

**DEPARTMENT OF WATER AFFAIRS
PRICING AND, ECONOMIC REGULATION REFORMS (PERR) PROJECT**

**(Pricing Strategy Review, Development of Infrastructure Funding Model and the Establishment
of Economic Regulation)**

Minutes of a meeting of the Economic Regulation Work Stream

Date: 06 March 2013
Time: 9:00–13:30
Venue: Centurion Lake Hotel, Centurion

Present:

Department of Water Affairs

Bofilatos, E
Lemekwane, R
Machedi, NS
Machitje, S
Mochotlhi, D
Morodi, C
Moshidi, S
Mupariwa, Z
Rajah, C
Ramorula, R
Sigwaza, DP

Stakeholder representatives

Opperman, N	Agri SA
Raphela, A	Magalies Water
Sondlo, N	Magalies Water
Brink, M	Mhlathuze Water
Erasmus, L	PricewaterhouseCoopers (PWC)
Ramsden, P	PWC
Reddy, Y	PWC
Majadibodu, T	Rand Water
Mange, T	Rand Water
Moalusi, T	Rand Water
Nyandoro, T	Rand Water
Knoetze, N	SAAFWUA (South African Association for Water Users Association)
Moraka, W	South African Local Government Association (SALGA) (Chairperson)
Holden, R	Trans-Caledon Tunnel Authority (TCTA)
Bosman, D	TCTA
Gevers, N	Umgeni Water
Phillips, M	Umgeni Water

Professional service providers (PSPs)

Cupido, A	Pegasys
Madinginye, TDS	Pegasys
Connelly, J	Pegasys
Sussex, A	Write Connection (Scribe)

1. PRESENTATION OF THE INSTITUTIONAL OPTIONS

The chairperson made two suggestions:

- Based on the slides on the scope, functions and objectives, the team should investigate the interface between the economic, technical and social aspects of regulation. An understanding of the components, the objectives and the interactions between the components would be useful.
- The scope and functions should be agreed in principle, with the understanding that they would be refined going forward.

Mr Nyandoro accepted the chairperson's suggestions. Ms Sigwaza added a condition: the definition required refinement. The chairperson said that whatever output arose from the investigation should be tested against the definition.

Action: Technical team

With regard to Mr Nyandoro's suggestion that the name 'water regulator' be used in place of 'economic' regulator, the chairperson said that the team could decide on the name based on the discussions going forward. Possibly the choice of institutional model would guide the decision on the name.

Action: Technical team

Ms Moalusi cautiously agreed in principle, but added a condition; she said that in some instances the economic regulator might be perceived as a policy maker or an organisation that would ensure service provision. The team should look at the areas that might give rise to the perception that the economic regulator would assume the DWA's role.

Action: Technical team

2. DETERMINING THE INSTITUTIONAL OPTIONS

Mr Connelly said that a water tribunal could be an extension of an internal function, in an advisory specialist capacity. Ms Mochotlhi said that the tribunal was defined in the legislation, and it had functioned in that capacity. She agreed that the water tribunal should be considered as part of the internal option.

Action: Technical team

Mr Connelly presented a slide which tabulated the criteria against the three options (appendix 1). He suggested that the table be circulated to the work stream members for their input. It was stipulated later in the meeting that the feedback was required by Monday 11 March 2013.

Action: Technical team, Economic regulator work stream members

Resolutions:

1. **The collated table results would be used in support of the recommendation made to the PSC.**
2. **In principle, it was agreed that the work stream would recommend an incremental approach to the PSC: i.e. the implementation of option 2 leading to the eventual implementation of option 3.**
3. **If the table results contradicted the approach that had been agreed in principle, the work stream members would be notified so that the decision could be revisited prior to the PSC meeting.**
4. **The steps and timelines of an incremental approach would need to be clearly defined.**

The next economic regulator work stream meeting was scheduled for 8 May 2013.

The meeting closed at 13:30.

APPENDIX 1: INSTITUTIONAL OPTIONS MATRIX

CRITERIA	Option 1 (Inside Branch)			Option 2 (Government Component)			Option 3 (External Regulator)		
	Degree of Alignment (Y=yes, P-partial, N-no)								
	Y	P	N	Y	P	N	Y	P	N
Regulatory legitimacy									
Is the action or regime supported by legislative authority									
Is there an appropriate scheme of accountability									
Are procedures fair, accessible and open									
Is the regulator acting with sufficient expertise									
Is the action or regime efficient									
Regulatory best practice									
Clear roles									
Transparency, accountability/non-discriminatory									
Independence/autonomy									
Participation									
Effective monitoring and enforcement									
Minimal regulation									
Predictability									
Judicial review									
Water sector fit									
Building on existing regulatory capacity and structures									
Progressively building regulatory capacity within the sector institutions.									
Introducing more appropriate separation of roles and responsibilities									
Addressing existing critical regulatory gaps and constraints.									
Ensuring that the existing water sector “market failures” are addressed on a priority basis.									
Enables “quick wins” to be made.									
Accommodates the regulatory preferences of key sector stakeholders									

APPENDIX 2: LIST OF ACRONYMS

Agri SA	Agri South Africa
AMD	Acid mine drainage
CAPEX	Capital expenditure
CD	Chief Directors
CMA	Catchment Management Agency
CMS	Catchment Management Strategy
DDG	Deputy Director General
DG	Director General
DHS	Department of Human Settlements
DWA	Department of Water Affairs
ER	Economic Regulator
GC	Government Component
HoC	Head of Component
HR	Human Resources
NDP	National Development Plan
NERSA	National Energy Regulator of South Africa
NPE	National Public Entity
PERR	Pricing, Economic Regulation Reforms
PFMA	Public Finance Management Act
PMO	Project Management Office
PSA	Public Servants Association
PSC	Project Steering Committee
PSP	Professional service provider
PWC	PricewaterhouseCoopers
ROC	Return on capital
RWPS	Raw Water Pricing Strategy
SAAFWUA	South African Association for Water Users Association
SALGA	South African Local Government Association
SANS	South African National Standard
TCTA	Trans-Caledon Tunnel Authority
TCTA	Trans-Caledon Tunnel Authority
WRC	Water Research Commission
WRM	Water Resource Management
WSA	Water Services Authority
WSI	Water Services Institution
WSP	Water Services Provider
WUA	Water User Association

APPENDIX 3: ACTION ITEMS ARISING FROM THE PERR ECONOMIC REGULATION WORK STREAM MEETING OF 6 MARCH 2013

	Task	Responsible party	Due date (where indicated)
1	The definition of 'economic regulator' to be redefined and tested against the scope.	Technical team	
2	Alternative nomenclature (including 'water regulator') should be considered in place of 'economic regulator'. The decision could be based on the institutional model that was chosen.	Technical team	
3	In some instances the economic regulator might be perceived as a policy maker or an organisation that would ensure service provision. The team should look at the areas that might give rise to the perception that the economic regulator would assume the DWA's role.	Technical team	
4	The options matrix would be circulated to the work stream members for their input.	Technical team	6 March 2013
5	The options matrix to be filled in by the Technical team by Monday 11 March 2013 and circulated to all members.	ER work stream	11 March 2013
6	The water tribunal should be considered as part of the internal option (option 3).	Technical team	