



Government of South Australia

Department for Environment
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Document Reference Number: DEW-D0020708

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Residential Tenancies Review
Consumer and Business Services
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To whom it may concern,

Re: Review of the *Residential Tenancies Act 1995* (RTA)

Thank you for the opportunity to provide information in relation to the above review.

The *Water Industry Act 2012* (WIA) governs the water industry and is committed to the Minister of Climate, Environment and Water. The Act underwent a formal review in 2019, during which the Department for Environment and Water (DEW) received a number of submissions related to water charging issues faced by tenants.

Following the review of the WIA, there are a range of potential options for amending the WIA that will need to be considered by the State Government. That said, many of the issues raised by stakeholders during the review of WIA are outside the scope of Act itself. DEW therefore welcomes the current review of the RTA and sees it as a potential mechanism, alongside potential amendments to the WIA, for addressing water billing issues for tenants.

The WIA also establishes the Consumer Advocacy and Research Fund (CARF) to support research and advocacy that promotes the interests of consumers with a disability, low income or those who are located within a regional area of the state. Uniting Communities was successful in securing CARF funding last year for a project to further understand issues faced by tenants in relation to water and billing (Enclosure 1).

The current discussion paper captures many of the issues raised by Uniting Communities in its recent CARF report – see further below.

Should the RTA impose minimum efficiency standards in rental properties?

The recent CARF report delivered by Uniting Communities (2022)¹ found that “the lack of minimum water efficiency standards impacts low-income tenants in SA, who not only pay a statutory supply charge but are also exposed to usage costs resulting from water leaks and inefficient fixtures. In almost every other state in Australia, supply charge can only be passed on to tenants if the property is individually metered and meets minimum water efficiency standards. These issues highlight just some of the inequities impacting tenants as a result of the current water billing system.”

Should responsibility for the payment of the water supply fee be paid by the landlord, as is the standard practice in other jurisdictions?

In addition to considerations of equity, any proposal to make landlords pay water supply fees would be consistent with arrangements already in place for sewerage and in relation to charges on land.²

Should landlords have a full or partial obligation to pay the excess water charges resulting from a reported water leak that remains unrepaired, noting this would require the RTA to define how excess water charges are identified?

In addition to considerations of equity, any proposal obliging landlords to pay excess water charges resulting from unrepaired water leaks would align with existing landlord obligations under the RTA and WIA.

Under section 68(1)(a) of the RTA the landlord already has an obligation to maintain the premise in *a reasonable state of repair having regard to their age, character and prospective life*. Similarly, under the WIA, landowners are responsible for infrastructure on their side of the water meter (property connection point).

Other issues – hardship policies

While there is provision in the WIA for tenants (i.e. residential customers) to be able to access hardship policies such as payment plans, they cannot currently do so without the permission of the landlord. This is because the water utility treats the landowner (landlord) as the customer.

DEW is currently investigating potential changes to the WIA to provide better access to hardship policies for tenants.

¹ Uniting Communities (2022) *Tenants are water customers: Supporting low-income tenants and equitable water billing in SA Final Recommendations Report*

² Under the *South Australian Water Corporation Act 1994*, the provision of services (i.e. water or sewerage services) is a charge on the land to which the service is provided.

Contact

For further information regarding these matters, please contact Lyz Risby, Principal Policy Officer - WIA within the Department for Environment and Water on lyz.risby@sa.gov.au or 0427 000 136.

Yours sincerely

A handwritten signature in black ink that reads "Dan Jordan". The signature is written in a cursive, flowing style.

Dan Jordan
Director, Position, Department for Environment and Water

17/12/2023

Encl: 1. Tenants are water customers: Supporting low-income tenants and equitable water billing in SA Final Recommendations Report

Tenants are water customers: Supporting low-income tenants and equitable water billing in SA

Final Recommendations Report

Authored by Aasha Sriram

Published in July 2022 by Uniting Communities

With funding from the Consumer Advocacy Research Fund



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Keywords

Consumer Advocacy and 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 Regulatory Determination for period 2024-2028	RD24
South Australian Civil and Administrative Tribunal	SACAT
<i>Water Industry Act</i>	WIA
Yarra Valley Water	YVW

1. Introduction

In 2022, *Uniting Communities* was successful in receiving Consumer Advocacy and Research Fund (CARF) established under the *Water Industry Act, 2012*. The purpose of the funding is to support research or advocacy that promotes the interests of consumers with a disability, low-income consumers, or consumers who are located within a regional area of the State; and projects that advance the interests of consumers from an advocacy perspective. The Department for Environment and Water (DEW) administers the CARF on behalf of the Minister for Environment and Water.

The aim of this project was to identify the issues faced by tenants in relation to water bills and access to customers protections for essential water services. It focused on engagement with key stakeholders to identify workable solutions to improve tenants' experiences.

1.1 Background

In 2019, as part of a **previous CARF project**, *Uniting Communities* surveyed 156 participants about issues tenants faced with water bills. This included:

- Highlighting inconsistencies in what tenants were charged;
- Difficulty accessing water concessions and hardship programs; and
- Tenants being charged for sewerage services.

Additionally, ESCoSA has recognised that the billing system fails to fully meet the economically efficient principle, where the user pays for the service consumed.¹

Recognising the strong need to reform both the RTA and WIA to introduce better tenant protections, *Uniting Communities* in 2020 drafted a submission to the Department of Environment and Water about the review of the *Water Industry Act 2012*. These findings served as the primary basis for this CARF funded project.

1.2 Objectives

The key objectives of the project include:

- Identifying equitable billing processes for private sector tenants, including in-depth consultation with key stakeholders and reviewing and recommending changes to the *Water Industry Act (WIA)* and the *Residential Tenancies Act 1995 (RTA)*.
- Publishing an **Issues Paper** summarising a diverse range of stakeholder perspectives, key legislative changes to both Acts, analysing relevant data about tenants' experiences from surveys, financial counsellors, and tenants' advocacy organisations, as well as outlining evidence-backed recommendations to improve tenants' access to hardship assistance and dispute resolution.
- Hosting a solutions-focused workshop with key stakeholders to achieve agreement on recognising tenants as water customers and improving equitable billing for tenants in the short and longer term.
- Publishing a final recommendations report highlighting the outcomes of the project and next steps to allow tenants improved access to hardship assistance, dispute resolution, and billing transparency.

2. Stakeholder Engagement Process

A range of methods were used to engage a large variety of stakeholders in gathering information on the issues faced by tenants.

These included:

- Face to face meetings and interviews
- Bilateral meetings
- Telephone conversations
- Video conferences
- Social media posts
- Emails and letters
- Public surveys; and
- A targeted solutions focused workshop

2.1 Stakeholders

2.1.1 Stakeholders engaged in development of the Issues Paper

A diverse range of stakeholders were engaged to develop an Issues Paper. The purpose of the paper was to clearly articulate the problems faced by tenants in relation to water services. Key stakeholders included:

- SA Water Corporation (SA Water)
- Energy and Water Ombudsman SA (EWOSA)
- Essential Services Commission of SA (ESCOSA)
- Turner Real Estate
- SYC Ltd (Rentright SA)
- Shelter SA
- Landlords' Association of South Australia (LASA)
- Connect Ed
- Antipoverty Network
- South Australian Council of Social Services (SACOSS)
- Department for Environment and Water (DEW)
- Yarra Valley Water
- Other interstate government agencies in Victoria and New South Wales (Consumer Action Law Centre, Essential Services Commission Victoria, Energy and Water Ombudsman Victoria, Public Interest Advocacy Centre, Sydney Water, and Australian Water Association)
- Ministerial Advisers to Andrea Michaels (Minister for Consumer and Business Affairs) and Susan Close (Minister for Environment and Water).

2.1.2 Stakeholders engaged in solutions-focused workshop

Building on the Issues Paper, key stakeholders were invited to attend a solutions-focused workshop. These included representatives of:

- SA Water Corporation (SA Water)
- Energy and Water Ombudsman SA (EWOSA)
- Essential Services Commission of SA (ESCOSA)
- Turner Real Estate
- SYC Ltc (Rentright SA)
- Shelter SA
- Landlords' Association of South Australia (LASA)
- Connect Ed
- Antipoverty Network
- South Australian Council of Social Services (SACOSS)
- Department for Environment and Water (DEW)
- Ministerial Adviser to Andrea Michaels (Minister for Consumer and Business Affairs)

Subsequent meetings were also held with workshop invitees who were unable to attend the workshop including:

- Ministerial Advisor to the Minister for Climate, Environment and Water
- Minister Andrea Michaels

3. Key issues for tenants and water billing identified in issues paper

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).² Low- and moderate-income households cannot afford more price rises in essential services.
2. An amendment to 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.³
3. In 2012, the *Water Industry Act* (WIA) was introduced, replacing the *Historic Water Works Act*. The WIA included a consumer of retail services under the definition of ‘customer’ in prescribed circumstances and in relation to hardship policies.⁴
4. Tenants are not considered 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. Hence, tenants cannot access SA Water hardship programs and the South Australian Energy and Water Industry Ombudsman (EWOSA) dispute resolution service.⁵
5. The lack of minimum water efficiency standards impacts low-income tenants in SA, who not only pay a statutory supply charge (typically payable by the property owner) but are also exposed to usage costs resulting from water leaks and inefficient fixtures. In almost every other state in Australia, supply charge can only be passed on to tenants if the property is individually metered and meets minimum water efficiency standards.⁶ These issues highlight just some of the inequities impacting tenants as a result of the current water billing system.
6. A further consequence of current billing arrangements is that 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.⁷ The current SA Water billing system is inconsistent with other essential services, in which service providers bill consumers directly.
7. The RTA is unclear regarding who pays excess charges in case of a concealed leak, which further increases the vulnerability of tenants. Additionally, the interaction of the RTA and WIA is unclear as there are two pathways for tenants to resolve water disputes, with SACAT being the primary and most common pathway.
8. Data gathered from external sources, as well as the Financial Counselling service at Uniting Communities, shows the current system disproportionately affects low-income tenants, including limiting their access to SA Water’s hardship programs. This becomes more significant given **just 1%** of private rental properties are affordable to single people on the age pension in regional SA.⁸ Simultaneously, more than 30 per cent of South Australians are renting from a private landlord and this number is sharply increasing.⁹ Very low rental vacancy rates mean that in practice, low-income tenants have little agency to negotiate their water bills.¹⁰
9. 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.

²Uniting Communities submission to Essential Service Commission of SA, published January 2020, p. 3, <[20200205-Water-SAWRD20-Submission-UnitingCommunities.pdf](https://www.essentialservices.com.au/20200205-Water-SAWRD20-Submission-UnitingCommunities.pdf) (sacoss.org.au)>.

³Residential 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>.

⁴South 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>; Regulation 4 of Water Industry Regulations 2012 <https://www.legislation.sa.gov.au/_/legislation/lz/c/r/water%20industry%20regulations%202012/current/2012.269.auth.pdf>.

⁵In its current form, the RTA limits the capacity of EWOSA to effectively intervene in water disputes involving tenants, as they are not recognised as customers.

⁶This is the situation in NSW, Victoria, and Queensland.

⁷Tenants as Customers Research Insights, SA Water, published 9 March 2021.

⁸Rental Affordability Snapshot April 2022, Anglicare, p. 138, <<https://www.anglicare.asn.au/wp-content/uploads/2022/04/Rental-Affordability-Snapshot-Regional-reports.pdf>>.

⁹A Future of Renting in SA, Emma Baker, presented on 8 April 2022, Slide 3.

¹⁰“More 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>>.

4. Recurring themes from the engagement activities

A summary of recurring themes and issues recognised throughout the project are highlighted below:

- **Lack of consensus on interpretation of ‘customer’ in the WIA:** There is no consensus on whether tenants are customers as per the interpretation of ‘customer’ in ‘prescribed circumstances’. This is important as only customers can access hardship assistance from the utility. The Department of Environment and Water agree that ‘residential customers’ includes tenants. However, SA Water points out that the Act does not indicate the “prescribed circumstances” under which tenants are considered customers and hence, they are not required to provide hardship assistance to tenants. Given the different interpretations of the legislation, tenants need to be explicitly recognised as customers in the WIA to remove any doubt. Tenants need to be recognised as customers for the utility to deliver customer obligations, including hardship assistance.
- **Limited access to dispute resolution:** Tenants have little recourse to dispute water bills. Given the landlord is the customer, tenants cannot access EWOSA for dispute resolution. As water disputes fall under tenancy agreements, they are resolved at SACAT. The appropriate pathway should be EWOSA as tenants often report the SACAT process is time-consuming, formal, expensive, and intimidating. In contrast, EWOSA’s service is informal, low-cost, and timely. EWOSA informed us that they would be able to help tenants if tenants were recognised as customers.
- **Lack of billing transparency:** Several tenants reported not receiving an itemised invoice of their bill. As the law currently stands, the responsibility of receiving a bill lies with tenants and low-income tenants often do not request a copy of the bill as they fear a rent increase or non-renewal of lease. As a result, tenants do not have information and awareness about their water bill, whether they are being charged incorrectly, and their usage information.
- **Little to no access to hardship provisions:** Vulnerable tenants cannot access SA Water’s hardship program without landlord approval. This is a significant issue as the power imbalance between landlord and tenants discourages tenants from informing landlords about their financial situation. Additionally, as bill paying consumers of an essential service, tenants should be able to access to hardship programs by speaking directly with the utility as per the WIA.¹¹ However, the author observes this is not the case in practice.
- **Inequitable supply charge responsibility without caveats:** The supply charge is a statutory charge that is typically payable by the property owner. SA is one of the only states where tenants are made to pay the supply charge. In other states including New South Wales, Queensland, and Victoria, the supply charge can only be passed on to tenants if the property is individually metered and complies with minimum water efficiency requirements. Given the lack of such caveats and tenants not being able to access hardship programs and dispute resolution, SA’s water billing system is not equitable and fair to tenants and needs reform.
- **Billing system impacts on tenants:** Data from multiple sources including SA Water, Uniting Communities, EWOSA, and Rentrigh SA shows that tenants are negatively impacted by the current water billing process. The data shows that tenants want a direct relationship with the water utility, direct billing process, improved access to hardship, and enhanced billing transparency and information.

¹¹ The author notes that providing hardship provisions to tenants or “residential customers” is required as a licenced condition for the water utility as per Section 25 (5) of the *Water Industry Act*.

5. Tenants' Lived Experience



I haven't showered for weeks and I'm scared to turn on the tap”

Amy*¹², a tenant with lived experience shared her story at the workshop. Amy was a long-term Housing SA tenant who was shifted to Unity Housing, a private company offering community housing. A survivor of domestic violence, she was transferred to Unity under emergency circumstances. Amy said she was promised that the terms of her Housing SA tenancy agreement would apply. She would be sharing a meter at Unity Housing and was informed that water bills would be split equally among tenants sharing the meter.

Amy was then asked to sign a new contract due to an administrative error and Unity informed her the terms of her previous tenancy agreement were void and would not apply to the new property. She then received a water bill amounting to \$89 for the June quarter of 2021, which included a \$22 supply charge, and she noticed her share was 30 per cent more than her neighbours. Amy reported not receiving an itemised invoice of the water bill.

“I can't afford to pay that much – I don't use water anymore. I use plastic dishes that can be thrown out and I'm scared to turn on the tap”.

Amy's house got flooded in February 2022 due to excess rain. A plumber fixing the pipes let the water run for a couple of hours and Amy was informed she may need to pay the charges for the excess water use.

“I might get a \$300 bill and it wasn't my fault. I'm not responsible for the plumbing and I'm so shocked that it could be handed on to me.”

The highest bill Amy has ever received is \$33, so she is confident her usage has not increased. She felt that it was unfair she was paying 30 per cent more than her neighbours.

6. Solutions-based workshop: Improving water access and billing transparency for tenants

To address issues tenants face with water billing (e.g. inability to view their bill and usage, issues with accessing hardship programs and concessions, lack of information and awareness of their rights as consumers), *Uniting Communities* hosted a solutions-based workshop in June 2022.

The workshop was facilitated by an independent moderator with the aim of securing agreement on a range of solutions to deliver equitable outcomes for tenants and answer the following questions:

Q1. Should tenants be regarded as water customers?

- 1.1 What legislative changes are possible?
- 1.2 What are the implications for stakeholders?

Q2. How do we best support tenants?

Q3. How do we manage leaks and water efficiency?

- 3.1 What legislative change do we need to make to ensure a standard protocol for managing water leaks?
- 3.2 How do we enhance water efficiency to benefit all parties? (e.g. grants, water saving devices, etc).

Stakeholder attendees were also consulted during the development of the Issues Paper and were best placed to participate in the workshop and provide insight on solutions for implementation.¹³

6.1 Q1 Should tenants be regarded as water customers?

There was almost complete agreement that tenants should be regarded as customers. Some noted this is essential to assist tenants to be more empowered as customers and directly access hardship programs. A stakeholder noted that the system and legislation are not set up to treat tenants as customers as the billing system is property-based and highlighted the potential cost to SA Water if direct billing for tenants was implemented.


6.1.1 Q1.1 What legislative changes were recommended?

A majority of stakeholders agreed that legislative changes are necessary in order to implement for equitable water billing for tenants and to ensure customer protections apply.¹⁴ The following stakeholder responses along with implications stood out:

1. Amend the *Water Industry Act (WIA)* to recognise tenants as customers. The ambiguity around tenants as customers in 'prescribed circumstances' in the WIA needs to be clarified and properly implemented.

 **Implication:** End-use consumer is billed directly and customer protections would apply.

2. Explicitly recognise that tenants are customers for billing and hardship purposes in the WIA. Tenants need to be recognised as a type of water customer in the WIA to ensure billing transparency is maintained.

 **Implications:** A. This would resolve the extremely inconsistent billing process to an extent. This can create positive flow on impacts for landlords, enhance billing transparency, access to hardship programs, and a reduction in disputes taken to SACAT.

¹³For a list of Stakeholders in attendance at the workshop see section 2.1.2

¹⁴See Appendix A for other responses from stakeholders.

B. Tenants would be responsible to pay the water bill.

C. In the case of a tenant defaulting on their water bill over time, SA Water should negotiate a hardship plan with the tenant. If this doesn't work, the tenant should get a time frame within which they need to pay the water debt. In the rare cases that significant water debt accumulates, the landlord may need assistance.

Note: SA Water informs that recovering water debt through property sale is extremely rare.


3. Amend the *Residential Tenancies Act* (RTA) to mandate the installation of flow metres in properties with shared meters. Allow tenants the option to install a flow meter in Housing SA properties.

 **Implication:** This will enable equitable water billing for tenants on shared meters. Tenants could read their own meters to keep up with usage and identify leaks.


4. Amend RTA to establish a timeframe within which the landlord/agent should send the tenant a copy of the water bill highlighting the charges they are responsible to pay. The tenant should then be given a time frame to pay the bill.

Proposed options to enhance billing transparency for tenants:

- A. Amend RTA to establish a timeframe within which the landlord/agent should send the tenant a copy of the water bill highlighting the charges they are responsible to pay. The tenant should then be given a time frame to pay the bill.
- B. Authorise tenant on the account as an 'authorised representative' in addition to the landlord.
- C. Dual billing: Landlord is billed for sewerage and supply, and tenant is billed for water usage

 **Implication:** This increases tenants' access to information, improves billing transparency, reduces confusion about what tenants are paying for, and gives agents an incentive to send tenants the bill within a set timeframe (without which they don't receive payment). This also solves the current issues where several tenants request the bill but are either not given the bill or are threatened with non-renewal of lease.

5. Amend the RTA or other relevant Act so landlords bear the supply and sewerage charges as they are statutory charges.¹⁵

 **Implication:** This would align SA water billing process to other states within Australia while also making billing more equitable. SA is the only state that charges tenants water supply charge without any caveats. States such as New South Wales and Queensland have minimum water efficiency requirements that must be met before supply charge is passed on to tenants. This should be replicated in SA.


Note: Most stakeholders, including landlord representatives agreed that it is sensible for landlords to pay supply charge as it is a statutory charge and is typically payable by the property owner. LASA noted this charge could be recouped in rents.

6. Amend the RTA to:

- A. Clarify the property owner is responsible for leaks and excess charges resulting from leaks (they can apply to SA Water to receive rebates).

- B. Establish minimum water efficiency standards for rentals.

These changes are consistent with other Australian states, in the instance that a property doesn't meet minimum water efficiency standards, the landlord cannot pass on supply charge to tenants. Creating incentives such as rebates for landlords can encourage upgrades at rental properties. Water efficiency can be checked at the start of the tenancy.

 **Implication:** Split incentives – landlords benefit from tax benefits on upgrades and tenants benefit from lower bills and efficient usage.

7. Amend RTA to ensure tenants in sustained financial hardship cannot be evicted through non-renewal of lease if they have water debt.

Note: It is unfair to not provide tenants access to SA Water's hardship program and then evict them (by not renewing the lease) if they have accumulated water debt, particularly for tenants in sustained financial hardship.

6.1.2 Other relevant stakeholder comments

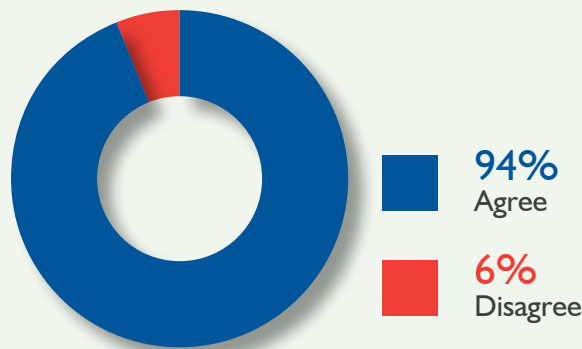
- Tenant's access to information is a significant issue and receiving bills will help educate and inform tenants and give more control over their water usage. There needs to be more awareness programs to inform tenants of their rights.
- It is not logical to continue the current billing system where the person that pays for the service does not receive the bill. Additionally, tenants cannot access water concessions in many cases as they are not the customer as per the billing system.
- Equitable billing for shared meters needs to be worked out. While agents work out bills based on the number of people living in a property to make it somewhat equitable, this is often not equitable. A member of LASA said that as a landlord, he purchased a water meter and subtracted usage and billed the tenant for actual use in the property he tenanted.









6.2 Q2. How do we best support tenants?

An individual exercise measured stakeholders' agreement and perspective on five key solutions to support tenants. The results and stakeholder responses are noted below.¹⁶

Recognise tenants as customers in the *Water Industry Act*



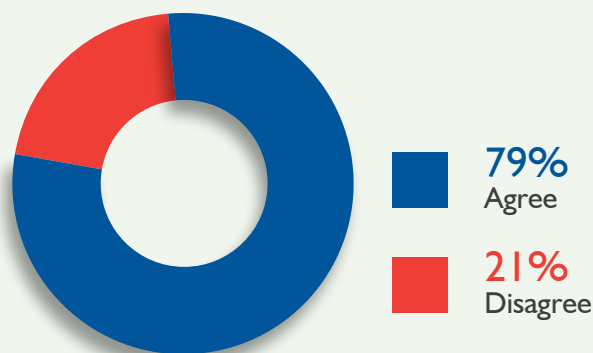
Key stakeholder responses are noted below.¹⁷

Benefits	Concerns
 <p>Yes, because that's what tenants are. This ensures tenants can access consumer protection.</p>	 <p>Needs provision for leaks to be charged to landowner.</p>
 <p>This will take agents/landlord out of the equation, mirroring how other utilities bill customers.</p>	 <p>This needs to be done in conjunction with the <i>Residential Tenancies Act</i> and other related codes to ensure consistency and limit ambiguity.</p>
 <p>Would help tenants to report leaking taps straight away to SA Water as they are aware and have a relationship with the utility.</p>	
 <p>This will help tenants budget accordingly and manage bills more effectively.</p>	








¹⁶See Appendix B for other responses from stakeholders.

¹⁷See Appendix B for other responses from stakeholders.

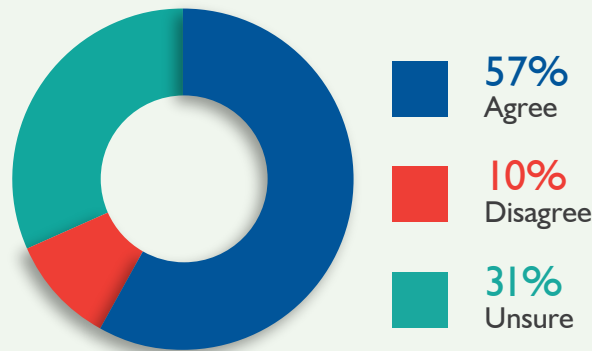
Establish online portal to access billing information and hardship provisions



Key stakeholder responses are noted below.

Benefits	Concerns
 <p>This will work because it gives back power to the tenant to be proactive in managing their bills. This does not require legislative change as well.</p>	 <p>This is not great but not bad either. It assumes a level of digital literacy, access to digital devices, and internet (particularly difficult for elderly and low-income customers). It's a value-added benefit.</p>
 <p>Not necessarily required if amendments to <i>Water Industry Act</i> are made, as tenants would receive the same protections as landlords. However, an online portal for all customers would be useful.</p>	 <p>But the water bill is payable to landlord, not SA Water. So, this would be a courtesy measure – would not necessarily help in any adversarial tenant/landlord relationships.</p>
 <p>This can work very easily. It could be similar to the Residential Bonds Online (RBO) system or other systems like MyGov or SAGov. It could also include reporting mechanisms for leaks and usage information.</p>	 <p>Not sure this solution works in isolation of other solutions (e.g. recognising tenants as water customers). It is a tool, but we need to first establish the systems and processes to support tenants.</p>
 <p>Visual references can make a greater impact – tenants can see how they consume water (between bills) and make changes to reduce bills, much like electricity.</p>	

Landlord to pay water supply charge



Key stakeholder responses are noted below.

Benefits



Yes, because water connection is an essential service.



Yes, this can be factored into the rent.



Out-of-the-box idea: Could we make supply charge attached to council rates?



Yes – clearly legislate rights and responsibilities under the *Residential Tenancies Act*, including making landlord responsible for: sewerage, supply, and usage to 1st tier.



Supply charge should be a landlord charge, e.g. ‘connection of supply to the house’. The landowner needs to pay this regardless of whether they live in the property.



This is reasonable and makes sense as supply charge is a statutory charge (and hence, typically payable by landlord).

Concerns

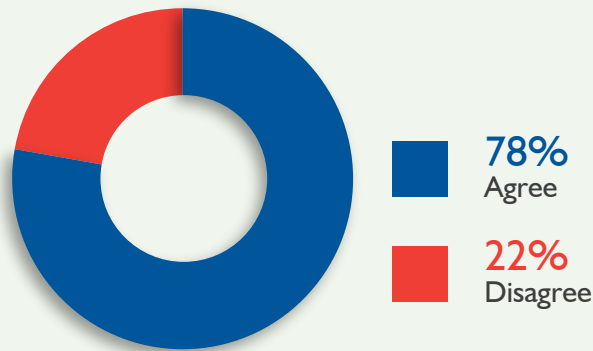


This solution still leaves the usage charge and doesn’t resolve the issue or current challenges.



This would require bills to be sent to both landlord and tenant. It seems okay as landlord is already paying for sewerage (assuming cost against rental properties are tax deductible). It should be the landlord’s responsibility to send the bill to the tenant.

Support transition to direct billing of tenants over 5 years



Key stakeholder responses are noted below.

Benefits



Yes – but why so long?



Need to incorporate enforceable minimum water efficiency standards – enforceable by someone other than the tenant.



There could be a consideration for exceptions for concession card holders and landlords on low incomes (exempted or discounted).



Allows tenants to be in full control or usage, better access and budgeting, and enhanced customer experience.

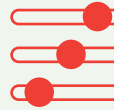


Supply charge should be a landlord charge, e.g. 'connection of supply to the house'. The landowner needs to pay this regardless of whether they live in the property.

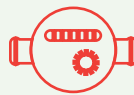


This is reasonable and makes sense as supply charge is a statutory charge (and hence, typically payable by landlord).

Concerns



Needs to be efficiently implemented so cost increase for all customers don't impact low-income customers disproportionately.

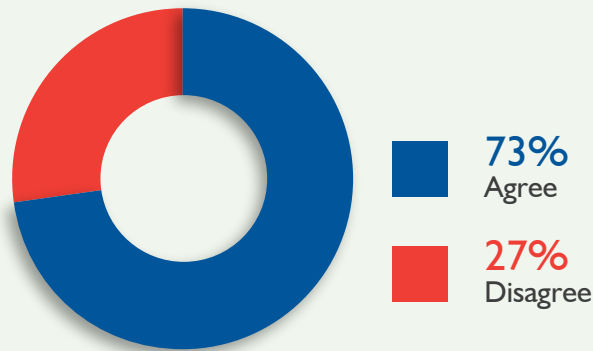


This wouldn't work for shared meters and strata groups.



Timeframe for transition needs to be looked at, there are some practical aspects of billing to collecting all current tenant details to enable.

Tenants able to apply directly for hardship program



Key stakeholder responses are noted below.

Benefits



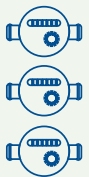
100% agree – somewhere there should be a link between Concessions SA and SA Water as there is no clarity around what can be available to landlords and tenants.



Maybe as part of establishing a new rental agreement, there could be a mechanism for the landlord to give prior approval to tenant for hardship, so it doesn't need to happen in a reactive way. There could also be an option for the landlord to provide approval to have the bill sent to the tenant.

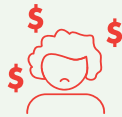


Yes – keep the accounts separate so the landlord is not negatively affected by the tenant's water debt.



If people are responsible for their water costs, they should have individual 'metering' and the ability to have efficient infrastructure installed. If those responsibilities are split, it's unfair to expect people to pay!

Concerns



This should already be possible (As per Section 35 (5) of *Water Industry Act*) in my view – don't understand why this doesn't occur now.



There needs to be a backup for the landlord to be aware of non-payment to prevent a water debt accruing.



A direct relationship between the tenant and utility is required. This doesn't exist currently.



Tenants should also have access to the Energy and Water Ombudsman to resolve water disputes (not a SACAT issue).

6.2.1 Concluding remarks



New solution idea: Individual metering of all consumption premises – this is absolutely essential. No excuses can be made to say it's 'not possible'. People should not be billed for something that is not measurable”.

Landlords Association of South Australia



All of these solutions interact and sometimes cancel each other out. They need to occur simultaneously with education for customers.”

SACOSS



All very well to have laws in place, but access to legal rights is still an issue causing unequal power relations.”

Shelter SA



Many of these solutions can't happen in isolation”

SA Water

6.3 How do we manage leaks and water efficiency?

6.3.1 Q3.1 What legislative change is needed to establish a standard protocol for managing water leaks? (without involving the Residential Tenancies Tribunal)

Almost all stakeholders agreed that the landlord is responsible for managing water leaks and the legislation should be amended to clarify this. Their responses are highlighted below.¹⁸

- Legislation should clarify that property owners are liable for excess charges due to water leaks and should be proactive in fixing leaks in a timely manner after tenants notify them (similar to legislation in Victoria).
- Water leaks should be the landlord's responsibility as it is their infrastructure and landlords are responsible to maintain fixtures in a reasonable 'state of repair'.
- Leaks should be referenced in the *Residential Tenancies Act* and/or in the *Water Industry Act* as the responsibility of the landowner.
- It's worth noting that there needs to be consistent guidelines at the appropriate legislative level to ensure consistency with how leaks are managed, even with non-SA Water customers.

6.3.2 Q3.2 How do we enhance water efficiency to benefit all parties? (e.g. grants, water saving devices, etc).

Stakeholder responses are highlighted below.¹⁹

- Establish minimum standards for water efficiency before charges are passed on to tenants – this benefits both parties; landlords can claim tax deductions on water efficiency products. Tenants benefit from having efficiency and reduced water costs.
- Provide rebates or one-off grants to property owners to instal water saving devices.
- Would require individual meters on all properties and a grant scheme around 'flow meters' for individual apartments, etc.
- *Residential Tenancies Act* should say tenants are not required to pay the bill if the house doesn't comply with minimum water efficiency measures.
- Establish yearly utility relief grants for vulnerable tenants (similar to Victorian and New South Wales government grants).

¹⁸See Appendix C for more responses.

¹⁹See Appendix C for more responses.

7. Final recommendations: Where do we go from here?



The workshop concluded with stakeholders rating key solutions for implementation on a scale of 1 (easy) to 5 (difficult). This helped identify the most supported and feasible solutions.

Based on data analysis using responses from stakeholders, the next steps to implement short- and long-term solutions are highlighted below, noting that these solutions received highest support for fairer water billing for low-income tenants.

★ High priority ★ Medium priority ★ Low priority

Priority	Timeline	Actions	Lead agency to progress actions
★	Longer term implementation	Explicitly recognise tenants as customers in <i>Water Industry Act</i> (under 'customer').	The Minister for Environment and Water to seek advice from the Department for Environment and Water on amending the definition of 'customer' to explicitly include tenants.
★	Immediate implementation	Seek clarity on the <i>Water Industry Act</i> and amend if required to allow tenants access to EWOSA's dispute resolution scheme. Investigate and implement whether changes to the <i>Residential Tenancies Act</i> are also required.	The Minister for Climate, Environment and Water to seek advice from the Department for Environment and Water on whether tenants should be able to access EWOSA now under regulation 4 or whether amendments are needed. Consumer Business Services department to investigate changes required in the <i>Residential Tenancies Act</i> .
★	Long term implementation	Transition to direct billing for tenants as SA Water customers. Note: this will need to happen if tenants are recognised as customers in the <i>Water Industry Act</i> .	The Minister for Environment and Water to seek advice from the Department for Environment and provide guidance to SA Water for a staged transition to direct billing for tenants over a set timeframe (e.g. next three years). SA Water to include costings on implementing direct billing for tenants as part of their upcoming Regulatory Determination (RD24) framework.
★	Immediate implementation	Create online portal for tenants to get information, consumption details, and access bill extensions.	SA Water to design and deliver an online portal for tenants. Note: If the definition of customer in the <i>Water Industry Act</i> is amended to include tenants, there is no need for an online portal as tenants would be the customer. They would also have access to customer hardship provisions and EWOSA.

Water Industry Act

Residential Tenancies Act

	Immediate implementation	Clarify standard protocol for water leaks in the <i>Residential Tenancies Act</i> .	The Minister for Consumer and Business Affairs to implement this as part of the upcoming <i>Residential Tenancies Act</i> review.
	Medium term implementation	Shift water supply cost to the landlord if the property fails to satisfy minimum water efficiency standards.	The Minister for Consumer and Business Affairs to seek advice and implement this as part of the upcoming <i>Residential Tenancies Act</i> review.
	Medium term implementation	Recommended solution: Amend <i>Residential Tenancies Act</i> to mandate landlords/agents send a copy of the bill to the tenant within a set timeframe (e.g. 45 days). Only after the bill is sent the tenant needs to pay the bill.	The Minister for Consumer and Business Affairs to implement this as part of the upcoming <i>Residential Tenancies Act</i> review.
	Medium term implementation	Establish minimum water efficiency requirements.	The Minister for Consumer and Business Affairs to seek advice and implement this as part of the upcoming <i>Residential Tenancies Act</i> review.
	Medium term implementation	Amend <i>Residential Tenancies Act</i> to allow tenants access to EWOSA's dispute resolution scheme.	The Minister for Consumer and Business Affairs and the Minister for Environment and Water to seek advice and implement this as part of the upcoming <i>Residential Tenancies Act</i> review.
	Medium term implementation	Government to establish 'utility grant' (different to existing concessions) to help customers in sustained financial hardship.	The Minister for Environment and Water to seek advice from the relevant government department (e.g. Department for Human Services) on how this utility grant could be administered.
	Immediate implementation	Amend <i>Residential Tenancies Act</i> to limit non-renewal of lease resulting from unpaid water bills for vulnerable tenants.	The Minister for Consumer and Business Affairs to seek advice and implement this as part of the upcoming <i>Residential Tenancies Act</i> review.

APPENDIX A

Q1.1 What legislative changes are possible?

1. Language in both legislations should be clear and consistent. For example, 'excess water' should be removed, and words like 'supply', 'consumption' and 'sewerage' should be used where necessary.
2. Amend the property-based charge against the land (*SA Water Corporations Act*) to enable the transition to a people-based billing system where tenants are customers.
3. Amend the property-based charge against the land (*SA Water Corporations Act*) to enable the transition to a people-based billing system where tenants are customers.
4. SA Water should update its billing systems to bill tenants directly and allow tenants to have a relationship with them and raise water disputes.
Implication: Directly billing tenants would have additional cost for SA Water, but there is a strong business case for investment to make fundamental changes to make tenants customers.
5. Some stakeholders classified water charges and who should pay as follows:
Sewerage supply: Tier 1 (payable by landlord)
Water supply: Tier 2 (payable by landlord)
Water usage: payable by tenant
6. Implement change in WIA to allow tenants access to the Energy and Water Ombudsman.
Implication: Tenants can access a low cost, informal, and out-of-court process. This would have good implications for SACAT as they would have fewer water disputes to deal with.
7. Lease agreements regarding responsibility for water charges need to be standardised so it's clearer for SACAT to resolve disputes.
8. Tenants should be able to access hardship programs and concessions as they currently are able to do with electricity.
9. Private landlords could instal flow meters in each unit to bill tenants equitably for their water usage. However, installing flow meters can be expensive and usually agents are forced to convince landlords.
10. In this current billing system, the tenant has no recourse if there is a discrepancy, except taking it to SACAT, which is expensive, time consuming and intimidating.

APPENDIX B

Q2. How do we best support tenants? Stakeholder responses for all solutions are highlighted below.

Establishing an online portal for tenants' access to information support, consumption details, and bill extensions:

Benefits	Concerns
This will be great as currently tenants either don't know how to access this information or don't know they have a right to access this information.	Bill extensions only work if the tenant pays SA Water directly. Currently, the landlord pays, so tenants' access to extensions won't work.
Great, I think tenants should have access to billing and usage information.	This creates complexity for a simple process. Who will be doing the establishment and maintenance of the portal and how will this be funded?
This should be added to the current information brochure provided to tenants.	Good idea but may be expensive to implement. Better to treat tenants as customers so they have the same tools as landlords.
This would not require legislative change.	Would be interesting to understand the cost implications for SA Water to establish a portal vs. allowing tenants to directly apply for hardship programs.

Recognising tenants as customers explicitly in the *Water Industry Act*:

Benefits	Concerns
Fantastic solution and will enhance clarity.	It would be good to explore if there are policy changes that could support this instead of solely relying on legislative change.
Would assist tenant customers to monitor water consumption charges on an ongoing basis.	
This clarity would help and requires changes to legislation.	
This will empower tenants to take responsibility for water usage charges and allow tenants to access hardship programs.	
Tenants can have easier access to hardship plans and concessions.	
Fixes many of the current issues (access to hardship programs and dispute resolution). Even though there is a cost to upgrading the billing system, this is the best solution to remove ambiguity and assist tenants.	

Landlord should pay supply charge

Benefits	Concerns
Yes – 1/3rd of my bill is a supply charged on my shared meter. My neighbours don't pay the supply charge.	Look at concessions around supply charge.
This will take a massive pressure off low-income tenants.	
Great – this shouldn't have changed in the RTA in 2014.	
Supply charge should be considered the same as sewerage charge as both are statutory charges and payable by landowner in principle.	
Water is a consumable product, the same as any utility a tenant chooses to utilise. Supply charge is no different to charges levied by gas, etc.	
If sewerage is a statutory charge, why is supply not? Property owners are obliged to pay if water supply runs through their property even if they are not connected and use tank water so surely this is a statutory charge payable by the landlord.	
Tenants should be billed for usage only. Supply and sewerage should be billed to the landlord.	
This is reasonable and makes sense as supply charge is a statutory charge (and hence, typically payable by landlord).	
Mostly yes – water is a basic human need and rentals are required to provide access to water.	
Would only require one legislative change in the RTA.	
The issue of charging the wrong components of the bill can be solved with greater transparency.	

Transition to direct billing for tenants over the next 5 years

Benefits	Concerns
Yes, just do it. Need individual meters funded!	With shared metres, who gets the bill?
Yes – but why so long?	Needs to be efficiently implemented so cost increase for all customers don't impact low-income customers disproportionately.
Yes, it would allow me to save water and be charged equitably.	This wouldn't work for shared meters and strata groups.
This will work only if landlord's responsibility for water leaks is clarified.	This links to the solution no. 2 (recognise tenants as customers explicitly in the <i>Water Industry Act</i>), which needs to happen first.
Need to incorporate enforceable minimum water efficiency standards – enforceable by someone other than the tenant.	Timeframe for transition needs to be looked at, there are some practical aspects of billing to collecting all current tenant details to enable.
There could be a consideration for exceptions for concession card holders and landlords on low incomes (exempted or discounted).	This only fixes part of the problem
This way, tenants can see the entire bill, usage, and charges. It's empowering, reduces confusion, and enhances awareness.	
Allows tenants to be in full control of usage, better access and budgeting, and enhanced customer experience.	

Tenants should be able to directly apply for hardship programs without landlord approval

Benefits	Concerns
Yes, this allows tenants to maintain privacy.	Difficult because the debt ultimately sits with the property owner.
YES! Perhaps create a clause in the lease proforma document saying: "This document acts as owner/landlord authorisation allowing the tenant to access SA Water for the purposes of hardship assistance, billing and usage information, and dispute resolution."	What percentage of tenants pay SA Water directly vs those who pay the landlord/agent?
This issue resolves itself if tenant is the customer.	Currently, a tenant can only apply for a concession if they can prove responsible water payments in the lease agreement. This eligibility may exclude some people.

APPENDIX C

Q3.2 What legislative change is needed to establish a standard protocol for managing water leaks? (without involving the Residential Tenancies Tribunal)

- Implement amendments to the *Residential Tenancies Act*, *Water Industry Act*, and the *Housing Improvement Act*: tenant is a customer and when a 'spike' is noticed, a customer notice is sent within a reasonable timeframe to the tenant.
- There needs to be accountability for the landlord to enforce the legislation.
- Establish a method to enter the meter reading when a leak is identified.
- Clarify process for inspecting and identifying leaks along with a quote for repair for the landlord.

Q3.3 How do we enhance water efficiency to benefit all parties? (e.g. grants, water saving devices, etc).

- Set minimum water efficiency standards for newly constructed properties, with special attention (above minimum) for new public, social, and community housing builds.
 - If the landlord is responsible for water bills, they should receive a payment to install water efficient devices.
 - Establish a "REPS" for water services – shower heads, washing machines, toilets, water assessments, etc.²⁰
 - Implement minimum building standards and check compliance.
 - Enable remote monitoring of water usage, government grants for water efficiency upgrades, and instal digital smart metres.
 - Make hardship grants and water concessions easily accessible for people.
 - Improved education by SA Water to all 'customers' – setting up workshops on explaining standard usage and water usage devices like AGL does with electricity customers.
 - Clearly identify the costs and benefits currently:
 - e.g. Cost for landlord to improve efficiency; tenant benefits from lower water bill
 - e.g. Cost for tenant to dispute usage or bill; little-no cost for landlord
 - e.g. Landlord saves by not upgrading fixtures; tenant pays higher bill
- Split incentives should be recognised and addressed.



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