



STORMWATER
AUSTRALIA

Dispute Resolution Policy and Procedure

Version 1-0

STORMWATER INDUSTRY ASSOCIATION LTD

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Contents

PART A – SWA AND SQIDEP DISPUTE RESOLUTION POLICY	2
1. POLICY STATEMENT.....	2
2. CATEGORIES OF DISPUTES	3
2.1. Category 1 - Internal Disputes.....	3
2.2. Category 2 - Disputes Between Evaluators, Disputes Between TRP members and Disputes between Auditors/Review Panel members as provided under the SQIDEP Charter	4
2.3. Category 3 - Disputes Between an Applicant/Claimant/Client and Evaluators Under SQIDEP.....	5
2.4. Category 4 - Disputes Between SWA and All Other External Entities	6
PART B - DISPUTE RESOLUTION PROCEDURES.....	8
3. PROCEDURES.....	8
3.1. DISPUTE RESOLUTION PROCESS – CATEGORY 1.....	8
3.1.1. Preliminary Steps – Category 1	9
3.1.2. Procedural Steps (Checklist) – Category 1	9
3.2. DISPUTE RESOLUTION PROCESS – CATEGORY 2.....	10
3.2.1. Preliminary Steps – Category 2A.....	11
3.2.2. Procedural Steps – Category 2A.....	12
3.2.3. Preliminary Steps – Category 2B.....	13
3.2.4. Procedural Steps – Category 2B.....	13
3.3. DISPUTE RESOLUTION PROCESS – CATEGORY 3.....	14
3.3.1. Preliminary Steps – Category 3	15
3.3.2. Procedural Steps – Category 3	15
3.4. DISPUTE RESOLUTION PROCESS – CATEGORY 4.....	16
3.4.1. Preliminary Steps – Category 4	17
3.4.2. Procedural Steps – Category 4.....	17
4. REFERENCES	18
5. REVIEW AND ACCESS.....	18

PART A – SWA AND SQIDEP DISPUTE RESOLUTION POLICY

1. POLICY STATEMENT

Stormwater Australia (SWA) is committed to resolving all disputes as expeditiously, fairly, and cost-effectively as possible. To achieve this, SWA adopts the following Policy and Procedure. This Policy binds all parties in all disputes, including external parties that are engaging with SWA. This policy and procedure document must be incorporated into the terms of any agreement made between SWA and other parties.

In accordance with this Policy and Procedure in all disputes, SWA and all other parties to which this Policy applies to agree first to seek to resolve the issues in dispute through the alternative dispute resolution processes of negotiation and mediation.

All parties agree to regard all other avenues for dispute resolution as options of last resort. All parties agree only to consider other avenues of dispute resolution, including litigation after bona fide efforts have been made by both parties to resolve the dispute in accordance with the process specified in this Policy and Procedure document.

This Policy defines the categories of dispute that may arise and provides a procedure for each category of dispute. As the types of disputes that may arise will vary, the processes for resolving those disputes have been specifically designed to facilitate the achievement of this Policy's stated objectives for each type of dispute. These processes will ensure that any costs, complexity and delays are minimised. The prospects of resolving disputes are maximised with a view, wherever possible, to prioritising the maintenance or repair of the relationships involved.

This document is also formulated in accordance with all other SWA Policies, Charters, Governance documents and the SWA Constitution with specific reference to the SQIDEP Governance Panel Charter. This policy document complies with the operation and effect of all of those documents and, in particular, Section 2 of the SQIDEP Charter, which provides as follows:

The purpose, function, and major aims and activities of Stormwater Australia (SWA) are set out in Paragraph 2 of the company's Constitution.

*The **Governance Panel** is responsible for:*

Independent oversight of the SQIDEP Independent Evaluation Panel (IEP);

Independent oversight of the Technical Review Panel (TRP);

Independent oversight of SQIDEP Budget/Fees and Business Plan; and

Dispute resolution between Claimants/Auditors/Review Panel members, if required.

The Governance Panel shall communicate with the IEP and TRP but reports to the SWA Board.

Multiple IEPs will be stood up to independently assess submissions under the SQIDEP process. Inevitably, given the inherent environmental variability, there are likely differences of opinion,

interpretation, relevance, and significance to the Submitted Claims between the IEP members. Where these are significant and intransigent, the Governance Panel will be requested to act as Mediator for the IEP members.

A TRP will be stood up on an annual/biennial basis to evaluate potential improvements to the SQIDEP protocol and process. This panel may consist of up to 20 members with various competing recommendations. The Governance Panel may be requested to mediate for the TRP to ensure clear and consistent recommendations to the SWA Board for improvements to SQIDEP.

Recommendations from the IEP may challenge Claims made by submissions in accordance with the SQIDEP process. Where the Submitter disputes the recommendations from the IEP verification process, they may elect to enter a Dispute Resolution process. The Governance Panel, or a representative thereof, may be requested to act as Mediator in this process.

There are four categories of dispute that could arise in the course of SWA carrying out its functions, including specifically the categories arising under the SQIDEP Governance Charter and SQIDEP processes provided for therein. These classifications are based on the categorisation of the parties involved and the nature and context of the dispute. Each of the four categories has its specific process for dispute resolution. Those processes are prescribed in Part B of this Policy Document.

All parties participating in these dispute resolution processes must adhere to those prescribed processes. All dispute resolution processes are conducted on a ‘without prejudice’ basis and confidentially except for some limited exceptions specified herein.

2. CATEGORIES OF DISPUTES

The following four categories of disputes are listed in order of escalating complexity, and the potential commercial/legal risk to the parties.

2.1. Category 1 - Internal Disputes

Internal disputes between SWA employees, officeholders and volunteers that arise in the course of these persons carrying out their roles or duties within SWA.

These types of disputes are usually the responsibility of Human Resources, Internal Managers, or, if necessary, a nominated Board or Panel member and have limited commercial elements to them, if any.

The resolution process for these disputes focuses on:

- a. improving compliance with SWA Policies;
- b. improving communication, empathy and understanding between the parties; and
- c. the identification and addressing of the needs and interests of the parties as opposed to the legal rights of the parties.

These disputes are also usually less complex and generally more efficiently and less expensively resolved. The priority in resolving these disputes is the maintenance or repair of the professional

relationship between the parties concerned through the facilitated enhancement of the mutual understanding and empathy between the parties.

Because these disputes are often simpler, shorter and less formal, they usually do not incur additional costs for the parties involved. They can be handled internally and without engaging specialist dispute resolution experts.

These disputes can be mediated by SWA Managers, Chairpersons or Board members unless they involve senior staff or Board members of SWA in which case they will be mediated by the Chairman of the GP or other SWA Board Member selected by the SWA Board. These disputes will be mediated at a location nominated by the person handling the dispute and can be held on SWA premises. It is mandatory that staff members involved in these disputes attend the dispute resolution process conducted under this Policy when and where directed. SWA shall bear the costs of this dispute resolution process.

2.2. Category 2 - Disputes Between Evaluators, Disputes Between TRP members and Disputes between Auditors/Review Panel members as provided under the SQIDEP Charter

- A. Disputes that arise between Evaluators when performing an evaluation in relation to an application under SQIDEP.
- B. Disputes between:
 - i. TRP members under the SQIDEP Governance Charter; and
 - ii. Disputes between Auditors/Review Panel members under the SQIDEP Governance Charter.

Category 2A - Disputes Between Evaluators under the SQIDEP Governance Charter

These types of disputes involve professional, factual disagreements between scientific experts over one or more technical issues that arise in course of those evaluators evaluating a device and producing a joint Independent Evaluation Report for a SWA client/applicant.

The resolution process for these disputes is focused on producing an outcome that can be satisfactorily and appropriately included in an Evaluation Report and maintaining or improving the professional relationship of the evaluators. There is also an emphasis on identifying any professional, organisational or process development that can be gained by either SWA or the evaluators.

The priorities of a dispute resolution process in this category are to clearly define the point or points of scientific disagreement and any appropriate parameters of the issue before commencing dispute resolution. This narrows the scope and focus of the process which facilitates resolution.

This can be done through the exchange of correspondence between the parties or oral discussions, which can be led and overseen by the appointed Mediator.

Dispute resolution processes in these types of disputes are less formal and may not incur additional costs for the parties involved unless an agreement cannot be reached and more formal dispute resolution is required.

SWA shall fund the costs of this dispute resolution process through various fees and charges. Disputes in this category will be mediated by the Chairman of the GP at a location nominated by the Chairman of the GP and can be held on SWA premises. Attendance by evaluators is mandatory.

Category 2B(i) and (ii) - Disputes between TRP members and Auditors/Review Panel member as provided under the SQIDEP Charter.

These disputes also involve professional, factual disagreements between scientific experts on one or more technical issues that may arise in those experts carrying out their roles or functions. As an additional objective, the process will also involve identifying any professional, organisational or process development gained by either SWA or the parties from the process.

In this category, the priority of a dispute resolution process is to clearly define the point or points of scientific disagreement and any appropriate parameters of the issue before commencing dispute resolution.

This can be done through the exchange of correspondence between the parties or oral discussions, which can be led and overseen by the appointed Mediator.

Dispute resolution processes in these types of disputes are less formal and may not incur additional costs for the parties involved unless an agreement cannot be reached and more formal dispute resolution is required.

SWA shall fund the costs of this dispute resolution process through various fees and charges. Disputes in this category will be mediated by the Chairman of the GP at a location nominated by the Chairman of the GP and can be held on SWA premises.

2.3. Category 3 - Disputes Between an Applicant/Claimant/Client and Evaluators Under SQIDEP

External disputes between the Applicant/Claimant/Client and the independent evaluators of an application.

These types of disputes may have a range of commercial, professional and reputational consequences for the Applicant/Claimant/Client, SWA and the independent evaluators. These disputes have the potential to escalate into commercial litigation. This Policy recognises and acknowledges that the Applicant's commercial device is being evaluated and that the Evaluation may have commercial consequences for the Applicant. These factors require that these disputes be given priority.

The overall goal of this dispute resolution process is to resolve the dispute in a timely and cost-effective manner with the objective of reaching a fairly compromised agreement between the parties that resolves all of the rights and interests between the parties.

These dispute resolution processes are conducted in accordance with the standard principles and processes of formal commercial dispute resolution that would normally apply to legal or commercial disputes that are mediated.

In that regard, the processes are formal and require more preparation, prescribed procedure, specific time frames and incur higher costs than the other categories of dispute resolution. Resolution of these disputes will necessitate the involvement of a qualified and experienced professional mediator. Provision is made in the Procedure section of this Policy for that to occur.

The provisions of this Policy and Procedure document are to be incorporated as terms of any contract governing the relationships between each of the entities mentioned above. Both parties to any dispute are bound to follow the procedure to the extent allowed by the law and required and agreed to by the parties and specified under this Policy and Procedure document.

The costs of this dispute resolution process shall be borne by SWA and the Applicant jointly and funded equally between the parties and agreed upon in advance. The Chairman of the GP may mediate disputes in this category if both parties agree.

If the Chairman of the GP conducts the process, then the mediation will be conducted at a location nominated by the Chairman of the GP and accepted by both parties. If the parties agree, the mediation can be conducted on SWA premises.

2.4. Category 4 - Disputes Between SWA and All Other External Entities

External disputes between SWA and external entities or service providers.

These types of disputes can potentially escalate into formal legal disputes that may have commercial, professional and reputational consequences for both parties. These disputes are most likely to arise from disagreements involving contractual terms, obligations or other related issues.

The priority of the dispute resolution process is to resolve the dispute in a timely and cost-effective manner with the object of reaching a fairly compromised agreement between the parties that resolves all of the rights and interests between the parties. These dispute resolution processes are conducted in accordance with the standard principles and processes of formal dispute resolution that usually apply to legal or commercial disputes. In that regard, the formal processes require more preparation, prescribed procedure, and time frames and incur greater costs. These disputes will necessitate the involvement of an external, independent, qualified and experienced professional commercial Mediator.

The provisions of this Policy and Procedure document are to be incorporated as terms of any contract governing the relationships between each of the entities mentioned above so that both parties to any dispute are bound to follow this Policy and Procedure document to the extent allowed by the law and required under this Policy and Procedure document and agreed to between the parties.

The costs of this dispute resolution process shall be borne equally between the parties and agreed upon in advance. Disputes in this category must be mediated externally and at a neutral venue nominated by the appointed Mediator to ensure independence.

Both parties will select a mediator by exchanging lists of external independent mediators and reaching an agreement on selecting a mediator from those lists. Each list submitted by each party must contain the names of at least five mediators and their reasonable fee for a one-day mediation held at a mediation venue and must include the cost of the proposed mediation venue. If no agreement can be reached on a mediator, the parties must compile further lists until an agreement is reached.

PART B - DISPUTE RESOLUTION PROCEDURES

Where a party to which this Policy applies considers that a dispute exists, and they have been unable to resolve that dispute, that party is entitled to exercise their right to initiate the dispute resolution process prescribed in this document for the category of dispute that the parties fall into and in the way prescribed in this Policy and Procedure document.

For each category of dispute, this document specifies:

- the obligations of the parties,
- the objectives of the process,
- how the process will proceed for each category, and
- how the dispute will be resolved and completed.

3. PROCEDURES

3.1. DISPUTE RESOLUTION PROCESS – CATEGORY 1

Internal disputes between SWA employees, officeholders and volunteers that arise in the course of these persons carrying out their roles or duties within SWA.

Parties to category 1 disputes must exhaust all efforts to resolve the issue in dispute before invoking this dispute resolution procedure. In this instance, the dispute should be notified to the person's immediate manager or the Chairman of the GP. The notice must be in written form (email is acceptable) and must clearly and concisely state the issue in dispute (maximum of one paragraph). No evidence, history or other documentation need be cited or attached to the notice. The notice should also state that the Applicant seeks to initiate a dispute resolution process under this Policy.

The person responsible for resolving this dispute and who receives the notice of dispute must ensure that the parties to the dispute are given either a paper copy of this Policy or emailed a link to the published version of this Policy on the SWA website. In that email, their attention must be drawn to the provisions highlighted in bold capitals below.

Once the Manager or Chairman of the GP receives the notice, they shall organise and conduct an informal dispute resolution process. If the dispute is not resolved during that informal mediation process, the dispute must be escalated to the Board.

All steps in this process must be taken as quickly as possible. A dispute resolution process such as a mediation must be commenced within two days of a Dispute Notice being received by a Manager or Chairman of the GP.

E.g. of Notice of Dispute for Category One

“ ‘Without Prejudice’

Dear XX,

I wish to initiate a Dispute resolution process under the SWA Dispute Resolution Policy and Procedure. My dispute is a Category 1 dispute, and the party I am in dispute with is XXXX XXX, who is the **(insert role or position)**, and their contact number is 04XX XXX XXX.

I have attempted to resolve this dispute myself.

The dispute is over (Limit to one paragraph as specified above).”

3.1.1. Preliminary Steps – Category 1

PARTIES TO A CATEGORY 1 DISPUTE MUST BE INFORMED OF THE FOLLOWING BEFORE ANY MEDIATION OR ANOTHER DISPUTE RESOLUTION PROCESS IS COMMENCED.

- A. In writing supplied to the Chairman GP, a party to a dispute may withdraw their notice and discontinue the process at any time up to the commencement of mediation.
- B. Dispute resolution processes are conducted confidentially.
- C. There are two exceptions to the principle of confidentiality:
 - i. If during mediation any alleged wrongdoing, misconduct or breaches of SWA policy comes to light in the course of that dispute resolution process. In that case, the person conducting the dispute resolution process must report the alleged wrongdoing, misconduct or breaches of SWA policy to the Board of SWA for their attention and action.
 - ii. Where a dispute is escalated to the Board due to a failure of the parties to reach an agreement on the resolution of the dispute, the Mediator must provide the Board with a short report stating whether or not in the Mediator’s opinion each of the parties acted in bona fide manner in attempting to resolve the dispute during the process.

3.1.2. Procedural Steps (Checklist) – Category 1

1. Initiating party issues written Notice of Dispute to their manager or to the Chairman GP (The Mediator).
2. Mediator provides the party nominated as the other party with a copy of the Notice of Dispute.
3. Mediator provides both parties to dispute with a copy of this Policy or a link to the location where this Policy is electronically published on the SWA website via email.
4. Mediator convenes an informal mediation between the parties in the dispute at a time and place nominated by the Mediator within two days of receiving the Notice of Dispute.
5. At the conclusion of the mediation, the parties will sign an acknowledgement that the dispute has been resolved.

6. If one or both parties refuse to sign the acknowledgement, the dispute must be escalated to the Board for their action.

3.2. DISPUTE RESOLUTION PROCESS – CATEGORY 2

Category 2A and B - Disputes Between Evaluators or Disputes Between TRP members or Auditors/Review Panel as provided under the SQIDEP Charter

- A. Disputes that arise between Evaluators when performing an evaluation in relation to an application under SQIDEP.
- B. Disputes between:
 - i. TRP members under the SQIDEP Governance Charter; and
 - ii. Disputes between Auditors/Review Panel members under the SQIDEP Governance Charter.

Category 2A- Disputes Between Evaluators under the SQIDEP Charter

For Category 2 disputes, Evaluators must exhaust all efforts to resolve the question in dispute before invoking this dispute resolution procedure. The Evaluator seeking dispute resolution or both evaluators jointly must provide the Chairman GP with a Notice of Dispute to commence the process.

Evaluators must provide the Notice of Dispute as soon as possible after they become aware of a need for dispute resolution. This is important because the dispute resolution process impacts the time frames that apply to the Evaluation process, which can have commercial consequences for the Applicant.

For category 2 disputes, a Notice of Dispute serves two purposes. Firstly, it places the question in dispute on the SWA record. Secondly, it formally initiates this dispute resolution process.

Once the Chairman of the GP (the Mediator) receives a Notice of Dispute, the Mediator will commence the dispute resolution process by contacting both evaluators.

The Mediator will require both evaluators to provide a joint, clear, and concise formulation of the question to be resolved within 5 working days of contacting the Mediator. The process of requiring Evaluators to submit a joint question greatly facilitates the resolution of the issue. A high standard of professionalism and courtesy is required from evaluators in resolving their disputes.

Both evaluators must make themselves available to participate in a dispute resolution process conducted by the Mediator at a time and place specified by the Mediator as a priority.

During the Dispute Resolution process, the Evaluators involved with the dispute must assist with and participate in generating a solution to the dispute.

At the completion of the preliminary steps specified herein, the Mediator will conduct mediation with the parties. This may occupy up to one full day.

The Mediator may inform himself on the question from any means or sources that the Mediator sees fit and consult any persons that the Mediator sees fit to consult.

At the conclusion of the mediation, if the agreement is not reached and no satisfactory joint statement for inclusion in the report can be reached, the dispute must be referred to the SWA Board. The Board of SWA will then determine the next course of action.

To assist the SWA Board, the Mediator will provide a very brief written outline to the SWA Board outlining the question to be answered and any other matters that the Mediator considers will assist the Board in determining how to proceed to resolve the dispute.

Any Evaluator who fails to properly and professionally participate in any part of this process may be removed from the Independent Evaluators list at the discretion of the SWA Board, and the SWA Board may also, at their discretion, terminate the Evaluator's retainer.

E.g. of Notice of Dispute for Category 2A Disputes between Evaluators under SQIDEP

“**Without Prejudice**”

Dear Chairman GP,

I am an Evaluator conducting an evaluation of the (Insert device and company name).

I wish to initiate a Dispute Resolution Process under the SWA Dispute Resolution Policy and Procedure.

My dispute is a Category 2A dispute, and the other Evaluator assigned to this Evaluation is XXXX XXX, who is (insert role or position with X Company) and whose contact number is 0489 734 873.

I have attempted to resolve this dispute.”

3.2.1. Preliminary Steps – Category 2A

PARTIES TO A CATEGORY 2 DISPUTE MUST BE INFORMED OF THE FOLLOWING BEFORE ANY MEDIATION OR ANOTHER DISPUTE RESOLUTION PROCESS IS COMMENCED.

- A. A party to a dispute may, in writing supplied to the Chairman GP, withdraw their notice and discontinue the process at any time up to the commencement of mediation.
- B. Dispute resolution processes are conducted confidentially.
- C. There are two exceptions to the principle of confidentiality:

- i. If any alleged wrongdoing, misconduct or breaches of SWA policy comes to light in the course of that dispute resolution process. In that case, the person conducting the dispute resolution process must report alleged wrongdoing, misconduct or breaches of SWA policy to the Board of SWA for their attention and action.
- ii. Where a dispute is escalated to the Board due to a failure of the parties to reach an agreement on the resolution of the dispute, the Mediator must provide the Board with a short report outlining whether or not in the Mediator's opinion the parties acted in bona fide manner in attempting to resolve the dispute during the process.

3.2.2. Procedural Steps – Category 2A

1. Initiating party issues written Notice of Dispute to the Chairman GP (The Mediator).
2. Mediator provides the other party with a copy of the Notice of Dispute.
3. Mediator provides both parties to dispute with a copy of this Policy or a link to the location where this Policy is electronically published on the SWA website via email.
4. Mediator convenes an informal mediation between the parties in the dispute at a time and place nominated by the Mediator within seven days of the Mediator receiving the Notice of Dispute.
5. Mediator requires both Evaluators to agree on the issue in dispute and provide a joint statement as to the dispute in issue within five days of both parties receiving the Notice of Dispute
6. At the conclusion of the mediation, the parties will sign an acknowledgement that the dispute has been resolved. That acknowledgement will include a copy of the final agreed statement on the issue that will be incorporated into the Evaluation report.
7. If one or both parties refuse to sign that acknowledgement, the dispute must be escalated to the Board for their action.
8. The Mediator will then supply to the SWA Board a short report outlining the question to be answered. Any other matters that the Mediator considers will assist the Board in determining how to proceed to resolve the dispute.

Category 2B - Disputes between TRP members and Auditors/Review Panel member as provided under the SQIDEP Charter.

The dispute resolution process for this subcategory of category 2 is the same as for Category 2A Evaluator disputes.

E.g. of Notice of Dispute for Category 2B Disputes between TRP members and Auditors/Review Panel member as provided under the SQIDEP Charter.

“ ‘Without Prejudice’

Dear Chairman GP,

I am an Auditor/Review Panel member/TRP Panel Member (Strike out whichever is inapplicable).

I wish to initiate a Dispute Resolution Process under the SWA Dispute Resolution Policy and Procedure.

My dispute is a Category 2B dispute, and the other party is XXXX XXX, who is (insert role or position of other party) and whose contact number is 04XX XXX XXX.

I have attempted to resolve this dispute.”

3.2.3. Preliminary Steps – Category 2B

Specifically, the Preliminary Disputes applicable to the Category 2B Evaluator disputes are the same.

3.2.4. Procedural Steps – Category 2B

1. Initiating party issues written Notice of Dispute to the Chairman GP (The Mediator).
2. Mediator provides the other party with a copy of the Notice of Dispute.
3. Mediator provides both parties to dispute with a copy of this Policy or a link to the location where this Policy is electronically published on the SWA website via email.
4. Mediator convenes an informal mediation between the parties in the dispute at a time and place nominated by the Mediator within seven days of the Mediator receiving the Notice of Dispute.
5. Mediator requires both parties to settle on the issue in dispute and provide a joint statement as to the dispute in issue within five days of both parties receiving the Notice of Dispute
6. At the conclusion of the mediation, the parties will sign an acknowledgement that the dispute has been resolved that contains a statement as to the resolution of the issue.
7. If one or both parties refuse to sign that acknowledgement, the dispute must be escalated to the Board for their action.
8. The Mediator will then supply to the SWA Board a short report outlining the question to be answered and any other relevant issues concerning the question to be resolved. Any other issues that the Mediator considers will assist the Board in determining how to proceed to resolve the dispute.
9. Where any TRP or review panel member fails to properly and professionally participate in any part of this process, they may be removed from the TRP or review panel at the discretion

of the SWA Board. The SWA Board may also, at their discretion, terminate that party's role in SWA.

3.3. DISPUTE RESOLUTION PROCESS – CATEGORY 3

Category 3 - Disputes Between Applicants/Claimants/Clients and Evaluators Under SQIDEP

Disputes with the Applicant/Claimant/Client and the independent evaluators of an application.

For Category 3 disputes, parties must exhaust all efforts to resolve the question in dispute before invoking this dispute resolution procedure. The party seeking dispute resolution must provide a Notice of Dispute to the Chairman GP to commence the process.

A party must provide the Notice of Dispute as soon as possible after they become aware of a need for dispute resolution.

Once the Chairman of the GP (The Mediator) receives such a Notice, the Mediator will commence the dispute resolution process by contacting both parties.

The Mediator will require both parties to provide a written submission on the issue and their position on that issue within seven working days of being contacted by the Mediator. That submission must be no longer than two pages and can be provided by email. **Those submissions are confidential and will not be shared between the parties or provided to the parties by the Mediator.**

Both parties must make themselves available to participate in a dispute resolution process conducted by the Mediator at a time and place specified by the Mediator as a priority.

During the Dispute Resolution process, the parties must assist with and participate in generating a solution to the dispute in a bone fide manner.

At the completion of the preliminary steps specified herein, the Mediator will conduct mediation with the parties. This may occupy up to one full day. The mediation will nominate a time and location for the mediation in consultation with the parties.

The Mediator may inform himself on the question from any means or sources that the Mediator sees fit and consult any persons that the Mediator sees fit to consult.

At the conclusion of the mediation, if that agreement is not reached, the dispute must be referred to the SWA Board. The Board of SWA will then engage with the Applicant client to determine the next course of action.

To assist the SWA Board, the Mediator will provide a brief written report to the Board SWA outlining the question to be resolved and any matters that may have been resolved in mediation.

E.g. of Notice of Dispute for Category 3 Disputes between Applicant (Claimants) and Evaluators under SQIDEP

“ ‘Without Prejudice’

Dear Chairman GP,

I am an Applicant/Evaluator (Strike out whichever is not applicable).

I wish to initiate a Dispute Resolution Process under the SWA Dispute Resolution Policy and Procedure.

My dispute is a Category 3 dispute, and the other party is XXXX XXX, who is (insert role of position with X Company) and whose contact number is 04XX XXX XXX.

I have attempted to resolve this dispute.”

3.3.1. Preliminary Steps – Category 3

PARTIES TO A CATEGORY 3 DISPUTE MUST BE INFORMED OF THE FOLLOWING MATTERS BEFORE ANY MEDIATION, OR ANOTHER DISPUTE RESOLUTION PROCESS IS COMMENCED.

- A. A party to a dispute may, in writing supplied to the Chairman GP, withdraw their notice and discontinue the process at any time up to the commencement of mediation.
- B. By participating in the dispute resolution process, both parties agree that the mediation is conducted on a confidential basis.

3.3.2. Procedural Steps – Category 3

1. Initiating Party issues written Notice of Dispute to the Chairman GP (The Mediator).
2. Mediator provides the other party with a copy of the Notice of Dispute.
3. Mediator provides both parties to dispute with a copy of this Policy or a link to the location where this Policy is electronically published on the SWA website via email.
4. Mediator convenes a mediation between the parties in the dispute at a time and place nominated by the Mediator and agreed to by both parties within 14 days of the Mediator receiving the Notice of Dispute.
5. Mediator requires that both parties provide a statement as to the dispute in issue and their position within ten days of both parties receiving the Notice of Dispute
6. At the conclusion of the mediation, the parties will execute a Deed of Agreement acknowledging the resolution of the issue and any terms agreed upon between the parties.
7. If one or both parties refuse to sign a Deed of Agreement, the dispute is then escalated to the Board for their action.
8. The Mediator will then supply to both parties a short report outlining any unresolved issues.

3.4. DISPUTE RESOLUTION PROCESS – CATEGORY 4

Category 4 - Disputes Between SWA and All Other External Entities

External disputes between SWA and an external entity or service provider.

For Category 4 disputes, parties must exhaust all efforts to resolve the question in dispute before invoking this dispute resolution procedure. The party seeking dispute resolution must provide a Notice of Dispute to the Chairman GP to commence the process. This notice will be forwarded to the SWA Board.

A party must provide the Notice of Dispute as soon as possible after they become aware of a need for dispute resolution.

Once the Chairman of the GP receives such a Notice, the Mediator will commence the dispute resolution process by contacting both parties. The Chairman of the GP will mediate the selection of an external independent, qualified and experienced professional commercial Mediator and will provide that Mediator with a copy of this Policy and Procedure Document.

Once a mediator is selected, that Mediator will require both parties to provide a written submission on the issue and their position on that issue within seven working days of being contacted by the Mediator. That submission must be no longer than two pages and can be provided by email. **Those submissions are confidential and will not be shared between the parties or provided to the parties by the Mediator.**

Both parties must make themselves available to participate in a dispute resolution process conducted by the Mediator at a time and place agreed to by the parties and specified by the Mediator as a priority.

At the completion of the preliminary steps specified herein, the Mediator will conduct mediation with the parties. This may occupy up to one full day. The mediation will nominate a time and location for the mediation in consultation with the parties.

During the Dispute Resolution process, the parties agree to assist with and participate in generating a solution to the dispute in a bone fide manner.

The Mediator may inform himself on the question from any means or sources that the Mediator sees fit and consult any persons that the Mediator sees fit to consult.

At the conclusion of the mediation, if that agreement is not reached, the dispute must be escalated to the SWA Board. The Board of SWA will then engage with the Applicant client to determine the next course of action.

To assist the SWA Board, the Mediator will provide a brief written report to the Board SWA outlining the question to be resolved and any matters that may have been resolved in mediation.

E.g. of Notice of Dispute for Category 4 Disputes Disputes Between SWA and All Other External Entities

“ ‘Without Prejudice’

Dear Chairman GP,

I am an Applicant/Evaluator (Strike out whichever is not applicable).

I wish to initiate a Dispute Resolution Process under the SWA Dispute Resolution Policy and Procedure.

My dispute is a Category 4 dispute, and the other party is XXXX XXX, who is (insert role of position with X Company) and whose contact number is XXX XXXX.

I have attempted to resolve this dispute.”

3.4.1. Preliminary Steps – Category 4

PARTIES TO A CATEGORY 4 DISPUTE MUST BE INFORMED OF THE FOLLOWING MATTERS BEFORE ANY MEDIATION, OR ANOTHER DISPUTE RESOLUTION PROCESS IS COMMENCED.

- A. A party to a dispute may, in writing supplied to the Chairman GP, withdraw their notice and discontinue the process at any time up to the commencement of mediation.
- B. By participating in the dispute resolution process, both parties agree that the mediation is conducted on a confidential basis.

3.4.2. Procedural Steps – Category 4

- 1. Initiating Party issues written Notice of Dispute to the Chairman GP.
- 2. The Chairman GP provides the other party with a copy of the Notice of Dispute.
- 3. The Mediator provides both parties to a dispute with a copy of this Policy or a link to the location where this Policy is electronically published on the SWA website via email.
- 4. The Chairman GP mediates the selection of a mediator.
- 5. Mediator convenes a mediation between the parties in the dispute at a time and place nominated by the Mediator and agreed to by both parties within 14 days of the Mediator receiving the Notice of Dispute.
- 6. Mediator requires both parties to provide a statement as to the dispute in issue and their position within ten days of both parties receiving the Notice of Dispute
- 7. At the conclusion of the mediation, the parties will execute a Deed of Agreement acknowledging the resolution of the issue and any terms agreed upon between the parties.
- 8. If one or both parties refuse to sign a Deed of Agreement, the dispute is then escalated to the Board for their action.

9. The Mediator will then supply to both parties a short report outlining any unresolved issues.

4. REFERENCES

Protocols, Policies and Charters

- 1) Constitution of Stormwater Industry Association Ltd (SIA Ltd)
- 2) Stormwater Australia’s Code of Conduct
- 3) Stormwater Industry Association Ltd (SIA) Policy Library
- 4) Stormwater Australia’s General Conditions of Contract (Terms and Conditions)
- 5) Stormwater Australia’s Board Charter
- 6) SQIDEP Governance Panel Charter
- 7) SQIDEP Independent Evaluators Panel Charter
- 8) SQIDEP Technical Review Panel Charter
- 9) Stormwater Quality Improvement Device Evaluation Protocol - Current Version

Procedures

- 10) Governance Policy and Procedure Document
- 11) SQIDEP Evaluator’s Selection Procedure
- 12) SQIDEP Evaluation Process Chart
- 13) SQIDEP Governance Structure Flowchart

Forms

- 14) SQIDEP Technical Review Panel (TRP) – Expression of Interest (EOI)
- 15) SQIDEP Technical Review Panel (TRP) – Expression of Interest (EOI) Response Form
- 16) SQIDEP Independent Evaluation Panel (IEP) – Expression of Interest (EOI)
- 17) SQIDEP Independent Evaluation Panel (IEP) – Expression of Interest (EOI) Response Form

5. REVIEW AND ACCESS

This Policy will be reviewed every three years or following significant operational, Policy or legislative requirements to ensure it meets best practice standards and meets the needs of Stormwater Australia.

This Policy is available on Stormwater Australia’s website and/ or a copy will be made available on request.

Version Number	Submitted by Governance Panel	Approved by Stormwater Australia	Next Review Date
1-0	December 2021	December 2021	December 2024