



**Annual SACOSS Briefing to the Minister:
Issues Affecting South Australian Water Consumers**

July 2023

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47 King William Road

Unley, SA, 5061 Australia

Ph (08) 8305 4222

Fax (08) 8272 9500

Email: sacoss@sacoss.org.au

Website: www.sacoss.org.au

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Background

The Consumer Advocacy and Research Fund (CARF) is established under the *Water Industry Act 2012* (WI Act) to support research or advocacy that promotes the interests of consumers with a disability, low-income consumers, or consumers who are located within a regional area of South Australia; or to support projects that advance the interests of consumers from an advocacy perspective.

SACOSS is funded by the Department for Environment and Water (DEW) to support DEW in the administration of the CARF and to ensure the breadth of South Australian water consumers specified within Section 87(5)a of the WI Act are effectively represented in water regulatory determinations, policy making and research and advocacy project development.

Executive Summary

The SACOSS 2023 annual briefing on water pricing issues affecting South Australian consumers provides evidence that:

- There is a widening inequality in water pricing for customers on the SA Water network and those outside its network. The gap in the application of the Government's state-wide pricing policy can no longer be ignored and requires urgent reform.
- There is a lack of transparency in how Community Service Obligations (CSOs) are applied and distributed across South Australia.
- The longstanding water debt situations at Umoona and Yarilena point to systemic failures in consumer protections and require a sustainable solution to meet social and public health obligations.
- The economic conditions underpinning the current SA Water regulatory process for 1 July 2024 to 30 June 2028 are in sharp contrast to those of the previous regulatory determination (from 1 July 2020 – 30 June 2024), putting significant upward pressure on water pricing. Every effort will be needed to ensure that South Australian water consumers pay no more than is necessary under the next regulatory period.
- Outside of the SA Water regulatory process, additional social policy support will be required to lessen the cost-of-living impact on renters and people on low-incomes, who are least able to absorb even small increases in costs.

Summary of Recommendations

Given the above findings, SACOSS recommends that the South Australian Government:

- Immediately extend and apply Community Service Obligations (CSOs) to retail drinking water entities other than SA Water, such as the District Council of Coober Pedy and the District Council of Ceduna to address inequities in the state-wide pricing of water and commit to investigating the best ownership arrangements for the long-term interests of residents
- Concurrently amend the *Residential Tenancies Act 1995* and the *Water Industry Act 2012* to explicitly recognise tenants as a residential customer, enabling improved access to hardship supports and dispute resolution.
- Amend the *Residential Tenancies Act 1995* to provide as the default position that landlords are responsible for water supply.
- Require greater transparency on reporting of CSOs, including clearly stating specific policy objectives for each sub-category of CSO and reporting against the different functions
- The State Government writes off the remaining debt for the Umoona Community as a priority (and potentially all water debtors in the District Council of Coober Pedy), either via direct payment or as a write off against the Council's owing to the Local

Government Finance Authority (LGFA) as part of ongoing loan refinancing discussions.

- The Minister makes a designation by notice in the Gazette to prescribe the supply of water by the District Council of Coober Pedy to the Umoona Community Council as a retail service in order to explicitly recognise the Umoona Community as a “customer” as per as per section 4(1) of the *Water Industry Act 2012* and open up a range of consumer protections for the Community.
- Legislate for, or commit to, all Ministerial Directions for SA Water expenditure to be either funded directly from Treasury, or at least included in the regulatory review of SA Water expenditure by the Essential Services Commission of South Australia for prudence and efficiency.
- Prioritise the development of a basic level of service to inform water security improvements in remote South Australia;
- Extend the self-supplied water security assessment project to the remaining remote communities in the State, including those serviced by SA Water, the District Council of Coober Pedy and the District Council of Ceduna

State-wide Pricing and Equity

Background

The South Australian Government has a state-wide pricing policy, where customers on the SA Water network pay the same price per kilolitre of water, regardless of where they live or the cost of providing the water services.¹ In practice, this means those living in regional areas pay the same price as metropolitan customers, even though the cost to supply is often higher in regional areas.

SA Water receives compensation in the form of a Community Service Obligation (CSO) from Government to meet the under recovery of costs related to delivering on the Government's state-wide pricing policy. The CSO amounts provided by the Government only cover operating costs for SA Water, with any capital costs recovered from the customer base as part of regulated revenue.

An opportunity for reform

In its review report of the *Water Industry Act 2012*, the Department for Environment and Water (DEW) noted that the state-wide pricing applies only to SA Water customers, and that:

“Other water retailers do not have access to community service obligation payments to subsidise costs and keep prices equivalent to state-wide prices. This has resulted in several water retailers having prices that are either above state-wide prices or would be if they were fully cost recovering. This tends to particularly be the case in regional areas where costs can be higher and customer bases smaller, making full cost recovery difficult. This also overlaps with low socio-economic areas, which often lowers the ability for customers to pay.”²

This has resulted in growing inequities in places like Coober Pedy and Ceduna, where the respective local Councils are the licensed water retailers. As can be seen in Table 1 below, water charges in these Council areas are two to three times higher than for SA Water.

¹ See [Direction to the South Australian Water Corporation Pursuant to Section 6 of the Public Corporations Act 1993](#), p. 3379; and SA Water (2021) [South Australian Water Corporation Charter](#), September 2021, p. 7

² Department for Environment and Water (2020) [Review of the Water Industry Act 2012](#), p. 9

Table 1. Comparison of residential water charges by water retailer, South Australia, 2022-23

Residential water charges (2022-23), exc GST	SA Water*	District Council of Coober Pedy#	District Council of Ceduna (inside Council Boundary)^	District Council of Ceduna (outside Council Boundary)^
Supply Charge (annually)	\$283.20	\$287.12	\$440.52	\$752.92
Supply Charge (quarterly)	\$70.80	\$71.78	\$110.13	\$188.23
Tier 1 Usage price (Up to 35kL / quarter)	\$2.03	\$6.43	\$4.36	\$4.73
Tier 2 Usage price (36 to 130 kL / quarter)	\$2.90	\$9.00		
Tier 3 Usage price (131 kL and above)	\$3.14	\$10.26		

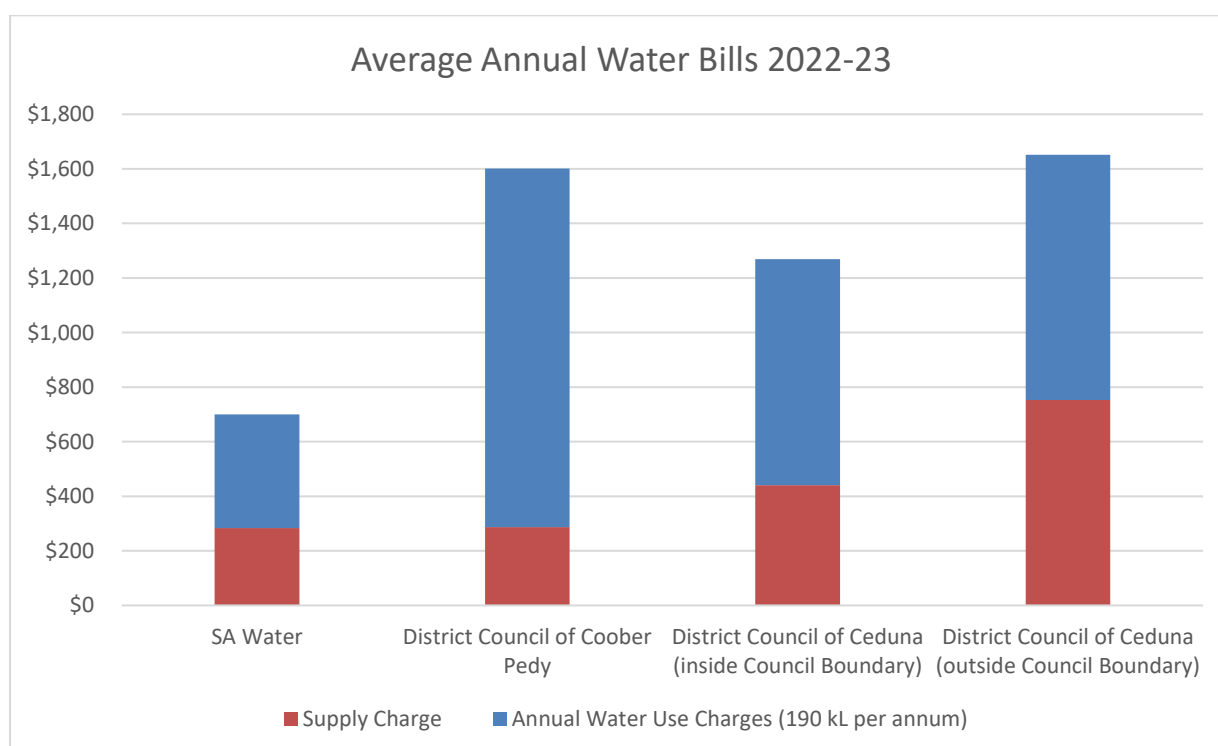
* https://www.sawater.com.au/_data/assets/pdf_file/0003/644592/Pricing-Schedule_Rates-and-Sales_2022-23.pdf

https://www.cooberpedy.sa.gov.au/_data/assets/pdf_file/0019/1272115/20231202-Fees-and-Charges-template-2223.pdf

^ https://www.ceduna.sa.gov.au/_data/assets/pdf_file/0016/243061/20221006-Water-Price-Monitoring-Reporting-Template.pdf

SACOSS analysis of typical water bills based on an average usage of 190 kL of water per annum suggests that residents of the District Council of Coober Pedy, and the District Council of Ceduna pay around double on their annual bills compared to SA Water customers.

Figure 1. Comparison of annual residential water bills by water retailer, South Australia, 2022-23



State-wide pricing has been a longstanding feature of Government policy with respect to water pricing. In the first Transparency Statement in 2004, well before independent economic regulation, the then Government suggested that charging a single uniform price under its state-wide pricing policy is “an important part of the Government’s equity and social justice policy and regional policy.”³

In the second reading speech for the Water Industry Bill⁴, which ultimately became the *Water Industry Act 2012*, it was noted that (emphasis added):

“As it is important to protect low-income and regional customers, the Minister will retain the power to require the relevant industry codes to include hardship provisions to assist customers who may be suffering specified types of hardship. In this respect, it will be critical for customers to have a range of accessible payment options, irrespective of location.

Similarly, in undertaking its price regulation function, **ESCOSA would be required to comply with the requirements of any pricing order issued by the Treasurer.** This is essential to manage the transition to independent economic regulation and to avoid any unexpected price shocks to consumers. **It also ensures that important State Government policies, such as state-wide pricing, can be continued. Such arrangement will complement the concession scheme and hardship provisions under the Bill, and they will be critical for vulnerable consumers and small regional communities.”**

It is clear that the current situation in Coober Pedy and Ceduna are at odds with the policy objectives stated above.

Community pays the health and social burden

Both the District Council of Coober Pedy and District Council of Ceduna are continuing operate their retail water services at a loss⁵, with the related financial burden constraining their ability to provide other critical community services. Ultimately, it is the residents and ratepayers who bear the cost – having to pay higher water rates compared to the rest of the State and live with a substandard level of service.

This is the case for the Yarilena Community, a self-managed Homeland located on the Far West Coast of South Australia, approximately 7km from Ceduna. The Homeland consists of 14 houses with an approximate population of 160 residents. The Community is supplied by the Ceduna-Koonibba pipeline, operated by the by the District Council of Ceduna. However, the Council are only responsible for water up to the Community gate. Unlike Umoona and

³ Government of South Australia (2004) [Transparency Statement: Urban Water Prices in South Australia 2004-05](#), p. 36

⁴ Parliament of South Australia (2011) [Water Industry Bill, Second Reading, 10 November 2011](#)

⁵ <https://lgasa-web.squiz.cloud/?a=1422289>, p, 14;

the nearby Koonibba Community, the Yarilena Community are not on the list of Aboriginal communities serviced by SA Water through a CSO funded by State Government.⁶

Residents have been dealing with water issues for nearly 20 years. The original water infrastructure in the Community was put in with funding from the Aboriginal and Torres Strait Islander Commission (ATSIC). According to Community members, mistakes were made in the early laying down of the water system with incompatible pressure specifications of the internal subterranean water pipeline and the connecting mains.

A study in 2008 identified that leaking internal infrastructure was contributing to 40 to 60 per cent of the water bill, “partly due to pressure incompatibilities between the internal subterranean piping and that of the SA Water mains. These costs, which are depleting their resources, are paid out of Yarilena Trust funds.”⁷

While a number of measures have been taken to address the infrastructure issues by various parties over the years, including by SA Water, the Aboriginal Lands Trust and the Community, including the installation of pressure reducing valves and corrosion resistant reseal kits in all taps in the household, water was still being lost.

The District Council of Ceduna themselves, have limited options in maintaining a financially viable water service. The Council currently purchase water from SA Water through one meter at SA Water’s tier two price and all end users are charged at the tier two price plus additional charges to cover the cost of supplying the service.⁸ With a smaller customer base to recover from, there is limited ability to absorb price increases.

This higher cost, coupled with the leaking infrastructure has caused the Yarilena Community to be trapped in a debt cycle. Under a previous Council administration, the District Council of Ceduna resorted to restricting the water flow to the Yarilena Community due to failure to meet payment plan arrangements. SACOSS understands that water had been restricted over a period of 6 months. With the restriction valves put in place reducing the water flow to a trickle, residents have been forced to be innovative. Residents reported putting their garden hose into the rainwater tank and leaving it to fill up overnight, so they could shower the next day. There are also concerns around saline water intrusion into the pipes, and uncertainty around who is responsible for conducting regular water quality testing.

These challenges are likely to be compounded, with water assets coming towards the end of their technical life and significant doubts over the ability of the local Councils to undertake asset renewal.

It is worth bearing in mind that water is an essential service, and there is a significant and unacceptable health and well-being and social burden to interrupted supply, water debt and

⁶ [Direction to the South Australian Water Corporation Pursuant to Section 6 of the Public Corporations Act 1993](#), p. 4

⁷ Desert Knowledge CRC (2008) [A response to the National Water initiative from Nepabunna, Yarilena, Scotdesco and Davenport Aboriginal settlements](#), p. 3

⁸ District Council of Ceduna (2013) [Response to the Water Pricing Inquiry Issues Paper](#), p. 3

escalating costs. The inequity has been going on for far too long, and should be addressed as a matter of urgency.

It is firmly within the Government's scope to extend the scope of its "state-wide" pricing policy. The costs of extending CSO provisions to the District Council of Coober Pedy have been estimated at \$1.3 million per annum⁹ and in the scheme of broader subsidies to SA Water, are not large amounts. Similarly, SACOSS understands that the District Council of Ceduna have had ongoing conversations around vesting its water business to SA Water, without any success. SACOSS urges the Government review both situations, with the long-term interests of the community in mind.

Recommendation

Given the above, SACOSS recommends that the State Government:

- Immediately extend and apply Community Service Obligations (CSOs) to retail drinking water entities other than SA Water, such as the District Council of Coober Pedy and the District Council of Ceduna to address inequities in the state-wide pricing of water and commit to investigating the best ownership arrangements for the long-term interests of residents.

⁹ District Council of Coober Pedy (2022) [Community Newsletter: September / October 2022](#), p. 4 - 6

Umoona Community - Water debt and capacity to pay

Background

In 2022-23, SACOSS has continued to work collaboratively with the Aboriginal Lands Trust (ALT) and the Department for Environment and Water (DEW) to progress ongoing water debt issues for the Umoona Community. The work is part of the ALT's project funded under the Consumer Advocacy and Research Fund (CARF) grant program to investigate water management issues impacting Communities on Trust Land.

The Umoona Community have been dealing with the impacts of water debt for nearly 20 years, mainly due to poorly maintained infrastructure, the high cost of water in the Coober Pedy region, and the complexity of water supply arrangements.

To progress these issues, two multi-stakeholder meetings were held on the 8th November 2022 and the 2nd May 2023.

Progress made, but systemic problems remain

SACOSS has welcomed the willingness and goodwill of all parties, including the State Government, SA Water, the SA Housing Authority, and the District Council of Coober Pedy (DCCP) in working towards improved outcomes for the Umoona Community.

There has been considerable progress towards reaching a sustainable position over the past year, including:

- Reduction of the Umoona Community's outstanding water debt from \$317,837 to \$212,623 by recalculating charges at the tier 1 retail tariff, and commitment by the DCCP to continue charging at the lowest retail tariff.
- Payment contributions of \$115,493 and \$36,802 made towards the debt by SA Water and the SA Housing Authority, respectively.
- Commitment from SA Water to relay a new water mains network within the Umoona Community, including new meters at the front of individual properties, as part of its Community Service Obligations. The design and procurement work for the relay project is well advanced, with this expected to be prepped for construction in the 2023-24 financial year budget cycle.
- Commitment from the SA Housing Authority to work closely with SA Water to upgrade infrastructure from the new meters to the house/property as part of the relay project.
- Agreement from the DCCP to pause debt recovery actions for the Umoona Community.

As a result of the above, SACOSS understands that the remaining historical debt currently sits at approximately \$60,329. Further, we understand that the DCCP and the Umoona Community have entered into a payment agreement of \$3,900 a fortnight to address the arrears. In addition to meeting arrears, the Community are having to keep on top of new

charges. Even at the lowest tier, an additional \$14,000 has been accrued for the period between September 2022 and December 2022, and \$11,000 between December 2022 and March 2023.

As part of their 2023-24 Annual Business Plan and Budget, the DCCP are proposing to increase water usage charges by 30 per cent for the 2023-24 financial year¹⁰, as summarised below.

This is in addition to proposed increases to water access charges are proposed to increase by 7.9 per cent and municipal rates by 20 per cent.

Customer	Tariff Level	FY23	FY24
		Tariff Rate	Tariff Rate
Residential	Tier 1	\$ 6.43	\$ 8.36
Residential	Tier 2	\$ 9.00	\$ 11.70
Residential	Tier 3	\$ 10.26	\$ 13.34
Commercial	Tier 1	\$ 9.00	\$ 8.36
Commercial	Tier 2		\$ 11.70
Commercial	Tier 3		\$ 13.34
Wholesale		\$ 9.00	\$ 11.70

With the existing payments already on the upper end of the Community’s capacity to pay, the projected 30 per cent increase in water rates¹¹ are likely to cause a backslide and push the Community further into debt. SACOSS are deeply concerned about the capacity of the Umoona Community to service both the existing historical debt and keep on top of new payments under the proposed increased rates. While we are aware of the challenging financial position that the DCCP are in, the current water tender process for the Coober Pedy township and SA Water’s commitment to relay mains within the Umoona Community provides a ‘line in the sand’ opportunity to ensure that water is delivered equitably and affordably.

It is worth noting that the DCCP’s own external auditors have raised the risk that its electricity and water debtors may not be recoverable, and that provision for doubtful debts may not be sufficient.¹² We therefore restate the views of the Ombudsman in 2021 under recommendation 3:

“I am cognisant of the council’s own financial difficulties and that the council is attempting to recover monies owed to it in relation to electricity and water accounts. I consider that the council’s own debts cannot be attributed to the

¹⁰ District Council of Coober Pedy (2023) [Audit and Risk Committee Meeting June 2023](#), p. 7

¹¹ District Council of Coober Pedy (2023) [Audit and Risk Committee Meeting June 2023](#), p. 7

¹² District Council of Coober Pedy (2023) [Audit and Risk Committee Meeting June 2023](#), p. 5

community members. I am also acutely aware of the extent of the financial hardship suffered by the community members and their capacity to actually meet the arrears/debts that have accumulated.”¹³

Continued lack of consumer protections

As previously highlighted to the Minister, the Umoona Community falls through the gap of consumer protections offered under the *Water Industry Act 2012*, as the water supply arrangements are between the District Council of Coober Pedy (DCCP), the Umoona Community Council and other members of the community are interpreted as bulk water reselling, rather than a water retail service.

Section 4(1) of the *Water Industry Act 2012* provides that a retail service is defined as (emphasis added):

- (a) the sale and supply of water to a person for use (and not for resale **other than in prescribed circumstances** (if any)) where the water is to be conveyed by a reticulated system

There is further provision under section 4(1) subsections (2) and (3) whereby:

- (2) A reference in this Act to designated customers, or designated classes of customers (or customers of a designated class), is a reference to customers, or classes of customers, designated by the Minister by notice in the Gazette.
- (3) The Minister may – (a) in action under subsection (2), make different designations with respect to different sections of this Act;

In the absence of such a designation to recognise the water service arrangement as a retail service, the Umoona Community are currently unable to access a range of consumer protections such as access to Government funded concessions, dispute resolution, and access to Ombudsman services. This has hampered the ability to scaffold support around the Community to ensure they are not trapped in a debt cycle, largely out of their own control.

Recommendation

Given the above, SACOSS makes the following recommendations:

- The State Government writes off the remaining debt for the Umoona Community as a priority (and potentially all water debtors in the District Council of Coober Pedy), either via direct payment or as a write off against the Council’s owing to the Local Government Finance Authority (LGFA) as part of ongoing loan refinancing discussions
- The Minister makes a designation by notice in the Gazette to prescribe the supply of water by the District Council of Coober Pedy to the Umoona Community Council as a

¹³ <https://www.ombudsman.sa.gov.au/publication-documents/investigation-reports/2021/District-Council-of-Coober-Pedy-2018-04687.pdf>, p. 81

retail service in order to explicitly recognise the Umoona Community as a “customer” as per as per section 4(1) of the *Water Industry Act 2012* and open up a range of consumer protections for the Community

SA Water Regulatory Determination 2024-28

Background

As a monopoly provider of an essential service, SA Water are regulated by the Essential Services Commission of South Australia (ESCOSA) to ensure the efficient delivery of retail services. Every four years, SA Water must submit a proposal to ESCOSA outlining the revenue required to deliver its services. ESCOSA then makes a regulatory determination setting the maximum revenue that SA Water can recover from its customers over the regulatory period, as well as the minimum service standards it must deliver for its customers. This process aims to ensure that prices are economically efficient and protects the long-term interests of SA consumers with respect to price, quality and reliability of its services.

The South Australian Government and SA Water then set prices to help recover costs of SA Water's operation within the allowed revenue cap. SA Water have to date released the first two tranches of its Regulatory Business Plan for the four-year period from 1 July 2024 to 30 June 2028 (SAWRD24). The final stage of the Regulatory Business Plan is expected in August 2023. SACOSS, in addition to other consumer and community organisations, have been involved in the process via SA Water's Peak Bodies Engagement Forum (PBEF).¹⁴

Key issues

Economic pressures and impact on cost of living

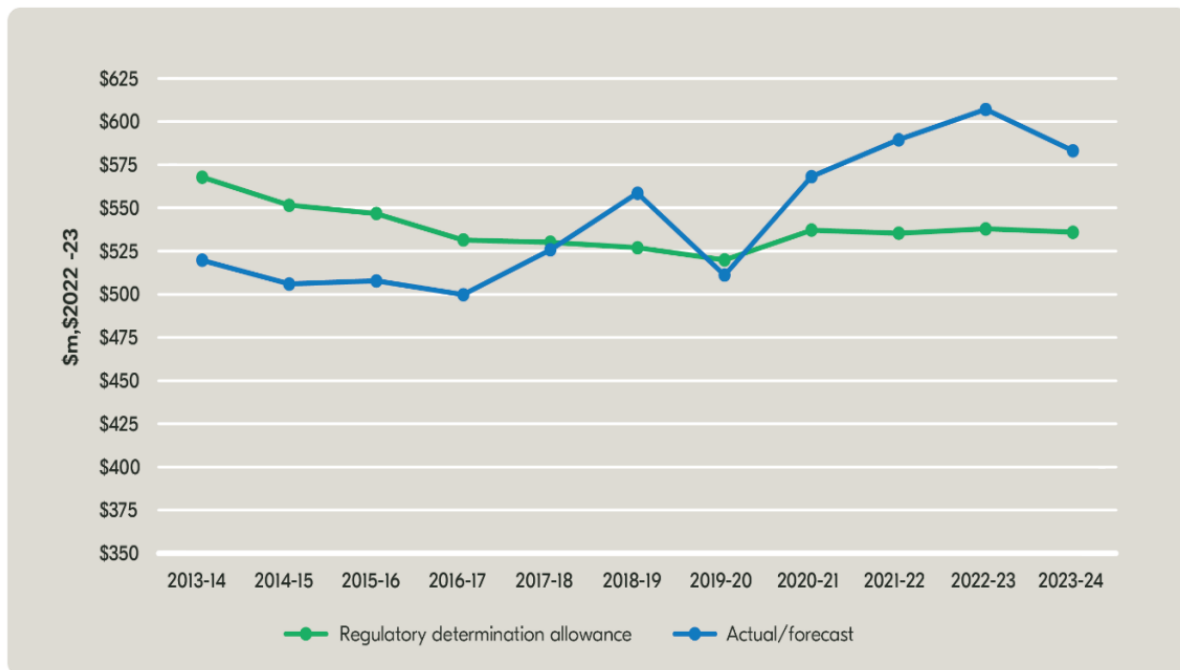
Tranche 2 of SA Water's Regulatory Business Plan outlines a number of economic challenges faced during SA Water's current regulatory period (2020 – 24), including:

- An additional \$5.5 million in unplanned expenditure from March 2020 to end June 2022 as a direct response to, or consequence of COVID-19;
- Cost escalations and supply issues due to external factors such as the Ukraine war and supply chain disruptions (e.g. chemicals, electricity, materials and equipment, and labour); and
- Diversion of resources (estimated at \$19.3 million) and reprioritisation of capital projects due to the 2022-23 River Murray flood response and recovery.

As a result of the above, an estimated \$400 million in capital works are projected to be deferred to future regulatory periods. Additionally, the actual and forecast operating expenditure for water and wastewater is expected to total \$198 million (or 9.4%) higher than the regulatory allowance for 2020 – 2024, as seen in the figure 2 below.

¹⁴ SA Water [Working with industry & community](#)

Figure 2. SA Water Operating Expenditure – Actual/Forecast vs Regulated Allowance



SA Water have so far elected not to pass on price increases to customers due to the current economic challenges. In 2022-23, a decision was made to limit residential water prices to a 3.2 per cent increase, below CPI at the time (5.1 per cent). SA Water notes that [they, presumably in conversation with its owner, the State Government have]:

“not elected at this stage to seek a pass-through from the regulator for the extraordinary costs incurred due to the price impact this would have on customers. Instead these costs have been absorbed in the short-term by finding additional efficiencies, operating deferrals or through reduced dividend. However, SA Water has determined that it is unable to carry the ongoing impacts that emerged during the COVID-19 pandemic into future regulatory periods in the same way.”¹⁵

The Minister suggested that the need to keep cost of living in check was a key consideration in the decision to keep water price increases below inflation.¹⁶ The South Australian Government, as owner, has scope to not only set prices, but to shape the policy context in which entities like SA Water operate. The Government has multiple mechanisms at its disposal to address public good outcomes including via dividend distributions, its State-wide Pricing policy, Community Service Obligation payments, and water pricing structures.

SACOSS would welcome a broader conversation on the separation of government policy-making, regulated revenue and water pricing processes. This includes the role of government policy in balancing broader public good outcomes of government owned corporations (keeping water prices low) with wider economic outcomes (the government’s

¹⁵ SA Water (2023) [Stage 2 of the Regulatory Business Plan](#), p.6

¹⁶ <https://indaily.com.au/news/2022/06/23/sa-caps-water-prices-below-cpi/>

revenue base). Whether these decisions are the most equitable and transparent way of delivering the best outcome for low-income consumers are a matter of judgement.

On the one hand, net contributions from SA Water are consolidated into the Government's general revenue to help pay for critical services (e.g. public housing, health and community services). SACOSS has consistently argued that governments need sufficient and reliable revenue measures to continue funding these services.¹⁷

From 2019-20 to 2020-21, there was a \$164 million reduction in dividend payouts to the government. The reduction in dividend payout from 2020-21 reflects the revaluation of SA Water's regulated asset base for drinking water retail services from \$7.77 billion to \$7.25 billion (December 2012 dollars) as part of the SA Water final regulatory determination for the 2020 – 2024 period. This followed the South Australian Water Pricing Inquiry in 2018-19¹⁸, which found that the opening value of the RAB set for the first regulatory determination in 2013 was "not reasonable" and recommended revising to a value between \$7.1 and \$7.25 billion.

The then Treasurer, in accepting the Inquiry's recommendation in its Pricing Order for the 2020 to 2024 period,¹⁹ implicitly balanced accepting lower contributions to the State bottom line, in favour of delivering lower water bills for SA Water customers. At the time, SACOSS noted that the headline outcome of SA Water 2020 regulatory process was largely driven by two key factors – the re-evaluation of the RAB and favourable market conditions (SA Water's regulated 'rate of return' on its assets fell from 4.53% in 2016-17 to 2.96% in 2020-21). Further, in reducing the RAB by \$520 million, it is worth noting that an additional \$461 million was added to the RAB by way of Ministerial Directions.²⁰

We previously argued that this exposed consumers to price shocks as capital expenditure is rolled forward into future regulatory periods, and the likelihood of interest rates increases leading to higher bills.

We remain firm in the view that expenditure directed by the Minister should not be recovered from water consumers, but rather should be funded from Treasury, where the tax base is progressively recovered. This is even more critical given the significant cost of living and economic pressures underpinning the current SA Water regulatory process for 1 July 2024 to 30 June 2028.

Recommendation

SACOSS recommends that the State Government:

¹⁷ SACOSS (2023) [SACOSS 2023-24 State Budget Submission](#), p. 21-22

¹⁸ Government of South Australis (2019) [South Australian Water Pricing Inquiry](#)

¹⁹ [Pricing Order under section 35 of the Water Industry Act 2012 for the regulatory period 1 July 2020 - 30 June 2024](#)

²⁰https://www.sacoss.org.au/sites/default/files/public/documents/5.2%20SA%20Water_Ministerial%20Directions_Nov21.pdf ; <https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200611-Water-DirectionsUnderSection6PublicCorporationsAct1993-GazetteNotice.pdf.aspx?Embed=Y>

- Legislate for, or commit to, all Ministerial Directions for SA Water expenditure to be either funded directly from Treasury, or at least included in the regulatory review of SA Water expenditure by the Essential Services Commission of South Australia for prudence and efficiency.

Amendments to the Residential Tenancies Act – Water Billing and Charges

Background

In late 2022, the Consumer and Business Services (CBS) issued a discussion paper canvassing views on potential reforms to the *Residential Tenancies Act 1995* (the RTA).²¹ Water billing was among the areas of reform, with comment sought on whether:

- The RTA should require landlords to provide tenants with a copy of any water bill the tenant is required to pay within 30 days of receiving the water bill;
- The responsibility for the payment of the water supply fee be paid by the landlord, as is the standard practice in other jurisdictions;
- Landlords should have a full or partial obligation to pay the excess water charges resulting from a reported water leak that remains unrepaired, noting this would require the RTA to define how excess water charges are identified.

Missed opportunities

SACOSS understands that priority areas for reform have since been identified, and that a Bill is being drafted for further consultation. While we welcome a number of the proposed reforms, such as the ending of no cause evictions, we are disappointed that the opportunity has not been taken to align the payment of the water supply charge with standard practice in other jurisdictions. SACOSS believes that these are relatively scale-scale measures that would assist in addressing rental affordability.

Supply Charge

Amendments to the RTA in 2014 saw the cost of water supply shifted from landlords to tenants. As noted in the discussion paper, South Australia is the only jurisdiction in Australia where tenants are liable to pay for the water supply charge (unless otherwise agreed with the landlord).

Currently in South Australia, the landlord and tenant can reach an agreement regarding responsibility for water supply and usage. This must be specifically included as terms in the lease agreement. In the current rental market, the likelihood of tenants being able to negotiate equitable arrangements for rates and charges of water supply is unrealistic and unfair. The current default position reinforces this power imbalance.

Due to the 2014 amendments, there are now different arrangements where there is no specific agreement in place:

- **Lease agreements from 1 March 2014** – The tenant is responsible for paying all water supply and usage charges for separately metered properties

²¹ Consumer and Business Services (2023) [Review of the Residential Tenancies Act – Discussion Paper](#)

- **Lease agreements before 1 March 2014** – The tenant is responsible for water use over 136 kilolitres per year

This creates inconsistencies in the system, with SA Water research in 2019 indicating that 44 per cent of tenants were being on-charged for water supply, 67 per cent were charged for water usage, and 12 per cent reporting that they were being charged for sewerage. The lack of consistency gives rise to potential exploitation, noting that Section 73(1) of the RTA states that the landlord must bear all statutory charges imposed in respect of the premises. Sewerage costs are considered a statutory charge, being a rate or charge imposed under the *Water Industry Act 2012*. This represents a gap between the intent of the RTA, and what happens in practice.

Recommendation

Therefore, SACOSS reiterates that the RTA is amended to make it clear that 73(1) is inclusive of sewerage costs and supply charges. That:

- section 73(2)(b) of the RTA is amended to revert the default position to landlords being responsible for the water supply charge for separately metered properties, in the absence of an agreement, and
- section 73(1) is amended to explicitly state that statutory charges include both sewerage and water supply charges to avoid any possible misinterpretation of the Act.

Closing the Water Gap for Communities

Background

In February 2023, the Federal Government announced \$150 million over four years to fund water infrastructure projects for First Nations communities in regional and remote areas, under the National Water Grid Fund (NWGF).²² The funding forms part of the Government's commitment under target 9b of the 2023 Closing the Gap Implementation Plan.²³

Issues to resolve

Funding shortfalls and co-contributions

While SACOSS welcomes the commitment by the Federal Government as a starting point to closing the safe and affordable drinking water gap, it is estimated that at least \$2.2 billion (not including operational and maintenance costs) is required to ensure First Nations communities in SA, WA, NT and Queensland receive drinking water meeting the Australian Drinking Water Guidelines.²⁴

We note that access to the fund is contingent on respective State and Territory Governments coming on board as delivery partners, with expectations for co-contributions up to 50 per cent. Funding also does not extend to ongoing operational and maintenance support, which is a concern, particularly for self-supplied communities in South Australia, and those not connected to the SA Water network. As observed in the cases of Umoona and Yarilena, operational subsidies are key to support services which would otherwise be unviable. This places an unfair cost burden on people, with significant health and welfare implications. SACOSS would expect that budget provisions are made available by the State Government for project co-funding and ongoing operations and maintenance.

Basic level of service key to guiding investments

In May 2021, SACOSS launched the 'Falling through the gaps' report which cast a light on the issue of access to safe, secure, and reliable drinking water services in regional and remote South Australia, and called for the setting of a basic level of service.²⁵ A follow-up report, 'Basic Level of Service: Settings for long-term water security in remote South Australia',²⁶ was released to inform approaches and considerations for setting a basic level of service for safe and reliable drinking water.

²² National Water Grid Authority (2023) [Closing the Gap: \\$150 million towards First Nations water security](#)

²³ Commonwealth of Australia (2023) [Commonwealth Closing the Gap Implementation Plan 2023](#), p. 81

²⁴ Water Services Association of Australia (WSAA) (2023) [Closing the Water for People and Communities Gap: A review on the management of drinking water supplies in Indigenous remote communities around Australia](#), p. 50

²⁵ SACOSS (2021) [Falling through the gaps: A practical approach to improving drinking water services for regional and remote communities in South Australia](#)

²⁶ SACOSS (2022) [Basic Level of Service: Settings for long-term water security in remote South Australia](#)

As part of the State Government's 2022 Implementation Plan for the National Agreement on Closing the Gap, there has been a commitment to develop **a standard for a basic level of safe and reliable drinking water** for self-supplied remote communities by 2022.²⁷

The commitment followed the Productivity Commission recommendation that State and Territory Governments should commit to defining and ensuring access to a basic level of water service for all Australians, including safe and reliable drinking water.²⁸

SACOSS understands that diversion of resources to the South Australian Riverland floods has delayed this work from progressing in 2022. Given the need to accelerate action towards closing the water gap, and the opportunity presented by the National Water Grid Fund, it is imperative that this work is progressed to help guide investments and prioritise projects.

In parallel, there is an opportunity to build on the Department for Environment and Water (DEW)'s water security audit and risk assessment of self-supplied remote communities.²⁹ SACOSS' *Falling through the gaps*' report originally called for a much broader state-wide water security stocktake of current arrangements for regional and remote communities across the state.³⁰ Given that a risk assessment framework has already been developed and tested, this project could easily be extended to remote community supplies for SA Water and other third party suppliers. This would give South Australia a distinct advantage in bidding for NWGF project over other States and Territories, who are not as advanced in establishing a whole of jurisdiction baseline to underpin prioritisation and long-term decision making.

Recommendation

SACOSS recommends that the State Government:

- Prioritise the development of a basic level of service to inform water security improvements in remote South Australia;
- Extend the self-supplied water security assessment project to the remaining remote communities in the State, including those serviced by SA Water, the District Council of Coober Pedy and the District Council of Ceduna

²⁷ Government of South Australia (2021) [South Australia's Implementation Plan for the National Agreement on Closing the Gap](#), p. 71

²⁸ Productivity Commission (2021) [National Water Reform 2020](#), p. 15

²⁹ Department for Environment and Water (2022) [Water Security Statement 2022](#), p. 34

³⁰ SACOSS (2021) [Falling through the gaps: A practical approach to improving drinking water services for regional and remote communities in South Australia](#), p. 11