

QCOSS

Queensland Council
of Social Service

*Submission to QCA
Long Term Regulatory
Framework for
SEQ Water Entities*



11 July 2014

About QCOSS

The Queensland Council of Social Service (QCOSS) is Queensland's peak representative body for the community services sector. QCOSS represents approximately 600 member organisations working across Queensland in a broad range of portfolios. QCOSS supports community organisations and works to address the causes of poverty and disadvantage.

QCOSS receives funding from the Department of Energy and Water Supply (DEWS) to undertake work on behalf of Queensland consumers, and particularly vulnerable and low income households, in relation to water matters.

In conducting this work we consult and collaborate with our members and other community sector and consumer organisations across the State. We also draw on the experience and practice in other jurisdictions through our Council of Social Service (COSS) network and relationships with other community sector organisations and consumer groups in other states and territories.

Introduction

QCOSS welcomes the initiative of the Queensland Government to put in place a long term regulatory framework for the five water entities ("the entities") involved in providing retail and distribution water services in South East Queensland (SEQ). QCOSS also acknowledges the Queensland Government's recent Direction¹ to the Queensland Competition Authority (QCA) to review the bulk water price in SEQ. This is also welcomed as we understand the bulk price and its price path have contributed to recent price increases for some SEQ households.

It is important that the voices of Queensland water consumers are represented in this consultation and, given that water supply is an essential service, especially the voice of those experiencing poverty and disadvantage. QCOSS therefore takes this opportunity to provide the QCA with this submission which responds to the two position papers on:

- the Long Term Regulatory Framework for SEQ Water Entities; and
- the SEQ Long Term Regulatory Framework – Pricing Principles.

This submission does not address the technical paper which the QCA has produced on the Annual Performance Reporting – Implementation Issues.

This submission focuses on a number of key areas and includes recommendations and comments relating to:

1. The Queensland Government's Direction to the QCA
2. The level of regulation in the QCA's proposed approach
3. Consumer engagement
4. Service standards
5. Pricing principles

¹ Queensland Government, (2014), Minister's Referral Notice to Queensland Competition Authority, Review of SEQWATER Bulk Water Prices 2015-18. Please find link <http://www.qca.org.au/getattachment/e15ef4bb-5097-4193-b1cc-0b4b49d3de00/Minister-s-Referral-Notice.aspx>.

This submission also includes a short section on the specific role of the economic regulator in protecting the interests of including low-income and vulnerable consumers.

1. The Direction from the Queensland Government

This review is a significant policy reform that will build on previous approaches to economic regulation, namely, monopoly prices oversight and price monitoring in SEQ. It is an opportunity to put in place a long term framework that provides regulatory certainty for both consumers and water entities. To date the QCA has not found any exercise of market power for Unitywater or Queensland Urban Utilities.² The first price monitoring review of the three local government's water services found that the Logan and Gold Coast were also not exercising market power. Although the QCA was not able to establish if Redland Water was exercising market power, its concerns are being taken into account in setting of Redland's prices for 2014-15. Overall this is a good base to build a long term framework that in QCOSS's view is seeking to place the protection of consumers' interests as its central focus.

The Direction points to a principled approach to regulation underpinned by a clear and robust objective which is:

'To protect the long term interests of the users of SEQ water and sewerage services by ensuring the prices of these services reflect prudent and efficient costs, while promoting efficient investment in and use of these services, having regard to service reliability, safety and security over the long term '.

The use of the word "protect" in the objective is especially important as in our view it imparts an obligation on the QCA to be proactive and consider ways in which users' interests can be protected. QCOSS's view is that this must be interpreted as a stronger focus on the interests of consumers in ensuring that costs are prudent and efficient. This is reinforced by the following additional requirements in the Direction which the regulatory framework must deliver:

- assisting customers to become more informed about water use, services and costs
- assessing tariff changes to identify potential price shocks for different customer groups
- facilitating improved engagement with consumers
- assessing non-price performance indicators that provide an indication of performance, including customer service responsiveness.

These requirements are important in recognition that residential consumers are not a homogenous group and that the scope and scale of their interests varies. QCOSS considers that these requirements acknowledge that when essential services such as water and sewerage are provided by a monopoly provider, customers need to be protected from market failure in terms of performance and access to services, as well as price.

² Queensland Competition Authority (2013a), Final Report SEQ Price Monitoring for 2012-13, Part A-Overview March 2014

2. Level of regulation in the Annual Performance Monitoring (APM) approach

QCROSS considers that it is essential that there is some form of economic regulation in the SEQ water market, given the very limited competitive forces apparent. We also consider that a very light-handed regulation, such as “monopoly prices oversight” which is the prevalent form of economic regulation in regional Queensland, would not be appropriate. There has been insufficient emphasis³ on the demand side of the water sector to date, with limited understanding about what it means for consumers to make well-informed, engaged decisions. Customers are not homogenous and include residential and business customers who have different needs and different levels of opportunity and ability to engage with the water sector. Further, water issues, including pricing, are often very technical and customers are not knowledgeable or resourced to acquire the necessary level of knowledge to engage in the regulatory process to effectively hold water entities to account. This is particularly the case for low-income and vulnerable customers who have limited ability and power to engage with water entities.

Our comments in relation to the proposed APM framework are based on our understanding that the QCA has proposed this approach after considerable consultation with all stakeholders and an analysis of economic regulatory processes in other jurisdictions. We support the implementation of the APM, and believe it should be given the opportunity over time to assess how it will work. QCROSS recommends that the QCA include in its proposal that an independent, ex-post evaluation of the APM framework be carried out at appropriate periods following its implementation. This evaluation should consider whether the approach is cost-effective in meeting the overarching objective set in the Direction.

It is not possible at this stage for QCROSS to provide an ex-ante overall endorsement of the APM framework as it is a new and untested framework. We consider the APM a light-handed framework and it is not clear if it will be sufficient to incentivise the monopoly water entities to act as a private sector company would do in constantly drilling down into their operations and making transformational changes to drive in greater productivity. This is critical as it allows for moderation in costs and hence prices going forward, and especially moderates the potential for gold plating of capital or operations expenditure. An ex-post evaluation of APM would therefore be necessary to assess to what extent the APM framework is actively incentivising entities and consumers on a continuous basis to innovate and seek out efficiencies and achieve greater productivity.

QCROSS supports the QCA’s recommendation of the inclusion of a price cap, CPI-X, type of regulation. Price-based regulation has a number of advantages over cost-based regulation which are not just related to the costs of regulation and resource intensiveness. These were highlighted recently in relation to the Victorian water market⁴, as follows:

³ It is acknowledged that some customers at least, are exerting competitive-like pressures (which would be evident in a competitive market) in response to recent price rises. This is placing pressure on water entities to look for efficiencies and keep costs from not increasing. Also the inclusion of a priority for consumer engagement and empowerment in the recently released 30-Year Water Strategy – WaterQ - is insightful and rightly identifies that over time consumers will have to become more engaged and empowered. This mirrors the trend in the energy market and it is envisaged that in the water sector consumers over time will become more -informed and engaged.

⁴ Independent Reviewer – Prof Graeme Samuels (May 2014) Economic regulation, governance and efficiency in the Victorian water sector (P38 and 39)

- The building block (cost of service) approach provides incentives for capital solutions and does not give enough opportunity to look at non-capital solutions which may avoid/defer expensive augmentations; and
- Cost-based approaches create an incentive for water entities to “distort up” its reports costs. The only way to avoid this is by having a rigorous assessment of prudence and efficiency of expenditure which is time and resource intensive. Regulation based on inefficient costs harms consumers over the long term as inefficiency accumulates in the regulated business.

In contrast, price-based regulation provides water entities with a stronger incentive to reduce costs, avoid biases towards capital investment, and, although price constrained, businesses can retain any cost savings.

Furthermore, the annual process embedded in the APM proposed by the QCA has a number of advantages from the consumers’ perspective. As the process is annual, there is a constant internal awareness of costs, questioning, review and reaction. This can have the benefit that there are no major price shocks, unlike the risk with a five-year price review where costs are reviewed only every five years and where prices may have to be put on a price-path to avoid shocks. This then raises the question of the subsidy (and who pays it) if there is a price path.

However, a risk with price-based regulation is that the cap may be set such that the entity may not recover adequate revenue and its performance will deteriorate. To counter this risk, the Direction has rightly given the QCA a role in relation to service standards. The APM’s framework includes an assessment of a number of service standards and outlines how the QCA will make decisions to protect consumer interests in terms of the long term reliability, safety and security of water services. In situations where this may happen it is unclear to what extent there would be an immediate deterioration in performance. There may be a lag effect over which time the entity is not recovering sufficient revenue, which could result in a “catch up” and lead to significant price rises for consumers. It is therefore important to understand where this might be a risk with APM and if so how the QCA proposes to mitigate such a risk. For this framework to be effective, it is envisaged that the QCA would have to develop a very close and constructive working relationship with the entities, as well as a good knowledge of their business operations and forward capital programs.

A further aspect of the proposed APM framework which QCOSS supports is the “prospect” of a cost of service/deterministic review. Over time, once the APM has been evaluated; customers become more empowered to understand the drivers of the entities’ costs; and entities demonstrate effective service through their performance against non-price indicators, it may not be necessary to retain the prospect of a cost of service/deterministic review. However, at the current time, QCOSS’ strongly recommends this feature be included because:

- The power balance between the customer and the water entities is fundamentally different to other sectors, such as ports, where customers are large businesses who are well-informed, well-resourced and can coordinate themselves to become effective advocates. This is not the case in the urban water sector where the customer base is less homogenous, more disparate and individual needs are more diverse.
- The Netserv Plan – which is updated every five years and is endorsed by the Minister for State Development, Infrastructure and Planning – does not involve any robust scrutiny of costs for prudence and efficiency as would be the case in a cost-of-service type review.

- The QCA clearly points out (P98 of the Position Paper) that its recommended approach will not involve prudence or efficiency review (unless specifically requested to do so). It is therefore important to at least include the prospect of such a review within the overall framework as over time the current prudent and efficient cost bases of the entities may get eroded and there will need to be some mechanism that can allow greater scrutiny and review.

Other specific comments which QCOSS makes on the APM include:

- The QCA has stated that “*consistent with other jurisdictions, specific triggers or performance criteria will not be defined. This follows from the difficulty of establishing criteria which can respond to the wide possible range of circumstances*”. QCOSS’ view is that these circumstances would cover a major tariff rebalancing and its impact on different groups of water users. While it may not be the case that in isolation such impacts would trigger a more detailed review, it must be noted that tariff reform can have a material impact on water bills (if not for all consumers, then for a particular subset of consumers). As such, major tariff changes will need to be included in any assessment and be able to inform the entities (or government) if they propose to mitigate the impact in any way. QCOSS is especially interested in ensuring that the impacts of tariff changes on low-income and vulnerable consumer groups are clearly identified and made public, and that steps are taken to identify how those impacts could be mitigated by either the entities and/or as recommended by the QCA. QCOSS supports the analysis of bill impacts provided by the QCA to date in relation to electricity prices where impacts on household electricity bills is broken into household groups, such as single-person households, large households with a pool and other categories of example household structures.
- Under the Direction, the QCA is directed under clause 3(b) to recommend how to manage potential price shocks for customers. QCOSS agrees this is a critical element of the framework; however it is not clear in the Position Paper how the proposed APM process will address this clause.

3. Customer engagement

QCOSS welcomes the inclusion in the Direction of the requirement to develop best practice consumer engagement within the long term regulatory framework. Consumer engagement plays an important role in economic regulation as it:

- assists with greater transparency and information on the impact of entities’ business decisions and prices on water users
- improves asymmetry of information and helps consumers makes better choices
- reduces the potential for discriminatory behaviour by monopoly entities
- can counter abuses of market power such as gold plating or rent seeking.

The QCA has made a number of recommendations (Recommendations 5.1 to 5.5) around consumer engagement. These recommendations are welcomed by QCOSS as there is a need to strengthen and increase the scope and scale of engagement by the water entities with their customers. As noted by the QCA, all of the SEQ water entities engage in some level of consumer engagement, however for some it is quite limited. For example, only Unitywater and Queensland Urban Utilities (QUU) have consumer consultative committees, and the level of “information

transparency” in terms of publishing information on policies and on water bills varies significantly. Further, we note that many utility sectors are offering consumers more choice and becoming more sophisticated in their product offerings. This is the case in the telecommunications sector as well as electricity. These trends are also picked up in the Queensland Government’s 30 Year Water Strategy, WaterQ, which identifies actions for introducing innovative tariffs and customer water plans, as well as improving consumer empowerment and community engagement in the residential water sector. These factors indicate that SEQ water entities will need to improve consumer engagement to ensure they are able to effectively operate in this new environment.

Further, we also welcome recommendation 3.24 which states that performance in customer engagement will be taken into account in assessing readiness of the entity for APM, as well as going forward in the QCA’s annual assessments. The emphasis on consumer engagement in the review will be an important input to the QCA’s process and will enhance the long term economic regulatory framework in the interests of consumers. This recommendation is consistent with the growing recognition among governments and regulators that protecting the long term interests of consumers requires input from consumers into regulatory processes. There are examples from the energy sector of how entities must not only improve consumer engagement but also demonstrate how they are taking into account the views of their consumers.⁵ Of critical importance in assisting this to occur is that in the energy sector there are resources available to allow consumer representatives to participate and effectively engage with the energy entities and the relevant regulatory agencies. This is not generally the case in the water sector where resources for consumer representation are much more limited. This raises the issue that in recommending a framework which includes greater consumer engagement it will be also necessary to consider possible resourcing options in to order to ensure that consumers’ side is resourced and able to engage.

For clarity, we have outlined below our responses to each of the recommendations relating to consumer engagement:

Draft Recommendations 5.1 and 5.2:

Each SEQ entity, in consultation with its customers, develop a strategy for customer engagement based on best practice principles.

Customer engagement should:

(a) promote understanding of customer’s needs and be representative and responsive of customer views.

(b) be relevant, evidence based, open and transparent, timely collaborative, and cost-effective.

QCROSS’s view is that “consumer engagement” ranges from a passive, one-way form of engagement, such as providing information to customers on the entities’ service offering, to a more active form which involves the participation of customers in developing entities’ policies. QCROSS recommends that the QCA clarify in its final paper the level of consumer engagement it is expecting and what “factors” it will use to assess the entities’ engagement. QCROSS sets out examples here of the different levels of consumer engagement and recommends that the QCA take these into account when making its assessment on entities consumer engagement activities.

⁵ For example, the Australian Energy Regulator (AER) considers the engagement undertaken by distribution businesses when reviewing their network revenues and prices.

- Customer service offering: At its most basic level consumer engagement is about ensuring customers are informed on prices, changes in prices, policies and procedures of the entity. These should include information on issues that consumers are likely to know such as: the entity's current water prices, how to read the water bill, concessions available, hardship policies, complaints processes, concealed leaks processes, water usage information; how to read the meter, and so on. Efforts should be made to ensure that all customers can access the information, including vulnerable and disadvantaged customers. Information needs to be presented in a clear, plain English manner and not hidden in large intractable documents. It is also important to take into account the diversity of people in the community which means providing access to interpreters, ensuring information is in readable and large-print documents, that there are non-web channels for obtaining information and that hard copies of all documents are available on request. QCOSS notes that the current SEQ Customer Water and Wastewater Code mandates certain requirements around information transparency and that the QCA could monitor compliance with these as factors as a method for assessing an entity's performance against what is considered the absolute minimum level of consumer engagement.
- Prices and Bills: A requirement of the Direction is *"to assist customer understanding of how the costs of water and sewerage services influence prices"*. QCOSS believes that the QCA take the lead in this respect by releasing public factsheets on the entities' prices and indicative impacts on bills in clear simple language. It would be particularly useful for the QCA to present the estimated bill impacts for different groups and household compositions (as the QCA currently does in its electricity price determinations). The entities will also have a part to play in ensuring that consumers are fully informed about prices, changes in prices and impacts on bills.
- Market information: This will involve regular customer surveys and focus groups which we note a number of the entities are undertaking on a regular basis. New policies and procedures can also be tested using these methods. There are advantages to undertaking pilots for new policies to "iron out" any issues before expensive implementation takes place. Care however has to be taken that surveys and focus groups are representative of all groups in the entities' serviced area, and that consumers are given all the necessary information in order to provide informed feedback. Care must also be taken to limit the extent to which this method is used in order to avoid survey "fatigue" which can actually result in consumers becoming more disengaged over time.
- Consumer representatives/advocacy group: Entities can also engage with representative groups (certainly for consumer consultation committees) and work through their networks to engage in two-way communication and engagement with consumers (such as getting information out and receiving feedback on their policies). This is the role of peak organisations such as QCOSS. It is important that a range of peak organisations are engaged to ensure effective representation of the broader community, and should include but not be limited to: culturally and linguistic diverse communities, youth, Aboriginal and Torres Strait Islander people, seniors, tenants and people with disability. It is likely that councils should already have good networks in place with the local representative groups in their area and entities can use these networks where possible.

Draft Recommendation 5.3:

The customer engagement strategy should include a Customer Consultation Committee.

QCOSS participates as a member of both Unitywater and QUU's consultation committees. We also participate as members of a range of other customer representative committees across the energy sector. QCOSS has found them to be an effective means for entities to actively engage with consumer representatives and vice versa. They allow entities to introduce/test new policies (confidentially) and get feedback from committee members. They also allow members to bring consumer interests, trends and issues to the attention of the entities' as well as building the capacity of organisations to get a better understanding of the entities' business operations and cost drivers. The latter is very important as water matters, especially pricing and tariff structures, are often very complex. There is clearly an information and knowledge imbalance between consumers and entities which, can be addressed by increasing the knowledge of consumer representatives over time.

QCOSS supports the establishment of consumer consultation committees for all five entities including the council based water businesses. We note that this may be problematic for the smaller entities in Redlands and Logan given their smaller customer base. However, APM is a light handed regulatory framework which in part relies on greater consumer engagement (than might be required under a cost of service review approach) to be effective. As such, even smaller entities should make efforts to build local networks to formally engage with their consumers and representative groups.

Draft Recommendation 5.5:

The QCA will assess these customer engagement strategies and provide, where appropriate, advice to entities on possible improvements to ensure best practice .

The QCA has not prescribed the nature or level of consumer engagement other than to recommend a consumer engagement strategy and the establishment of customer consultation committees. As discussed above, there is a wide spectrum of consumer engagement that ranges from passive one-way information provision to active two-way participation in policy making. The different entities are likely to sit at different points along this spectrum. Consequently it may be difficult for the QCA to assess the different strategies and come to an overall position on the extent to which consumer engagement is effective. QCOSS therefore recommends that the QCA provided further guidelines on best practice consumer engagement to clarify the basis against which the QCA will assess the entities' performance on consumer engagement. Requiring consumer engagement measure without clarification about the nature of the engagement and its purposes is likely to result in measures that are tokenistic and do not result in any benefits for consumers. This outcome would not be desirable for either the water entities or consumers.

4. Service quality performance reporting

QCOSS welcomes the inclusion of the requirement for the QCA to recommend service standards for assessing the performance of the entities. As water is an essential service, from a consumers' view the quality of service is as important as an efficient price to ensure that at the most basic level everyone has access to good quality water. The inclusion of service standards recognises that the framework must protect customers from market failure in the performance of the water entities.

The 38 service standards nominated by the QCA's Position Paper (Section 7) primarily achieve outcomes relating to:

- protection of public health by setting out minimum service standards on water quality; and
- provide for water supply security and reliability, for example, by setting out minimum service standards for asset serviceability in terms of maintenance and upgrades, and the number of planned and unplanned interruptions.

However QCOSS is disappointed that there are only a limited number of service standards relating to:

- the protection of customers where there is the potential for an imbalance in the relationship by specifying minimum service offering around complaints and disputes; and
- the minimum service offering for customers who have difficulty meeting the cost of essential water supply.

The QCA refers to the list of key performance indicators which are documented on the DEWS website and which constitute important new reporting requirements for entities' performance across Queensland. These indicators have only two indicators relating to complaints – one of which relates to water and sewerage quality. However, it is noted that the QCA states (P104 of the Position Paper) that DEWS propose to require that the SEQ entities and others with connections over 10,000 comply with the National Performance Reporting. This will pick up the more comprehensive NPR indicators on complaints.

Of concern to QCOSS is that there are no indicators relating to the performance of the entities with respect to their service offering for managing customers in financial difficulties. The provision of hardship policies is an important component of the service offering of all water entities in terms of protecting low-income and vulnerable consumers who may be struggling to meet the costs of their essential water needs, as well as providing a safety net for any consumer who may face temporary financial hardship from time to time that impacts on their capacity to pay. QCOSS accepts that it may be problematic to come up with a service standard which captures the performance of an entity around the provision of hardship policies given that there are many external variables which impact the incidence of financial hardship. We also note however that other Australian jurisdictions have included a number of service standards or indicators which they report on which relate to customer service around financial hardship. For example, the economic regulators in Victoria and Tasmania collect information about the debt levels of customers subject to flow restriction/legal action; hardship grants; payment plans; and number of concession recipients.

QCOSS also notes that in Victoria the Essential Services Commission (ESC) rolled out the following hardship-related Guaranteed Service Level (GSL) in 2012:

Restricting the water supply of, or taking legal action against, a residential customer prior to taking reasonable endeavours to contact the customer and provide information about help that is available if the customer is experiencing difficulties paying.

This GSL has been implemented since 2012 and a \$300 fixed payment amount applies to a breach of the hardship related GSL scheme by a water business⁶.

QCOSS recommends further consideration be given to the inclusion of indicators on the number of customers in financial difficulty and around standards relating to hardship services in the long term regulatory framework. QCOSS acknowledges that it may not be feasible currently to develop service standards around hardship given the current provisions in the SEQ Water and Wastewater Code which are extremely light-handed and do not require entities to actively implement policies. However, QCOSS suggests this could be introduced as part of the long term framework in the future, especially if the hardship provisions in the Code are strengthened following its review, which is currently being undertaken by DEWS. QCOSS recommends that the QCA at least recommend in its Final Report that in the future the APM framework will revisit the inclusion of service standards relating to hardship.

Specific comments on the long term framework for SEQ Water Entities – Position Paper

- Timelines associated with reporting (2015-16) P25: It is not clear from the text if the draft Monitoring Reports which are intended to be provided to the entities on 29 January 2016 will be made publically available and open to public consultation. In the interests of transparency it is expected that the reports would be available for comment. This will allow for greater scrutiny and is considered to be part of the Authority's own consumer engagement.
- Draft Recommendation 3.18, P36: This recommendation lists a number of situations which will be accepted by the Authority as pass-throughs including where there are market-driven changes in WACC. It would be useful if these were explained in more detail in the Final Position Paper to understand under what circumstances these changes can be passed through. The WACC charge makes up a large component of the price and hence any changes in it are likely to have a material impact on prices.
- Draft Recommendation 3.23 and 3.24, P38: In these recommendations, the Authority refers to its recommended regulation as "long-term performance monitoring" and "light-handed price monitoring". Although a small point, it is confusing when different names are used for the same thing. Consistent naming of the regulatory approach throughout the document is required.
- Table 9: Review of Trigger Scenarios: It is not clear why scenario 4 triggers a possible price determination while scenarios 5, 6 and 7 trigger probable or highly likely cost of service reviews. A price determination as explained in the draft position paper would appear to be a more heavy handed form of regulation than a cost of service review.
- Draft Recommendation 3.20, P38: The term "full cost of service review" is used in this recommendation with reference back to Table 9 where it is simply a "cost of service" review. Again a very minor point however the use of different names suggests that somehow they are different. As a more general comment there is need for consistency and simplicity of terminology in the report about the different forms of economic regulation. It would be useful to present a spectrum of economic regulation going for light handed to heavy handed in the report to understand where APM sits with respect to cost of service review and deterministic review.

⁶ Essential Services Commission (2012), Hardship Related Guaranteed Service Level Review Final Decision. <http://www.esc.vic.gov.au/getattachment/454fcbdd-b465-48bd-9a17-2b3d3b8f7864/Final-Decision-Hardship-related-guaranteed-service.pdf>.

- Draft Recommendation 3.21, P38: This recommendation states that the Authority will “publicly report any concerns with an entity’s customer engagement, policies or procedures, investment strategy, or pricing principles...” It would be helpful if these factors were reported publicly regardless if prices and costs are within the CPI-X or not and regardless of changes in service standards. Given that these items will not be included in any decision to trigger a cost of review (or determination?) and that the Authority has concerns relating to them, then in addition to posting the concerns on a website/press release, a more active form of “publicly reporting” is warranted, including that the Chair of the Authority write to the entities’ shareholding councils with a copy to the relevant water supply Minister documenting the concerns.

5. Pricing principles

Clarity as to the intent of the Pricing Principles

The Direction requires the QCA to develop Pricing Principles. However it is not clear in the Direction what the intent of the principles are and to what extent they are likely to be prescriptive in that the entities will have to have regard to them and show cause when they do not adhere to them. The QCA has made its understanding of the role of the pricing principles quite clear in media release on the Pricing Principles Position Paper on 27 March 2014 in which the Chairman Malcolm Roberts pointed out that “*the pricing principles would apply to the full range of urban water services, including residential supply, sewerage, water recycling and stormwater re-use*” and “*the principles are intended to promote water prices which are efficient, equitable, transparent and sustainable*”.

It is acknowledged that it will be a government decision on the extent to which the QCA’s recommendations with respect to the principles are to be implemented. QCOSS’s view is that they are a much welcomed guidance to the water entities as to how to set prices which achieve economic efficiency, transparency, sustainability and equity. However they should not preclude water entities from achieving other objectives especially for equity or social reasons. Already a number of entities have undertaken, or are soon to undertake, significant changes to tariff structure which are unlikely to be consistent with some of the draft recommendations (such as Rec 1.5 Long run marginal cost). For example, Unitywater changed its tariffs commencing in 2013-14 following consultation with consumers which found that they wanted to have more control over their water use and hence have larger usage charges and smaller fixed charges. The Gold Coast City Council has also indicated that they are considering new tariff structures and are currently undertaking extensive consumer consultation.

Another factor is understanding the role of the Pricing Principles with respect to the priorities and actions set out in *WaterQ*, which was released in June 2014 following an extensive consultation process. We note it was released after the Position Paper and therefore it was not possible for the QCA to take its priorities and actions into account when developing its positions papers. However, for the final report it is necessary for *WaterQ* actions and priorities to be considered. For example, rather than a prescriptive approach to tariff structure, the Queensland Government has indicated under Priority 1: Customer Empowerment and Community Engagement, Action 1.1: Innovative Tariff Structures that “*service providers will investigate alternative pricing options to meet customer and business needs*”. This would indicate that the Queensland Government is looking to allow greater flexibility for entities in their tariff design and that they are expecting entities to

investigate alternative pricing options that meet customers' needs. Furthermore, under Priority 2: Affordability and Equity, Action 2.1: Investigate Tenant Billing, the Queensland Government is looking to conduct an investigation into the costs and benefits of full tenant billing. This investigation will consider the charges for tenants, including in apartments and units, as well as direct billing from the retailer or via the lessor. The Pricing Principles are important as it is likely they will be able to guide and inform the implementation of such actions should changes be proposed.

Metering and billing arrangements

QCOSS does not support draft recommendation 2.14 which proposes to bill tenants for both the fixed and variable charges for water and sewerage. This would be a backward step from the current situation which is set out in the *Residential Tenancies and Rooming Accommodation Act*. Lessors are currently allowed to pass on usage (variable) charges to tenants provided that the property is individually metered; it is included in the tenancy agreement; and there are (WELS 3) water efficient devices in the property. Lessors are not allowed to pass on variable sewerage charges.

QCOSS is strongly against tenants being billed for the fixed costs of water bills as these are already recovered by lessors as part of the rent of the property. This is in recognition that water infrastructure is not an "extra" but that tenants would not and should not be prepared to rent a property which does not have access to water and sewerage facilities. They are integral features of the property just like the roof or walls, and should be recovered in the rent.

In addition, it is important that any billing of tenants for water should only be if lessors have installed WELS water efficient devices. This is an important requirement which should be included in any principle on water charging for tenants in recognition that tenants do not have any control over the extent to which a property is water efficient. Without this requirement there is no incentive for lessors to install water efficient devices. In Queensland and New South Wales properties have to have WELS 3 compliant water efficient devices installed and this should remain and be reflected in the QCA's pricing principles.

Furthermore, it is unlikely that the landlords will adjust rents downwards if they are allowed to pass on water costs. The rental market in SEQ is fairly tight and there is not sufficient bargaining power for tenants to force rents down if they now begin paying for water. Unless it is prescribed in law (and monitored/policed) lessors will not make a once-off rent adjustment to tenants. Tenants are unlikely to report lessors in case the latter terminates the tenancy agreement.

Since the introduction of water charging for tenants in 2008, QCOSS has received anecdotal evidence which suggests that growing numbers of tenants are increasingly being charged for their water use in Queensland. In its consultation with the community sector, QCOSS is aware of a number of problematic issues with the current arrangements around tenant billing which we have raised with DEWS. In recognition of these issues, DEWS has included a full investigation into tenant billing as an action item in *WaterQ*. It is likely that the charging arrangements will be investigated and it is important that the Pricing Principles provide guidance that reflects efficient and equity pricing outcomes in the interests of consumers.

Concessions and rebates

Draft Recommendation

2.18 Concessions and rebates:

- (a) reflect a generally consistent approach between the entities*
- (b) be set to apply to either the fixed charge or as a total direct adjustment to the gross invoice amount*
- (c) be capped so as not to subsidise discretionary use*
- (d) be transparent with acknowledgement of the source of, and purpose for, particular concessions/rebates.*

QCOSS agrees with the QCA that a consistent approach to concessions is required across the water entities and that this should be achieved through state or local government support. We also agree that concessions should be transparent in terms of the source of the payment and its purpose.

QCOSS recently undertook a research project to examine alternative options for delivering concessions in the energy sector which identified a number of principles for best practice concessions.⁷ We encourage the QCA to consider these principles in developing its recommendations for concessions and rebates in the water sector, particular the principles of horizontal and vertical equity.

We note that prices across the different SEQ water entities vary, as does the structure of the tariffs in terms of the balance of the fixed and variable charges. This presents a challenge in ensuring government-funded concessions are able to deliver equitable outcomes for different households across these different prices and tariff structures. Currently, the concessions for water bills are provided as a flat fixed payment which is discounted off the eligible customer's bill. The flat payment amount is set at the same level for everyone, even though household water bills can vary quite significantly according to the price and tariff structure of the water entity, as well as demand factors such as the number of family members in the household, the water efficiency of taps and home appliances, the need for high levels of water to cope with medical conditions and other factors affecting water use (some discretionary, others non-discretionary). Depending on the level at which the flat payment concession is set, this means some customers may not receive an adequate level of payment to make their water bills affordable, while other households may receive a payment in excess of their needs.

From a 'best practice' perspective, QCOSS recommends concessions be structured to deliver equitable outcomes for households across different tariff structures and different levels of non-discretionary household usage. Specifically, QCOSS strongly recommends a percentage-based approach where the concession is paid as a percentage discount off the total bill. This ensures the concession is able to remain equitable as prices increase, and as tariff structures change, while also remaining equitable for households with vastly different water usage needs.

⁷ Energising Concessions Policy <http://www.qcoss.org.au/energising-concessions-policy-australia>.

Further, QCOSS believes that the eligibility criteria for concessions for people who require large quantities of water for medical reasons should not be highly prescriptive in terms defining medical conditions. QCOSS notes that there are a wide range of medical issues which might require consumers to have high water use – either permanently or temporarily – and there should be flexibility in the eligibility criteria to ensure that assistance is available to any vulnerable person who has a medical certificate to demonstrate they have a condition which requires management that results in a high volume of water being used.

6. Role of the QCA in protecting the interests of low-income and vulnerable consumers

From consumers' view quality of service is often as important as an efficient price as water is an essential service that people need to have access to on a continuous basis. In other states this underpins the role of the economic regulator in having a wider role including ensuring that the interests of low-income and vulnerable consumers are taken into account. This role is specifically given by governments, for example, in Victoria the Water Industry Regulatory Order (WIRO) and Section 8A of the Essential Services Commission (ESC) Act requires the Essential Services Commission (ESC) to have a role in considering the benefits and costs of regulation for consumers and in particular low-income and vulnerable consumers. There are three main ways in which economic regulators have roles in supporting low-income and vulnerable people: (1) setting/monitoring customers' codes; (2) in pricing determinations; and (3) information reporting.

Water customer codes

Water customer codes provide protections for customers in terms of standards for billing, payments and collection. These requirements are especially important to support those in the community that may be unable to pay their water bills. By setting out robust provisions in these areas, the Code protects the interest of low-income and vulnerable customers and especially in preventing them from restricted access to an essential service necessary for health and well-being.

In Queensland, the Code is developed by the Queensland Government unlike other jurisdictions where it is administered by economic regulators. Depending on the jurisdiction, regulators have differing degrees of responsibility for some element of monitoring, compliance and/or approval of their codes' provisions⁸. There are examples of this in other essential services in Queensland, for example the *Electricity Act 1994* requires the Queensland Competition Authority (QCA) to enforce the provisions of the Electricity Industry Code and to report on and respond to breaches of the code. This is likely to be replaced by the National Energy Consumer Framework (from 1 July 2015) which will be monitored by the Australian Energy Regulator (AER) and breaches will be reported and penalties issued. The latter also has a role in assessing energy retailers' hardship policies which have to comply with the AER's Guideline for Hardship Policies.

⁸ For example, the water customer codes in Victoria, Tasmania and Australian Capital Territory are developed and administered by their respective economic regulators. In the case of Victoria Urban Water Services Code, there are a number of guaranteed service levels which the Essential Services Commission approves and monitors. In Western Australia the Customer Code applies to all water providers licensed by the economic regulator, unless they have been exempted by the Minister for Water, providers are required to comply with the code as part of their licence conditions. Also in Western Australia the provider's hardship policy must be approved by the economic regulator.

It is of concern to QCOSS that the SEQ Code's provisions are effectively non-enforceable as there is no monitoring or attempt to ensure water entities' compliance. It is expected that entities will comply with the Code. However, consumers (especially low-income and vulnerable consumers) are not likely to be aware of the Code and hence their obligations under the Code, and therefore are unlikely to be able to hold water entities to account in meeting the requirements of the Code. The Code currently is not an accessible document⁹ and there is no requirement to publish it on entities' websites - however some, but not all, retailers publish it or at least refer to it as part of their Customer Charter.

QCOSS in its recent submission¹⁰ to the review of the Code calls for customers to be: (1) made aware of the Code and its provisions by ensuring that it is an accessible and transparent document; and (2) ensuring that a number of key provisions that may impact on them are readily made available to customers (clearly placed on entities websites and a hard copy available on request), for example, hardship policy, concealed leaks and restricted flow provisions. In its submission on the Code QCOSS has also advocated *inter alia* for a more robust monitoring system to ensure compliance with the Code's provisions including those relating to financial hardship.

QCOSS acknowledges that the SEQ Code and its compliance is a separate regulatory process to that of economic regulation. However, as part of the overall long term regulatory framework, and after the review of the Code is completed, there may be scope for the QCA to have a role in monitoring compliance with the Code. This would strengthen the consumer empowerment and help ensure that the entities performance is effective and relevant for consumers. The ESC has been effective in this role (under the WIRO (Clause 17) 2012 with respect to monitoring compliance with the Victorian Customer Services Code.

Pricing determination

It is possible to support vulnerable customers in pricing determinations. For example, in the recent Victorian price determination 2013-2018, the ESC directed that \$5.4 million be spent by the entities addressing the needs of their hardship clients.

Information reporting

In its submission to the SEQ Price Monitoring Review 2013-2015, QCOSS highlighted that there is no formal recording/documentation on debt levels or the numbers of people receiving financial assistance, having flow restricted, or on a hardship program (payment plan) across water companies. As such, there is no way of knowing the extent of financial hardship in the water sector in SEQ and whether or not the policy response to water affordability by the Queensland Government and water entities is appropriate.

The QCA already undertakes this task with respect to electricity disconnections, financial assistance and complaints under Clause 8.5.1 of the Electricity Industry Code. Other economic regulators – such as the ESC in Victoria and the Independent Pricing and Regulatory Tribunal in NSW – collect and publish statistics on hardship from water businesses.

⁹ It can be found on the Department of Energy and Water Supply's website, Queensland Urban Utilities and Unitywater

¹⁰ QCOSS 2014, Submission to the SEQ Water and Wastewater Code

These provide valuable evidence to water entities and policy makers on the appropriate policy response to water affordability and financial hardship which not only benefits consumers but can prevent the build-up of debts and improve revenues.

QCOSS acknowledges that the task of collecting and publishing statistics would be a separate exercise as there is wider imperative for such evidence than for the long run economic regulation framework. However, QCOSS requests that the role of collecting such statistics and indicators be explored in the long term economic regulatory framework. For example, as already indicated above the QCA could in its annual assessment also take into account the impacts of price and tariff structure changes on the extent and depth of financial hardship. In any event, if a decision was taken by the Queensland Government to begin monitoring financial hardship, it would be cost-effective for the entities and the QCA for this data to be collected at the same time as the APM reporting. While this information is not publicly available, QCOSS considers that the entities, including the councils, are all likely to have this information available internally, and that it should not be onerous for them to report against these statistics.