

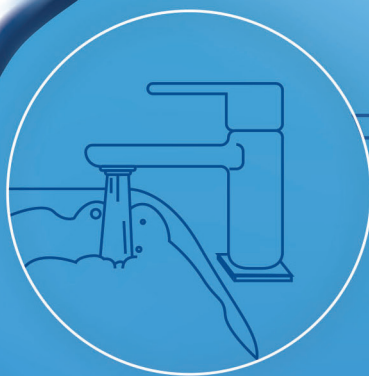
Left out to dry: The future of equitable water billing in South Australia

Issues Paper

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Keywords

Consumer Advocacy Research Fund	CARF
Energy and Water Ombudsman SA	EWOSA
Essential Services Commission of South Australia	ESCoSA
<i>Residential Tenancies Act</i>	RTA
Residential Tenancies Tribunal	RTT
SA Water Revenue Determination for period 2024-2028	RD24
South Australian Civil and Administrative Tribunal	SACAT
<i>Water Industry Act</i>	WIA
Yarra Valley Water	YVW

Section 1: Executive Summary

1. Water and sewerage prices for South Australian consumers have been rising at a faster rate than inflation (consumer price index) for a considerable period (see Figure 1.1).¹ Low- and moderate-income households cannot afford more price rises in essential services.
2. A 2014 amendment to Section 73 of the *Residential Tenancies Act 1995* (RTA) allows landlords to pass on water usage and/or supply charges to tenants. In the absence of an agreement, the landlord can request the tenant to pay water supply and usage charges if the property is individually metered.²
3. In 2014, the *Water Industry Act* (WIA) was proclaimed, replacing the *Historic Water Works Act*. The WIA included a consumer of retail services under the definition of ‘customer’.³
4. Tenants are not customers (for SA Water billing purposes). While tenants are end-use consumers, they are not directly billed and do not have a relationship with the water utility.
5. Consequently, tenants have little information about their bills and have a weaker negotiating position with their landlord. This power imbalance is evident in SA Water survey data revealing over 12 per cent of tenants are charged for sewerage, which landlords are responsible to pay.⁴ The current billing system is inconsistent with other essential services, in which service providers bill consumers directly.
6. In its current form, the RTA limits the capacity of the South Australian Energy and Water Industry Ombudsman (EWOSA) to effectively intervene in water disputes involving tenants, as they are not recognised as customers.⁶ Recognising tenants as customers will allow ready access to EWOSA’s straightforward and timely dispute resolution process, reducing the Residential Tenancies Tribunal’s (RTT) caseload and cost.
7. The RTA is not clear regarding who pays excess charges in case of a concealed leak, which further increases the vulnerability of tenants.
8. The current system disproportionately affects low-income tenants, including limiting their access to SA Water’s hardship programs. There is a strong need to reform both the RTA and WIA to introduce better tenant protections. This becomes more significant given **just 1%** of private rental properties are affordable to single people on age pension in regional SA.⁶ Simultaneously, more than 30 per cent of South Australians are renting from a private landlord and this number is sharply increasing.⁷ Very low rental vacancy rates mean that in practice, low-income tenants have no capacity to negotiate their water bills.⁸
9. Tenants should expect to have access to water efficient rental housing. This is the situation in NSW, Victoria, and Queensland.
10. The stewardship of water — an essential service and a crucial ‘merit good’ — means that water utilities should do all that is possible to ensure that water and sewerage services are readily available and affordable, including for lower income people.

This paper examines key questions, including:

- I) How can the WIA and RTA be best amended to ensure equitable approaches to water billing and assistance for low- and modest-income tenants in private rentals?
- II) Is it reasonable to directly bill tenants for the water service they consume and pay for? What should tenants be paying and how can we get tenants recognised as water customers by the utility?
- III) What are the options to enhance tenants’ access to water efficiency and hardship programs?

¹Uniting Communities submission to Essential Service Commission of SA, published January 2020, p. 3. <[20200205-Water-SAWRD20-Submission-UnitingCommunities.pdf \(sacoss.org.au\)](https://www.essential-services.com.au/files/2020/01/20200205-Water-SAWRD20-Submission-UnitingCommunities.pdf)>.

²*Residential Tenancies Act 1995*, Version: 1.7.2020, p. 32. <https://www.legislation.sa.gov.au/_/legislation/lz/c/a/residential%20tenancies%20act%201995/current/1995.63.auth.pdf>.

³South Australia *Water Industry Act 2012*, Version: 1.7.2020, p. 8. <https://www.legislation.sa.gov.au/_/legislation/lz/c/a/water%20industry%20act%202012/current/2012.10.auth.pdf>.

⁴Tenants as Customers Research Insights, SA Water, published 9 March 2021.

⁵Information based on consultation with EWOSA

⁶Rental Affordability Snapshot April 2022, Anglicare, p. 138. <<https://www.anglicare.asn.au/wp-content/uploads/2022/04/Rental-Affordability-Snapshot-Regional-reports.pdf>>.

⁷A Future of Renting in SA, Emma Baker, presented on 8 April 2022, Slide 3.

⁸More families facing homelessness as SA rent prices soar and vacancy rates plummet*, published 8 March 2022. <<https://www.abc.net.au/news/2022-03-07/more-sa-families-facing-homelessness-with-no-solution-in-sight/100886644>>.

Section 2: Extent of the problem

The issue in a nutshell



Customer Support



Hello, welcome to SA Water

I am a tenant and need to extend my bill due date



Hi, SA Water is property based so it is only the landlord or your property Manager who can set up a payment arrangement

If I want to access hardship assistance, can I speak to SA Water directly and take it forward?



You can, but you will need to ask your landlord to authorise you on the account

But, I'm the one that pays the bill and consumes the service. Surely, there should be a way for me to figure this out directly with SA Water?



I understand, we are only too happy to assist but because SA Water, council rates and Revenue SA are all property based the liability is the responsibility of the owner.

Is this a commercial property or residential?



Residential



If you need to question anything in regards to your consumption you can always send a copy of your rental agreement and we can send the consumption

that is something we can do for you if it is ever an issue



Do you mean you can send me a copy of the water bill if I send through the rental agreement?



Not exactly. We can let you know your water consumption for a particular period if you are concerned with high water etc. We still can't send you the bill



Technically, am I an SA Water customer then? Seems like I can't access anything (or, I need the property owner's permission to) even though I pay for and use the service...



I can appreciate your feelings. It's just a question of privacy. It is the landlord who has the account with SA Water. If you are paying the bills direct to SA Water make sure you are only paying what you are meant to. Landlords have to pay the sewer and you pay the water usage and water supply

Context

1. ABS data shows that over the last two decades, water and sewerage bills across Australia have increased at a faster rate than CPI, adding pressure to household budgets, particularly for lower-income households, most of whom are renters.

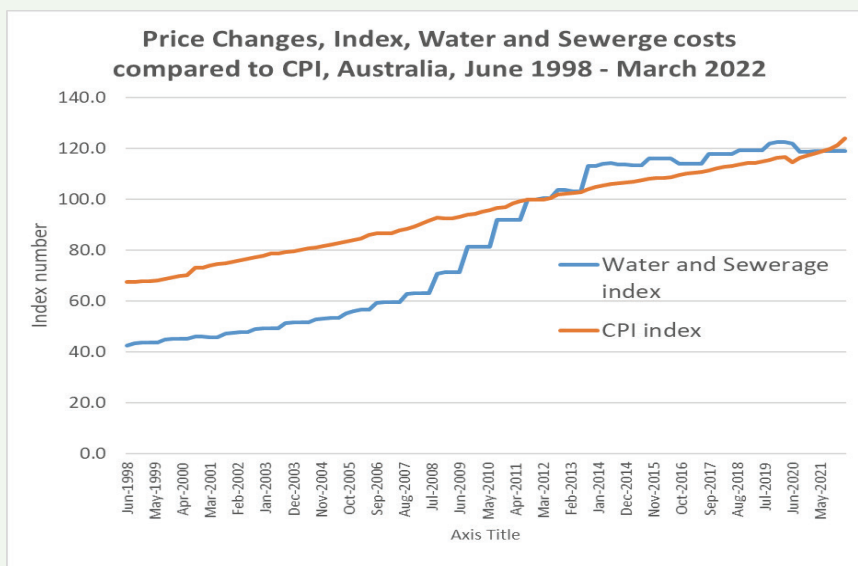


Figure 1.1

Source: Table 1, ABS Consumer Price Index, All Groups, 6401.0

SA Water state that over the last few years that they have committed to water use charges increasing by no more than CPI.

2. Currently, approximately 244,173 accounts in South Australia are billed to landlords who are not the end-users of the water or sewerage service⁹ A key issue is that the *Water Industry Act* does not recognise tenants as customers.¹⁰ This is inconsistent with the user pays principle, adopted in the energy, gas, and telecommunications industries, where the tenant is the customer and deals directly with the retailer.¹¹ Furthermore, it is not economically efficient for the costs associated with the provision of a service to be recovered from a person who does not receive that service.¹²
3. This becomes significant given that lower use customers pay a higher unit cost for water.¹³ The key point is that water supply costs are regressive as lower use customers (including renters in apartments and units), some of whom are lower income households pay proportionately more for their supply charge for each kilolitre of water used.
4. This becomes significant given that lower use customers pay a higher unit cost for water, right through the period 2020-24 as per SA Water's projections (unit cost for high use customers remains unchanged in nominal terms for the duration of the regulatory period a real reduction). The key point here is that water costs are generally regressive, i.e., poorer people pay proportionately more.¹⁴
5. By excluding tenants as customers, there is minimal transparency, which may result in inefficient usage and increased levels of unreported leaks, resulting in increased water disputes and associated costs regarding tenancy arrangements.
6. SA Waters' billing system was established to bill the owners of land. Rates for water under the repealed *Waterworks Act* was based on the provision of water to land, and hence, the customer was usually the landlord. The current customer relationship management linked to properties instead of individual people means SA Water needs to develop a mechanism to establish relationships with over 244,173 tenants.

⁹244,173 accounts derived from calculating 1/3rd of 732,520 residential customers of SA Water.

¹⁰With the exception of 'prescribed circumstances' set out in Regulation 4 and Section 37.

¹¹Final Inquiry Report: Inquiry into Reform Options for SA Water's Drinking Water and Sewerage Prices, Appendix 3: Billing end users – Cost benefit analysis and other options, published December 2014, p. 9, <<https://www.escosa.sa.gov.au/ArticleDocuments/436/20141214-Water-FinalInquiryReport-BillingConsumer3.pdf.aspx?Embed=Y>>.

¹²Final Inquiry Report: Inquiry into Reform Options for SA Water's Drinking Water and Sewerage Prices, Appendix 3: Billing end users – Cost benefit analysis and other options, published December 2014, p. 9, <<https://www.escosa.sa.gov.au/ArticleDocuments/436/20141214-Water-FinalInquiryReport-BillingConsumer3.pdf.aspx?Embed=Y>>.

¹³All residential customers pay the same supply charge for water, so the supply charge use ratio diminishes as water use increases meaning lower use customers are paying a higher supply charge per unit of water used.

¹⁴Uniting Communities submission to Essential Service Commission of SA, published January 2020, p. 28, <[20200205-Water-SAWRD20-Submission-UnitingCommunities.pdf \(sacoss.org.au\)](https://www.essential.org.au/20200205-Water-SAWRD20-Submission-UnitingCommunities.pdf)>.

SA Water Our Plan 2020-24, Appendix F: Pricing, Table F3, p.6 <[2_SAW_Our-Plan-2020-24_Appendix-F_2.1.pdf \(sawater.com.au\)](https://www.sawater.com.au/2_SAW_Our-Plan-2020-24_Appendix-F_2.1.pdf)>.

Residential Tenancies Act & Water Industry Act: TIMELINE & IMPLICATIONS

Until
2012

Historic Waterworks Act 1932 [ceased] applied

The act charged landlords directly as the owners of rateable land. Unpaid bills could be directly recouped from tenants' rent, and the tenant could pay less rent.

2013

Water Industry Act 2012 replaces Historic Waterworks Act

As per Water Industry Regulations, 'customer' includes a consumer of retail services. This applies in dispute resolution and ombudsman scheme. Section 37 includes consumers in the definition of residential customers for whom the water utility's hardship policies should apply.

Tenants are consumers and considered customers in certain situations – though tenants are not explicitly mentioned.

As per Residential Tenancies Regulations:

Landlord pays all statutory rates (ie: Sewerage) and pays water supply up to prescribed limit of 136 KL water. Tenant pays charges for usage exceeding this limit.

2014

Residential Tenancies Act amended to pass on water supply and usage charges to tenants in separately metered premises.

Prescribed limit (Residential Tenancies Regulations) revoked.

What was the reason for the change? Was there any consultation?

2022

Water Industry Act Review completed

The Department is now progressing the recommendations. Informal discussions about reviewing Residential Tenancies Act.

Observations and implications for tenants

Note: The authors acknowledge that there is no consensus on the interpretation of the following Sections for the WIA. A key aim of this paper is to consider amending both pieces of legislation to achieve consensus on the interpretation and applicability of the Acts.

- The amendments to the RTA and revoking of regulations allow landlords to pass on all water supply and usage charges to tenants. Landlords are still liable for sewerage charges, while the responsibility to pay water supply and standard usage charges has been moved to tenants. The paper's authors can find no public consultation and justification for this change introduced nearly a decade ago. Requests for this information were made to legislators and regulators. The authors regard this as poor public policy practice that needs to be redressed. Given the recommendations from the *Water Industry Act Review* are being progressed, it is an appropriate time to re-examine this previous decision.
- As a result of these legislative changes, tenants must pay for all water use, including supply charge and what was previously the basic allowance as well as any excess water use charges, and so must bear the additional supply charge and basic use costs – the authors can find no evidence of rents reducing after the water charge payment responsibility was taken away from landlords.
- The key question is: What drove these changes and was there any consultation, particularly with community organisations and tenants' groups?
- As per the WIA, the definition of a customer includes “in prescribed circumstances—a person supplied with retail services as a consumer or user of those services (without limiting the application of this definition to owners of land)” (See Appendix B - I).¹⁵ Clearly this shows tenants were intended to be customers for certain “prescribed circumstances”. However, a regulation specifically recognising tenants being able to access hardship policies in Sections 37 and 25(5) has not been drafted as Section 37 specifically includes consumers as “residential customers”.
- SA Water points out that the Act does not indicate the “prescribed circumstances” under which consumers are considered customers and hence, technically they are not required to provide hardship assistance to tenants.
- Section 37 of the WIA has **provisions for hardship policies** applicable to “residential customers” – which in this context includes consumers – so this section specifically applies to tenants (See Appendix B – II).¹⁶ Hence, it is not clear why tenants are not able to access hardship provisions as outlined in Section 37 of the Act.
- The authors note that as per the utility's policy, the definition of a residential customer includes a “consumer who is supplied with retail services for use at residential premises”.¹⁷ Therefore, the utility has an obligation to provide hardship assistance to tenants.¹⁸
- Section 25 (5) which relates to licence conditions requires “a code or set of rules” to “include provisions to assist customers who may be suffering specified types of hardship” (See Appendix B – III).¹⁹ So, providing hardship provisions to tenants or “residential customers” is required as a licenced condition.
- However, the reality is that tenants cannot access SA Water's hardship program.
- The key issue is that end-use consumers of water services are not always considered customers, as the definition of a customer under the Act relates to landowners in most circumstances. This limits the applicability of various elements of the Act, including tenants accessing formal payment plans and hardship provisions.²⁰

The interaction between both acts is unclear

- Under WIA, tenants are considered customers (in some contexts) and in theory, they should be able to access EWOSA's dispute resolution service.
- However, as tenancy agreements fall under the RTA, water disputes (after initial negotiations with water utility fail) are resolved in South Australian Civil and Administrative Tribunal (SACAT). So, there are **two pathways to resolving a dispute** (Ombudsman & RTT).
- The authors observe that in practice, EWOSA deals with very few rental disputes regarding water. EWOSA refers enquiries from tenants disputing their bills to the SACAT. However, EWOSA can directly deal with water bill disputes from landlords as landlords are without a doubt considered customers of SA Water.²¹

¹⁵ *Water Industry Act* 2012, Version: 1.7.2020, p. 8, <https://www.legislation.sa.gov.au/_/legislation/lz/c/a/water%20industry%20act%202012/current/2012.10.auth.pdf>.

¹⁶ *Water Industry Act* 2012, Version: 1.7.2020, p. 27, <https://www.legislation.sa.gov.au/_/legislation/lz/c/a/water%20industry%20act%202012/current/2012.10.auth.pdf>.

¹⁷ Hardship Policy for Residential Customers, SA Water, Version 15.08.2018, p. 1-2, <[hardshippolicyrescustomers.pdf \(sawater.com.au\)](http://hardshippolicyrescustomers.pdf(sawater.com.au))>.

¹⁸ Hardship Policy for Residential Customers, SA Water, Version 15.08.2018, p. 1-2, <[hardshippolicyrescustomers.pdf \(sawater.com.au\)](http://hardshippolicyrescustomers.pdf(sawater.com.au))>.

¹⁹ *Water Industry Act* 2012, Version: 1.7.2020, p. 23, <https://www.legislation.sa.gov.au/_/legislation/lz/c/a/water%20industry%20act%202012/current/2012.10.auth.pdf>.

²⁰ Review of the *Water Industry Act* 2012, Department for Environment and Water, published September 2020, p. 22 <[water-industry-act-review-final.pdf \(environment.sa.gov.au\)](http://water-industry-act-review-final.pdf(environment.sa.gov.au))>.

²¹ Information based on consultation with EWOSA.

- Given that SACAT deals with a wide range of tenancy disputes while EWOSA mainly focuses on water disputes, it makes sense for tenants to dispute their water bills with EWOSA. Furthermore, Tenants find SACAT intimidating and time intensive.
- The interaction between both acts needs to be made clear to ensure tenants can access and benefit from EWOSA's timely and straightforward dispute resolution service, with referrals to SACAT being made only on rare occasions.

Data shows tenants are consistently affected by the current system

SA Water research revealed the following: ²²

78%

of tenants deem it important for them to **see water usage**.

61%

believe shared meters are unfair and lack transparency and **want to receive e-bills** from SA Water.

72%

are interested in accessing an online portal or app to **check their bills and usage**.

74%

of tenants want an option to **request extra time to pay their bills** if they are struggling.

71%

support having a **payment plan** to spread out the cost of high bills and.....

68%

...support directly **speaking with SA Water** to access support.

73%

support regulations for **landlords to install water efficient fixtures and...**

76%

support regulations around **the maintenance of water devices** before charges are passed on to tenants.

Direct communication with SA Water without needing to go through a third party, increased information and access to payment and support services have flow-on effects on tenants' water usage and charges.

Of the 1,180 cases (mostly complaints) about water with SA Water received by EWOSA in the 3 years prior to May 2022, the most frequent issue was a **high water bill dispute which contributed to 281 cases**, followed by **95 cases about water leaks**.²³

RentRight SA received 222 enquiries with water as the primary reason during January 2021-March 2022.²⁴ The most common enquiry was **tenants wanting to know if a landlord should provide them with a copy of the water invoice and what rights they have if they don't receive a copy**. The next most frequent enquiry was about the actual **water charges tenants are responsible for**.

In 2019, as part of a [previous CARF project](#), Uniting Communities surveyed 156 participants about issues tenants faced with water bills. The survey highlighted inconsistencies in what tenants were charged for water. Some people reported they were **unable to access concessions as the water bill was in the landlord's name**.²⁵ **Almost half** (45 per cent) said they were **paying sewerage charges**. Over 91% of people experiencing problems with paying bills on time did not seek help from SA Water or their landlord.

A similar survey conducted in 2022 revealed that **5% of respondents** were being **charged for sewerage**.²⁶ Half – **over 50% – did not receive an itemised invoice of their bill**. **Over 72% believe tenants should be billed directly**. **53% of respondents have trouble paying water bills on time**. 52% think tenants should be charged for usage exceeding a prescribed limit. Key responses reveal that some landlords do not pass on any water charges to tenants, most people want to receive bills from SA Water and some support establishing a standard supply charge for all properties.



Survey responses for noting:

“

Private rental for over 7 years. **Have never paid a water bill at all, landlords take care of it.**”

“

I'm a low-income earner and **I struggle to pay my water bills without selling things I own to make up the extra money to pay it**. **Low-income earners need help with basic necessities like this**. I have \$11 a fortnight left after rent and bills on job seeker so it's impossible to pay water bills on time.”

“

“**Even trying to access the concession for this is impossible.**”

“

As a tenant who has lived all over the country, **I would be more comfortable, and feel more in control of my utilities, if I was billed directly from SA Water** instead of via the real estate.”

²³Data received from EWOSA.

²⁴Data received from RentRight SA.

²⁵SA Water Performance Data suggests that (as at Q2 2021/22), there were 124,651 residential customers receiving a water concession. These numbers suggest a low uptake, given there are approximately 190,792 residential customers receiving the energy concession, which has similar eligibility criteria.

Source: [Regulatory-report_2021-22_quarterly-Q2.pdf \(sawater.com.au\)](#); https://www.sa.gov.au/_data/assets/pdf_file/0007/15847/B009-Are-You-Eligible-Brochure-06_21.pdf.

²⁶Uniting Communities receive 89 survey responses, < <https://bit.ly/3v0V4iK>>.

“

Tenants should only pay for what they use. Landlord should pay supply and sewerage.”

“

Tenants should not have to pay a supply charge while that charge is based on the value of the property. A standard charge for ALL properties would be okay.”

“

Our landlord has somehow managed to maintain an out-of-date council price for our house. He is paying sewerage for a \$570,000 house - a property advertised on the same road of similar size etc sold for \$900,000. How is that fair? He owns many properties on the street - if he wants to own all the properties so no one else can buy them and barely afford to rent in them - he should pay for water, or at least fairly for the rates.”

“

Bill should be to the tenant as we're the ones paying, so we can get the concession cost. It's 2022: way overdue for this.”

“

In a private setting, tenants need access to water and are often expected to maintain lawns, gardens and plants. Therefore, I am adamant in my belief that landlords should pay the supply charge, and tenants should receive an allowance.”

“

Renters should receive the SA Water invoice by default, direct billing or not (asking for it and not getting it in 30 days = not having to pay.”

“

I am a property manager and I think tenants should be billed for the water directly like in Victoria.”

“

We have trouble knowing if the real estate agent is paying our water (bill). If we could pay water bills directly it would be less stressful for owners and tenants. We are supposed to receive an itemised bill.”

Vulnerable tenants' experiences with water bills: Uniting Communities Financial Counselling

Client: Female single parent working part-time and receiving Jobseeker and carer's allowance

Experience: The rental agent emailed the client that they would be evicted if they failed to pay their water arrears within two weeks. The SA Water invoice was never provided. The case was taken to SACAT and the client's payment plan was reduced as requested to help them repay their debt. The client faced high stress while navigating the process and having to find a new rental at short notice.

Client: Female single parent receiving Jobseeker, recently lost employment and struggling with Post Traumatic Stress Disorder (PTSD)

Experience: The client was experiencing financial stress and was unable to pay her water bill. The property agent threatened the client with eviction if she did not pay the bill. They negotiated a \$10 per fortnight payment for the client, which the agent agreed to for three months. The client could not make enough money in three months to pay the full bill, so she ended up borrowing money to pay the debt. The agent was not receptive to the client's financial stress and mental health struggles.

Client: Male parent from multicultural background with eight children receiving Jobseeker

Experience: The client received a full water bill from landlord payable by the due date. He had to take the agent's word regarding usage as he could be evicted for defaulting on the water bill. He hesitated to get help from a financial counsellor to begin a payment plan as he was scared his lease would not be renewed. Finally, the client received financial assistance to pay his bill before the due date. The financial counselling team noted "clients should receive SA Water bills for their water usage direct so they can deal with the SA Water hardship team... without involving the rental agent. The water concessions paid directly into a client's bank account can then be credited to their SA Water account like electricity concession."

The Worst-Case Scenario – Evicted after Violence

A financial counsellor at Zahra Foundation Australia reported at a previous forum we co-hosted with the Anti-Poverty Network that a client had been on the verge of eviction after defaulting on a water bill.²⁷ The client was a victim of domestic violence and had accumulated water debt over six months when the perpetrator moved out. The agent threatened to issue an eviction notice if the water bill was not paid within a very limited time frame. Only after the counsellor's intervention was the payment delayed and a grant obtained to pay the bill.

These stories highlight a key issue: tenants are not able to have any interaction with SA Water and experience difficulties with accessing hardship programs. Furthermore, assessing customer hardship for essential services is beyond the scope of property agents, so the relationship between SA Water and the tenant is instrumental for vulnerable tenants to access hardship programs.

Yarra Valley Water: Best Practice Customer Hardship Insights

Yarra Valley Water's (YVW) hardship program is considered a best practice model in the water industry. The program's policies ensure 'customer centricity is in the DNA' to help low-income customers receive assistance. For instance, satisfaction with the hardship program is part of seven key annual targets the business needs to achieve. The most recent target was "89% of customers who have accessed our services believe we help customers experiencing difficulty paying for their water and sewerage services"²⁸ If they fail to meet this goal, YVW returns \$1.5 million to customers as an annual community rebate.

The hardship program was co-designed with the welfare sector and supports over 10,300 customers. Key initiatives include regular 'Bring your bill' events at public hubs to help customers understand their bills, sending plumbers to fix suspected leaks at residential properties for hardship program customers, and providing customers with quarterly bill estimates in advance to help them reduce usage.²⁹ Additionally, various multilingual communications campaigns (specifically targeted toward multicultural customers) and outreach activities help raise awareness about accessing hardship programs. YVW helps eligible concession card holders claim 50% off their annual bill and helps them apply for the \$650 Victorian Government Utility Relief Grant to repay their debt.³⁰

The process to begin a hardship program is simple; the customer pays what they can afford and if there is an unpaid amount, they are added to the arrange and save program. For example, for every five payments of \$20, the customer receives a bonus credit of \$20. The unpaid debt is eventually written off. The program is successful in helping vulnerable customers in sustained hardship pay amounts they can afford. YVW stated there is a steady increase in the number of customers transitioning out of the hardship program and returning to regular payment arrangements. Demonstrated benefits of the hardship program include a 50 per cent reduction in the number of supported customers whose debt levels exceed \$1000 and a 168 per cent increase in the customers transitioning back to mainstream payment plans.³¹ YVW demonstrates a successful and well-founded business case for supporting the most financially vulnerable.

Consumer Advocacy Law Centre pointed out they rarely get calls about financial hardship regarding water bill. This is a testament to Victoria's holistic approach, which demonstrates legislative reform with rigorous community consultation, direct customer engagement, support from the utility, and enhanced access to dispute resolution working effectively. The result is vulnerable customers and their access to essential services is supported in multiple ways.

Can tenants access SA Water's hardship program?

Currently, **tenants experiencing hardship cannot access SA Water's hardship program** without the landlord's authorisation. Even though there is a hardship program in place, several tenant customers are unable to access it as landlords are the customers legally responsible for bills. This shows the program is not effectively working. There are two key issues here:

- ➡ As per the WIA, SA Water is obligated to ensure tenants can access hardship programs as they fit the definition of 'residential customer'
- ➡ Given that only landowners are considered SA Water customers, tenants cannot access hardship programs until they are recognised as customers. As a result, SA Water may not be accurately applying the Act's licence conditions relating to hardship provisions.

²⁷Sinking Incomes Report 2019, Uniting Communities, p. 20, <[20190606-Water-CARF-UnitingCommunities-SinkingIncomes.pdf.aspx \(escosa.sa.gov.au\)](#)>.

²⁸Our Performance 2020-2021, Yarra Valley Water, <[Our Performance 2020-2021 | Yarra Valley Water \(yvwm.com.au\)](#)>.

²⁹Information based on consultation with YVW staff.

³⁰Information based on consultation with YVW staff.

³¹WaterCare: supporting vulnerable customers, Water Services Association of Australia, <[WaterCare supporting vulnerable customers_Yarra Valley Water.pdf \(wsaa.asn.au\)](#)>; Inside Yarra Valley Water's financial hardship program, Australian Water Association, Cecilia Harris, published 11 April 2022, <[Inside Yarra Valley Water's financial hardship program \(awa.asn.au\)](#)>.

According to our consultation with Turner Real Estate, it is common for property managers to negotiate a payment plan with tenants with unpaid bills. The agency pays the water bill using the landlord's money and recovers it from the tenant. Given that the landlord is already out-of-pocket, there is no reason for them to negotiate a payment plan with SA Water. This again highlights the inefficiencies of the current system and shows tenants' heavy reliance on landlords to access hardship programs. Cases with unpaid water bills rarely make it to the Tribunal; it costs the landlord \$80 to schedule a hearing and the most likely outcome is the tenant negotiates a payment plan. To avoid this expense, agents negotiate payment plans with tenants. This raises the question of whether property managers – who are not trained to assess hardship – should be negotiating payment plans that SA Water would otherwise be assisting landlords with.

A comparative analysis of hardship programs across three water utilities shows there is additional scope for SA Water to improve its program.

Comparative analysis of tenants' access to water hardship programs³²

Topic	SA Water	Sydney Water	Yarra Valley Water
Applying to extend bill due date	Unavailable directly to tenants	Tenants can get a 35-day extension to negotiate with the agent	Available to tenants
Rebate	Interest and fee free payment plan unavailable to tenant without landlord authorisation	Not applicable as tenants don't pay fixed charges	50% off water use charges, up to an annual maximum for concession card holders
Payment options for tenants experiencing financial hardship	Tenant can pay in arrears or redirect bills to third person, but only if the landlord authorises it	<ul style="list-style-type: none"> - BillAssist: Tenant can have a confidential chat about their financial circumstances with a dedicated case coordinator to know range of support options - Payment Assistance Scheme (PAS): Tenants with an individual meter can apply one-off PAS credit worth \$600 towards unpaid bill 	<ul style="list-style-type: none"> - SmoothPay: Allows tenants to spread the cost of quarterly bills through smaller, more frequent payments - Helps tenants receive the Utility Relief Grant, removing up to \$650 in water debt annually
Billing and usage information	Tenant does not receive bill from SA Water and needs to request a copy from the property manager. ³³	Real estate agent provides invoice to tenant (landlord details blurred out)	Tenant and landlord receive bills
High water usage letter	Tenant does not get this letter from SA Water	Tenant does not get this letter from Sydney Water	<ul style="list-style-type: none"> - Tenant receives high water usage warning from YVW - YVW sends plumber to the property to check for suspected leak (only available to hardship customers)

Source: Utility websites and discussions with staff conducted as part of this project. ³⁴

³²Authors' note: While different legislation exists across these states, the aim of this paper is to draw on this comparative analysis and highlight potential legislative changes to implement in the WIA and RTA and improvements to the hardship program.

³³Under the Commission's Water Retail Code, a tenant can also request billing data directly from SA Water. The authors understand that SA Water does not send bills directly to tenants. See: ESCOSA, Water Retail Code – Major Retailers, cl. 18.11.4 and 18.11.5, November 2012, <<http://www.escosa.sa.gov.au/projects/183/water-retail-code.aspx>>.

³⁴Source: www.sawater.com.au; www.sydneywater.com.au; www.yvw.com.au.

The Case for Change

- If people cannot afford the amount of an essential service that they need (safe water) then there is a market (or government) failure, which has negative impacts on society and the economy.
- Given the lack of a legislative framework or regulation explicitly recognising tenants as customers, there is a misconception that the water utility is under no obligation to extend customer services to tenants. Tenants need to be recognised as customers for the utility to deliver customer obligations, including hardship assistance.
- The RTT highlighted in a letter to ESCoSA that from their perspective, “the current billing system does not work well and is a contributing factor to the volume of water disputes dealt with by the RTT. The current system creates delays in water bills being provided to tenants. Often the landlord will receive the water bill and provide the bill to an agent (if there is one), who then provides it to the tenant”.³⁵ The RTT mentions, “in our experience at the RTT it is reasonably common for the tenant to receive no SA Water invoice at all or to receive only the front page of the invoice. It is also common for a tenant to receive no SA Water invoices until the expiry of a 12-month tenancy. The current system used by most agents for water payments and charges to be recorded on the rent record adds to the confusion”.³⁶
- In their letter, the RTT raises equity considerations citing the unfairness that can result from the current arrangement: a high water bill for the tenant resulting from an undetected leak. “The law is that until a defect is reported to a landlord, the landlord is under no obligation to take any action to fix it. The RTT has received applications claiming amounts in the vicinity of \$2,000 for one quarter for water use where a leak is detected by the tenant only after the bill is issued. As the law currently stands, the tenant must pay for all of that bill (assuming the tenancy agreement requires the tenant to pay for all water use). The landowner may apply for a rebate from SA Water. This is a matter within the landlord’s discretion, and regularly at the RTT the landlord has refused to make that application”.³⁷ This puts tenants in an even weaker position and privy to water debt.
- Merit Goods refer to “goods or services whose consumption is believed to confer benefits on society as a whole greater than those reflected in consumers’ own preferences for them. A good may be classed as a merit good if it causes positive externalities.” Safe drinking water and efficient sewerage services reduce disease, DALYs (disability adjusted life years) and premature death, with considerable net benefits to society.
- Considering renting is the fastest growing form of tenure for low-income households, there is a strong need to reform legislation and the current water billing process to protect tenants.³⁸
- Tenants not receiving bills directly from SA Water means in some cases, they are illegally charged for sewerage. SA Water research revealed over 12 per cent of customers were paying for sewerage. Receiving a bill directly from the water utility would help tenants become aware of what they are being charged so they pay only what they are entitled to pay.

³⁵SA Water Drinking Water and Sewerage Pricing Reform Inquiry, Letter from Residential Tenancies Tribunal to Essential Services Commission South Australia, published 4 November 2013, p. 2.








³⁶SA Water Drinking Water and Sewerage Pricing Reform Inquiry, Letter from Residential Tenancies Tribunal to Essential Services Commission South Australia, published 4 November 2013, p. 2.

³⁷SA Water Drinking Water and Sewerage Pricing Reform Inquiry, Letter from Residential Tenancies Tribunal to Essential Services Commission South Australia, published 4 November 2013, p. 2.

³⁸Housing Occupancy and Costs, ABS Data, published 25 May 2022, <<https://www.abs.gov.au/statistics/people/housing/housing-occupancy-and-costs/latest-release#states-and-territories>>.

Section 3: Key Questions

1. How can the SA Water Industry Act (WIA) and Residential Tenancies Act (RTA) be best amended to ensure equitable approaches to water billing and assistance for low- and modest-income tenants in private rentals?

Potential solution	Opportunities and Challenges
Amend both WIA and RTA to specifically recognise tenants as customers for water services	 This provides great clarity about tenants as customers and creates greater consistency across the two Acts. This action would reverse the previous decision that was not publicly debated, redressing poor public policy. A key challenge is that legislative change is more difficult to achieve than developing a protocol with the water utility or RTT or amending a regulation to accompany the Acts. More details about legislative solutions are highlighted below.
Amend WIA to instil a regulatory obligation for the water utility to implement hardship policies for tenants	 This solution can tackle the current problem where tenants' access to hardship programs is restricted and subject to the landlord's authorisation. Tenants would benefit as the utility would promote the program and increase awareness among vulnerable customers.  This would ensure a level of compliance enforcement for the utility. The utility will have an opportunity to ensure its hardship services reach eligible customers. Using YVW as an example, the water utility could aspire to deliver above and beyond compliance when it comes to supporting tenants with payment difficulties.
Amend RTA to allow tenants ready access to EWOSA's dispute resolution scheme	 Given EWOSA's jurisdictional expertise in resolving water disputes and the straightforward process, tenants would be benefited. Considering landlords have access, it makes sense to allow for tenants to have access as well.  This would also ease the burden on the Tribunal.
Clarify the accurate dispute resolution pathway for tenants	 As presented earlier, the interaction between both Acts is unclear, creating two dispute resolution pathways: SACAT and EWOSA. Clarifying the accurate pathway (potentially being EWOSA) for tenants will ensure they have access to a standard dispute resolution process.
Amend RTA to limit evictions resulting from unpaid water bills for tenants in extreme circumstances (e.g. experiencing sustained financial hardship or living with a disability)	 This will ensure in rare cases (e.g. Zahra Foundation case study) the tenant isn't at risk of homelessness resulting from non-payment of water bills.



Tenant



Landlord



SA Water



Tenancy Tribunal



Government

2. Is it reasonable to directly bill tenants for the water service they consume and pay for?

As explained in this paper, it is reasonable to bill tenants for an essential service they consume and pay for. Simultaneously, there appear challenges that need to be solved to achieve this goal. A key challenge is that as per the SA Water Corporations Act, the bill charge is against the land, so the landlord is responsible and is the account holder (See Appendix B – IV).³⁹ The current property-based billing system needs to evolve into a people-based system, so instead of being locked into a property, the accounts will follow people as they move to different rentals.⁴⁰ A legacy challenge SA Water faces is the lack of up-to-date contact details of the landlord.⁴¹ When a property changes hands, SA Water receives information; however, the property may be rented out for several years during which time the landlord's contact details may change. In these cases, SA Water relies on the landlord to provide updated contact details. While SA Water has been successful in digitising and building up customer details over the years, this information gap remains a challenge.⁴² Through consultation with Victorian stakeholders, the authors inform that from a change management initiative lens, subject to accurate customer information and relevant legislative impetus, SA Water could change the account holders' details from the landlord to the tenant for direct billing. Victorian stakeholders have highlighted the need to stop looking at tenants as separate customers.

1. What should tenants be paying?

In terms of what tenants should pay, a **structural reparation of responsibilities** (who is responsible for what charges) is required. In other Australian states, where landlords are allowed to charge usage, there are caveats in place to ensure the tenant's position is not weakened. For instance, in New South Wales and Queensland, there is a well-defined minimum efficiency requirement for fixtures in the house.⁴³ In Victoria, the fixed and variable costs are shared between the landlord and tenant in an almost equal manner. This fairness of sharing costs is recognised in the community and invariably leads to fewer disputes and inconsistencies in water billing. Establishing caveats is important to balance the power and ensure tenants have some negotiating power.

The authors observe for tenants in South Australia, there is no clear principled delineation of responsibilities and charges. This is evident from the data showing inconsistencies in what tenants are being charged for. There is no principled basis for charging tenants a fixed portion of their water bill, especially because there is a recognition of the separation of costs with usage and supply.

³⁹South Australian Water Corporation Act 1994, Version: 4.7.2016, Section 18C, p. 8, <[South Australian Water Corporation Act 1994 \(legislation.sa.gov.au\)](https://www.legislation.sa.gov.au)>.









⁴⁰Based on consultation with Victorian stakeholders such as Energy Water Ombudsman Victoria and Yarra Valley Water.

⁴¹Information from consultation with SA Water.

⁴²Information from consultation with SA Water.

⁴³NSW source: <https://www.fairtrading.nsw.gov.au/housing-and-property/renting/during-a-tenancy/Water-electricity-and-gas-in-rental-properties>;

QLD source: <https://www.rta.qld.gov.au/during-a-tenancy/rent-and-other-bills/water-charging>.

Potential solution	Opportunities and Challenges	Comments
Shift the supply cost to the landlord	 <p>This solution ensures the fixed and variable charges are shared more equitably between landlord and tenant, as implemented in Victoria.</p>	<p>This reverts supply charge responsibility to the previous arrangements and ensconces essential supply of water as a landowner's responsibility.</p> <p>Landlords will resist what they will call a new cost impost, but they have had a windfall gain since, adding to the power imbalance between landlord and tenant.⁴⁴</p>
Establish caveats (e.g. minimum efficiency requirements) if tenants bear water supply and usage costs	 <p>A caveat such as a minimum efficiency requirement is fair and empowers tenants, creating a balance of power.</p>	
	 <p>There is an added benefit of reduced water usage and potential leaks.</p> 	
Adopt hybrid approach: Landlord pays for water and sewerage service supply charges and tenants pay for water usage charges	 <p>Landlords will benefit from reduced administration costs resulting from passing on supply charges to tenants.</p>	<p>This solution still fails to fully meet the economically efficient principle, where the user pays for the service consumed.⁴⁵</p> <p>The RTT submitted that tenants paying for sewerage is inconsistent with the general policy approach (landlord should pay for capital costs).⁴⁶</p> <p>As noted in the ESCoSA inquiry, this option does not add any further benefits but involves additional costs. The estimated net present value (NPV) of this option is \$39.5m, which is less than the \$53.8m NPV of the Inquiry's preferred option.⁴⁷</p>
	 <p>Tenants will benefit from economically efficient water consumption and reduced leakage.</p>	
	 <p>SA Water will benefit from enhanced capital efficiency. Challenges include costs of changes to the billing system and the potential for some bad debts. The cost of administering the hardship program could increase due to the potential for two sets of customers to enter the program for one property.</p>	
	 <p>This could reduce the volume of disputes heard by the Tribunal.</p>	

⁴⁴A windfall gain is a financial benefit that is gained as a result of an external change, e.g. policy change. In this instance, landlords were able to pass water costs on to renters, as a result of legislation change, without reducing rents to compensate. This is the landlord's windfall gain.

⁴⁵Final Inquiry Report: Inquiry into Reform Options for SA Water's Drinking Water and Sewerage Prices, Appendix 3: Billing end users – Cost benefit analysis and other options, published December 2014, <<https://www.escosa.sa.gov.au/ArticleDocuments/436/20141214-Water-FinalInquiryReport-BillingConsumer3.pdf.aspx?Embed=Y>>.







⁴⁶SA Water Drinking Water and Sewerage Pricing Reform Inquiry, Letter from Residential Tenancies Tribunal to Essential Services Commission South Australia, published 4 November 2013, p. 2.

⁴⁷Final Inquiry Report: Inquiry into Reform Options for SA Water's Drinking Water and Sewerage Prices, Appendix 3: Billing end users – Cost benefit analysis and other options, published December 2014, p. II, <<https://www.escosa.sa.gov.au/ArticleDocuments/436/20141214-Water-FinalInquiryReport-BillingConsumer3.pdf.aspx?Embed=Y>>.

II. How can we get tenants recognised as SA Water customers?

Potential solution	Opportunities and Challenges	Comments
Recognise Tenants in WIA legislation (and regulations) by amending the definition of a retail customer to explicitly include 'tenants'. Also, clarify what a 'prescribed circumstance' is where a tenant is considered customer.	 This is a good outcome for tenants as there will be a legislative driver for the water utility to give tenants access to the full suite of consumer protection measures (e.g. receiving regular bills with detailed consumption and payment information, early notification of concealed water leaks, access to flexible payment plans and bill smoothing arrangements, etc).	This is in line with ESCoSA's inquiry, which highlighted that amending the Act to recognise tenants as customers, enabling them to have a direct relationship with the water utility would provide a range of benefits.
	 However, this is contingent on tenants becoming the account holder. Currently, SA Water has indicated this is not possible as the accounts are based on property and so, the landlord is the account holder.	
In the Water Industry Regulations, include a clause to highlight tenants are considered customers in relation to accessing hardship policies or recognise tenants as a 'designated class of customer'.	 This would mean tenants would without a doubt be able to access hardship provisions like dispute resolution and notifications about disconnection.	
Instil water utility's obligations toward tenants into operating licences and use regulatory processes to recognise tenants as customers and work to resolve the issues they face.	 This option provides a pathway to recognising tenants as customers by making it a licence condition. The utility would have to satisfy an obligation to ensure tenants' access to hardship assistance.	The Public Interest Advocacy Centre in NSW highlighted this is an option commonly adopted to enable the utility to proactively work to solve issues faced by consumers.
	 Currently, even though the water utility is obligated to provide hardship provisions to tenants, this is not implemented in practice.	
	 SA Water would be benefitted from a more proactive role in helping vulnerable customers.	

3. What are the options to enhance tenants' access to water efficiency and hardship programs?

Potential solution	Opportunities and Challenges	Comments
Introduce minimum water efficiency requirements for properties (including for all new housing constructions) in the WIA	 <p>This caveat would reduce tenants' water usage and remove the split incentives for landlords. As explained, this will balance the power, without which tenants have little to no negotiating power.</p>	<p>Given the current rental crisis in SA, we find the RTT's view outdated – news reports show tenants are putting up with dangerous housing conditions as they have no say in these matters. In the current rental crisis, it is not possible for tenants to enquire about water efficient devices.⁴⁹</p>
	 <p>Victoria sets a precedent and requires that a landlord ensure if an appliance, fitting or fixture uses or supplies water at the rented premises needs to be replaced, the replacement has at least an A rating. Breaching this condition results in the landlord also paying for water usage. Similarly, both NSW and Queensland mandate minimum efficiency requirements in rentals.</p>	
	 <p>The RTT has previously indicated minimum efficiency standards are an “unreasonable burden on landlords. If a tenant is particularly concerned about water use, that tenant should be making enquiries as to the installation of water efficient products at the property prior to signing the tenancy agreement letter”.⁴⁸</p>	
Hardship policies be required to include demand management/ water efficiency as a primary focus	 <p>This option reduces the chances of accumulating water debt as a result of a leak, a key benefit to both landlords and tenants.</p>	<p>This option can be modelled on the Victorian Smart Homes Program, which forms part of the best practice hardship policy for Australian water businesses. The program, managed by the concessions unit of DHS,⁵⁰ assists concession households in financial hardship to replace inefficient or defective household fixtures causing high water bills, such as leaking taps and inefficient showerheads.⁵¹</p> <p>Yarra Valley Water's experience of participating in the program demonstrates significant benefits of both reducing customers' bills and water conservation, such as:</p> <ul style="list-style-type: none"> • Customers' accounts reduce by an average of 30 percent; • Customers save 120 kilolitres per year on average; and • In dollar terms, customers save on average \$150 per year in the consumption portion of their water bill.⁵²
	 <p>Landlords will be benefitted from support from the utility to replace inefficient water fixtures. This is in addition to claiming these expenses as tax deductions.</p>	
	 <p>There will be a driver (and incentive) for the water utility to provide information and support to help customers reduce usage.</p>	

⁴⁸SA Water Drinking Water and Sewerage Pricing Reform Inquiry, Letter from Residential Tenancies Tribunal to Essential Services Commission South Australia, published 4 November 2013, p. 3.

⁴⁹Rental Affordability Snapshot April 2022, Anglicare, <[Rental Affordability Snapshot 2022 - Anglicare Australia](#)>.

⁵⁰Department of Human Services

⁵¹The implementation of residential hardship policies by Victorian water businesses, Consumer Law Centre Victoria, p. 37, <[Microsoft Word - Hardship Policy Report.doc \(consumeraction.org.au\)](#)>.

⁵²The implementation of residential hardship policies by Victorian water businesses, Consumer Law Centre Victoria, p. 37, <[Microsoft Word - Hardship Policy Report.doc \(consumeraction.org.au\)](#)>.

Potential solution	Opportunities and Challenges	Comments
Establish specific hardship policy obligations	  <p>A report studying the implementation of hardship policy by Victorian water businesses recommends that:</p> <ul style="list-style-type: none"> • The obligation to have a hardship policy be broadened to include a requirement that hardship policies be proactively promoted and used by water businesses.⁵³ • The hardship policies clearly recognise the complexity of vulnerability and make hardship policies available to all vulnerable consumers.⁵⁴ 	<p>Considering Victorian water utilities have established provisions to protect low-income customers irrespective of the legislation driving such action, it is possible and even in the utility's best interests to improve hardship policy through consultation with the welfare sector.</p> <p>The authors observe that there is scope for water utilities in SA to better promote and implement their hardship policy.</p> <p>How tenants might access hardship programs without the current requirement of landlord authorisation needs to be worked out.</p>
Revise SA government concession processes, including for water and sewerage concessions, so that the application process is streamlined, like better interstate practice	 <p>Anecdotal data suggests that customers find the process of applying for concessions complex and often give up halfway. While the concessions processes have been streamlined, there are still outstanding issues around existing concession applicants (e.g. changes only apply for new applicants).</p> <p>Our survey data suggests that some tenants are unable to receive a rebate on concessions for water bills as the account is linked to the landlord. This issue needs to be addressed.</p>	<p>The other key issue seems to be administrative and information barriers around awareness. Perhaps the SA Government could proactively contact those who are receiving an energy concession to check if they should also be receiving the water concession.</p>
Establish a government grant to cover the cost of upgrading inefficient fixtures and help customers in extreme hardship repay water debt	 <p>Customers experiencing sustained hardship will be benefitted from accessing a government grant to put towards their water debt.</p>  <p>The Victorian Government's Utility Relief Grant is a good model.⁵⁵ Eligible concession card holders experiencing hardship can apply for an annual \$650 grant to put towards their debt.</p>	<p>Yarra Valley Water highlights this option is effective in reducing bad debts as it wipes out a sizable chunk of debt.</p>
Establish a government-funded residential water efficiency program	 <p>A residential water efficiency program modelled on the Victorian Smart Homes Program could focus on:</p> <ul style="list-style-type: none"> • Increasing awareness and helping concession households in financial hardship to replace inefficient fixtures; • Delivering behaviour change by encouraging people to use water wisely • Sending a qualified plumber to undertake a water audit and retrofit.⁵⁶ 	<p>Yarra Valley Water's participation in this program has demonstrated significant benefits in terms of increased bill savings and reduced water consumption for customers (see comments in row 3).</p>





⁵³The implementation of residential hardship policies by Victorian water businesses, Consumer Law Centre Victoria, p. 37, <[Microsoft Word - Hardship Policy Report.doc \(consumeraction.org.au\)](#)>.

⁵⁴The implementation of residential hardship policies by Victorian water businesses, Consumer Law Centre Victoria, p. 37, <[Microsoft Word - Hardship Policy Report.doc \(consumeraction.org.au\)](#)>.

⁵⁵Source: <https://services.dffh.vic.gov.au/utility-relief-grant-scheme>

⁵⁶Source: <https://www.water.vic.gov.au/planning/environmental-contributions/fifth-tranche-of-the-environmental-contribution/making-victorians-water-wise>

4. Can we achieve direct billing for tenants, and over what time frame?



Potential solution	Opportunities and Challenges	Comments
Tenants billed directly as SA water customers	 <p>Tenants benefit from greater price and cost transparency, however, there may be increased direct costs for tenants. This cost may be offset by a decrease in rent. Another key benefit is reduced leakage (better visibility of leaks due to receiving a bill).⁵⁷</p>	<p>The RTT recommends and supports water use and supply to be billed directly to tenants.⁵⁹</p> <p>The Essential Services Commission in Victoria observes that ESCoSA could approve an investment proposal for direct billing put forward by the water utility if the investment would better assist customers in financial hardship. Such a business case would justify additional costs for two sets of bills. Victoria’s strong precedent demonstrates the overall benefits of direct billing for tenants outweigh the costs.</p>
	 <p>Landlords benefit from reduced costs involved in passing on charges to tenants. Debt risk will also fall as tenants have ultimate responsibility for water accounts.</p>	
	 <p>Reduced volume of disputes requiring to be heard by RTT.</p>	
	 <p>SA Water benefits from some reduced costs and net economic benefits (lower demand resulting from reduced consumption and leakage), improved knowledge of the consumer base by billing end-users, greater insight into consumer behaviours, and a better relationship with consumers. Key challenges include the increased cost of upgrading the billing system to bill tenants, an increase in final meter reads when a customer moves in and out of a property, the potential for bad debt and increased costs in administering the hardship program due to more customers participating.⁵⁸</p>	

⁵⁷Final Inquiry Report: Inquiry into Reform Options for SA Water’s Drinking Water and Sewerage Prices, Appendix 3: Billing end users – Cost benefit analysis and other options, published December 2014, p. 5, < <https://www.escosa.sa.gov.au/ArticleDocuments/436/20141214-Water-FinalInquiryReport-BillingConsumer3.pdf.aspx?Embed=Y> >.

⁵⁸The participation would be equivalent to the proportion of customers participating in AGL SA and Origin Energy’s hardship programs.

⁵⁹SA Water Drinking Water and Sewerage Pricing Reform Inquiry, Letter from Residential Tenancies Tribunal to Essential Services Commission South Australia, published 4 November 2013, p. 2.

5. What are some options to improve the water utility’s transparency and accountability?

Potential solution	Opportunities and Challenges	Comments
Establish an online portal where tenants can access information support, consumption details, and apply for bill extensions	 <p>Tenants would benefit from having an independent relationship with the water utility, similar to what landlords currently have. The portal would serve as a space for tenants to get detailed information about usage and hardship policies, encouraging them to be more water efficient.</p> <p>This option would allow tenants to feel more in control of their usage and access key information, ultimately improving the water utility’s transparency and accountability.</p>	<p>There is an opportunity for a shared agenda between the regulator, SA Water, and welfare organisations to develop an online portal that’s a one-stop-shop for information and awareness, and a platform for the utility to have a direct relationship with and better reach vulnerable customers.</p> <p>This approach has been piloted by the Thriving Communities Partnership’s “One Stop One Story Hub”.⁶⁰</p>
	 <p>Landlords would benefit from reduced administration costs and debt burden.</p>	

⁶⁰One Stop One Story Hub, Thriving Communities Partnership, <<https://thriving.org.au/what-we-do/the-one-stop-one-story-hub>>.

6. What's the best option to clarify responsibility and manage disputes regarding excess charges due to water leaks?

The RTA does not specify the protocol regarding who pays excess charges resulting from a water leak. The word “leak” is never mentioned anywhere in the Act. Section 68 – relating to landlord’s obligation to repair – outlines that the landlord “will ensure that the premises, and ancillary property, are in a reasonable state of repair at the beginning of the tenancy and will keep them in a reasonable state of repair having regard to their age, character and prospective life” (See Appendix B – V).⁶¹ While the Act states the landlord has the obligation to repair if he has notice of the defect requiring repair, it still fails to clarify who bears the excess charges and leaves room for interpretation, leading to all water bill disputes (resulting from leaks) being taken to SACAT. There is some anecdotal evidence of cases where the tenant was ordered to pay, which further evidences the need for better tenant protections against leaks.

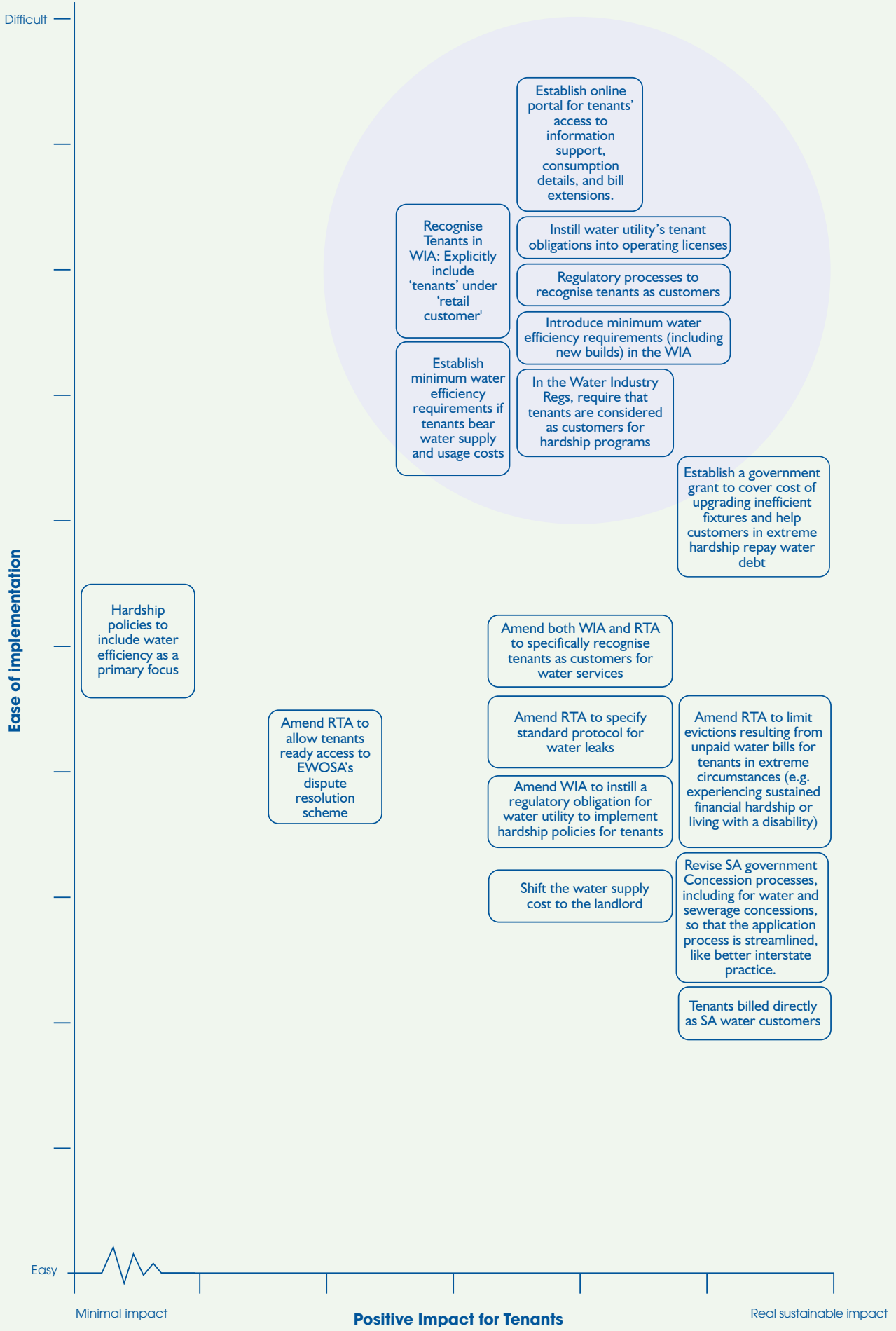
The RTA needs to be amended to clearly specify standard protocol in case of water leaks. Victorian legislation provides a good model as it clearly states that the landlord is liable to pay excessive usage charges if notified about a leak and it was not caused by the tenant’s actions.⁶² Clarifying standard protocol in the legislation would reduce the volume of cases and subsequent costs spent on resolving disputes at the RTT.

Water Issues for Renters Solutions Map

The following chart plots various solution ideas against two assessment criteria: relative positive impact for renters on the X (horizontal) axis and ease of implementation on the Y (vertical) axis. This then helps focus on the priority solutions in the top right corner of the chart; relatively easy to implement with the highest positive impact for renters – the solutions included in the mauve section. Comment is sought on the positioning of possible solutions.

⁶¹Residential Tenancies Act 1995, Version: 1.7.2020, p. 27, <https://www.legislation.sa.gov.au/_/legislation/lz/c/a/residential%20tenancies%20act%201995/current/1995.63.auth.pdf>.

⁶²Guideline for Unexplained High Usage and Undetected Leak Enquiries, Vic Water; published October 2020, p. 10, <<https://vicwater.org.au/wp-content/uploads/2020/10/High-Usage-Leakage-Allowance-2020.pdf>>.



Questions for workshop

A solutions-led workshop will aim to answer the following questions:

1. How should tenants be regarded as customers?
What legislative changes are possible and what are the implications?
2. How do we enhance transparency in billing?
3. What are the options to enhance tenants' access to water efficiency and hardship programs?

Appendix A

Table I

Year	Residential Tenancies Act	Water Industry Act	Comments
Until 2012		Historic Waterworks Act 1932 [ceased] applied	The act charged landlords directly as the owners of rateable land. Unpaid bills could be directly recouped from tenants' rent, and the tenant could pay less rent.
2013	<p>As per Residential Tenancies Regulations:</p> <ul style="list-style-type: none"> - Landlord pays all statutory rates (ie: Sewerage) and pays water supply up to a prescribed limit of 136 Kilolitres of water. - Tenant pays any amount exceeding the limit. 	<p>Water Industry Act 2012 replaces Historic Waterworks Act</p> <p>As per Water Industry Regulations:</p> <p>Circumstances in which the definition of customer includes a <i>consumer</i> of retail services:</p> <ul style="list-style-type: none"> - to resolve disputes between a water industry entity and its customers - for the purposes of an ombudsman scheme 	Tenants are consumers and considered customers in certain situations – although tenants are not explicitly mentioned.
March 2014	<ul style="list-style-type: none"> - Residential Tenancies Act amended to pass on water supply and usage charges to tenants in separately metered premises. - Prescribed limit (Residential Tenancies Regulations) revoked - Landlord still responsible for sewerage charges. 		What was the reason for the change? Was there consultation?
2022	Informal discussions about reviewing Residential Tenancies Act	Water Industry Act Review completed	The Department is now progressing the recommendations

Appendix B

SECTIONS OF ACTS QUOTED IN THE PAPER

I. Water Industry Act 2012

4—Interpretation

customer means a person who owns land in relation to which a retail service is provided and includes—

- (a) where the context requires, a person seeking the provision of a retail service; and
- (b) in prescribed circumstances—a person supplied with retail services as a consumer or user of those services (without limiting the application of this definition to owners of land); and
- (c) a person of a class declared by the regulations to be customers;

II. Water Industry Act 2012

37—Customer hardship policies

- (1) The Minister must develop and publish a customer hardship policy in respect of the residential customers of water industry entities that sets out—
 - (a) processes to identify residential customers experiencing payment difficulties due to hardship, including identification by a water industry entity and self-identification by a residential customer; and
 - (b) an outline of a range of processes or programs that a water industry entity should use or apply to assist customers identified under paragraph (a).
- (2) The Minister may vary a policy under subsection (1) from time to time.
- (3) A water industry entity must—
 - (a) adopt a customer hardship policy published by the Minister under this section; or
 - (b) with the approval of the Commission, adopt such a policy with modifications.
- (4) It will be a condition of a water industry entity's licence that it complies with the customer hardship policy applying in relation to the entity under subsection (3).

III. Water Industry Act 2012

25—Licence conditions

- (5) A code or set of rules under subsection (1)(a) must include provisions to assist customers who may be suffering specified types of hardship relevant to the supply of any services (being provisions that comply with any direction of the Minister and that will apply under the code or rules despite any provision made by the Essential Services Commission Act 2002).

IV. South Australian Water Corporation Act 1996

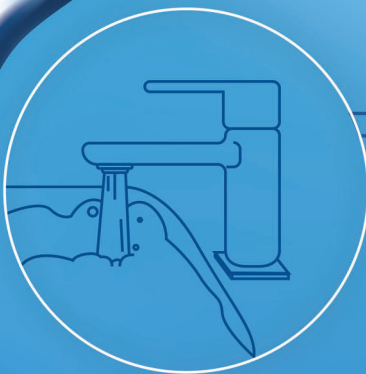
18C—Recovery of amounts due to Corporation

- (1) Subject to subsection (2), any amount (other than a pecuniary penalty) due to the Corporation with respect to the provision of a water service or a sewerage service under the *Water Industry Act 2012* or under an agreement to defer payment of an amount due with respect to the provision of a water service or a sewerage service under the *Water Industry Act 2012* will, until payment, be and remain a first charge on the land in relation to which the relevant services have been provided.

V. Residential Tenancies Act 1995

68—Landlord's obligation to repair

- (1) It is a term of a residential tenancy agreement that the landlord—
 - (a) will ensure that the premises, and ancillary property, are in a reasonable state of repair at the beginning of the tenancy and will keep them in a reasonable state of repair having regard to their age, character and prospective life; and



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