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THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON TASWATER OWNERSHIP MET IN COMMITTEE ROOM 1, PARLIAMENT HOUSE, HOBART ON WEDNESDAY 18 OCTOBER 2017

The Hon. Peter GUTWEIN, TREASURER, WAS CALLED AND EXAMINED, AND **Mr James CRAIGIE**, CHIEF OF STAFF, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Ms Armitage) - Welcome, Treasurer, thank you for coming along. Treasurer, do you want to make any comments before members have any questions to ask you?

Mr GUTWEIN - Yes, I will; I have a statement to read. I understand that the committee might like a written submission as well, which I am happy to put together. I will read in the submission. If there is any need to provide any further detail at the end of the session, we can get back to you.

Members, thank you for the opportunity to speak to you today. The Productivity Commission released a draft report on National Water Reform on 15 September 2017. The draft report contained a number of draft findings and recommendations about the reform of Australia's water resources sector and the progress of governments across Australia in achieving the outcomes of the National Water Initiative.

The Tasmanian Government continues to be committed to the objectives of the National Water Initiative so long as the progress of reforms is in the public interest, takes into account economic development objectives and ensures that reforms are delivered at a pace that is affordable for Tasmanian households and businesses.

The Tasmanian Government is shortly to make a public submission to the Productivity Commission to provide the commission with further details about the Government's proposed reforms of the Tasmanian water and sewerage industry, and explain that the Government's proposals are consistent with the broad objectives of the National Water Initiative.

I will also provide the committee with a submission that sets out the key points I will making today, should the committee so desire.

I would now like to address a number of matters discussed in the draft report.

The draft report states that the Government's proposed water and sewerage legislation contains measures that will constrain the role of independent price regulation in Tasmania contrary to the objectives of the National Water Initiative. I reject that assertion. We make no apologies for amending Tasmanian legislation to ensure that Tasmanians will face smaller price increases for water and sewerage services, but it is not accurate to say that we are doing so in the way that is inconsistent with National Water Initiative commitments about independent price regulation.

Under the Government's reforms the regulator retains a critical role in investigating, reviewing and advising the Government on pricing. This view is consistent with National Water Initiative commitments that require states to agree that independent bodies should set or review prices or price-setting processes so they are consistent with National Water Initiative pricing

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principles. The independent Tasmanian Economic Regulator will have a strong reviewing role and will conduct price investigations and make recommendations about pricing.

The model we are proposing is not unique and it is not radical. As outlined in the draft report, the Western Australian and Queensland governments set prices with independent advice in a similar manner, and there is no formal price regulation in regional New South Wales, regional Queensland and the Northern Territory. The draft report also notes that jurisdictions require flexibility and tailor their regulatory regimes to their particular needs. The Tasmanian Government is doing just this.

The Tasmanian Government will make pricing decisions informed by the expert advice of the economic regulator that consider the special infrastructure, service quality and cost-of-living challenges faced by the Tasmanian population.

The Tasmanian Government is committed to ensuring that water and sewerage bills are affordable for all Tasmanians. 'Upper bound pricing' refers to pricing that reflects the full cost of service delivery, including allowance for a commercial return on capital used to provide services. There is a commitment under the National Water Initiative that provides that metropolitan water providers should price towards the upper bound levels. The Productivity Commission correctly states that TasWater's prices are below upper bound levels at the moment.

Under the Government's plan, the pricing principle that would allow for a fully commercial return on capital has been removed. An immediate move towards upper bound pricing in Tasmania would result in unacceptably large price increases to Tasmanian households and businesses and is not in the public interest.

If TasWater had priced at upper bound levels during the period of the second price and services plan - that is, 2015 to 2018 - the annual water and sewerage bill for households would have been on average around 17 per cent higher than the actual bills they faced. For 2017-18, this represents an additional \$176 for the average household. Over the three years, the additional charge would have been \$565.

In the decades ahead there will be very substantial investment in Tasmania's water and sewerage industry. The industry will therefore accumulate capital, which would result in further steep increases in water and sewerage prices if all capital were required to make a commercial rate of return.

Under the current arrangements this would allow TasWater to make even greater payments to its owner councils by way of dividends and other payments. The draft report suggests that there is some evidence of pricing by TasWater below lower bound levels. This is below a level that if applied across all customers would prevent a business from being sustainable.

It is true that around 5 per cent of household and business customers, which is around 7500 customers, are currently charged less than the target tariff. This is because they historically faced very low prices and it was always going to take several years for them to reach the target tariff without large price shocks. Most of these customers have bills that are 10 per cent or less below the target tariff, though a small number of customers have bills that are more than 40 per cent below the target tariff.

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TasWater is currently aiming for all customers to be on uniform prices by 1 July 2020 as a result of the legislative framework it currently operates under. This will require yearly price increases of over 20 per cent for the three years for those customers who are currently 40 per cent under the current target tariff. TasWater has not raised this issue with the Government; it appears to be immune to the distress this outcome will potentially cause many of its customers.

We acknowledge that this is unacceptable. The Government's legislation extends the transition period for the remaining customers who are yet to transition to the target tariff with an increase of no more than \$75 or 7.5 per cent, whichever is the greater, over the next three years and provides for a sensible transition path in future years.

Of course, if Tasmania went for upper bound pricing, as suggested by the Productivity Commission, these customers would have even greater price shocks. Taking an economic purist's line on pricing is not appropriate in the Tasmanian context. We have taken a view that I would describe as that of an economic realist.

If the committee accepts the view of the Productivity Commission on full commercial pricing for TasWater, it must also accept this for Tasmania's irrigation schemes as they too are covered under the National Water Initiative. If you have looked at the draft report of the Productivity Commission, it writes voluminously about the irrigation investment in Tasmania.

The Productivity Commission is critical of public investment into irrigation schemes where individuals stand to benefit, which is the basis of investment in all of our schemes, with public funds equating to broadly \$2 for \$1 invested of private capital. Furthermore, let us suppose the current and past governments had insisted on fully commercial pricing of irrigation infrastructure with Tasmanian Irrigation set up to make profits. Either many of the important schemes that are transforming Tasmania's agriculture would not have been built or Tasmanian irrigators would have been required to find on average around \$550 000 each in additional capital just to build the schemes in the first place. This would have severely constrained their own investment, including in on-farm irrigation infrastructure, and I am of the view that our irrigation assets in most circumstances would not have been built at all if we slavishly accepted the Productivity Commission's view.

Water-related pricing therefore has to take into account the special circumstances that Tasmania faces. It is clear from the draft report that many other jurisdictions also face their own challenges and the Productivity Commission has also been critical of these other jurisdictions, in particular water authorities in regional New South Wales and Queensland.

The draft report states that the revised regulatory arrangements and the Government's legislation are unlikely to promote the objectives of the National Water Initiative, such as the efficient use of water infrastructure. The Government rejects this totally. Firstly, TasWater and its owner councils have struggled to ensure the efficient use of water resources. The economic regulator reported that water losses are very high with only 2 litres out of every 3 litres of treated water being accounted for in 2015-16, such that 24 610 megalitres of water was treated by TasWater but this water was either lost or not charged to customers.

It seems incongruous, anyone would argue for commercially based pricing when one-third of the potable water produced is lost. Why should the owners be rewarded with generous dividends when their production is so inefficient? The new legislation keeps all the important pricing principles that support a sustainable and efficient water and sewerage industry, such as two-part

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pricing with no free water allowance, cost-reflective pricing and the requirement for prices to promote economic efficiency.

The Water and Sewerage Tasmania Bill also explicitly requires a new government business to ensure sustainable, efficient and effective investment in water infrastructure and sewerage infrastructure. It is also required to efficiently and effectively provide water and sewerage functions and to efficiently and effectively provide water and sewerage services. There are therefore statutory obligations to ensure the efficient use of water infrastructure.

The Tasmanian Government in partnership with the Australian Government and private investors has supported the development of irrigation schemes across the state. The Productivity Commission is critical of the assistance that state and Commonwealth governments have provided rural communities through the development of irrigation schemes.

However, as I am sure you would appreciate, many local rural communities do not have the capital or the capacity to develop irrigation schemes on prime agricultural land, and this is why successive Tasmanian governments led the development of those schemes. There are approximately 650 irrigation customers across Tasmania for these irrigation schemes, and these schemes are delivering very positive benefits and impacts for Tasmania, especially for rural communities. If you took, as I have said, a purist economic view of the Productivity Commission - which it appears TasWater believe should be the case - schemes like this would not have been built. In terms of our urban water infrastructure, a purist economic view will simply drive high prices when what we need in Tasmania is an accelerated period of investment to improve the quality of our infrastructure, but at a price affordable to Tasmanians.

In conclusion, I ask that you take a Tasmanian view - not a TasWater view - when considering the issues before you. The Government's plan will increase investment into a sector that has been plagued historically by underinvestment. Our plan will improve the infrastructure quicker. It will be cheaper for consumers and, importantly, it will not put councils into a position where they will need to increase their rates.

CHAIR - Thank you, Mr Treasurer. We do not have a copy of that.

Mr GUTWEIN - I will write to you with that. Obviously it is on *Hansard*.

CHAIR - Yes, but it would be good to have a copy early. It would be great if we could table that. Any questions from the members?

Mr VALENTINE - Treasurer, you were talking about the independent regulator, and they will still have the opportunity to make recommendations. They are not actually making the decision on pricing, are they? That sits with the Treasurer. I hear your argument, but I think that the Productivity Commission is very strong on the potential for interference. In effect it is saying that they do not want political interference in this. They want it to be on an actual basis as opposed to interference from a minister. If you go to page 175 of the draft report -

One particular example of interference in price-setting mentioned by the NWC ... was the 'Fairer Water Bills' policy in Victoria, which required service providers to reduce prices through a rebate to customers. The potential for interference remains, as indicated by the Tasmanian Government's introduction of legislation in July 2017 to greatly restrict the role of the economic regulator

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in that State and limit the rate of price increases to address concerns about affordability.

Quite clearly they are concerned about that, and they repeat that in quite a number of places. There is another one at page 170 -

The Tasmanian Government has introduced legislation that would greatly constrain the role of the economic regulator in that State.

Clearly they think the independent regulator is really important. Do you have anything further to add than what you have just told us?

Mr GUTWEIN - Absolutely. One, firstly it concerns me in the tenor of that question, is if you want to accept the Productivity Commission's view, what you are effectively accepting is that we should be charging for irrigation pricing as well. The Economic Regulator - in fact the report - is stronger in my view, having read the report, in regards to the need for the Economic Regulator to be involved in irrigation pricing and therefore also upending the long-held tradition in this state of where state and federal governments along with the private sector is invested into those assets.

Mr VALENTINE - They actually point at that in the report. I do not have that part of the report with me, because we were not dealing with irrigation, but -

Mr GUTWEIN - The point I am making, if I could finish my point, is that if you want to take an economic purist's view, then you need to take an economic purist's view. On that basis you need to be supportive of the Productivity Commission and pushing its pricing principles to the Economic Regulator for irrigation. Setting that aside, the commitment that was made by governments in terms of the National Water Initiative will still be met by our legislation. That is, that an economic regulator should set or review the prices and that is exactly what will occur. The Economic Regulator will have a role. Those pricing considerations by the Economic Regulator will be available publicly. People will be able to make a judgment as to whether or not the price setting the government adopts is fair or reasonable or sensible.

Mr VALENTINE - I understand that and I guess we just have to look long term about how the extra 400 million or 500 million or 600 million - whatever it is that the Government provides - is going to actually pan out in terms of costs back to the people. With respect to the Tas Irrigation comment you made, they make specific reference to the fact that it ought to be the users that are paying more, rather than doing it via grants and loans from federal government.

If you read the report, I am pretty sure that is what that report points at. That is their whole premise, I think - that the people who use the services ought to be paying for those services and not being subsidised.

Mr GUTWEIN - Well, again, if you want to take that purist economic view - and it's a matter for you if you want to adopt the principles being espoused by the Productivity Commission -

Mr VALENTINE - I thought the state had, though.

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Mr GUTWEIN - Well, in terms of the initiative and meeting the aims of the initiative we signed up to, the role of the Economic Regulator meets the commitment made, and that is that it will either be to set a rate or review.

Mr VALENTINE - All I read in here is they are concerned about the interference of the state, the minister. I don't mean just you; I am talking about any minister.

Mr GUTWEIN - Again, a purist economic view would be that the end user pays for everything, including a commercial return. That is the purist economic view. We have a model that is vastly different to that in respect of irrigation, and the model we are suggesting here will still take into account the pricing principles in the act. It is not an unfettered right, but, importantly, what we are not looking to do is to make money off the backs of Tasmanians. What we are looking to do is ensure that we generate sufficient capital to increase and accelerate the infrastructure whilst still having a sustainable business, and under the act we need to deliver that.

Mr VALENTINE - That is an interesting comment for another day. I will let someone else have a go.

Ms RATTRAY - Thank you very much, Madam Chair. Treasurer, in regard to the Property Council of Australia's suggestion that the bill is defective in returning the quantum of dividends back to local government, it was suggested at an earlier time that there definitely should be support for the smaller municipal areas that do use those dividends to support programs, whatever. The suggestion also was that the larger councils would benefit so greatly from improved water and sewerage infrastructure that they would gather up their dividends fairly quickly in additional rates. Have you addressed your mind to that particular model proposed? It was also suggested perhaps Treasury would be the right body to work out what level of funding back to those smaller councils might need to be - say, an \$8 million per annum pool - distributed amongst local government. Do you have some comment around that?

Mr GUTWEIN - I do. Firstly - and I will just use the councils we are probably the most familiar with, the Scottsdale and Dorset council that currently does not rely on their dividends. In fact, they have indicated they would have no issue if they needed to transition away. That being said, and they being a small council that has managed its finances well, albeit that not everybody is absolutely comfortable with some of the broader-ranging decisions that have been made, but they are in a strong financial position and have indicated that they would have no difficulty in a transition period.

What needs to be understood here is that the level of dividends across the board - I will not delve down into individual councils - but by 2025-26, which would be the end of the guarantee period, first, councils will have the opportunity of 50 per cent of the returns, whatever they may be, but, second, the amount of return that is forecast at that time - bearing in mind it is \$20 million locked in over that period - equates to only around 2 per cent of total revenues to local government at that time.

Over a period of seven to eight years, if a council were concerned, there would be plenty of time to transition. Secondly, in respect of the Government's plan, 50 per cent of any future profits would go to local government anyway to assist.

Ms RATTRAY - That does not address not providing the larger councils with a dividend full stop, and just looking after the more vulnerable, perhaps -

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Mr GUTWEIN - That is a different model. If the Property Council has a view on that, if they present it here -

Ms RATTRAY - You don't share that view?

Mr GUTWEIN - I have heard them speak about it. We believe our plan is fair to everyone. The other thing with the investment that we are proposing here and across the board, is that everybody's boat will rise. The investment that will be made across the state: if you look at the mix of projects that would occur over the 10 years, 70 per cent of the projects that are forecast over the next 10 years are less than \$5 million - in fact 50 per cent are less than \$3 million - they are spread right across the state.

There will be economic activity in the first instance that would be accelerated into most local government areas, some more so than others, but economic activity would be accelerated. That economic activity, which leads to better water and sewerage outcomes, then leads to increased property prices; it will lead to increased investment; and the revenue base that councils operate off will benefit over time. I would expect that everybody's boat would rise over the period of the next 10 years.

Mr FARRELL - On a couple of issues that were raised in the Productivity Commission report, just around the Government side of it, on page 168 of the draft report they state that there is a need -

to separate the roles of owner, policy maker, regulator and price setter, and those which sit with the utility service provider.

I would like to hear your comments on the reduction of the separation of the roles. Do you have any concerns about their statements in that part of it?

Mr GUTWEIN - In terms of price setting, the Economic Regulator will still play a strong role. The price setting arrangements and the pricing order will still be subject to the principles under the act, which I have already explained in my opening comments. In that regard I think there is a transparent and accountable process available. Government will be held to account for the decisions that it makes.

One of the things we will always come back to here is the simple fact of the matter is that our water and sewerage infrastructure is not at a level that we would like to see it at. We do not believe that there has been sufficient investment over time. In fact, for many decades we have been struggling with what has been a significant underinvestment in the past.

Our aim here is to improve the water and sewerage assets that we have, but to do so in a transparent and accountable way. As I said, the price setting instrument will be available for everybody to see and the final decision by the Government in respect of price has been moved through that period. People will be able to make judgments and government will be able to be fully informed.

Mr FARRELL - Thank you. The draft report goes on to say on page 168 that -

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Political intervention in independent economic regulatory determinations, whether motivated by shareholder-return considerations or short-term political dynamics, is deferring cost-reflective pricing and efficient price signalling. This behaviour is a clear barrier to the achievement of efficiency and innovation outcomes ...

So what they are saying is -

Mr GUTWEIN - How do you think the Productivity Commission would view the fact that in Tasmania now we have had the lowest increase in electricity prices because the Government took the opportunity to actually reach in and set a price that allowed for a sustainable return to its business but not to generate super profits?

We have the benefit of, in a small state, the opportunity of one monopoly utility provider, that government can ensure that the outcomes that it seeks can be achieved, but importantly can be done so at an affordable price and in a sustainable way for the business.

Mr GAFFNEY - Are you saying the Productivity Commission has this wrong? If the Productivity Commission had come out and said, 'We think what the Government down here is trying to do is terrific. Well done, that is what they should be doing', that is what they would have said. So what you are saying in this situation is the Productivity Commission has this wrong. I am not really taking into a lot of consideration your comments regarding irrigation because that is a whole different ball game. This committee inquiry to me is on water and sewerage and the takeover. So, I suppose, question (1): has the Productivity Commission got it wrong?

Mr GUTWEIN - I am very happy to answer that. On the basis that we are talking about a Productivity Commission report that includes both urban and irrigation, I do not know that you can separate the two. Whilst at a committee level you can argue you are only looking at urban water, but to rely on a report that actually looks at both urban water and irrigation and makes similar if not harsher findings in regards to irrigation than it does in terms of urban water, I think you have to be broadly very careful in regards to relying on the Productivity Commission report.

Secondly, the Productivity Commission will take an economic purist's view. From the point of view of an economic purist's view, the Productivity Commission has provided a paper that takes that view into account. I am suggesting we take an economic realist's view.

In terms of the Tasmanian circumstance, there is no way in the world we could, as suggested by the Productivity Commission, force onto households the upper band pricing level which they suggest on many occasions in that report. That is the target and that is where we should be.

I think you have to be very cautious in regards to accepting this and saying, 'Well, the Productivity Commission is right and the Government is wrong'. They are taking an economic purist's view; we are taking an economic realist's view.

Mr GAFFNEY - You mentioned the word 'monopoly'. Isn't there a monopoly now? Isn't TasWater - you are saying that our model is a monopoly. If the Government takes it over, TasWater would say, 'Well, we have a monopoly now so there is no difference when you say a monopoly is good for Tasmania because we are going to inject this', that TasWater would argue there is a monopoly situation at the moment.

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Mr GUTWEIN - Had TasWater's current owners had the same desire to see the outcomes the Government has and had demonstrated that at a time frame that they owned this monopoly business, then probably we would not be having this conversation. But they have not the same desire. They have had a view they needed to earn a return from this business. We do not want to see a return from this business. In fact, as you are well aware, 50 per cent of any returns post the guarantee period, we would reinvest. This is about -

Mr GAFFNEY - That is a legislative requirement - that there is a return to the councils, isn't it? Didn't we pass that in this Parliament? That was passed in this Parliament?

Mr GUTWEIN - Again, that does not stop the owners of this business currently coming to government with a different model and saying, 'Look, we are concerned about the price increases. We are concerned about the price settings and we would like a change'. They have not done that. Yet what they have done is guarded their opportunity to return, and in fact this table - your committee - has heard from a number in local government about the fact that they view the period post the guarantee period as an opportunity to receive even further revenue.

Mr GAFFNEY - Thanks. My final question is: are you telling me the Liberal Party was not critical of Bartlett in 2008-09 when he introduced and interfered with the Economic Regulator's opinion and put in a price capping, that you were supportive of the interference with the Economic Regulator's decision back then? If you were supportive of it back, I can understand why you would be admonishing them now or proposing that now. But if you were critical of it back then, I would be asking why you are interfering with the Economic Regulator's position now, five years later.

Mr GUTWEIN - Firstly, we are not interfering with the Economic Regulator's decision. What we are suggesting is that the Economic Regulator's role will change. They will have an advisory role in regards to pricing exactly the same as the MAIB price setting process occurs at the moment. I would have to refer my line back to 08-09 and I understand this is difficult for you because you have made your position perfectly clear in the report.

Mr GAFFNEY - No, I have not. I just want to understand your position -

Mr GUTWEIN - Mike, I actually read your op-ed before I came in and I understand your position very clearly. It does not surprise me that you would take an aggressive line of questioning -

Mr GAFFNEY - Oh, sorry.

Mr GUTWEIN - In terms of this, our proposition is really very simple: in regards to the Productivity Commission, we believe we should take an economic realist's point of view as opposed to an economic purist's point of view, because to take the economic purist's point of view will simply mean that Tasmanians will pay increasingly higher and higher prices.

In terms of our plan for the business, we believe local government have had their chance. They have had decades to try to get it right. They have had now a period of eight to nine years since the reforms under the joint corporations and now under TasWater, and the job has not been done. What we are suggesting is that we want to get involved, take them over, get the job done, deliver better infrastructure quicker and at a cheaper price.

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Mr GAFFNEY - My last question, a supplementary. So you are going to take advice from the Economic Regulator about the percentage? I thought I'd read somewhere that you had already said that you were going to cap that at between 2.75 and 3.5 per cent, which will be lower than the indicated just under 4 per cent. So already, without receiving advice from what the Economic Regulator about what it thinks, you have made a decision of where you think capping will be, which is totally different. If the Economic Regulator came back and said, 'Look, we think you need to cap it by 8 per cent', and you think, 'Well, sorry, I have already said it is going to be between 2.75 and 3.5'. You have already made a decision, so the advice you are receiving from the Economic Regulator has little impact on the decision you have already made.

Mr GUTWEIN - Firstly, in regards to 8 per cent, on the basis we will be removing the need to seek a commercial return on both existing or new assets under the business, getting anywhere near an 8 per cent return -

Mr GAFFNEY - I was using that an example. It was a rhetorical statement.

Mr GUTWEIN - It is a reasonable point to make. We know we are going to see that sort of elasticity in terms of increases. But the point of the Economic Regulator is that they will be able to provide their view based on the pricing principles and based on the act what they believe the price should be. The government of the day then will make its decision, but the public of Tasmania will be fully informed. So this argument about under-pricing and not achieving sufficient revenue and putting the business in a difficult position, on every step of the way the public of Tasmania, the former owners of the business, this place, the lower House of Parliament, will know exactly what is being recommended and what the final determination by the Government is so there are checks and balances right though.

If I could say in regards to the price setting, the 2.75 and 3.5 that we've included in the bill provides for - you've got Treasury's modelling - a business that at the end of the guarantee period has around \$1.2 billion-worth of net debt, which is coming down and has an interest cover ratio of around 1.7 and rising. The financial parameters of the business are sound. To argue that the 2.75 or 3.5 is not the right price, we believe that it is as far as increases are concerned and we believe the business can deliver the capital program that we have set with those sorts of price increases.

Mr GAFFNEY - Okay, thank you.

Ms RATTRAY - Treasurer, one of LGAT's biggest criticisms is around the ministerial control; they name it up in every piece of information, including as late as this morning - direct ministerial interference. Is there any negotiation that could occur to alleviate some of those concerns? We obviously make legislation for future ministers, so I am casting no aspersions on what you might do, minister, but we do have to make sure we safeguard the operations of a new entity, if that was the way that the parliament or the Legislative Council moved forward with.

Have you thought about another way of being able to not have direct ministerial governance, or different governance arrangements?

Mr GUTWEIN - In effect, the opportunity to direct is no different to that which currently exists under our state-owned companies and through a range of different arrangements for our government business enterprises. The state-owned companies we own - ministers can currently direct those businesses to undertake any lawful act. It is in the constitution of the businesses. Then we have direction powers under the Government Businesses Enterprises Act. What we are

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doing here is providing no more power to a government minister than which currently exists with current government businesses.

Mr VALENTINE - Is that not on advice, though? Doesn't the minister take that -

Mr GUTWEIN - Well, it would be on advice here as well, of course, but in terms of those acts and in terms of the constitution, it does not specifically state that a minister must take advice - it's what it states. My reading of the state-owned companies' constitutions are the businesses are bound by any lawful direction by the minister.

Ms RATTRAY - So it will be a GBE or a SOC, or something different? What is its nature? What's its breed?

Mr GUTWEIN - Well, it will be a government business, a government business enterprise -

Ms RATTRAY - Right, so it will be a GBE. Somebody suggested, 'Oh, it's not a GBE', and I said, 'I think it is'.

Mr GUTWEIN - It will be a government business enterprise. The act specifically establishes this business, refers back to the Government Business Enterprises Act in the same way that the enabling legislation for other government business enterprises refers back to the Government Business Enterprises Act. It is not a state-owned company.

Mr GAFFNEY - Why is it any different - the government taking a dividend or a return from GBEs? Why is it any different requesting that? Why is it any different to councils taking their dividend return from TasWater? Is that not the same scenario? You are expecting a return from your GBEs to go back to wherever and yet that is what councils are expecting too with TasWater. What is the difference there?

Mr GUTWEIN - There is a significant difference because we have acted responsibly in regards to the returns. For example, this year Hydro Tasmania, we set a zero dividend. Three years ago we set zero dividends for Hydro over a number of years because we wanted to ensure the business was in a position to do what we wanted it to do for the state and importantly not put it under financial stress.

In the case of local government, the only time there has been movement on the dividend was last August when the board made a decision unilaterally and overrode its owners. If you go back and look at the press conversations and discussions reported at the time, there were a number in local government that wanted to sack the board.

The point I am making is that we have acted responsibly. We have not treated our businesses as extensions of the taxation, of the SRO. When required, we have been responsible.

Mr GAFFNEY - In saying that, the example you gave about Hydro not taking any return, so in 2025-2026, when councils will get half the returns from the profits, if the government of the day decides we do not want any return or profit from, for example, Hydro, as we have zero per cent, the councils can look forward to half of zero per cent return profit. Is that what you just said?

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Mr GUTWEIN - Well, Mike - no, what I am suggesting is that governments will act responsibly in regards to the returns that they seek from their businesses, and we have demonstrated that. Where necessary, we have returned those returns back to the people of Tasmania. A prime example is in this budget where we've taken \$20 million-worth of funds and we've actually provided it for contract customers, where we've worked with Hydro to reduce the wholesale energy price and they are selling energy this year at next year's price, providing a lower return for the business. So we've acted responsibly in those regards.

Now based on the plan that is in front of us - and you have the Treasury modelling in the Government's submission - that demonstrates that we can achieve the \$1.8 billion over the 10 years, that at the end of that period the business will be profitable and its financial metrics are all heading in the right direction. I think that is what the Government's plan is.

Mr GAFFNEY - Do you think all governments act responsibly with that? I am pleased you have said you have acted responsibly with that. Do you think all governments act responsibly with that sort thing in mind? In 2026, a totally different government could be in charge. You are saying that you believe all governments act responsibly when it comes to GBEs and returns - is that correct?

Mr GUTWEIN - The 50 per cent is enshrined in legislation, which is the point Mr Craigie has just made. That 50 per cent is enshrined in legislation -

Mr CRAIGIE - That is 50 per cent of profit.

Mr GUTWEIN - In terms of the business itself, in a best case scenario, we find that over the period that there is perhaps not as much infrastructure that needs upgrading. I think that is highly unlikely on the basis that TasWater is already proposing that at the end of its 10-year plan there is almost half-a-billion dollars' worth of backlog renewals that it has walked past, but under those circumstances, the return might be higher for local government.

On the other side of the coin, if the state were in a position where there was some major breakdown or catastrophe that had to be dealt with and water infrastructure needed increased investment, then at that time some decisions would need to be made, taking into account the circumstances of the time. Bearing in mind in regards to TasWater and its current program and the rivers of gold that local governments are looking for, if things change in 10 years' time, they may be in a position where, if there has been some form of catastrophe or if there has been some form of need for some change to the financial circumstances, that they might not get the rivers of gold they were expecting.

Mr GAFFNEY - Rivers of gold - you and I both know that is not the situation on the return for local governments in their investment. You know that's not - less than 2 per cent return on their investment and you are going to say \$400 million over eight years, blah, blah, blah - but you know that is not rivers of gold. You know that they have dealt with a lot of environmental issues that were outlined. I do not think that sort of statement does justice. If there were a crisis in Tasmanian water and sewerage now, the government of the day would help out TasWater if they needed to, I would think. That has not been the case.

Mr GUTWEIN - Mike, two things. One is, I think most of us around this table understand that there is an expectation by local government that there will be significant revenue flows into

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the future from this business. I think most of us understand that. It is naïve to suggest that that's not the case.

Mr GAFFNEY - Rivers of gold?

Mr GUTWEIN - Significant revenue flows. If you don't like the term, if you are happy with 'significant revenue flows', let us leave it at that. Most of us understand that that's the view of local government, over the period they will get to a point where they will see significant upward uplift in revenue.

In terms of the circumstances that we are in at the moment, the Government believes that we are at a crisis point; that there has not been the investment that has been required; that if you look at the performance of the assets as they currently stand - I will come back to the point that everybody seems to walk past, and I have looked at some of the *Hansard* transcripts - only two out of every three litres of potable water, when you consider the labour, the energy, the chemicals, the cost that goes into producing that, is lost, that in itself is -

Mr VALENTINE - Don't you think they know that? Effectively it has only been in operation for three years.

Mr GUTWEIN - Let's be clear: some of the directors have been there a lot longer than that. Let us not be too defensive.

Mr VALENTINE - Look, I am not having a go at you. I am simply saying that the organisation itself is doing its best to address those issues, isn't it? Isn't that what it is doing?

Mr GUTWEIN - For nearly three years I argued publicly - and in fact the corporation's on the record as suggesting that I was misinformed, that, you know, they could not utilise their balance sheet, where did I get that advice? There are statements on the public record in regards to that. I argued that they needed to increase their investment and exercise the strength of their balance sheet. It was not until August of last year that the corporation for the first time actually decided to step up and do something about it. If you think that is good enough over the eight-year period - bear in mind the corporations had three years - but over the period since the reform started, if you think a kneejerk reaction last year is appropriate from this business that is managing all of our water and sewerage assets, then the conversation we have is not going to change your mind.

Mr VALENTINE - I look at page 362 on the productivity report and it says -

In Tasmania, section 68AA of the Water and Sewerage Industry Act 2008 and regulations made under it require that TasWater fully comply with pricing principles, specifying a rate of return reflecting both a return on equity and debt by 1 July 2020.

However, this act also sets a rate of return on equity that is not fully market reflective at 3 per cent. Further, the Tasmanian Government has recently introduced legislation ...

They have been required by an act of parliament to behave in the way they are behaving. I am just trying to understand what it is you are saying that they are being recalcitrant on. I

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suppose I am hearing you saying they are recalcitrant, but I do not think they are recalcitrant, are they? Is that what you are telling us?

Mr GUTWEIN - You can call it whatever you want - recalcitrant or otherwise - the simple facts of the matter are that there has not been the investment that the business has been capable of into our water and sewerage assets in the time frame that we would expect. As a result of that, we have the environmental outcomes that we are seeing. That is the simple facts of the matter.

Mr VALENTINE - I suppose it is in relation to this in a way but I just want to understand. You said in your opening statement that TasWater priced at upper bound levels. Did you say something in that regard? You might want to go back to it.

Mr GUTWEIN - I said if TasWater were pricing at upper bound levels, there would be a 17 per cent increase in price today.

Mr VALENTINE - They are pricing at lower bound levels because we are actually told in this report that they are pricing at lower bound levels.

Mr GUTWEIN - There are 7500 customers, out of the more than 200 000 customers it has, who are at the lower bound levels. Under the act, as I have pointed out, they would face price increases. Those that have the largest difference between the target price and the current price would see increases of around 20 per cent a year over the next three years.

Mr VALENTINE - I am just trying to understand, I am not having a go at you. If you take it over, you are going to inject another - how many million is it?

Mr GUTWEIN - We will spend around \$300 million more over the 10-year period.

Mr VALENTINE - That is right, so how are you going to factor that into the performance of the GBE? Are you going to factor in all of the costs of getting that money and paying that interest and whatever? Is it going to be transparent to show that - and it is not going to be, as over the years we have seen that governments hide costs? I am not suggesting you are going to do that. Is it going to be upfront so that you can see the cost to the whole of the community as opposed to just the councils?

Mr GUTWEIN - Of course it will be. The reporting will be identical to that of current government businesses or state-owned companies, so you will get both a profit and loss, you will get both a cash flow statement -

Mr VALENTINE - Including that loan? Is it a loan or a grant?

Mr GUTWEIN - Well, it will be their borrowings and that will of course be represented on their balance sheet.

Mr VALENTINE - So that money will be as a borrowing?

Mr GUTWEIN - As we have clearly said, we believe that TasWater has the capacity to borrow more. It will be, as I have indicated, at a lower rate because there will be no government guarantee fees charged.

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Mr VALENTINE - Can't you wipe that as a government? Can't you move an amendment? If you gave that money to TasWater to continue rather than disrupting it all, couldn't you waive that aspect of it, in giving them that money and saying, 'Right we are not going to charge you those extra fees'?

Mr GUTWEIN - We are of the view that the governance model does not work. I want to be absolutely clear about that. The only time that the corporation has stepped up and actually increased its investment was last year when it did it unilaterally without the agreement of its owners.

The governance model does not work, Rob. It is that simple. We believe that we can manage the business better. We believe that we can get a better outcome for Tasmanians, and we believe that we can do it at a lower price.

Mr FARRELL - In regard to the lost water - the Olympic swimming pools. Do you have an understanding of where that is being lost and do you have a plan to stop that? Are there any targets that you have set to reduce the loss of treated water?

Mr GUTWEIN - Obviously, some of it is being lost through infrastructure. Some of it may be being pirated. There is a range of factors that could be at play here, but I think it is a serious issue. Certainly one of the key issues is if it is leakage, then obviously upgrading the infrastructure and bringing forward the maintenance programs is going to deal with that issue quicker. I do not know about you - it was reported this year by the Economic Regulator for the first time but that was the level of the losses. Now I am certain that TasWater and the previous regional corporations were well aware of it. I don't know if around this table, up until this year, you had prior knowledge of it. It certainly has never been reported, but the Economic Regulator has reported it this year and I think that provides a level of transparency -

Ms RATTRAY - I reckon it is being lost at Bridport because we cannot get any water much down there, as you know. Sorry.

Mr VALENTINE - But whoever owns it is going to have that problem, aren't they?

Mr GUTWEIN - Well, they are, but I think it is a matter of accepting that you do and ensuring that you factor in plans to fix it. Obviously an acceleration of the infrastructure program is going to play a part in that.

Mr FARRELL - Have you had any discussions either with TasWater or have they had discussions with you about concerns about this lost water before the Economic Regulator highlighted it?

Mr GUTWEIN - Not to the best of my knowledge, no. In fact, as I say, I was surprised to read in the Economic Regulator's report that losses were as high as that. I think it's a point that should not be overlooked. I think it speaks largely to failing infrastructure. It needs to be addressed and looked at, and, as I say, whether people are actually receiving free water is a matter that needs to be looked at, but it is significant.

I made the point when I last appeared here: if this was a milk company, you would shut it down if it were losing a third of its product.

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Mr GAFFNEY - It is interesting though - if you do not know what the problem is, TasWater was charged, to start with, to fix a lot of the environmental concerns. The first one was getting everybody on water meters so they could measure it, then making sure that all the boil water alerts were addressed, and that is going to be cleared up by 1 August. I suppose if the Government had said to them, 'Make sure you do not lose any water anywhere' and you are saying this is terrible because the Economic Regulator found out, but you have no idea of the problem, the size, the scope and what it is going to cost, I find it interesting to say that by us taking over, we will fix that problem.

Mr GUTWEIN - To be clear, Mike, I did not make as forthright a statement as that. What I said was that we needed to understand the problem. I would expect that there is a certain amount of leakage from ageing infrastructure. I would also imagine that there may be some pirating. That is what I said. In that regard, this needs to be addressed and considered. What is interesting is that around this table, in fact I think it's a statement of fact, when I have spoken to local government about that through the course of this year, as the owners of the business, they had no idea. I think that is further demonstration of the failing of the governance model.

A business like this, in the same way that the Hydro or Aurora or TasNetworks or any of our other government businesses, is available for full scrutiny through both Houses of parliament at any time of the year. We can take a question tomorrow on any of our government businesses in the lower House. You can raise any questions you want in the upper House. That provides full accountability because of that opportunity for scrutiny. That currently does not exist for local government.

Mr GAFFNEY - I am interested you say that. Why don't you think that exists for local government? They meet regularly three months a year. They have board meetings every month. There is a report from TasWater. Why do you think GBE feedback to government when we may ask a question is any better or different? TasWater would contend that its reporting and feeding back to the councils is far in advance and would surpass what is happening here with the GBEs. My gosh, how many times have we had issues with GBEs, and once a year we bring them out, drag them out and take them through the wringer and are told they cannot answer those questions?

Mr GUTWEIN - The point I just made is that at any time when the Parliament is sitting, you can ask questions about the government businesses and you will get a response from the minister. Whether you like the answer or not is another matter, but you can ask a question. That currently does not exist. The Parliament, which in effect created TasWater through legislation, has not been able to scrutinise TasWater apart from a once-yearly Estimates appearance before the upper House. I do not think that provides a level of scrutiny.

Mr VALENTINE - It is not a government business enterprise though, is it?

Mr GUTWEIN - That is the point and it does not get scrutinised to the same degree, Rob.

Mr VALENTINE - Well, 29 councils certainly have their minds on it.

Ms RATTRAY - We did try early on to provide some scrutiny and it all went pear-shaped.

CHAIR - I think we are back to answering Mike's question.

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Mr GUTWEIN - This is an observation, having travelled around the state over the last three years and having met with most, in fact all, local governments in their own council chambers with community cabinets, it was not uncommon to be asked questions by members of local government as if we, the state Government, owned TasWater. That was the level of understanding by some in local government of their ownership obligations in respect of TasWater. That is a statement of fact.

Mr GAFFNEY - It does not surprise me; with council elections coming up every four years and new councils coming in, they would not be aware of what happened in the past.

Mr GUTWEIN - The fact that they might own a \$2.5 billion corporation, you would think would be somewhere on their radar, Mike. If the scrutiny, as you suggest, is as good under the current model - in fact, I think you made the point that you thought it was better than the scrutiny that could be applied if it were owned -

Mr GAFFNEY - To the shareholders, yes.

Mr GUTWEIN - To local government. I am staggered that it does not surprise you that some of them do not know they own it.

Mr GAFFNEY - I am sorry. Are you serious in that question? I am just amazed that you would -

Mr GUTWEIN - I am actually making a point. I have been asked questions sitting at council tables by some members of local government who have a view that we own TasWater, which just absolutely staggered me.

Mr VALENTINE - They probably have not been in local government long, maybe.

Mr GUTWEIN - We had elections in 2014, Rob. I just make that point. I do not believe the current model is working. I do not believe it is scrutinised well enough; I do not believe it is accountable, and I believe the model we are putting forward will solve those shortcomings.

Mr GAFFNEY - Thank you.

CHAIR - Thank you very much for coming in. If you could provide the letter - I realise we have it on *Hansard*, but it would probably be good to have it in our papers. Thank you very much, Treasurer.

Mr GUTWEIN - I will do that. Thank you very much.

THE WITNESSES WITHDREW.