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Inquiry into Australia's Urban Water Sector
Productivity Commission
Locked Bag 2, Collins Street East
Melbourne Vic 8003

Dear Commissioners,

Tenants Advice Service (WA) comments on the Productivity Commission Draft Report

About Tenants Advice Service (WA)

Tenants Advice Service (WA) is a not-for-profit community legal centre funded to provide quality education and legal information to residential tenants and community workers in Western Australia. TAS provides the only specialist tenancy service for residential tenants in Western Australia and we recognise the need for tenancy support and that to support the tenant's rights, there is a demand for quality legal advice. TAS is the central resource unit for the WA tenancy network which consists of 20 other agencies that employ advocates to provide tenancy advice throughout WA. In addition, TAS also works closely with government departments and other organisations in implementing changes to policies and legislations to increase protection for tenants.

The Scope of this Submission

TAS welcomes the opportunity to contribute to the Commission's inquiry into the Australia's Urban Water Sector. This submission only addresses tenancy issues in relation to Chapter 7 and Chapter 9 of the Draft Report as this is the area where TAS has knowledge and expertise. This submission to the draft report will be largely based on the issues identified in

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the Water Customer Code Working Group. TAS is a consumer representative of the Water Services Customer Code Working Group (WA). The aim of the working group is to participate in the development of the Water Services Customer Code.

Tenancy Issues

TAS supports Draft Recommendations 7.1, 7.2, 9.1, 9.2 and 9.3 of the draft report.

Draft Recommendation 7.1

Metering technology should be introduced in all new single and multi-unit dwellings. The case for retro-fitting existing single and multi-unit dwellings with separate metering technology should be assessed by utilities.

TAS supports Draft Recommendation 7.1 to have metering technology introduced to residential properties. As most tenants pay for water consumption, it is important that the water consumption they pay is determined by the individual meter reading of the property they live in. This ensures that they are paying accurate water consumption.

Draft Recommendation 7.2

Utilities should charge tenants directly for all water charges, both fixed and volumetric, where water is separately metered. Where this does not already occur, State and Territory Governments might need to put in place transitional arrangements to ensure that savings to landlords are passed through to tenants.

TAS is of the opinion that there may be complexities involved in utilities charging tenants directly for all water charges. Under the *Residential Tenancies Act 1987*, tenants are only required to pay for water consumption. If tenants are required to pay for all water charges, it is important for State and Territory Governments to put in place transitional arrangements to ensure that savings to landlords are passed through to tenants as recommended. An important point to note if tenants are required to pay for all water charges is that this will have an adverse impact on rental housing affordability. However, TAS supports Draft Recommendation 7.2 to a limited extent that the relationship between tenants and utilities be recognised.

Currently in WA, tenants do not pay water consumption directly to the Water Service Providers (WSP) and the relationship between tenants and WSP is not recognised. Tenants pay water consumption to the landlords who pay the Water Service Providers (WSP) directly. One of the main concerns discussed during the Water Services Customer Code Working Group is whether tenants are included in the definition of 'customers' under the new Water Bill and Water Services Customer Code. TAS was informed that the Water Bill and Water Services Customer Code will not include tenants. This is inequitable for tenants who pay for water consumption.

Currently, the owner's responsibilities to tenants are covered under the Residential Tenancies Act (WA) 1987 (RTA), the RTA governs the relationship between tenants and owners under their tenancy agreement. The Water Services Customer Code governs the relationship between WSP and their customers. If tenants are not considered as 'customer' under the Water Services Customer Code, they have no rights and obligations in the code which is inequitable for tenants who pay for consumption. Not recognising tenants as category of 'customer' is also not aligned with best practice consumer protection principles.

In WA, most tenants are responsible for water consumption but do not have a right to deal with WSP directly without the owners' consent. It is discretionary for landlords to provide tenants the **authority** to deal with WSP directly. The issues that arise due to this arrangement are:

- Tenants' access to information/billing about the water consumption they pay
- Tenant's access to concession/hardship policy
- Authority to request for meter testing and reading which affect the water consumption tenants pay
- Authority to request for reconnection due to disconnection or restriction of water supply. This is crucial in cases of emergency when the owner of the property is not available or refuses to contact WSP to reconnect water supply
- Tenants to have the option of making a complaint or dispute resolution regarding the water consumption they pay

TAS as a member of the Water Services Customer Code Working Group (WA) submits the following recommendations for inclusion in the Code:

1. That tenants be included in the definition of customers as a means of providing greater protection and rights in accessing water services issues

TAS recognises the implications for WSP and Tenants should tenants be in the definition of 'customers' in the code. However, TAS strongly suggests that this has the potential to minimise the number of disputes and delays of investigating disputed water consumption.

2. That tenants receive information from the WSP on services and consumption

It is the Water Corporation's current practice that tenants may receive the bill if tenants are given authority to speak to WSP by the **owner**. As the WSP already provide such services directly to tenants, it is a good indication that such a service may be provided to all tenants.

3. That tenants have the option of establishing an account to enable them to deal with the WSP directly

This is in line with Draft Recommendation 7.2. TAS considers that the proposed amendment to the RTA does not sufficiently protect the rights of tenants in regards to water services. In the proposed RTA amendment bill, the owner of the property has a responsibility to provide information about the water consumption bill to the tenant. If the tenant is given authority to contact the WSP directly it will enable a fully informed decision to be made by the WSP regarding disconnection or restriction.

4. That information to a “tenant customer” to clearly set out the relationship between WSP and tenants and owners

That information be provided to owners on their obligation to give tenants the authority to speak to WSP.

5. That it is mandatory for the owner to inform the WSP if the property is tenanted and relevant details

- The owner to provide the details of the tenant so the tenant can deal with the WSP directly in certain circumstances.
- Tenants who pay for water consumption be considered as ‘customer’ and receive information and services from WSP.
- Tenants who pay for water consumption to be eligible for concessions and information on concessions provided by the WSP.
- It is crucial that the tenant of the property have authority to contact the WSP directly in case of emergency where the owner of the property is unavailable.
- TAS acknowledges the current practice that tenant can be given authority to contact WSP directly and receive bill from WSP directly. However, TAS supports that it should be mandatory and not up to the owners’ discretion to give the tenants such authority. This can lessen disputes between tenants and owners as the tenants have a copy of the bill with accurate readings.
- This will make the tenant aware of possible problems which may arise should owner fail to pay the WSP.
- This will allow tenants to have authority to deal with the WSP directly in regards to reconnection, works and maintenance and customer inquiries.
- Tenants who pay for the water consumption bill should have the right to request a reconnection of water supply to the property.

6. That sufficient notice be given to the tenants in the event the water supply may be restricted or disconnected

- This will allow the tenant to access possible remedies.
- The WSP should not restrict the water supply of a tenant who has complied with their responsibilities and is not at fault.

Draft Recommendation 9.1

COAG should commission a review of concessions on utility services across all levels of government. The review should assess:

- *the appropriateness of existing arrangements for providing concessions, including eligibility criteria*
- *the merit of and scope for abolishing concessions and providing relevant assistance to all low income households via other elements of the tax and transfer payments system.*

Draft Recommendation 9.2

COAG should develop a set of best practice consumer protection principles for water utilities. These could be included in any new intergovernmental water agreement. At a minimum, the principles should include:

- *access to an independent dispute resolution process, preferably by a specialist utilities industry ombudsman*
- *the establishment of an industry code defining service standards and provisions to assist consumers facing hardship.*

Currently in WA only consumers who hold a Pensioner Concession Card (PCC) are eligible to register with Water Corporation for concession. Tenants who hold a PCC on the other hand can only receive concession if the owners grant permission for them to speak to WSP. Some tenants are in the rental market as they cannot afford to purchase a property. These tenants often suffer financial difficulties and to deny them access to concessions available by the WSP is unfair and can add to the hardship they suffer.

TAS as a member of the Water Services Customer Code Working Group (WA) submits the following recommendations for inclusion in the Code:

7. That concessions to be available to eligible tenants who pay for water consumption

8. That tenants be included in the development of a hardship policy and offered alternative payment methods by WSP or benefits from the WSP if they have difficulty paying the water consumption bill.

9. That tenants be included in the complaints and disputes section in relevant water legislations

Draft Recommendation 9.3

COAG should progress implementation of measures to support consumer advocacy and research consistent with Recommendation 11.3 of the Commission's 2008 Review of Australia's Consumer Policy Framework.

TAS supports Draft Recommendation 9.3. There is an under-representation of consumers and not-for-profit non-government organisations serve as a voice for these consumers. Implementation of measures to support consumer advocacy and research will definitely increase consumer protection.

Conclusion

TAS supports the Commission's Draft Recommendations 7.1, 9.1, 9.2, and 9.3. TAS supports Draft Recommendation 7.2 to a limited extent that the relationship between water utilities and tenants be recognised. Best practice consumer protection principles for water utilities should be developed. A significant proportion of WA population is in private rental which is mainly due to rising costs of residential properties. Therefore, TAS stresses the importance that tenants are recognised and considered in all policies or laws in relation to water services.

Yours faithfully

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