take-up rates. As described above, costs may need to be varied from time to time to reflect the actual costs of operating a scheme. To the extent that scheme construction costs are higher than expected or take-up rates for water rights are slower than anticipated, Tasmanian Irrigation bears the financial risk of those outcomes. Where this has occurred with respect to established schemes, Tasmanian Irrigation will need to find ways to adjust for these outcomes over time and may need to adjust its approach to future schemes accordingly.

The State Government has previously contributed funding to support the operation and maintenance of some infrastructure inherited by Tasmanian Irrigation and the need for future Government financial support will be reviewed as required.

Statement of Corporate Intent

In the course of the Inquiry, wording of Tasmanian Irrigation's Statement of Corporate Intent, as it relates to the matter of ownership irrigation scheme infrastructure and the matter of irrigator self-management and irrigator operation of publicly-owned irrigation schemes, was raised as a concern.

Government businesses are required to prepare a Statement of Corporate Intent on an annual basis as part of the corporate planning process. The Statement of Corporate Intent represents the agreement between the board of a Government business and its Shareholding Ministers regarding the expected performance of the business over the planning period.

Both the 2016-17 and the 2017-18 Statements of Corporate Intent prepared by Tasmanian Irrigation reflect the Government's long-standing policy to support local self-management of irrigation schemes where appropriate and feasible.

In 2016-17 this was reflected in the Strategic Direction section of the Statement of Corporate Intent:

- *prudently and responsibly manage existing irrigation, river improvement and drainage schemes, and seek to transfer the operation and management of schemes to local communities where feasible and appropriate.*

In 2017-18 this was reflected in the Business Overview section of the Statement of Corporate Intent:

- *develop, own and operate irrigation schemes in Tasmania and where feasible and appropriate to facilitate local community management of these schemes.*

Importantly, the Statements of Corporate Intent agreed between Tasmanian Irrigation and the Shareholding Ministers in both 2016-17 and 2017-18 are consistent with the *Irrigation Company Act 2011*.

In addition, the Members' Statement of Expectations for Tasmanian Irrigation, which was approved in June 2017 and tabled in the Legislative Council on 15 August 2017, contains clear references regarding the core business of Tasmanian Irrigation and states:

The core business of Tasmanian Irrigation is to:

- *prudently, efficiently and responsibly manage existing irrigation schemes as well as river improvement and drainage schemes on a commercial basis, including identifying appropriate long-term management structures;*
- *retain ownership of irrigation scheme infrastructure;*
- *manage irrigation scheme infrastructure appropriately and provide, on a commercial basis, administrative and management support to schemes owned by Tasmanian Irrigation and managed by local communities;...*

Viewed collectively, it is clear that the various corporate documents and legislation have, over time, taken account of and supported the ongoing policy position to facilitate self-management of irrigation schemes.

Moreover, and critically, the Government's policy and direction to Tasmanian Irrigation as most recently expressed in the current Statement of Corporate Intent is clear.