

## 4 CUSTOMER SERVICE STANDARDS, CUSTOMER CONTRACT AND POLICIES

### 4.1 Regulation of customer service standards

The Economic Regulator is responsible for regulating standards and conditions of supply of regulated water and sewerage services. This does not, however, extend to water quality standards, which are the responsibility of the Director of Public Health, or waste water standards which are the responsibility of the EPA.

Water and sewerage service standards are regulated through the specification of minimum service standard targets within the Customer Service Code and the determination of transitional service standards as part of the Price Determination processes.

The Economic Regulator's current approach to regulating water and sewerage services may be summarised as:

- establishing a Water and Sewerage Industry Customer Service Code;
- establishing minimum service standard targets within the Customer Service Code;
- requiring regulated water and sewerage entities to develop customer charters;
- requiring regulated water and sewerage entities to develop transitional customer service standard proposals as part of Price and Service Plans to move towards the minimum service standard targets within the Customer Service Code; and
- establishing a performance reporting framework that, amongst other things, monitors performance against approved transitional service standards and minimum service standard targets.

### 4.2 Minimum customer service standards - background

Minimum service standards are usually developed following consultation with customers on current levels of service and price implications of alternative levels of service provision. However, during the early stages of the water and sewerage industry reform process, this information was largely unknown. That is, the absence of customer service regulation prior to the commencement of reforms for the water and sewerage sector resulted in a general lack of data being collected in relation to customer service. Therefore, the Economic Regulator chose to apply an alternative approach within the Customer Service Code when it was introduced in July 2010.

The Customer Service Code was initially developed to include a number of minimum service standards that the then regional water and sewerage entities used as targets for transitioning levels of service provision over time. The Economic Regulator determined these standards using a benchmarking approach based on existing service standards within Victoria. The Customer Service Code then stipulated that a regulated entity is to achieve the minimum service standards within the second pricing period.

Transitional service standards were subsequently proposed by each of the three regional water and sewerage entities and approved as part of the first Price Determination (effective from 1 July 2012). Progress of the entities against the agreed performance transition paths was then monitored and reported upon by the Economic Regulator as part of the performance monitoring and reporting framework.

The Customer Service Code provided that the Economic Regulator would undertake a review of the minimum service standards by 30 June 2013 to take into account cost and service level data which came to light during the first regulatory period.

Accordingly, a review was undertaken with the objective of introducing differential service standards in the second regulatory period to reflect the different costs of delivering the regulated services to different geographical areas.

However, following the amalgamation, TasWater was unable to propose service standards, nor outline any associated transition path, on a differential basis citing issues with data availability and concerns over inadvertent operational inefficiencies which may arise through applying differential service standards. Rather, TasWater proposed state-wide minimum service standards as well as annual transition targets to move to the service standard targets during the second regulatory period.

Following continued liaison between TasWater and the Economic Regulator, it was resolved that 'actual' minimum standards would be set for some of the service standard indicators for the second regulatory period. That is, the performance of TasWater against the indicators in question would (from 1 July 2015) no longer be averaged out across TasWater's system state-wide. Rather, the service standard proposed for those indicators is now the absolute minimum standard which TasWater has to meet, in all instances, and in all of its interactions with customers state-wide, with respect to those indicators.

'Actual' minimum standards were set with respect to 'response time' and 'duration related' indicators and service standards relevant to 'water supply interruptions' and 'sewer breaks and chokes'.

During the 2015 Water and Sewerage Price Determination Investigation it was ultimately determined that, in accordance with the customer service standards transition path, response time and duration related indicators would only be achieved 'X' per cent of the time during the second regulatory period (specifically 80 or 90 per cent of the time).

As part of its 2015 investigation the Economic Regulator also provided an undertaking that it would continue to work with TasWater towards the development of more relevant and representative customer service standards for the third regulatory period.

To this end, a Working Group was established, with representation from the Office of the Tasmanian Economic Regulator (OTTER) and TasWater, to develop a framework for minimum customer service standards. The Working Group met monthly, commencing June 2016 and concluding in November 2016.

A proposed minimum service standards framework was agreed to by the Working Group. The framework only set out the proposed methods for measuring performance, rather than the actual value of each minimum service standard. It was resolved that the agreed framework would feed into the development of TasWater's proposed Price and Service Plan for the third regulatory period, which was to include actual proposed minimum service standard values.

### **4.3 PSP Guideline requirements for service standards arrangements**

The Economic Regulator published its *Tasmanian Water and Sewerage Industry 2018 Price Determination Investigation Price and Service Plan Guideline* (the PSP Guideline) in June 2016 to assist TasWater in preparing its proposed Price and Service Plan.

The PSP Guideline provides high level direction with respect to TasWater's development of appropriate minimum service standard arrangements to apply from 1 July 2018. This included service standard obligations provided for in the Customer Service Code.

In accordance with the provisions of the PSP Guideline, TasWater was required to specify, in its proposed Price and Service Plan, the actual minimum service standards and targets that will apply in the third regulatory period, including any transitional performance levels to achieve identified performance targets. The proposed standards were to align with the agreed service standard framework developed by the TasWater/OTTER Working Group, unless TasWater was able to justify in its proposed Price and Service Plan why it had departed from this agreed framework.

TasWater was to also demonstrate that customers had been consulted on their service expectations and that their views had been taken into account. Furthermore, that customer service standards and conditions should reflect customers' priorities and expectations in relation to service delivery and should underpin TasWater's expenditure plans.

## 4.4 Customer Service Standards for the third regulatory period

### 4.4.1 Working Group outcomes for consideration

During deliberations of the Working Group, OTTER representatives were advised of TasWater's current inability to collect data and report on repeat service interruptions.

The two minimum service standards to which this related to were:

- number of customers receiving more than 5 unplanned water supply interruptions in a financial year (number); and
- customer receiving more than 3 sewerage service interruptions per year.

Under the Economic Regulator's *Water and Sewerage Industry Performance and Information Reporting Guideline*, TasWater has had an obligation to report on these aforementioned standards (as part of its annual performance report every year) since the entity commenced operations on 1 July 2013. In this way, not reporting annually on the aforementioned repeat service interruption measures had resulted in TasWater being non-compliant with the Performance and Information Reporting Guideline and TasWater's licence conditions (which states TasWater must comply with all applicable guidelines).

It was noted that significant investment would be required by TasWater to record and report repeat interruptions for both water and sewerage services going forward. The Working Group subsequently resolved that a pilot would be required to understand and confirm the full implementation costs and associated benefits of the investment. TasWater provided formal advice to the Economic Regulator that it would pilot measuring of repeat service interruptions in the third regulatory period.

OTTER representatives expressed to TasWater the Economic Regulator's interest in the outcomes of the pilot, noting that should it show merit in measuring repeat interruptions of this nature there would be an expectation that TasWater have such measures included in its Price and Service Plan for the fourth regulatory period. Alternatively, if the pilot demonstrates very few repeated service interruptions, then the value of recording and reporting the data would be reconsidered.

In light of the pilot plans, and Economic Regulator's assessment of TasWater's Performance and Information Reporting Guideline breach against the relevant evaluation criteria of outlined in the Economic Regulator's *Compliance Enforcement Policy*, the Economic Regulator agreed not to pursue any formal compliance enforcement action against TasWater at that time. TasWater was, however, advised that the decision of the Economic Regulator in that regard was conditional on TasWater fulfilling its pilot obligations as assured.

Upon consideration of the TasWater's proposed Price and Service Plan submission, the Economic Regulator is satisfied that TasWater has appropriately documented its pilot plans for the third regulatory period. TasWater has noted the significant investment required for the entity to record and report repeat interruptions for both water and sewerage services, and its proposal for a pilot to understand and confirm the full implementation costs and associated benefits of the investment to collect data and report on these metrics.

TasWater has provided assurance that should the pilot show merit in measuring repeat interruptions of this nature, it will engage with customers on introducing these standards and appropriate targets in the fourth regulatory period.

#### **4.4.2 TasWater's engagement with customers in its development of service standards**

Service standards and price and service trade-offs formed a key part of TasWater's customer engagement program. TasWater asked customers and stakeholders about:

- their views on the relative priority of achieving compliance standards, maintaining networks to ensure reliable services and having affordable bills;
- what a reasonable annual price increase would be in the third regulatory period;
- whether TasWater's response times to attend bursts and leaks, restore water supply interruptions, attend sewage spills, contain sewage spills or answer calls to TasWater's contact centre should be changed; and
- whether or not TasWater should introduce different service standards in urban and regional areas of Tasmania.

A summary of feedback provided by customers during focus groups, in depth interviews, telephone surveys and submissions to TasWater's Consultation Issues Paper on customer service standards is provided below:

- The majority of customers agreed that TasWater's highest priorities should be to improve compliance outcomes in the third regulatory period (provide safe drinking water, ensure dam safety and meet environmental standards).
- While 41 per cent of customers supported annual price increases of 5 per cent in the third regulatory period (compared to 16 per cent of customers in the second regulatory period), it is clear that customers continued to be conscious of price. Almost no customers wanted annual price increases greater than 5 per cent in the third regulatory period.
- In general, customers preferred targets to remain the same for service standards where TasWater have the greatest opportunity to make savings by relaxing them (including response times for bursts/leaks and for sewage spills).
- The average respondent in TasWater's telephone survey was prepared to wait about three minutes for their call to TasWater's contact centre to be answered.
- The majority of customers did not express a desire to introduce differential service standards.

### 4.4.3 Proposed service standards for the third regulatory period

Given the large investment required to improve water quality, dam safety and environmental outcomes (the priority of TasWater's customers), TasWater proposed not to put further upward pressure on expenditure and prices by improving service standards in the third regulatory period.

Instead, TasWater's proposal is to maintain current targets for most service standards and to focus on meeting, rather than exceeding, these targets to avoid unnecessary expenditure.

To maintain service reliability in a cost-effective way, TasWater noted it would make use of its improving data, information systems and processes to better allocate asset management investment and operational resources in the third regulatory period. TasWater maintained that this would help to offset expenditure that may otherwise have been required in TasWater's networks to meet service standards while TasWater focuses on achieving compliance outcomes as a first priority.

One area where TasWater customers indicated possible interest in a reduction in service standards was with respect to contact centre response time. TasWater's current target (for the second regulatory period) is to answer 85 per cent of calls within 30 seconds. Respondents to TasWater's telephone survey indicated that they were prepared to wait about three minutes on average for their call to TasWater's contact centre to be answered. Nonetheless, TasWater has indicated its intention to retain its current target of 85 per cent for the third regulatory period while it investigates possible changes, and impacts on customers, ahead of the fourth regulatory period.

For the fourth regulatory period TasWater intends to engage customers with a detailed proposal that reflects a review of its customer service processes, resource allocation to the activities that are important to customers and more specific cost and service data for the contact centre. TasWater maintained that the proposal will provide customers with a clear picture of cost efficiency, issue resolution and contact centre response time.

TasWater has also initiated a Productivity Improvement Program that, in part, is investigating ways to provide its services (and meet its service standard targets) more efficiently in the third regulatory period than the entity has in the past.

A summary of TasWater's proposed service standards and targets for the third regulatory period is shown in Table 4.1 overleaf.

A column has been included into Table 4.1 to provide a comparison of targets (where applicable) for each of the service standards for the 2017-18 year of the current regulatory period.

As can be seen, for the majority of service standards TasWater is proposing that targets remain unchanged for the third regulatory period. Only three service standards show out-year targets which are worse (showing poorer targets for performance) than the targets set for the same measures in 2017-18. These are in respect to "Percentage of non-revenue water (of total sourced potable water)", "Percentage of unplanned water supply interruptions restored within 5 hours" and "Total water and sewerage complaints (no. per 1,000 properties)".

Table 4.1: TasWater's proposed service standards for the third regulatory period

Service standard	2017-18 target	Third regulatory period		
		2018-19 target	2019-20 target	2020-21 target
Water main breaks (no. per 100km of water main)	No target	35	35	35
Percentage of response times within 60 minutes to attend Priority 1 bursts and leaks <sup>1</sup>	90%	90%	90%	90%
Percentage of response times within 180 minutes (3 hours) to attend Priority 2 bursts and leaks <sup>1</sup>	90%	90%	90%	90%
Percentage of response times within 4320 minutes (3 days) to attend Priority 3 bursts and leaks <sup>1</sup>	90%	90%	90%	90%
Incidence of unplanned interruptions – water (no. per 1,000 properties)	No target	170	170	170
Incidence of planned interruptions – water (no. per 1,000 properties)	No target	20	20	20
Average duration of an unplanned interruption – water (minutes)	180	180	180	180
Average duration of a planned interruption – water (minutes)	180	180	180	180
Percentage of unplanned water supply interruptions restored within 5 hours <sup>1</sup>	98%	90%	90%	90%
Percentage of planned water supply interruptions restored within 5 hours <sup>1</sup>	90%	90%	90%	90%
Percentage of non-revenue water (of total sourced potable water) (unaccounted for water)	10%	28%	28%	28%
Sewerage mains breaks and chokes (no. per 100km of sewer main)	93	65	65	65
Percentage of response times within 60 minutes to attend sewer spills, breaks and chokes <sup>1</sup>	90%	80%	85%	90%
Percentage of sewage spills contained within 5 hours <sup>1</sup>	99%	99%	99%	99%
Total water and sewerage complaints (no. per 1,000 properties)	9	11	10	9
Water and sewerage complaints to the Ombudsman (no. per 1,000 properties)	0.5	0.5	0.5	0.5
Percentage of calls answered by an operator within 30 seconds	85%	85%	85%	85%

1. Denotes a 'minimum service standard'. Service standards associated with service response and resolution times are proposed as minimum service standards and should be interpreted as (for example) "TasWater will arrive onsite to a Priority 1 water supply burst within 60 minutes" rather than an average standard which would be "On average TasWater will arrive onsite to Priority 1 water supply bursts within 60 minutes".

Upon consideration, it is evident that the proposed revised targets are more closely reflective of TasWater’s performance outcomes for these measures in the most recent two financial years for which performance data is available, a summary of which is provided in Table 4.2 below.

**Table 4.2: Summary of actual performance and out-year targets on select measures**

Service standard	2014-15 Actual	2015-16 Actual	2017-18 target	2018-19 target	2019-20 target	2020-21 target
Percentage of non-revenue water (of total sourced potable water)	22%	33%	10%	28%	28%	28%
Percentage of unplanned water supply interruptions restored within 5 hours	97%	94%	98%	90%	90%	90%
Total water and sewerage complaints (no. per 1,000 properties)	11.59	14.28	9	11	10	9

Having assessed the proposed targets for the aforementioned service standards, the Economic Regulator is satisfied with the performance goals set by TasWater with respect to “Percentage of non-revenue water (of total sourced potable water)” and “Total water and sewerage complaints (no. per 1,000 properties)”, as the targets are more closely aligned to the entity’s most recent actual performance results (or the average thereof).

The Economic Regulator does, however, question the setting of out-year targets for “Percentage of unplanned water supply interruptions restored within 5 hours” which are lower than the actual performance outcome by TasWater for this service standard in both 2014-15 and 2015-16. The Economic Regulator is of the view that TasWater should be setting a target which is, at the very least, equal to the poorer performance outcome of 94 per cent in 2015-16.

After assessing TasWater’s customer service standards proposal, and noting the preceding discussion with respect to this matter, the Economic Regulator has concluded that TasWater’s proposed customer service standards and targets (with the exception of targets noted for “Percentage of unplanned water supply interruptions restored within 5 hours”), as outlined in Table 4.1:

- are consistent with the service standards framework as agreed to by the joint TasWater/OTTER Working Group;
- are consistent with available information on TasWater’s actual performance; and
- reflect the impact of TasWater’s proposed expenditure programs.

The Economic Regulator is also satisfied that TasWater has sufficiently engaged with customers on their preferences for service standard targets, priorities and price and service trade-offs and have proposed service standards based on customer feedback.

*The Economic Regulator intends to:*

- *approve the proposed minimum service standards, as outlined in Table 4.1, for application by TasWater for each year of the third regulatory period; and*
- *approve the service standard targets for each minimum service standard, as outlined in Table 4.1, subject to the amendment of out-year targets for the “Percentage of unplanned water supply interruptions restored within 5 hours” metric from 90 per cent to 94 per cent; and*
- *implement the newly approved minimum service standards by changing the Customer Service Code (for a 1 July 2018 commencement).*

## 4.5 Customer contracts and policies

TasWater is required, under various legislative and regulatory instruments, to include in its proposed Price and Service Plan a series of draft policies and a draft customer contract.

The policies include those relevant to:

- Service extension and expansion;
- Developer charges;
- Service charges;
- Connections;
- Sub-metering;
- Service introduction charges; and
- Trade waste charges.

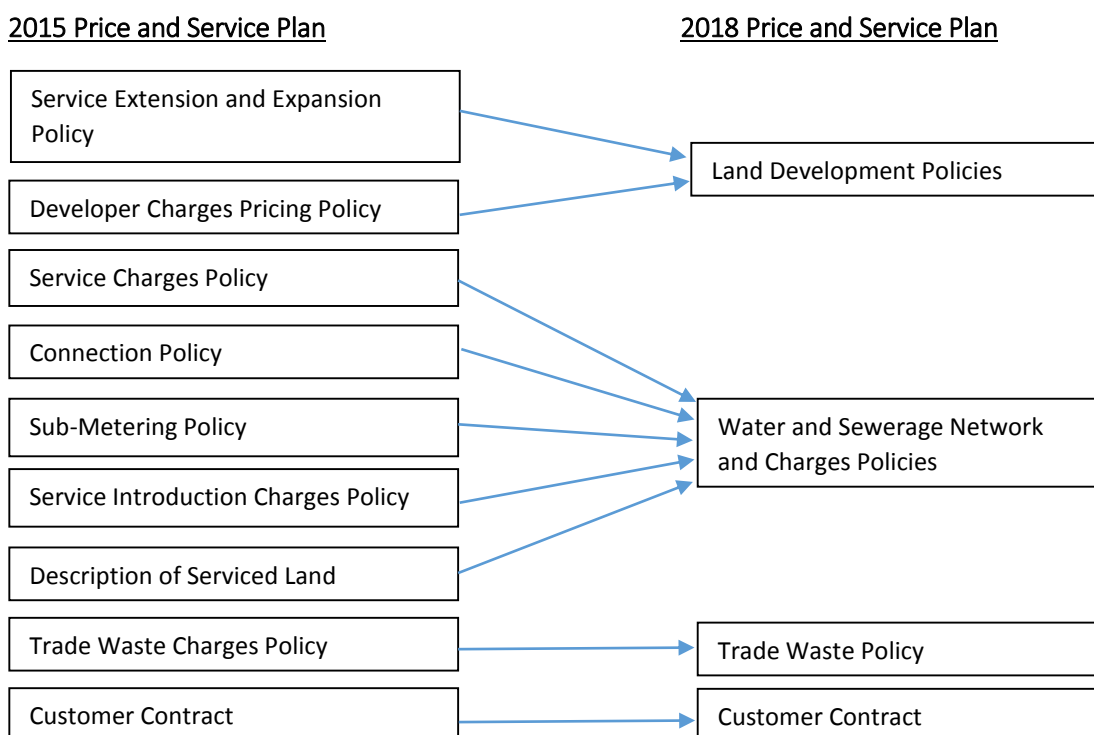
TasWater was also required to submit a description of serviced land that complies with the Industry Act and the Customer Service Code and underpins the policies listed above and which is sufficiently detailed to identify individual titles. In addition, TasWater was to outline the factors and considerations it may rely upon in determining and justifying whether land is serviced land.

The aforementioned policies, customer contract and service land description were submitted in May 2015 as separate attachments to TasWater’s Price and Service Plan for the second regulatory period. However, for the 2018 Water and Sewerage Price Determination Investigation, TasWater has chosen to structure its Price and Service Plan attachments differently, and has amalgamated a number of the aforementioned policies, as well as the service land description, into two standalone policy attachments. One being titled ‘Land Development Policies’ and the second ‘Water and Sewerage Network and Charges Policies’. TasWater has maintained its Trade Waste Policy as a separate policy.

The following diagram provides a representation of where customers, and other interested parties, may locate the customer contract and policy documents in TasWater’s new structure of attachments for its proposed Price and Service Plan for the third regulatory period.



Diagram 4.1: Amalgamation of policy attachments - changes from second to third regulatory periods



## 4.6 Assessment of contracts and policies

The Economic Regulator has assessed TasWater's draft customer contract and draft policy documents as part of its price determination investigation process. The focus of the Economic Regulator's considerations has been one of compliance and accuracy. That is, the non-compliance matters/errors in the drafts (including those errors which have effect of rendering the document non-compliant).

To assist the Economic Regulator in its assessment processes, staff from OTTER have been liaising, over recent months, with TasWater with respect to a series of identified compliance and drafting concerns.

As a result of these communications, the policies and customer contract, as attached to this Draft Report, are revised versions of those same documents as initially submitted by TasWater as part of its proposed Price and Service Plan.

In this Draft Report, the Economic Regulator has indicated its intention to 'require' TasWater to submit the re-drafted documents (as attached) as part of the entity's final Price and Service Plan.

In addition, the Economic Regulator's PSP Guideline required TasWater to explain and justify any differences between its current policies (approved for the second regulatory period) and the policies it is proposing for the third regulatory period. The Economic Regulator has assessed that, in relevance to some of the policies, this was not satisfactorily undertaken. The Economic Regulator will, therefore, be intending to require TasWater to more adequately describe in the entity's final Price and Service Plan the changes to the policies in question. These matters are discussed in greater detail under the individual policy sections below.

## 4.7 Customer contract

Division 4 of the Industry Act requires a regulated entity to develop a customer contract for regulated services. It is also a requirement that the customer contract be prepared in accordance with the Water and Sewerage Industry Customer Service Code.

A customer contract is defined in the Industry Act as being the “contract between a regulated entity and a customer for the provision of regulated services to the customer, which includes standard terms and conditions of service”.

The Economic Regulator is required under the Industry Act to consider any customer contract in making a price determination that is to apply to a regulated entity in respect of a regulated service.

In accordance with section 65 of the Industry Act, and the Economic Regulator’s PSP Guideline, TasWater included, in its proposed Price and Service Plan, the customer contract that it proposes using during the third regulatory period.

The Economic Regulator subsequently reviewed the draft customer contract for consistency with the provisions of the Customer Service Code, Industry Act and relevant Regulations.

As part of that assessment, the Economic Regulator identified a number of drafting matters it considered necessary for TasWater to address.

Consequently, and throughout the price investigation process, representatives of OTTER have liaised with TasWater with respect to those concerns. This collaboration resulted in TasWater providing a revised draft customer contract to the Economic Regulator for consideration, a copy of which is provided at Appendix 2 to this Draft Report.

The Economic Regulator’s comments with respect to the customer contract did not extend to matters pertaining to the legality or enforceability of the customer contract as this is a TasWater responsibility to manage. Rather, the feedback focused on the customer contract’s compliance, overall drafting and structure. The Economic Regulator is satisfied that issues identified with respect to the draft customer contract have now been suitably resolved by TasWater.

***The Economic Regulator intends to approve the draft ‘Customer Contract’, as provided at Appendix 2 to this Draft Report, for submission as part of TasWater’s final Price and Service Plan.***

## 4.8 Trade waste policy

Trade waste means the liquid waste generated by any industry, business, trade or manufacturing process. As the definition of “sewage” under section 3 of the Industry Act includes trade waste, the disposal, removal and treatment of trade waste is a regulated service.

In accordance with the Economic Regulator’s PSP Guideline, TasWater is required to develop a trade waste charges policy outlining how it intends categorising and treating trade waste customers.

The PSP Guideline also specifies that TasWater must also explain and justify, in its Price and Service Plan, any differences between its current trade waste policy and the trade waste policy it is proposing for the third regulatory period.

In its proposed trade waste policy for the third regulatory period, TasWater has added a short section and dot point relating to tankered trade waste, while removing sections that appear in the current policy and relate to customer self-assessment, developer charges, and cancellation or suspension of trade waste service. Contrary to the requirements of the PSP Guideline, TasWater did not provide any explanation for these changes in its proposed Price and Service Plan for the third regulatory period.

Other than that, TasWater is not proposing to make any significant changes to its current trade waste policy for the third regulatory period. The Economic Regulator notes that TasWater has altered the structure and style of its proposed trade waste policy, making it easier to read, but the policy content remains largely unchanged. The Economic Regulator recommended only minor changes to wording in its review of TasWater’s proposed policy, which TasWater subsequently accepted.

Chapters 12 and 13 respectively describe the proposed structure of, and the proposed pricing for, TasWater's trade waste services during the third regulatory period.

*The Economic Regulator intends to approve the draft 'Trade Waste Policy', as provided at Appendix 3 to this Draft Report, for submission as part of TasWater's final Price and Service Plan.*

*The Economic Regulator also intends to require TasWater to explain and justify the addition of a 'Tankered Trade Waste' section, and the removal of the 'Customer Self-Assessment', 'Developer Charges' and 'Cancellation and Suspension' from its proposed trade waste policy in its final Price and Service Plan.*

## 4.9 Land Development Policies

### 4.9.1 Developer charges policy

In examining this issue the Economic Regulator notes that it is not responsible for industry or economic development and considers it more appropriate that the State Government or councils, as TasWater's owners, develop policies relating to economic development separate to policies and approaches relating to pricing matters.

Developer charges include: headworks charges; assets gifted by developers; and cash payments made by developers to a regulated entity for the construction of new reticulation works.

A developer charges policy is required to be included in the Price and Service Plan to be approved by the Economic Regulator. This policy covers arrangements for developers gifting assets or paying cash for the construction of new reticulation works and for setting headworks charges. The developer charges policy must be consistent with the requirements of the Industry Act and Regulation 20 of the Pricing Regulations and requires the regulated entity to estimate the amount of the developer charge and explain how it has been calculated.

Headworks charges are imposed to recover the costs of installing excess capacity within a water and sewerage network. It is not considered appropriate for existing customers to meet many of these costs as developers receive the benefit of being able to charge higher prices for fully serviced developed land and purchasers of that land receive the benefit, in terms of enhanced property values, from having land serviced by water and sewerage infrastructure.

TasWater's draft developer charges policy, as included in its proposed Price and Service Plan for the third regulatory period, was reviewed for compliance with the relevant legislative and regulatory provisions.

#### 4.9.1.1 Approach to developer charges approved for the second regulatory period

For the second regulatory period, the Economic Regulator required TasWater to retain the arrangements for developer charges associated with works internal and works external, which involved charges being recovered on a cost reflective basis through direct payment or gifting of assets.

Analysis of options for headworks charges was required since TasWater proposed removing headworks charges for all developments in areas where there is sufficient existing capacity or are consistent with TasWater's immediate infrastructure growth plans. In addition, TasWater proposed introducing "out of sequence charges" for developments that require TasWater to bring forward works ahead of schedule and "isolated development charges" if the proposed development is outside of TasWater's growth plans.

The Economic Regulator's criteria for assessing these approaches to headworks charges included ensuring that the approach is consistent with the statutory pricing principles, including that it is cost reflective, transparent, provides certainty for developers and is simple to administer. The Economic Regulator considered that:

- some proportion of growth related costs should be recovered upfront from developers rather than over time from customers through recurrent charges;
- there are benefits in a headworks charging approach that is simple and provides certainty and a relatively level playing field for developers; and
- a sensible headworks charging approach should encourage developers to use existing capacity where it exists before requiring TasWater to invest in network augmentation.

The Economic Regulator accepted that developments within serviced land benefit existing customers when new customers connect because fixed costs are spread over a larger customer base. In relation to developments that represent extensions to serviced land, the Economic Regulator accepted that many of these developments are also likely to utilise existing capacity. The Economic Regulator therefore accepted TasWater's proposal to:

- not impose headworks charge for developments within serviced land; and
- not impose a headworks charge for developments occurring outside of serviced land but that utilise existing capacity.

However, the Economic Regulator considered that for a headworks charging approach to encourage the use of existing capacity, some locational price signals must be applied and be linked to capacity. Therefore, for any development that represents both an extension to serviced land and requires TasWater to undertake works (not covered by a "works external" arrangements), the Economic Regulator considered that TasWater should impose a headworks charge on the component of that development that cannot be satisfied by existing capacity. The Economic Regulator also considered that the NPV methodology is an appropriate methodology to apply in making this calculation.

The Economic Regulator also considered it appropriate that TasWater continue to use the NPV methodology for determining headworks charges for isolated developments.

For developments relating to extensions to serviced land or isolated developments, the Economic Regulator acknowledged that there may be relatively few occasions where the application of a headworks charge is necessary as the developer charges associated with works internal and works external, in some instances, incorporate all necessary works.

#### **4.9.1.2 TasWater's proposed approach to developer charges in its proposed Price and Service Plan**

TasWater stated in its proposed Price and Service Plan that its developer charges policy is largely unchanged from the policy approved for the second regulatory period and continues the approach of excluding headworks charges. According to TasWater, this approach is supported by the majority of the customers it engaged with during its customer and stakeholder consultation.

For new developments, TasWater refers to two types of water and/or sewerage infrastructure:

- Works internal – any infrastructure which is internal within a subdivision, up to the property boundary, is installed at a developer's cost and gifted (for example, contributed) to the regulated entity.

- Works external – where a development requires stand-alone assets (for example, a pump station) to be installed to support the development at the developer’s cost.

TasWater has proposed continuing the current arrangements whereby charges associated with works internal and works external will be recovered on a cost reflective basis through direct payment or gifting of assets.

***The Economic Regulator proposes to approve TasWater’s retention of the current arrangements for developer charges associated with works internal and works external.***

TasWater has proposed that developer charges be applied as follows:

- For developments within serviced land where the existing water and/or sewerage infrastructure can accommodate the demands of the proposed development, developer charges will not apply for the available capacity.
- For developments within serviced land where capacity is not available, the developer will be required to pay the cost of expansion of the system to the level of capacity required to service the development/use.
- For developments outside serviced land where capacity is available within an existing system, the developer pays the costs of extension, including connection, to that system and may access the available capacity in that system at no additional charge.
- For developments outside serviced land where insufficient capacity is available within an existing system, the developer pays the costs of extension, including connection, to that system and expansion of the system to the level of capacity required to service the development. Any existing spare capacity in that system that is less than the total required for the development will be made available at no additional charge.
- For developments outside serviced land where the development is not designed to connect to one of TasWater’s existing systems (an Isolated Development/Use), all costs are paid by the developer. TasWater stated that, in its absolute discretion, it may contribute to the costs of development/use if it considers that there are strategic benefits from doing so.

***The Economic Regulator proposes to approve TasWater’s retention of the current arrangements for developer charges.***

#### **4.9.1.3 Development Assessment fees**

The Economic Regulator identified that the development application fees in TasWater’s Land Development Policies document were not the same as the development application fees in Appendix 15 of its proposed Price and Service Plan. All other fees were the same. The Economic Regulator asked TasWater to clarify which set of prices were being proposed. In response, TasWater provided a revised set of fees for development applications that were identical to those outlined in Appendix 15 of its proposed Price and Service Plan.

On 11 September 2017, TasWater wrote to the Economic Regulator and, amongst other matters, explained that while the Certificate for Certifiable Work/Certificate for Compliance fees were two separate fees in the second regulatory period they have been combined into one service and one fee for the third regulatory period. However, the fee in TasWater’s proposed Price and Service Plan inadvertently only included the cost relating to the production of the Certificate for Certifiable Work, meaning that the fee was only about half the intended amount.

TasWater also stated that it has combined engineering design approval and asset creation services for the third regulatory period but inadvertently included only the engineering design approval cost in the fee.

The Economic Regulator's proposed Development Assessment Fees are outlined in Section 13.2.3.2 of this Draft Report.

## 4.9.2 Service extension and expansion policy

Section 56J of the Industry Act requires TasWater, as a regulated entity, to include in its proposed Price and Service Plan a policy that sets out the circumstances in which TasWater will extend and expand its water infrastructure and sewerage infrastructure. It is also a requirement that this policy include the terms and conditions that will apply to such an extension or expansion.

TasWater included a draft service extension and expansion policy in its Land Development Policies document attached to its proposed Price and Service Plan. The Economic Regulator subsequently reviewed the draft service extension and expansion policy for compliance against the relevant regulatory and legislative requirements.

The policy was generally well written with the Economic Regulator identifying only minor drafting issues for TasWater's consideration. Through ongoing liaison with OTTER representatives, TasWater introduced relevant revisions to its draft service extension and expansion policy to ensure consistency with provisions of the Industry Act and TasWater's Water and Sewerage Network and Charges Policies document. Amendments also included the removal of redundant defined terms which were not being used within the policy document, and the inclusion of two definitions which were deemed necessary.

In light of the TasWater addressing the aforementioned issues, the Economic Regulator is satisfied that the draft service extension and expansion policy, as included in TasWater's draft Land Development Policies document provided at Appendix 4 to this Draft Report, is a fully compliant and functional policy for submission as part of TasWater's final Price and Service Plan.

*The Economic Regulator intends to approve the draft 'Land Development Policies' document, as provided at Appendix 4 to this Draft Report, for submission as part of TasWater's final Price and Service Plan.*

*The Economic Regulator also intends to require TasWater to ensure that its final Price and Service Plan is updated to reflect the correct Development Fees as documented under section 5 of the attached 'Land Development Policies' document.*

## 4.10 Water and Sewerage Network and Charges Policies

### 4.10.1 Connection policy

The point where a customer's pipes connect to a regulated entity's water and sewerage infrastructure is known as the connection point.

It is a requirement under section 56U(1)(a) of the Industry Act, and the Economic Regulator's PSP Guideline, that a regulated water and sewerage entity include a connection policy with its proposed Price and Service Plan. To this end, TasWater included a draft connection policy in its Water and Sewerage Network and Charges Policies document.

As with other policy documents, the Economic Regulator reviewed TasWater's draft connection policy for consistency with the provisions of the Customer Service Code, Industry Act and relevant Regulations. That assessment resulted in the identification of a number of drafting amendments for TasWater to address. Specifically to ensure consistency with drafting of regulatory/legislative provisions and other TasWater policy documents.

The Economic Regulator also identified, as part of its review that TasWater's proposed connection policy for the third regulatory period varied in its drafting by comparison to the connection policy approved for the current regulatory period. Most notably with respect to the various criteria TasWater proposed to impose in order to permit the:

- connection of property to TasWater's water infrastructure and/or sewerage infrastructure;
- relocation of a connection to TasWater's water infrastructure and/or sewerage infrastructure; and
- adjustment of a connection to TasWater's water infrastructure and/or sewerage infrastructure.

As previously outlined, the PSP Guideline requires TasWater to explain and justify any differences between its current policies (approved for the second regulatory period) and the policies it is proposing for the third regulatory period. TasWater did not, however, document nor discuss, in its proposed Price and Service Plan, any variances between any of its policy documents. Rather, stating under section 4.4 on page 41 of its proposed Price and Service Plan:

Our policies are largely unchanged from PSP2. However, we have decided to consolidate a number of the required policies to make them clearer and easier to use for customers.

As identified by the Economic Regulator, TasWater had, in fact, included additional criteria in its draft connection policy, for application from 1 July 2018, with respect to permitting connections and the relocation and adjustment of connections. The additional criteria are outlined below.

*For connection:*

- The person requests TasWater to connect the property to the infrastructure; and
- The property is within 30 metres of the infrastructure and for water services, can be supplied with treated water; and
- The physical characteristics or location of the property are not such as to require the application of unusual or unusually costly infrastructure, design, or installation techniques in order for the connection to be made by TasWater; and
- The connection does not cross property owned by a third party; and
- No plan of subdivision, or other instrument of a type approved by the Economic Regulator, specifies that connection to TasWater's infrastructure, or provision of regulated services by TasWater will not occur; and
- The property will receive the minimum pressure and flow at the connection as described in the Supplement (available on TasWater's website at [www.taswater.com.au](http://www.taswater.com.au)); and
- The person has complied with all reasonable terms and conditions of connection imposed by TasWater.

*For relocation of a connection:*

- The person requests the relocation of the connection to the infrastructure; and
- The relocation will not result in TasWater infrastructure crossing property owned by a third party; and
- The property will, following relocation of the connection, receive the minimum pressure and minimum flow rate at the connection as described in the Supplement (available on TasWater's website at [www.taswater.com.au](http://www.taswater.com.au)); and
- The person has complied with all reasonable terms and conditions of relocation of connection imposed by TasWater.

*For adjustment of a connection:*

- The person requests the adjustment to the connection to the infrastructure; and
- The adjustment will not result in TasWater infrastructure crossing a property owned by a third party; and
- The property will, following adjustment of the connection, receive the minimum pressure and minimum flow rate at the connection as described in the Supplement (available on TasWater's website at [www.taswater.com.au](http://www.taswater.com.au)); and
- The person has complied with all reasonable terms and conditions of adjustment of connection imposed by TasWater.

The Economic Regulator has assessed the additional criteria as being in accordance with the *Water and Sewerage Industry (Customer Service Standards) Regulations 2009* and, subsequently, the Customer Service Code, and concludes that they are reasonable terms and conditions which TasWater, as the regulated entity, may impose.

However, the Economic Regulator maintains that TasWater has not adequately met its obligations of the PSP Guideline with respect to explaining and justifying the differences between its currently approved and newly proposed connection policies. The Economic Regulator will, therefore, be intending to require TasWater to more adequately describe such variances in its final Price and Service Plan.

The assessment of TasWater's proposed connection policy also identified that TasWater had inadvertently omitted the inclusion of charges information pertaining to the relocation and adjustment of sewer connections. TasWater subsequently updated the "Network Charges and Fees" list at the end of its draft Water and Sewerage Network and Charges Policies document to include these costs.

Through ongoing liaison with OTTER, TasWater has satisfactorily addressed the aforementioned concerns with respect to the drafting of its connection policy. A copy of the revised draft connection policy is included in TasWater's draft Water and Sewerage Network and Charges Policies document provided at Appendix 5 to this Draft Report.

***The Economic Regulator intends to approve the draft 'Connection Policy', as included in TasWater's 'Water and Sewerage Network and Charges Policies' document provided at Appendix 5 to this Draft Report, for submission as part of TasWater's final Price and Service Plan.***

***The Economic Regulator also intends to require TasWater to explain and justify, in its final Price and Service Plan, the differences between its current connection policy (approved for the second regulatory period) and the connection policy TasWater is proposing for the third regulatory period.***



## 4.10.2 Sub-metering policy

TasWater is required to charge a variable charge for a water service with the variable charge payable for each unit of water delivered to the property to which the variable charge relates. TasWater installs a meter at each connection point to enable it to measure the volume of water delivered to each property.

As outlined in section 3A of the Industry Act, strata title lot owners are considered customers of TasWater even if their lot does not have a direct connection to TasWater's infrastructure but instead access water and sewerage services via interposing pipes situated on the strata title property. Therefore, as a customer of TasWater, the strata title lot owner is liable for fixed and variable charges. However, as there is only generally one meter located at the connection point to a property, sub-metering may be required to measure the volume of water used by each dwelling or area on that property to enable the calculation of variable charges for each dwelling or area on a property.

The legislation does not address the issue of whether strata title properties are to be sub-metered. In this way it is up to the regulated water and sewerage entity to propose under what circumstances a strata title property can be sub-metered and, if so, who bears the costs.

Consequently, TasWater is required under the PSP Guideline to develop, and submit for review and approval with its proposed Price and Service Plan, a sub-metering policy. TasWater must also explain and justify any differences between its current policies and the policies it is proposing for the third regulatory period. Once approved, TasWater must publish the policy and any supporting documentation on its web site.

### 4.10.2.1 Approach to sub-metering approved under the 2015 price determination investigation

For the second regulatory period, the Economic Regulator required TasWater's final sub-metering policy to:

- specify that a separate meter for common property is optional in that, if a separate meter for common property is not installed, then the difference between the volume measured at the master meter and the sum of the individual sub-meters is deemed to be the water usage for the common property;
- specify that if a sub-meter is installed to measure usage for common property there may be additional costs for lot owners;
- explain how the State Government concessions are applied to strata title lot owners;
- note that, since installing sub-meters and undertaking meter reading in multi-unit properties are unregulated services, owners of such properties have the option of using a third party to undertake these services;
- explain clearly the differences between the requirements for new multi-unit properties and the requirements for existing multi-unit properties;
- explain how fire services charges will be applied in strata title schemes;
- describe all possible metering configurations and the associated applicable billing arrangements including where a strata scheme has both master metering and direct connections that are separately metered.

- separately outline the billing arrangements when:
  - a) the volume measured by the master meter is greater than the sum of the volumes measured by the sub-meters; and
  - b) the volume measured by the master meter is less than the sum of the volumes measured by the sub-meters.
- specify that the minimum size of a sub-meter is 20mm and explain that each lot owner will be liable for:
  - a) the target tariff fixed charges based on the relevant sub-meter size;
  - b) variable charges based on their own usage;
  - c) a proportion of any applicable common property water consumption; and
  - d) a proportion of any usage measured by the master meter which is greater than the sum of the usage measured by the sub-meters.
- explain why, and under what circumstances, TasWater may decide to install a master meter where lots in a strata scheme already have individual meters and clearly state the implications for lot owners if a master meter is installed (for example, lot owners will be liable for any usage measured by the master meter which is greater than the sum of the usage measured by the sub-meters); and
- specify that TasWater can impose variable charges on a body corporate in accordance with Regulations 17(2) and 18(1) of the Pricing Regulations.

The Economic Regulator also required TasWater to provide an undertaking in its final Price and Service Plan that it will develop and make available supporting documentation that will set out a high level description of the process and procedure to be followed by strata title owners in deciding whether or not to install sub-meters. This documentation was to include, but not be limited to:

- the need to arrange for a vote of lot owners on whether to install sub-meters and to obtain all lot owners' agreement before proceeding;
- explaining any differences in process or treatment compared to standard arrangements; and
- describe what the bill will look like. For example, will charges in respect of common property be a separate line item or will the bill be based on a standard bill with a specific list of differences.

The Economic Regulator also required TasWater to provide an undertaking in its final Price and Service Plan that all relevant sub-metering documents (including application forms, diagrams, guidelines etc) will be made available on TasWater's website.

#### **4.10.2.2 TasWater's proposed approach to sub-metering in its proposed Price and Service Plan**

TasWater's proposed approach to sub-metering in its proposed Price and Service Plan for the third regulatory period is the same as the current policy. TasWater's draft sub-metering policy was reviewed for compliance with the relevant legislative and regulatory provisions.

Key parts of the policy include:

- for new developments the installation of sub-meters is a choice of the property owner;
- in existing strata schemes, all lot owners in a strata scheme must agree to sub-metering; and

- in existing multi-unit properties, sub-metering is at the discretion of the property owner.

The Economic Regulator considers that the current policy is comprehensive and remains appropriate reflecting a substantial amount of effort in developing and improving the presentation of the policy during the second regulatory period pricing investigation.

***The Economic Regulator proposes to approve TasWater's retention of the current arrangements for sub-metering.***

### 4.10.3 Service charges policy

A water and/or sewerage service charge is a charge levied on a property owner where there is an ability to access a service even if there is not yet a physical connection from the property to a regulated entity's water and sewerage infrastructure. The Industry Act allows, but does not require, a regulated entity to impose service charges for water services and sewerage services on owners of property within serviced land, based on the entity's description of serviced land. Those liable to pay service charges fall within the definition of customers under the Industry Act and are therefore covered by the entity's customer contract.

Service charges have traditionally applied in most parts of Tasmania, having been imposed by the majority of local government authorities prior to the regional water corporations being established and, subsequently, TasWater.

In its proposed Price and Service Plan for the third regulatory period, TasWater noted its intention to maintain its current approach to the imposition of service charges. That is, TasWater proposes that vacant land within its serviced land boundaries continue to be levied a service charge. TasWater proposes that the service charge for water continue to be equal to the fixed water charge for 20mm connections and the service charge for sewerage continue to be 60 per cent of one ET fixed sewerage charge.

TasWater provided supporting arguments in its proposed Price and Service Plan to justify maintaining its current approved approach to service charges, noting that in order to ensure it can service and supply all of the properties in its serviced area the entity has to spend money on maintaining pipes, pumps and running the treatment plants. In addition, TasWater claimed that there are significant public health and environmental benefits associated with piped, tested drinking water and sewage removal and treatment, and an associated increase in property values from the provision of these services.

TasWater's approach to date has been to share the cost between properties that use its services now and properties that may use its services in the future. TasWater maintains that if it did not do this, then properties that are connecting to TasWater's infrastructure now are carrying the burden of those that are not currently connected. In addition, TasWater argues that sharing the costs in this way assists in minimising prices in sparsely populated geographical areas throughout the State.

From the customer consultation process undertaken on its proposed Price and Service Plan, TasWater found that most customers (59 per cent) supported the retention of service charges. Overall the consultation found that 44 per cent of customers supported the principle of charging vacant land and that the charging arrangements should be retained, while another 15 per cent disagreed with the principle, but thought the charges should remain.

After consideration of TasWater's service charge proposal for application in the third regulatory period, the Economic Regulator intends to approve TasWater's continued application of service charges on the basis that it is appropriate for all customers who can connect to a service to contribute to the cost of the network and acknowledging that revenue collected from levying the charge is not insignificant, allowing services to be provided on a more cost effective basis.

In addition, and as per the approach approved for the second regulatory period, the Economic Regulator intends to approve that, from 1 July 2018, the service charge for water be equal to the fixed water charge for 20mm connections, recognising that no consumption occurs on these properties.

The Economic Regulator also intends to approve that the service charge for sewerage be 60 per cent of one ET fixed sewerage charge, recognising that no volume of sewage is discharged.

The draft service charges policy prepared by TasWater for the third regulatory period was included in the Water and Sewerage Network and Charges Policies document provided as an attachment to TasWater's proposed Price and Service Plan.

The Economic Regulator has assessed the draft service charges policy for consistency and compliance with the obligations and principles, as outlined in section 68A of the Industry Act. Only minimal drafting matters, to ensure consistency and compliance with the legislation, were identified from this review. TasWater subsequently provided a revised draft service charges policy to the Economic Regulator for consideration. The Economic Regulator is satisfied that issues identified with respect to the draft service charges policy were suitably resolved.

TasWater's proposed services charges for the third regulatory period are set out in the "Network Charges and Fees" list which can be located in TasWater's draft Water and Sewerage Network and Charges Policies document.

*The Economic Regulator intends to approve TasWater's continued application of service charges on vacant land within TasWater's serviced land boundaries.*

*The Economic Regulator intends to approve that the service charge for water continues to be equal to the fixed water charge for 20mm connections.*

*The Economic Regulator intends to approve that the service charge for sewerage continues to be 60 per cent of one ET fixed sewerage charge.*

*The Economic Regulator intends to approve the draft 'Service Charges Policy', as included in TasWater's 'Water and Sewerage Network and Charges Policies' document provided at Appendix 5 to this Draft Report, for submission as part of TasWater's final Price and Service Plan.*

#### 4.10.4 Service introduction charges policy

The Pricing Regulations state that a price determination may require a Price and Service Plan for a regulated entity to include a policy in respect of service introduction charges. The policy must be consistent with the requirements of the Pricing Regulations and specify how the regulated entity will determine and apply service introduction charges consistent with the pricing principles.

As part of its PSP Guideline for the third regulatory period, the Economic Regulator required TasWater to develop, and submit for review and approval with its proposed Price and Service Plan, a policy with regards to service introduction charges.

To this end, TasWater provided a draft service introduction charges policy in its Water and Sewerage Network and Charges Policies document. This policy was assessed by the Economic Regulator for compliance with the Pricing Regulations and consistency with the proposed approach for service introduction as documented in TasWater's proposed Price and Service Plan.

In its proposed Price and Service Plan, TasWater defined service introduction as being the construction of water and/or sewerage infrastructure to provide reticulated services to localities not previously receiving them. TasWater noted that its draft service introduction policy details the process TasWater intends to follow once it receives a request to introduce water and/or sewerage service to a new

locality. In addition, the policy details that where a service introduction request proceeds, then it is proposed that one-off service introduction charges will be levied on the owners of properties within the service introduction area. The proposed service introduction charge is to cover the property owner's share of the cost of installing, altering or using TasWater assets so that TasWater can provide a regulated service to the owner's land. In addition, one-off or ongoing charges will apply such as connection charges, fixed and variable consumption charges.

TasWater intends to continue to calculate service introduction charges based on the net present value (NPV) of the cost of providing the assets specific to the service introduction and subtracting the present value of the amount that would be recovered from the threshold amount of customers (being 80 per cent) through ongoing annual water charges and/or sewerage charges (being fixed charges or service charges). Any third party funding contributions will be subtracted from the NPV calculations.

In its proposed Price and Service Plan, TasWater's outlined the following three stages in its service introduction process:

- Stage 1 Initial Consultation – TasWater will provide high level, preliminary design of the infrastructure, a map of the proposed service area and indicative service introduction charges per title for the service(s).
- Stage 2 Indicative Community Support – TasWater will test whether there is broad community support of at least 50 per cent for the service introduction proposal to undergo detailed design and business case development. TasWater Board approval of the business case is conditional on the threshold in Stage 3 being reached; and
- Stage 3 Community Commitment to Service Introduction – at least 80 per cent of owners of developed land titles within the proposed service introduction area must enter into an agreement committing to pay the service introduction charge and any other relevant charges.

TasWater did note that its service introduction charges policy approved for the second regulatory period (its current policy) uses an 80 per cent threshold for both stage 2 and stage 3. TasWater has argued that the high threshold for initial support and subsequent resources applied by the entity to engage the community was out of proportion to the level of commitment by TasWater or individual properties. The new 50 per cent threshold proposed by TasWater for the third regulatory period is to test whether the majority of the customers are interested in learning more about the proposal for TasWater to undertake detailed design.

The stage 3 threshold of 80 per cent continues as a 'commercially viable' test. The 80 per cent threshold is used in the calculation of the service introduction charge outlined above.

With the exception of the aforementioned threshold change, TasWater did not explain and justify any other differences between its current service introduction charges policy (approved for the second regulatory period) and that same policy as proposed for the third regulatory period. This was despite the Economic Regulator identifying, in its review of the draft service introduction charges policy document, an additional variation.

The currently approved service introduction charges policy for TasWater (applicable until 30 June 2018) states that *"In the event that TasWater is directed by a Council, the EPA or the DHHS to progress service introduction to a community/township, no service introduction charge will be imposed on property owners in that area."*

TasWater has chosen to remove this text in its proposed service introduction policy to apply from 1 July 2018. The newly proposed policy, as drafted, suggests that service introduction would only proceed based on commercial viability of the service introduction proposal and sufficient community engagement/commitment.

Officers from OTTER liaised with TasWater to ascertain the entity's reasoning for omitting discussion on service introduction required by other industry regulators or relevant Council officers. TasWater advised that the entity could not, in fact, be directed under law to introduce a service by these third parties. The Economic Regulator disagreed with this assessment, acknowledging that whilst Council and the EPA are unable to compel TasWater to introduce services, the provisions of the *Public Health Act 1997* (Public Health Act) permitted otherwise with respect to the Director of Public Health. Specifically, the sections of the Public Health Act relevant to 'Emergency Declarations' and 'Directions of the Director'. Applicable excerpts replicated as follows:

#### **14. Emergency declaration**

*(1) The Director, by any means the Director considers appropriate, may declare that a public health emergency exists if satisfied that the situation requires it.*

*(2) The declaration is to specify –*

*(a) the nature of the public health emergency; and*

*(b) any area to which the declaration relates; and*

*(c) the period during which the declaration is in force.*

*(3) The Director is to notify the State Controller, within the meaning of the Emergency Management Act 2006, if the existence of a public health emergency is declared under this section.*

#### **16. Directions of Director**

*(1) While an emergency declaration is in force, the Director may take any action or give any directions to –*

*(a) manage a threat to public health or a likely threat to public health; or*

*....*

*(e) ....*

*(2) The Director may give any one or more of the following directions while an emergency declaration is in force:*

*(a) ....*

*....*

*(e) that any other action be taken the Director considers appropriate.*

*(2A) A direction given under this section may specify the manner in which the direction is to be complied with.*

*(3) A person must comply with a direction of the Director given under this section.*

Under the above broad power, the Director of Public Health may, as an example, identify a public health emergency and subsequently consider that the most suitable action to be taken in response to that emergency is the introduction of water and/or sewerage services by TasWater.

While TasWater may argue that the likelihood of such an occurrence ever eventuating would be minimal at best, the legislative power for the Director of Public Health to direct TasWater to undertake an action (such as service introduction), that may be deemed necessary in response to a public health emergency, remains.

After some deliberation, the Economic Regulator conceded it was not concerned with information regarding such directions being specifically removed from TasWater's proposed service introduction

charges policy, as the Economic Regulator notes that any emergency declaration and subsequent direction by the Director of Public Health to TasWater with respect to service introduction would overrule the application of TasWater's service introduction charges policy. The Economic Regulator is, however, concerned that TasWater did not, in its proposed Price and Service Plan, explain and justify this variation in its policy as drafted for the third regulatory period. Consistent with the PSP Guideline, the Economic Regulator intends to require TasWater to more adequately document, in its final Price and Service plan, the differences between its current and proposed service introduction charges policies.

Following the progression of a series of suggested minor drafting amendments, TasWater provided a revised draft service introduction charges policy to the Economic Regulator for consideration. The Economic Regulator is satisfied that all matters identified with respect to the draft service introduction charges policy were suitably resolved and the policy is now consistent with the provisions of the Pricing Regulations. A copy of the revised draft service introduction charges policy is included in TasWater's draft Water and Sewerage Network and Charges Policies document provided at Appendix 5 to this Draft Report.

Through the ongoing liaison of OTTER and TasWater representatives on matters concerning service introduction, issues including incentives for land owners to commit to service introduction proposals and TasWater's recouping of costs associated with service introduction were discussed.

Under the proposed service introduction charges policy, service introduction charges will be levied on those owners of land who have signed a contract committing to a connection from the date on which their property is able to connect to TasWater's infrastructure and/or sewerage infrastructure and the agreement has commenced. In this way, very simply, the cost of service introduction within the proposed service introduction area is being borne by those land owners who have committed to connection.

There is a risk to TasWater that some land owners, in an attempt to avoid paying service introduction charges, will not sign a contract committing to connection. Rather, they may choose to wait until the service system is in place and operational before connecting to TasWater's infrastructure. Consequently, there is a potential for TasWater to be disadvantaged from not obtaining otherwise entitled amounts of revenue and an inequity across customers where some have paid significant service introduction charges where others, in the newly serviceable area, have not.

It is, however, acknowledged that TasWater's policy provides that owners of land who choose not to connect to TasWater services will become liable to pay service charges following completion of works and availability of services. The levying of such service charges would recoup some of the costs associated with the service introduction undertaking.

It is also acknowledged that the community members of any proposed service introduction area would be discussing amongst themselves the benefit, or otherwise, of service introduction in reaching a resolution of whether or not to support a service introduction proposal. Community views may contribute to land owners committing to connection rather than attempting to avoid paying the service introduction charge by delaying a decision to connect.

***The Economic Regulator intends to approve the draft 'Service Introduction Charges Policy', as included in TasWater's 'Water and Sewerage Network and Charges Policies' document provided at Appendix 5 to this Draft Report, for submission as part of TasWater's final Price and Service Plan.***

***The Economic Regulator intends to require TasWater to explain and justify, in its final Price and Service Plan, all of the differences between its current service introduction charges policy (approved for the second regulatory period) and the service introduction charges policy TasWater is proposing for the third regulatory period.***

## 4.11 Serviced land

### 4.11.1 Background

Serviced land is land that TasWater will permit to be connected to its infrastructure.

The identification of serviced land is important as it determines TasWater's obligation to connect and supply customers. Serviced land also underpins policies and arrangements with respect to service extension and expansion, service charges, service introduction, service replacement and developer charges.

### 4.11.2 Legislative requirements

Section 56U(1)(b) of the Industry Act requires a regulated entity's proposed Price and Service Plan to include a description of the land (identifiable by individual title or locality) it will permit to be connected to the regulated entity's water or sewerage infrastructure, such as, a description of serviced land.

In addition to complying with section 56U(1)(b) of the Industry Act, TasWater must also comply with clause 2.2 of the Customer Service Code which requires a regulated entity to connect a property to its existing infrastructure if:

- the property is within 30 metres of that infrastructure; and
- the person requests the regulated entity to connect the property to the infrastructure; and
- the person has paid, or has agreed to pay, all applicable fees for connection; and
- the person has complied with all reasonable terms and conditions of connection imposed by the regulated entity; and
- the connection is required to be made by the provisions of the Customer Service Code, a customer charter made in accordance with the Customer Service Code, or a policy contained in an approved Price and Service Plan of the regulated entity; and
- the physical characteristics or location of the property are not such as to require the application of unusual or unusually costly infrastructure, design, or installation techniques in order for the connection to be made; and
- no plan of subdivision, or other instrument of a type approved by the Economic Regulator, specifies that connection to the regulated entity's infrastructure, or provision of regulated services by the regulated entity, will not occur.

### 4.11.3 Describing and identifying serviced land

The PSP Guideline states that a description of serviced land must be included with the Price and Service Plan that: complies with the Industry Act and the Customer Service Code; underpins TasWater's policies; and is sufficiently detailed to identify individual titles. TasWater must also outline the factors and considerations it may rely upon in determining and justifying whether land is serviced land.

### 4.11.4 Connecting properties outside serviced land

TasWater does not have an obligation to connect a property to its infrastructure if that property is outside serviced land. However, at the same time, there is nothing preventing TasWater from entering into an arrangement with a property owner to connect a property outside serviced land.



TasWater stated that section 6 of its Water and Sewerage Network and Charges Policies document and its Land Development Policies document outline the circumstances when TasWater will consider allowing unserviced land to connect to its network.

The Economic Regulator notes that TasWater's Conditional Connections Policy, which was submitted by TasWater as section 6 of the water and sewerage network and charges policies document, is not a regulated policy. Connections made under the Conditional Connections Policy are non-standard connections which are subject to a contract under section 61 of the Industry Act. Section 61 contracts are usually adopted for large trade waste and large water service customers which have the ability to negotiate contractual obligations and rights with TasWater. In contrast, smaller customers do not have the same negotiating power and therefore need the Customer Service Code protections provided in the standard customer contracts. Section 61 contracts do not necessarily have to be consistent with a price determination or other economic regulatory requirements (such as provisions of the Customer Service Code), provided that the customer agrees.

Since the Economic Regulator will not be approving TasWater's Conditional Connections Policy, TasWater is required to remove section 6 from the document.

#### 4.11.5 TasWater's proposed approach to serviced land - water

TasWater has stated that it identifies titles with a full service based on servicing factors and the standards in the *TasWater Supplement to Water Supply Code of Australia WSA 03-2011-3.1 MRWA Edition V2.0*. This code details the minimum service pressure at peak hour demand and minimum flow rate:

- minimum service pressure at the connection point is 220 kPa, static head of 22m (section 2.5.3.3 of the Customer Service Code); and
- minimum flow rate 15 litres/minute (L/m) at the connection point (section 2.12 of the Customer Service Code).

TasWater proposes that land titles are defined as being water serviced land when they meet all of the following criteria (land titles that do not meet the criteria are unserviced for water):

- can be supplied with treated water; and
- are within 30 metres of the water reticulation main; and
- can receive the minimum flow and pressure at the connection point; and
- connection to the reticulation network would not cross a land title owned by a third party; and
- the physical characteristics or location of the land title are not such as to require the application of unusual or unusually costly infrastructure, design, or installation techniques in order for the connection to be made.

Treated water means either fully treated water or disinfection only water supplies. Raw water supplies are excluded. TasWater proposes that customers in serviced land receiving water that is not safe for drinking will receive a discount on the regulated variable consumption rate.

Existing or new connections that receive untreated water (raw water) or are directly connected to a bulk transfer main are connections outside serviced land and are dealt with in accordance with TasWater's Conditional Connections Policy.

#### 4.11.6 TasWater's proposed approach to serviced land - sewer

TasWater proposes that land titles are defined as sewer serviced land when they meet all the following criteria (land titles that do not meet the criteria are unserviced for sewer):

- are within 30 metres of the sewer reticulation main; and
- connection to the reticulation main would not cross a land title owned by a third party; and
- the physical characteristics or location of the land title are not such as to require the application of unusual or unusually costly infrastructure, design, or installation techniques in order for the connection to be made; and
- are not otherwise considered unserviced land in accordance with section 3.4 of the Water and Sewerage Network and Charges Policies document.

According to TasWater, pressure sewer schemes established before 1 July 2015 are defined as unserviced land.

#### 4.11.7 Assessment of TasWater's approach to determining serviced land

The Economic Regulator considers that identifying titles that are not within 30 metres of a TasWater reticulation main as "unserviced" complies with clause 2.2 of the Customer Service Code. The Economic Regulator also considers that land needing an easement over private land is justification for identifying a title as unserviced given the requirement under clause 2.2 that the physical characteristics or location of the property are not such as to require the application of unusual or unusually costly infrastructure, design, or installation techniques in order for the connection to be made.

The Economic Regulator considers that TasWater's proposed minimum flow and pressure standards from the TasWater Supplement to the Water Supply Code of Australia are appropriate for the definition of serviced land. The Water Supply Code is prepared by the Water Services Association of Australia, which is the industry's peak body.

In the second regulatory period, serviced land included land receiving a full service or a limited service. Titles receiving a limited service were known as limited service areas. For the third regulatory period, TasWater are proposing to remove the concept of limited service areas. Land is either serviced land or unserviced land.

TasWater has proposed that existing connections that receive untreated water (raw water) or are directly connected to a bulk transfer main are connections outside its serviced land and are dealt with in accordance with TasWater's Customer Contract or other agreements. The Economic Regulator notes that, despite the removal of the concept of limited service areas from serviced land, the contracts, section 61 agreements, or other agreements do not change for existing customers receiving a limited service. Any protections or other benefits under the contracts or agreements remain in place. The limited water quality and limited water supply customer classes remain.

TasWater has proposed that new connections that receive untreated water (raw water) or are directly connected to a bulk transfer main are connections outside serviced land and are dealt with in accordance with the Conditional Connections Policy. The Economic Regulator notes that, under the legislation, TasWater does not have an obligation to connect a property to its infrastructure if that property is outside serviced land but there is nothing preventing TasWater from entering into an arrangement with a property owner to connect a property outside serviced land.

Therefore, TasWater's proposal to remove the concept of limited service areas from serviced land does not disadvantage customers. TasWater is required to update its serviced land maps to reflect the new serviced land definition.

*The Economic Regulator intends to approve TasWater applying the minimum water flow and minimum water pressure figures outlined in TasWater's Supplement to the Water Services Association of Australia's Water Supply Code of Australia in determining whether a property or part of a property is within serviced land.*

*The Economic Regulator intends to require TasWater to publish TasWater's Supplement to the Water Services Association of Australia's Water Supply Code of Australia together with any other additional relevant information that would assist customers and stakeholders in determining whether their property or part of their property is within serviced land.*

*The Economic Regulator intends to approve TasWater's approach to the definition of serviced land with limited service areas being removed from serviced land.*

*The Economic Regulator intends to require TasWater to: publish separate descriptions of serviced land for water services and sewerage services; continue to make descriptions of serviced land for both water and sewerage services publicly available (eg on the entity's website, at a fixed address, by phone); and ensure that the description of serviced land is updated and published on a regular and ongoing basis (ie on at least a monthly basis or when serviced land boundaries change).*

*The Economic Regulator also intends to require TasWater to update its serviced land maps to reflect the new serviced land definition.*

## 4.12 Service replacement

### 4.12.1 Background

Service replacement involves replacing reticulated services with other arrangements, most commonly replacing reticulated water supply with water tanks. The Economic Regulator considers that it is important that a robust framework exists for TasWater to follow when considering whether to replace an existing service.

Any reductions in serviced land due to service replacement proposals will need to be approved by the Economic Regulator prior to that service replacement taking place and, consequently, the serviced land boundary changing.

Service replacement will only be permitted where:

- there are environment or public health issues that need to be addressed; and
- the cost of addressing those concerns through upgrades to the reticulated system is considered uneconomical.

The Economic Regulator does not intend assessing a serviced land reduction proposal, arising from service replacement, from a wider socio-economic or public benefit perspective. Rather, the Economic Regulator's assessment will be based on whether TasWater has followed an appropriate process and whether the proposal has appropriate support.

### 4.12.2 Regulatory framework

The water and sewerage regulatory framework provides guidance in relation to the requirement for a regulated entity to make customer connections and sets out conditions that apply to the disconnection of customers from reticulated services.

Regulation 8 of the Customer Service Regulations provides that a regulated entity can initiate the disconnection of a reticulated service under certain circumstances, including where the customer has requested or agreed to the disconnection.

Where a service replacement proposal involves disconnecting regulated reticulated services, it is considered that Regulation 8 provides the opportunity to do so. However, the water and sewerage regulatory framework does not explicitly address the issue of service replacement.

The PSP Guideline states that the Economic Regulator, as part of its 2015 Price Determination Investigation, approved a service replacement process that was required to be reflected in TasWater's Price and Service Plan for the second regulatory period and must be followed by TasWater when considering whether to replace a service.

The PSP Guideline also states that if TasWater proposes any changes to the service replacement process approved for the second regulatory period for the third regulatory period, it will need to clearly justify any departures from the current process including evidence of consultation with stakeholders.

The Economic Regulator did not require specific service replacement proposals to be submitted for approval as part of TasWater's proposed Price and Service Plan.

However, the Economic Regulator expects that TasWater's proposed Price and Service Plan will identify areas where it has undertaken preliminary analysis and community consultation in respect to the potential replacement of an existing service and to provide information in line with the above considerations, where it has that information.

### 4.12.3 Assessment of TasWater's service replacement proposals

In its proposed Price and Service Plan for the third regulatory period, TasWater stated that in the second regulatory period there remained a number of small towns across the state where the water supply did not comply with the Tasmanian Drinking Water Quality Guidelines (TDWQG). TasWater also stated that at the commencement of the third regulatory period all of these towns will either:

- have a compliant drinking water service; or
- a compliant drinking water service will be close to finalisation; or
- service replacement will have occurred.

### 4.12.4 Assessment of TasWater's proposed service replacement process

TasWater's proposed Price and Service Plan states that its process for service replacement is largely unchanged from the process used in the second regulatory period, with only minor revisions to improve clarity (such as, on the level of community support required to proceed).

In its 2015 Price Determination Final Report the Economic Regulator stated that TasWater must engage the community to ensure the process for service replacement is transparent and present evidence of broad community support for any proposal. Broad community support was not a defined term. For the third regulatory period TasWater is proposing “broad community support” be defined as 80 per cent of customers on signed agreements for service replacement. TasWater also proposes that sufficient support for an opt-in irrigation supply be defined as support from 80 per cent of customers in the serviced area. The Economic Regulator considers that an 80 per cent threshold is an appropriate indicator of broad community support for use in the service replacement process.

TasWater proposes that customers have 150 days to respond to a Service Replacement Offer. The Economic Regulator considers this to be a reasonable offer period.

TasWater proposes replacing “chooses” with “indicates” in the process for engagement with community and regulators: “Community indicates type of service replacement to be implemented (eg rainwater tanks). Under the service replacement process, the community would be presented with options from TasWater. The word “chooses” suggests more than one type of service replacement being offered by TasWater or that the community chooses the option independently of TasWater. Given that it is TasWater who provides the options to the community and in many cases the only option TasWater can offer is water tanks, the community choosing the type of service replacement is not an accurate description of the process. The word “indicates” would allow for all scenarios from one option or many options from TasWater.

The Economic Regulator notes that TasWater’s proposed service replacement process did not include any further steps should a customer reject the service replacement offer and provides the “Offer rejected” form.

Under the current process, should a customer reject TasWater’s service replacement offer, customers receive a revised service replacement offer and, if rejected by the customer a second time, the customer may seek a review of TasWater’s offer by the Ombudsman.

The current process includes the customer having a right of review of TasWater’s offer. The Economic Regulator considers it important that if a customer feels that TasWater’s service replacement offer is inadequate and is unable to resolve the matter, it is made clear that they have the opportunity to address this through the standard complaints handling arrangements and if not satisfied can have this matter resolved by the Ombudsman.

In providing a property owner with a service replacement offer it is expected that TasWater would, firstly, need to undertake a robust risk and site assessment and apply an accepted methodology in determining the appropriate design of the proposed service replacement option. For example, in the case of rain water tanks, the Economic Regulator expects that offers would be based on an accepted approach to the sizing of the tanks based on appropriate rainfall data.

The current process provides for an explicit right of review of TasWater’s decisions in relation to offers made by TasWater to individual customers but also utilises the existing complaints handling process whereby complainants should generally lodge and attempt to resolve complaints with TasWater in the first instance before seeking the Ombudsman’s review. Should a property owner refuse to engage in the process, the current process includes the Economic Regulator approving a change to the serviced land area and subsequent disconnection of the property by TasWater, without prior installation of an alternative supply for the property owner.

TasWater also has not proposed any process under which the property owners of a community could choose, instead of service replacement, to contribute to the costs of upgrading their current reticulated service. Therefore, in the absence of a proposal from TasWater, TasWater will not be able to provide this as an option to communities during the second regulatory period as the methodology for determining any such charge needs to be approved by the Economic Regulator before agreements can be entered into with property owners.

While not included in its proposed Price and Service Plan, it is the Economic Regulator's understanding that TasWater is considering the option of paying cash to customers to undertake the installation of assets for service replacement (in the past TasWater installed the replacement service or sub-contracted the work). The Director of Public Health has raised concerns with this possible approach since it is not clear when the Director of Public Health can give its approval and there is a risk that a customer could use the money for purposes other than the installation of the appropriate assets.

While it is necessary for TasWater to comply with its regulatory obligations, it is also expected that proposals for reticulated service replacement will be consistent with relevant established policies and initiatives, including regional land use planning frameworks. It is also expected that any proposal will take account of fire-fighting requirements to the satisfaction of the Tasmania Fire Service.

In keeping with the independence of the various regulators involved in the decision-making process, it is the responsibility of each regulator to determine the basis on which it might assess the extent to which a particular proposal is considered satisfactory.

*The Economic Regulator intends to require TasWater to continue using the current service replacement process with minor changes to the definition of broad community support; the offer period and the use of the word "indicates" rather than "chooses".*

*The Economic Regulator also intends to require TasWater to not offer the option of paying cash to customers to undertake the installation of assets for service replacement.*