

## B. CONTEXT FOR THE INVESTIGATION

From 1 July 2012, the Regulator is responsible for the regulation of prices, terms and conditions for regulated water and sewerage services in Tasmania. TasWater is currently the only provider of these services in Tasmania.

The Regulator determines prices for regulated water and sewerage services for a regulatory period in accordance with the pricing principles set out in the Industry Act and Pricing Regulations. The prices or the method for determining the prices is established via a price determination investigation conducted by the Regulator and set out in the resultant price determination.

The Regulator sets the regulatory period following a public consultation process. Since 2012, the regulatory period has been three years, commencing on 1 July. However, due to the COVID-19 pandemic, the third regulatory period was extended by one year to four years ie the period from 1 July 2018 to 30 June 2022.

The fourth regulatory period is for the four years from 1 July 2022 to 30 June 2026.

### TasWater

TasWater owns, controls and operates water supply and sewerage systems in Tasmania. TasWater manages all aspects of the water supply chain from dams and reservoirs to customer property connections and from customer sewer connections to wastewater treatment and disposal. TasWater is subject to various public health, environmental and customer service regulatory requirements.

TasWater is incorporated as a proprietary company limited by shares and owned by Tasmania's 29 local government councils and the State Government. The councils, as shareholders, receive dividends. The State Government does not currently receive dividends.

TasWater is controlled by an independent board of management consisting of a chairperson and six directors. The board reports to the Owners' Representatives who, in turn, report to the owners.

### Tasmanian Government ownership

On 1 May 2018, a Memorandum of Understanding was made between the State Government, TasWater and the Chief Representative of the Owners' Representatives Group. The key principles and objectives of the MoU are:

- the State Government to become a part owner of TasWater, involving revised governance arrangements, to enable Local Government and the State Government to work together to improve water and sewerage outcomes for the betterment of Tasmania;
- TasWater will accelerate its water and sewerage infrastructure investment program;
- Future regulated water and sewerage prices in Tasmania will be capped at 3.5 per cent until 30 June 2025; and
- TasWater continues to be a sustainable and financially viable corporation that delivers water and sewerage services in Tasmania effectively and efficiently.

As part of the MoU, the Tasmanian Government will contribute \$200 million over ten years to acquire a 10 per cent stake in TasWater. The MoU emphasises the progress of projects of significance to the

State, including the decommissioning of the Macquarie Point sewage treatment plant and the separation of the Launceston combined sewerage/stormwater system.

## Price Determination Investigation and the Price Determination

The purpose of the price determination investigation is to gather information to enable the Regulator to make a price determination in respect of regulated water and sewerage services provided by TasWater.

The Price Determination specifies the prices that TasWater can charge for the supply of regulated water and sewerage services for each financial year of the fourth regulatory period, the 2022-23, 2023-24, 2024-25 and 2025-26 financial years.

The Price Determination is based on information provided by TasWater in its revised proposed PSP, which was submitted to the Regulator and published on 13 December 2021, as well as information gathered by the Regulator as part of the price determination investigation.

Prices may be adjusted during the regulatory period only if there has been a material change in TasWater's costs due to new or amended legislative requirements or a tax event (as defined in the Pricing Regulations).

Prices will not be reviewed annually. Rather, TasWater will be responsible for proposing any adjustments in line with the terms of the Price Determination and the requirements of the Pricing Regulations as set out above.

All other variations between forecasts and actual outcomes over the fourth regulatory period will, therefore, need to be managed by TasWater, including any differences between forecast and actual CPI.

The next (fifth) price determination investigation will review any differences between forecast and actual outcomes that occurred during the fourth regulatory period and recommend appropriate actions to account for those variations.

The regulatory framework supports a "propose and approve" model, with TasWater best placed to develop models to support pricing proposals and assess customer impacts, as it holds detailed customer and usage information.

TasWater's proposed PSP is available on the Regulator's website: [www.economicregulator.tas.gov.au](http://www.economicregulator.tas.gov.au)

## Scope of the investigation

The price determination applies only to prices charged for regulated services (services or activities requiring a licence under the Industry Act). In general, regulated services include reticulated water and sewerage services (including trade waste); activities that support those services (including the treatment of water and wastewater); and any ancillary activities where a miscellaneous fee is charged.

The Industry Act exempts some activities from economic regulation. In addition, Section 31 of the Industry Act allows the Minister to decide if an activity is to be regulated or unregulated. In terms of the services provided by the regulated entities, the Industry Act, and Clause 3 of the *Water and Sewerage Industry Declaration Order 2011*, specify the provision of the following services to be unregulated services:

- water for irrigation;
- reuse water; and

- stormwater services provided via a combined sewerage/stormwater system.

The Minister has also exempted owners or operators of water or sewerage infrastructure used to provide a water or a sewerage service in connection with a number of exempt activities from the requirement to be licensed. This effectively means that TasWater is currently the only entity required to be licensed.

### Assessment of proposed Price and Service Plan

TasWater was required to prepare its proposed PSP in accordance with the requirements set out in the Regulator's PSP Guideline, including consulting with customers and other stakeholders

The Regulator assessed the information contained within TasWater's proposed PSP, along with additional or revised information provided by TasWater including its Financial Model and Demand Forecast Model. In particular, the Regulator:

- reviewed TasWater's performance during the current regulatory period including comparing forecast opex, capex, demand and service standards to actual outcomes;
- reviewed and confirmed the regulated services TasWater proposed to deliver during the next regulatory period and the service standards relating to the delivery of those services;
- assessed efficient and prudent forecast opex and capex for the fourth regulatory period;
- assessed if forecast demand and the number of connections are reasonable;
- assessed whether the other industry regulators requirements are met, or satisfactory progress is made towards meeting their respective requirements;
- reviewed and determined the parameters used to calculate building blocks and the notional allowable revenue (NAR);
- determined prices for the next regulatory period by applying forecasts for demand and number of connections to the NAR;
- determined whether TasWater's proposed prices satisfy the pricing principles in the Industry Act and the Pricing Regulations and are no greater than the prices determined by the Regulator;
- ensured TasWater's policies meet statutory requirements; and
- ensured regulated services meet requirements in the Customer Service Standards Regulations.

### Review of TasWater's contract and policies

The Regulator reviewed TasWater's draft customer contract and draft policy documents to ensure compliance with the relevant regulatory instruments. This included an assessment of TasWater's policy development process including its consultation with customers on any proposed changes. A number of inconsistencies and errors were subsequently addressed in revisions of the documents made by the Regulator in consultation with TasWater.

### Regulatory compliance

TasWater is required to comply with a set of statutory obligations that relate to water quality, environmental protection, principally related to TasWater's sewerage system, dam safety, pricing and customer service. Enforcing compliance with these requirements is the responsibility of the Tasmanian water and sewerage industry regulators, which, excluding the Regulator, are the:

- Director of Public Health - responsible for regulating water quality and fluoridation;
- Director, Environment Protection Authority (EPA) - responsible for regulating wastewater treatment plants; and
- Department of Natural Resources and Environment Tasmania (NRET) - responsible for water licence allocations and dam safety.

Based on advice from the industry regulators and CCGUS' findings, the Regulator has concluded that TasWater's long term strategic plan, LTSP 2021 (for the period 2021 to 2030) appears to be generally in line with the industry regulators' expectations for regulatory compliance improvement and the arrangements they have in place with TasWater to work towards achieving full compliance.

The industry regulators have also recognised the progress that has already been made by TasWater towards achieving improved compliance with its regulatory obligations.

## Consultation

### Regulator's consultation with customers and stakeholders

The Regulator's *Consultation Policy and Procedures*<sup>118</sup> sets out the principles it applies in carrying out consultation activities. These principles include transparency, relevance and accessibility, among others.

In line with these objectives, the Regulator's consultation process has been divided into three stages: information, consultation and decision-making.

The information stage included release of a public notice of the investigation and publication of TasWater's proposed PSP and general information on the investigation and price determination process on the Regulator's website. The Regulator also engaged with its customer consultative committee and other industry regulators to keep them informed and highlight key issues that are central to the investigation. During this phase, the Regulator also requires TasWater to provide information to justify the proposals set out in its proposed PSP.

The consultation stage, of which this Draft Report is a key element, includes publication of fact sheets, online public forums, industry regulator forums and seeking advice from third party consultants. This approach aims to maximise input while recognising the different needs, capabilities and interests of customers and stakeholder groups.

Four online public forums were held in early December 2021 prior to the release of this Draft Report. These forums attracted a small group of engaged stakeholders and customers on key topics including sewerage charging, trade waste charging, developer charges and customer service standards. Further online public forums will follow the release of the Draft Report containing the Regulator's intended decisions. The Regulator will aim to expand on the number of stakeholders and customers participating in the forums and enrol members of its customer consultative committee to encourage submissions representative of the views of a broader cross-section of the community.

The decision-making stage will commence once the consultation period on the Draft Report has closed and TasWater, stakeholders and customers have made their submissions. Once the Regulator has considered all feedback it will prepare and publish its Final Report and price determination.

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<sup>118</sup> Regulator's guideline, *Consultation Policy and Procedures of the Tasmanian Economic Regulator*, February 2021.

## Regulator's consultation with industry regulators

The Regulator consulted with other industry regulators to seek their views on whether TasWater's proposals align with the compliance improvement initiatives and expectations of the relevant industry regulator for the fourth regulatory period.

## TasWater's consultation and engagement with customers

TasWater was required to engage with its customers and stakeholders to establish the outcomes it will commit to deliver to customers in return for the prices they pay over the next regulatory period, and how its proposed prices and services reflect customer feedback.

TasWater was also required to describe how the outcomes from its consultation and engagement activities informed the development of its proposed PSP including its proposed customer contract and policies, ie the extent to which feedback from consultation reflected in its proposals.<sup>119</sup>

TasWater used various methods to engage with customers and stakeholders, including the distribution of written material and online advertisements, focus groups, surveys and stakeholder interviews and webinars. TasWater engaged external consultants (Insync, Marsden Jacobs & Associates (MJA) and Jacobs Australia) to conduct some of its engagement activities.

Residential customers were primarily engaged through surveys and focus groups on specific areas of interest. A total of 400 customers (seven business and 393 residential) participated in a telephone survey on customer service standards.<sup>120</sup>

Commercial trade waste customers were engaged through focus groups and online surveys while peak bodies and other stakeholders were interviewed directly or participated in online surveys. Two online webinars were held for stakeholders regarding TasWater's proposals with respect to developer charges.

Table 2.1 of TasWater's proposed PSP summarises its engagement activities detailing the method of consultation, customer segment and number of customers/stakeholders it engaged with. The questions asked of customers and stakeholders during TasWater's consultation and engagement activities are set out in Attachment 1.

## TasWater's consultation with industry regulators

TasWater's key regulatory compliance obligations require it to operate and manage the water and sewerage system in a way that meets industry standards for safe drinking water, environmental impact and dam safety. TasWater was required to detail its dealings with industry regulators in preparing its proposed PSP.

## Further consultation

As set out above in "How to make a submission", the Regulator invites written comments (preferably by email) on this Draft Report and the proposed Price Determination. Submissions will be considered prior to the Report and the Price Determination being finalised and must be received by the close of business on 28 March 2022.

<sup>119</sup> Tasmanian Economic Regulator, *2022 Price Determination Investigation Price and Service Plan Guideline*, April 2021.

<sup>120</sup> Based on approximately 208 219 water connections for 2018-19, Insync considered that a survey of this many customers would result in a 95 per cent confidence level and a five per cent margin of error ie there was a high likelihood that the survey results reflected the actual views of all customers (TasWater's proposed PSP, page 21).

## Key steps and timelines

The following table sets out the key steps and timelines for the investigation.

Action	Due dates (as revised)
Draft Report and proposed Price Determination released for public consultation	28 February 2022
Consultation on Draft Report and proposed Price Determination closes	28 March 2022
Final Report published and final Price Determination published and gazetted	10 May 2022
TasWater to submit revised 2022-26 PSP reflecting the requirements set out in the Price Determination and Final Report	7 June 2022
Regulator approves Price and Service Plan	28 June 2022
Next regulatory period commences	1 July 2022