

Future Regulation of the Tasmanian Water
and Sewerage Sector

Part A - Proposed Position Paper

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1. EXECUTIVE SUMMARY

Background

The Ministerial Water and Sewerage Taskforce's work to date has identified that the future reform of the sector will require both structural and regulatory changes to ensure the sector transitions to long-term sustainability. Changes will also be required to some of the rules and regulations which apply to how water and sewerage assets are managed and how the services are delivered.

This paper outlines the proposed changes to be made to the regulatory framework and seeks comments on these proposals. This paper represents advice that is before the Taskforce for its consideration and does not represent Government policy however, we have been advised that it is consistent with the current direction of the Taskforce's thinking.

A further paper (Part B) will follow shortly that provides greater detail on the proposed changes and includes further advice to the Taskforce on the recommended framework to establish future pricing and customer service standards.

For the purposes of this paper, water is defined as urban and regional reticulated water for residential and commercial use, while sewerage refers to wastewater and the infrastructure to transport and treat it. Although important issues for future consideration, the review does not extend to stormwater, water used for irrigation or for electricity generation.

Issues with the Current Regulatory Arrangements

There appears to be a lack of an overarching policy context for the sector as a whole and this has led to siloed development of the elements of the regulatory framework. The current regulatory framework is not driving service providers to meet standards and does not have the proper mechanisms in place to materially change the behaviour of participants.

The economic regulation of the sector is a decade behind that in most other states. Tasmania has adopted an approach under which service providers are not subject to direct price regulation, which conflicts with the National Water Initiative agreements between the Commonwealth and States.

The current regulatory system does not involve an independent price setting process and does not contain any mandated service standards which offer important protection to customers. Furthermore, the pricing methods adopted across the State are not consistent, meaning that customers are treated differently depending on where they live.

The way in which pricing decisions are made also needs to be more transparent and reflective of the cost of service and infrastructure provision.

The sector lacks a number of regulatory elements that are evident in natural monopoly industries Australia-wide and which are considered to be elements of best practice.

The issues that need addressing include:

- Requiring asset management planning;
- Improving compliance with environmental standards for wastewater;
- Improving compliance with water quality standards;
- Improving the revenue flows into the sector to a level that supports self-sustaining investment and the appropriate use of debt funding;
- Ensuring that minimum customer service standards exist and drive business decision-making and that customers pay for the services they receive;
- Ensuring that customers have a voice, through explicitly involving them in transparent regulatory processes; and
- Requiring that communication between the technical regulators (water quality, environment and water resource management) occurs with the economic regulator, so that priorities for asset investment can be agreed and the consequences of regulatory decisions are clear.

The findings of the review to date indicate that the public health and environmental protection standards seem to be appropriate and will not be subject to review. However, the responsible regulators will need to ensure that the standards are reviewed on an ongoing basis to ensure their appropriateness and, where applicable, reflect best practice.

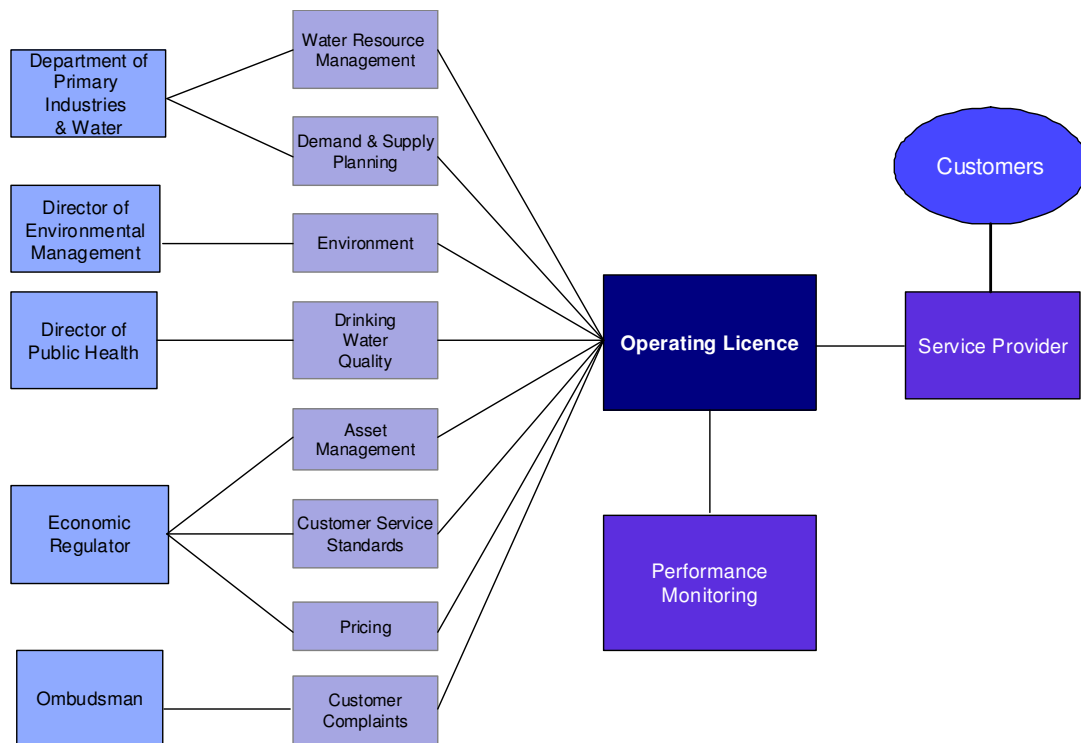
Proposed Changes to the Regulatory Framework

The proposed regulatory framework can be summarised as involving the following changes:

- Explicit specification of regulatory objectives and principles;
- Formalising and separating the roles and responsibilities relating to the various policy development and regulatory roles;
- Reviewing the long term water demand and supply planning framework to ensure security of supply is maintained at appropriate levels;
- Introducing mandatory asset management planning arrangements;
- Establishing a customer service standard setting framework;
- Introducing independent regulation of pricing and service standards;
- Ensuring that pricing is efficient and supports the viability of service providers;
- Establishing an Ombudsman role to ensure customers are protected and any disputes are resolved; and
- Introducing a public performance monitoring arrangement to further increase accountabilities in the achievement of outcomes.

Figure 1 below shows the key elements of the proposed regulatory framework and how they interact with each other. The centrepiece of the proposed arrangements is the introduction of an operating licence for each service provider which aims to improve the integration of the regulatory framework.

Figure 1 Key Elements of the Proposed Regulatory Framework and Interactions



An integrated regulatory framework ensures that all stakeholders - government, customers, the community and service providers - can outline their requirements and needs and feed this into an informed and transparent decision making process.

Given the inherent trade-offs between prices and service quality, it is important that the regulatory framework is integrated with the setting of prices. All parties can then understand and discuss the trade-offs associated with achieving the desired outcomes and the associated funding requirements.

The provision of water and sewerage services cannot be uncoupled from the land use planning system. Given local government's current role in development approval processes, the regulatory framework will need to consider how the sector continues to integrate and communicate with the planning system. However, this issue will be largely addressed by future work and is not a subject that will be explored in great detail in this paper.

Next Steps

The issues discussed in this paper have been compiled from a range of sources, including input from key stakeholders at a number of regulatory workshops held throughout the State in early October 2007.

Written submissions on this paper are sought from interested persons by the 14th January 2008.

Comments received on this paper will be considered by the Taskforce when it presents its preferred regulatory framework for the water and sewerage sector to Cabinet for approval in the first quarter of 2008¹.

It is intended that submissions to the Taskforce in response to this paper will be made publicly available on the water and sewerage reform pages of the Treasury website at www.treasury.tas.gov.au.

Written Submissions should be addressed to:

Ministerial Water and Sewerage Taskforce
Response to Preliminary Position Paper
GPO Box 147
HOBART TAS 7000

Alternatively, submissions can be e-mailed to:

stewart.sharples@treasury.tas.gov.au

¹ Timelines for submission on the Part B paper will be advised in that paper.

1. PURPOSE AND AIMS OF THE POSITION PAPER

1.1 Background to the Paper

A Ministerial Water and Sewerage Taskforce was established in September 2006 to undertake a wide-ranging structural and institutional review of the sustainable provision and management of water and sewerage in Tasmania.

For the purposes of the review, water is defined as urban and regional reticulated water for residential and commercial use, while sewerage refers to wastewater and the infrastructure to transport and treat it. Although important issues for future consideration, the review does not extend to stormwater, water used for irrigation or for electricity generation.

The Taskforce's work to date has identified that the future reform of the sector will require both structural and regulatory changes to ensure the sector transitions to long-term sustainability. Changes will also be required to some of the rules and regulations which apply to how water and sewerage assets are managed and how the services are delivered.

The issues discussed in this paper have been compiled from a range of sources, including input from key stakeholders at a number of regulatory workshops held throughout the State in early October 2007.

The paper represents advice that is before the Taskforce for its consideration. It does not represent Government policy however we have been advised that it is consistent with the direction of the Taskforce's thinking.

Written submissions on this paper are sought from interested persons by the 14th January 2008².

Comments received on this paper will be considered by the Taskforce when it presents its preferred regulatory framework for the water and sewerage sector to Cabinet for approval in the first quarter of 2008.

Further information on the background of the reforms can be found on the water and sewerage reform pages of the Treasury website at www.treasury.tas.gov.au.

1.2 National Water Initiative

A key driver of the reforms being proposed by the government stem from the commitments made under the National Water Initiative (NWI). The NWI represents the Australian Government's and state and territory governments' shared commitment to water reform in recognition of:

- Continuing national imperative to increase the productivity and efficiency of Australia's water use;
- Need to service rural and urban communities; and
- Ensuring the health of river and groundwater systems.

² Timelines for submission on the Part B paper will be advised in that paper.

The objectives of the NWI include the establishment of a nationally-compatible market, regulatory and planning based system of managing surface and groundwater resources for rural and urban use.

This framework is aiming to optimise economic, social and environmental outcomes by achieving the following:

- Clear and nationally-compatible characteristics for secure water access entitlements;
- Transparent, statutory-based water planning;
- Statutory provision for environmental and other public benefit outcomes, and improved environmental management practices;
- Return of all currently over allocated or over used systems to environmentally-sustainable levels of extraction;
- Progressive removal of barriers to trade in water and meeting other requirements to facilitate the broadening and deepening of the water market, with an open trading market to be put in place;
- Clarity around the assignment of risk arising from future changes in the availability of water for reticulated consumption;
- Water accounting which is able to meet the information needs of different water systems in respect to planning, monitoring, trading, environmental management and on-farm management;
- Policy settings which facilitate water use efficiency and innovation in urban and rural areas;
- Addressing future adjustment issues that may impact on water users and communities; and
- Recognition of the connectivity between surface and groundwater resources and connected systems managed as a single resource.

In relation to urban water, the NWI objectives are to:

- Ensure healthy, safe and reliable water supplies;
- Increase water use efficiency in domestic and commercial settings;
- Encourage the re-use and recycling of wastewater;
- Facilitate water trading between and within the urban and rural sectors to ensure it goes to its highest value use;
- Encourage innovation in water supply sourcing, treatment, storage and discharge; and
- Achieve improved pricing for metropolitan water.

Tasmania's specific obligations, and actions to achieve the NWI obligations, are outlined in the document titled *Implementation Plan for the National Water Initiative Tasmania, September 2006*. A copy of this document is available at www.dpiw.tas.gov.au/water.

1.3 What is Regulation?

Regulation is a mechanism to set rules or obligations to ensure that parties behave in a way that recognises the overall benefits and costs of their actions to the entire community.

Regulation can also be viewed as a substitute for competition where competition is either lacking or not possible. In the case of the water and sewerage industry, there is a very high cost of establishing a competing water and/or sewerage network.

Duplicating the entire infrastructure would be wasteful and cost the community considerably more than if one set of infrastructure is used and price setting is controlled.

With no regulation, the lack of competition means that service providers hold a level of power enabling them to potentially price at a level that delivers greater than a normal commercial return and/or provide substandard levels of service as there is no threat that the customer can change service provider.

In addition, service providers cannot be relied upon to deliver services in all instances where they are needed and valued by the community. A firm operating with purely commercial objectives will not provide services unless it can make a profit. Without a direction to service all customers, the firm is likely to establish infrastructure where it can maximise profits and may neglect other areas where smaller or no profits are available. To avoid this behaviour, placing an obligation on the service provider to deliver services to all customers may be required.

1.4 Why is Regulation Important?

Regulation is important as it provides certainty and protection to all stakeholders. The regulatory regime should be balanced so that adequate penalties are in place to avoid undesirable behaviours and adequate incentives exist to encourage and reward desirable behaviours.

It is important that the public, the environment and customers of the service providers are protected from undesirable outcomes.

Regulation also provides greater certainty to service providers with a better understanding of the expectations of government and customers to support long term business planning and decision making. Regulation protects the long term investments of service providers by ensuring that pricing recovers efficient operational and infrastructure costs.

Given the inherent trade-offs between prices and service quality, it is important that the regulatory framework is integrated with the setting of prices.

An integrated regulatory framework ensures that all stakeholders - government, customers, the community and service providers - can outline their requirements and needs and feed this into an informed and transparent decision making process. All parties can then understand and discuss the trade-offs associated with achieving the desired outcomes and the associated funding requirements.

In the context of these broad justifications for regulation of the sector, this paper will define:

- specific regulatory objectives for the sector, which are either currently lacking or where the existing objectives are considered in isolation from each other;
- principles and objectives to guide the improvement of the existing regulatory framework; and
- the future roles and responsibilities of the various stakeholders in the industry required to ensure the objectives of the sector are met.

A further paper (Part B) will follow shortly and provide greater detail on the proposed changes and include further advice to the Taskforce on the recommended framework to determine future pricing and customer services standards.

2. REGULATORY OBJECTIVES AND PRINCIPLES

2.1 Regulatory Objectives

Well defined regulatory objectives will provide clarity and focus for participants in the sector. They will help guide the development of regulation, clarify the regulators' scope and aid service providers and other stakeholders including customers in understanding what they can and cannot do.

The following proposed regulatory objectives for the sector have been developed through research and consultation with stakeholders. Whilst some of the objectives are explicit in the current regulatory framework, some need to be made more explicit to ensure a comprehensive regulatory framework that can deliver the outcomes sought from the industry review.

Social Objectives of Regulation

Government Policy & Social Objectives – Regulatory outcomes should be consistent with explicitly articulated government policy and social objectives; both state and federal.

Consumer Protection – Achieved through preventing monopoly pricing and ensuring acceptable levels of service.

Community Integration – Regulation development needs to reflect specific community expectations and regional priorities and be integrated with formal community planning priorities (ie integration with settlement and land-use planning and development).

Minimising Costs of Regulation – The costs of regulation should not exceed the benefits.

Environmental and Public Health Objectives of Regulation

Environmental Sustainability – Regulation of resource allocation, technical standards and treatment processes can support sustainable environmental practices.

Community Health – Community health outcomes can be achieved by ensuring drinking water and catchment sources are suitably monitored.

Economic Objectives of Regulation

Financial Sustainability of Service Providers – By stipulating the elements to be considered when pricing, specifically asset conditions, minimum service standards and consideration of prevailing technical standards, and through the development of appropriate pricing processes, the financial viability of service providers can be ensured.

Tailored Regulatory Framework – The design of the regulatory framework must consider the scale and operating environment of the industry.

The proposed regulatory objectives can broadly be thought of as covering key economic, social, public health and environmental aims that might not be achieved in the absence of regulation.

Where they do not exist, more specific objectives should be developed for each regulator to make their responsibilities very explicit. These objectives can either be enshrined within the enabling legislation for each regulator or alternatively could be included in an Order issued by the government.

2.2 Regulatory Principles

A set of high-level principles is required to underpin and to guide the development and improvement of the regulatory framework.

The following principles are characteristic of best practice regulation in other utility industry regulation around Australia³. When applied by regulators these principles represent best practice regulatory behaviour and are directly applicable to the future regulation of water and sewerage in Tasmania.

Communication and Consultation – It is important to have clear obligations and processes in place to ensure that all stakeholder issues are addressed in a timely and inclusive manner and regulators communicate and integrate their processes.

Consistency – The regulatory approach should be consistent in its application across classes of participants and should not adversely affect a specific class of participant. However, individual decisions should be flexible enough to accommodate specific circumstances.

Predictability – Service providers should reasonably expect that the application of regulation will generally not change unexpectedly and will allow for confidence in planning of long-term investment decisions.

Independence – In making a determination or carrying out an inquiry, regulators in the sector should not be subject to the direction or control of any party that may potentially compromise outcomes.

Effectiveness and Efficiency – To be effective and efficient, regulators need access to information held by the service provider, and should have well defined decision making processes to eliminate delay and be staffed appropriately.

Accountability mechanisms must be in place – The roles of policy development, regulation and service provision should be specified and separated so that there are adequate checks and balances in the regime.

Affordability for all participants – Service providers and consumers should not be tied to servicing a standard of infrastructure that is beyond the means or expectations of either.

Services must be provided on a user pays basis to ensure full cost recovery – A generally accepted principle of efficient market operation is that a consumer should pay the full economic value for what they consume. In the absence of such a principle, cross subsidisation can occur, that is, one customer, or class of customer, may indirectly pay for the consumption of another.

³ The following principles have been developed from the Utility Regulators Forum Discussion Paper titled Best Practice Utility Regulation (July 1999).

Transparency in pricing – In a sector with monopoly characteristics, it is important that pricing is transparent and the provider fully discloses the reasons for increases in charges and the elements which were considered when pricing. It will be important for all regulated elements to be fully integrated into the pricing approach.

Efficiency mechanisms should be utilised - By regulating to allow appropriate performance incentives, service providers can be encouraged to aim for greater efficiency in service delivery.

Incentive and penalty mechanisms should drive behaviour – The awarding of licences by an industry regulator authorises the operation of service providers, commits them to regulatory directives, with the ultimate sanction for non-compliance being the removal of the Board and senior management.

3. WATER AND SEWERAGE PROPOSED REGULATORY FRAMEWORK

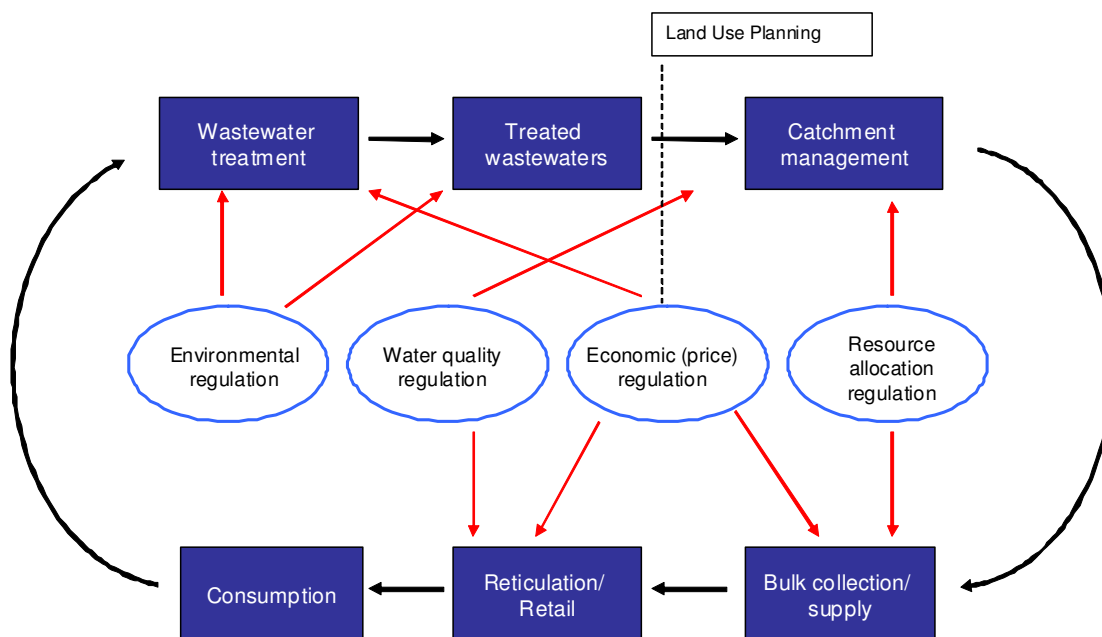
3.1 Overview of Elements of the Current Framework

Having established the principles to govern best practice regulatory design, consideration of the functions required in the water and sewerage sector needs to be explored. Specifically, the extent to which it is appropriate for functions to be provided by separate bodies/agents in order to avoid conflicts of interest must be addressed.

For the water and sewerage sector, this means there is a need to consider the functions of service provision, regulation and policy formation irrespective of the outcome of the Taskforce's current deliberations in relation to structure and ownership. On this point, the regulatory framework will accommodate either of the two structural options under consideration.

The water and sewerage sector in Tasmania is currently subject to various forms of regulation which are represented in Figure 3.1 below. Some of these elements, particularly the economic regulation of the sector, have been identified as being light-handed in the context of utility regulation in other jurisdictions.

Figure 3.1 The Water and Sewerage Regulatory Framework



Broadly, there appears to be a lack of an overarching policy context for the sector as a whole. This lack of policy integration has led to siloed development of the elements of the regulatory framework, a framework which is not seeing the service providers meet new standards and does not have the proper mechanisms in place to materially change the behaviour of participants.

The economic regulation in reticulated water and sewerage services (as distinct from bulk water provision) is a decade behind that in most other jurisdictions. Tasmania has adopted an approach, under which councils are not subject to direct price regulation, which conflicts with the 1995 National Competition Policy Agreements between the Commonwealth and States requiring maximum prices of water and wastewater businesses to be set by a State jurisdictional regulator.

The provision of water and sewerage services cannot be uncoupled from the land use planning system. Given local government's current role in development approval processes, the regulatory framework will need to consider how the sector continues to integrate and communicate with the planning system. However, this issue will be largely addressed by future work and is not a subject that will be explored in great detail in this paper.

Coupled with the broad issues identified above, the sector lacks a number of regulatory elements that are evident in natural monopoly industries Australia-wide and which are considered to be elements of best practice. The extent to which such elements are appropriate for the Tasmanian context will be explored in this paper and recommendations made concerning their integration into the framework.

The findings of the review to date indicate that the public health and environmental protection standards seem to be appropriate and will not be subject to review. However the responsible regulators will need to ensure that the standards are reviewed on an ongoing basis to ensure their appropriateness and, where applicable, reflect best practice.

Such reviews should consider if sufficient powers and enforcement mechanisms are in place to ensure that the standards in the new regulatory framework provide the right set of sanctions and incentives to uphold public health and to protect the environment.

The following sections overview the current regulatory elements, consider issues to be addressed and identify where new regulatory rules/arrangements/reforms are required.

3.2 Governance Arrangements

Table 3.1 below summarises the current regulatory practices for the different activities and proposes some changes to achieve best practice governance arrangements. In this context, governance is defined as the assignment of decision making rights and the accountability framework to encourage desirable behaviours across all stakeholders within the regulatory system.

The best practice governance arrangements are based on the objectives and principles discussed earlier and observations in other jurisdictions, particularly Victoria and New South Wales, where regulation of the sector is relatively more advanced.

Table 3.1 highlights the light handed nature of the current regulatory arrangements and the gaps between current practice and what has been observed as best practice in other jurisdictions and industries. The table looks at each of the key regulatory elements and proposes recommendations for addressing the key issues that need to be dealt with.

The scale and operating environment of the Tasmanian industry has been a major consideration in the development of the proposed changes. For example, the reforms in South East Queensland (SEQ) are not considered to be fully appropriate for the Tasmanian industry due to the relative size of the industry in terms of customer numbers and the nature of the problems that need to be solved.

The major issues in SEQ are not common to the issues being faced in Tasmania as SEQ is dealing with rapid population growth coupled with a reduction in the reliability of climate dependent water supply sources. The secondary issues in SEQ are more common to those being experienced in Tasmania and include improving regulation of customer service standards, pricing and asset management.

SEQ is undertaking a similar reform process which involves the reduction of service providers as well as the disaggregation of the industry along functional lines (bulk water, bulk transport, distribution and retail) to enable the potential facilitation of competition.

It is intended that, if adopted, the recommendations in the table would be implemented in the context of the objectives and principles detailed above. For example, where additional regulation is proposed, the regulatory benefits of any new arrangement are considered to outweigh the costs.

Table 3.1 Regulatory Governance Arrangements – Current and Proposed

Regulated Activity	Objectives	Current Responsibility	Proposed Responsibility	Proposed Changes	Proposed Implementation
Water Resource Management	<ul style="list-style-type: none"> Sustainable resource management and water allocation licensing 	<ul style="list-style-type: none"> Department of Primary Industries & Water 	<ul style="list-style-type: none"> Department of Primary Industries & Water 	<ul style="list-style-type: none"> Review the state-wide long term water supply planning framework to ensure roles and responsibilities are clear 	<ul style="list-style-type: none"> Ministerial direction to undertake review Operating licence to require service provider to meet water resource management objectives including undertaking 10 year supply and demand management planning
Catchment Management	<ul style="list-style-type: none"> Catchment protection and management 	<ul style="list-style-type: none"> Department of Primary Industries & Water, Tasmanian Natural Resource Management Council Regional Natural Resource Management Committees 	<ul style="list-style-type: none"> Department of Primary Industries & Water Tasmanian Natural Resource Management Council Regional Natural Resource Management Committees 	<ul style="list-style-type: none"> Review the voluntary requirement to link regional strategies to catchment management planning instruments 	<ul style="list-style-type: none"> Ministerial direction to undertake review

Regulated Activity	Objectives	Current Responsibility	Proposed Responsibility	Proposed Changes	Proposed Implementation
Demand and Supply Planning	<ul style="list-style-type: none"> • Long term planning and balance of supply and demand • Conservation of drinking water • Statewide policy framework to guide infrastructure development that supports a self-sustaining and efficient water and sewerage sector 	<ul style="list-style-type: none"> • Councils and Bulk Water Authorities • Expanded regulatory element 	<ul style="list-style-type: none"> • Department of Primary Industries & Water 	<ul style="list-style-type: none"> • Review the state-wide long term water supply planning framework to ensure adequate strategies are in place to balance supply and demand • Undertake periodic state-wide long term supply and demand planning to identify supply and demand management issues including infrastructure needs • Develop state-wide water conservation policy • Establish capabilities in DPIW to undertake policy development and oversight the effectiveness of the regulatory system 	<ul style="list-style-type: none"> • Legislation to provide for a planning framework • Operating licence to require service provider to undertake 10 year supply and demand management planning including water conservation targets and system leakage reduction targets • Legislation to prescribe minimum long term infrastructure planning requirements • Customer service standards ie reliability of supply to guide decision-making
Asset Management	<ul style="list-style-type: none"> • Efficient management of assets to maintain service standards 	<ul style="list-style-type: none"> • Councils and Bulk Water Authorities • Expanded regulatory element 	<ul style="list-style-type: none"> • Economic regulator 	<ul style="list-style-type: none"> • Stronger and better integrated economic regulation and industry reforms expected to result in improvement in asset management • Service providers to prepare asset management plans • Economic regulator to audit compliance against asset management plans 	<ul style="list-style-type: none"> • Operating licence to outline water and sewerage infrastructure asset management requirements • Expenditure requirements considered by economic regulator

Regulated Activity	Objectives	Current Responsibility	Proposed Responsibility	Proposed Changes	Proposed Implementation
Environment	<ul style="list-style-type: none"> • Protect environment 	<ul style="list-style-type: none"> • Director of Environmental Management /Environmental Protection Agency • Councils regulate Level 1 waste water treatment plants 	<ul style="list-style-type: none"> • Director of Environmental Management /Environmental Protection Agency 	<ul style="list-style-type: none"> • Review enforcement practices for non-compliance • Stronger and better integrated economic regulation and industry reforms expected to result in improvement in compliance • Review regulation of Level 1 waste water treatment plants and other elements of the sewerage network • Review regulation of wastewater reuse activities • Review Sewers and Drains Act 1954 as it relates to environmental issues • Director to continue to report annually on compliance 	<ul style="list-style-type: none"> • Operating licence to cross reference service provider environmental obligations • Expenditure requirements considered by economic regulator • Performance monitored by economic regulator, based on input from Director
Drinking Water Quality	<ul style="list-style-type: none"> • Maintain public health 	<ul style="list-style-type: none"> • Director of Public Health 	<ul style="list-style-type: none"> • Director of Public Health 	<ul style="list-style-type: none"> • Review enforcement practices for non-compliance • Stronger and better integrated economic regulation and industry reforms expected to result in improvement in compliance • Introduction of independent reviews/audits of Drinking Water Quality Management Plans • Review water quality testing requirements ie at the treatment plant and at the tap • Director to continue to report annually on compliance 	<ul style="list-style-type: none"> • Operating licence to cross reference service provider drinking water quality obligations • Expenditure requirements considered by economic regulator • Performance monitored by economic regulator, based on input from Director

Regulated Activity	Objectives	Current Responsibility	Proposed Responsibility	Proposed Changes	Proposed Implementation
Licencing/Monitoring of Service Providers	<ul style="list-style-type: none"> Permits entities to provide services Outlines responsibilities to comply with legislative requirements Sets obligations and performance indicators on service provider 	<ul style="list-style-type: none"> New regulatory element 	<ul style="list-style-type: none"> Department of Primary Industries & Water Economic regulator Technical Regulators 	<ul style="list-style-type: none"> Operating licences to be issued to each service provider Licences administered by Economic regulator Technical regulators to set standards and obligations Operating licence to stipulate requirement to develop customer charter and dispute resolution procedures Economic regulator to report annually on compliance to Parliament Periodically reviewed by economic regulator with assistance from technical regulators 	<ul style="list-style-type: none"> Legislation to provide for a licensing framework and fees Operating licence to establish performance reporting
Service Standards	<ul style="list-style-type: none"> Protect customers to ensure that appropriate standards of service are provided 	<ul style="list-style-type: none"> New regulatory element 	<ul style="list-style-type: none"> Economic regulator to be given powers to establish and regulate statewide customer service standards 	<ul style="list-style-type: none"> Establish statewide customer service standards framework Periodically review service provider licence 	<ul style="list-style-type: none"> Economic regulator to develop a customer service standards framework Service providers to develop customer service charter in conjunction with customers Expenditure requirements considered by economic regulator Operating licence to establish performance reporting

Regulated Activity	Objectives	Current Responsibility	Proposed Responsibility	Proposed Changes	Proposed Implementation
Pricing	<ul style="list-style-type: none"> • Appropriate commercial pricing to reflect quality & reliability of services • Maintain financially viable and self-sustaining industry • Efficient pricing 	<ul style="list-style-type: none"> • Government Prices Oversight Commissioner – recommends maximum allowable revenues for bulk water & oversight role for service providers • Expanded regulatory element 	<ul style="list-style-type: none"> • Economic regulator to be given powers to regulate prices 	<ul style="list-style-type: none"> • Form stronger linkages with other technical regulators ie asset management, environment, drinking water quality etc • Regulate prices, through either explicit price setting, recommended pricing policies, setting or recommending pricing principles for a range of services and/or functions including: <ul style="list-style-type: none"> ○ Water supply ○ Wastewater services ○ Headworks ○ Trade waste ○ Water re-use 	<ul style="list-style-type: none"> • Legislation to prescribe pricing principles and regulatory principles • Legislation to establish economic regulator for the sector and provide explicit powers to make pricing determinations and to monitor compliance with service standards • Operating licence to refer to pricing obligations on service provider
Customer Disputes/Complaints	<ul style="list-style-type: none"> • Resolve customer disputes/complaints • Protect low-income & vulnerable customers 	<ul style="list-style-type: none"> • Ombudsman 	<ul style="list-style-type: none"> • Ombudsman 	<ul style="list-style-type: none"> • Ombudsman to capture the water and wastewater industry 	<ul style="list-style-type: none"> • Legislation to establish Ombudsman for the sector • Operating licence to outline customer rights, complaint and dispute handling process

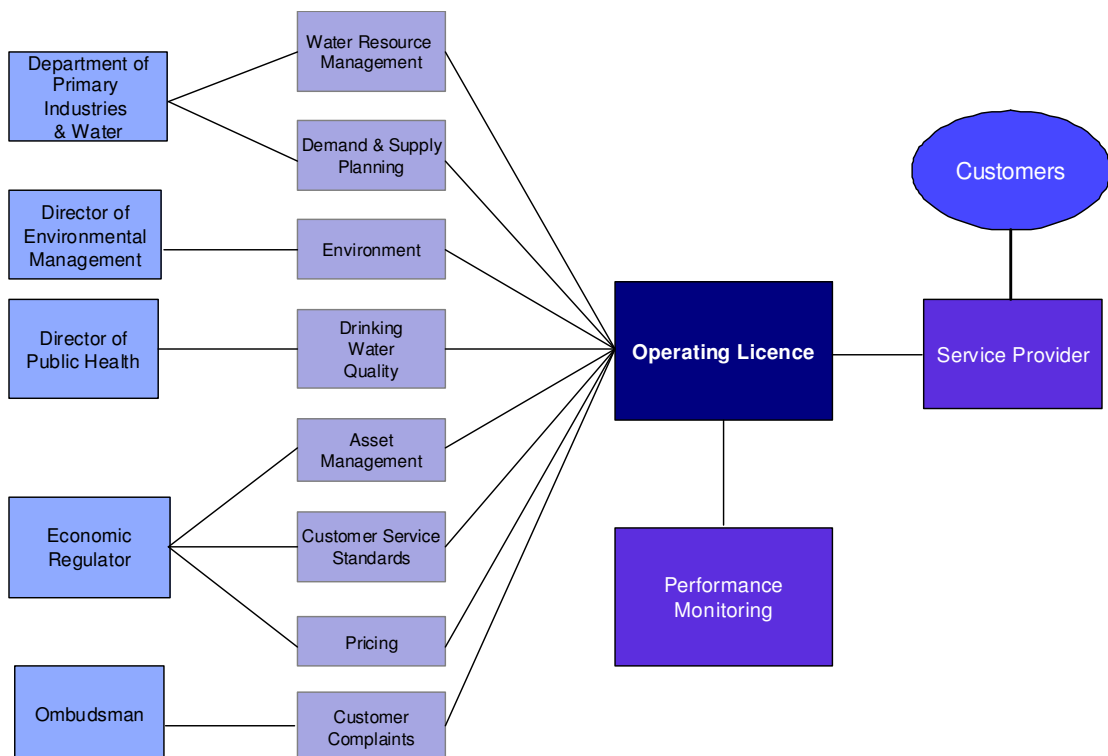
3.3 Overview of the Proposed Regulatory Framework

The proposed regulatory framework can be summarised as involving the following changes:

- Explicit specification of regulatory objectives and principles;
- Formalising and separating the roles and responsibilities relating to the various policy development and regulatory roles;
- Reviewing the long term water demand and supply planning framework to ensure security of supply is maintained at appropriate levels;
- Introducing mandatory asset management planning arrangements;
- Establishing a customer service standard setting framework;
- Introducing independent regulation of pricing and service standards;
- Ensuring that pricing is efficient and supports the viability of service providers;
- Establishing an Ombudsman role to ensure customers are protected and any disputes are resolved; and
- Introducing a public performance monitoring arrangement to further increase accountabilities in the achievement of outcomes.

Figure 3.2 below shows the key elements of the proposed regulatory framework and how they interact with each other. The centrepiece of the proposed arrangements is the introduction of an operating licence for each service provider which aims to improve the integration of the regulatory framework.

Figure 3.2 Key Elements of the Proposed Regulatory Framework and Interactions



The key benefits of issuing an operating licence to service providers include:

- Establishing an overarching regulatory instrument that captures all the relevant service related regulations placed upon the service provider;
- Providing greater clarity and predictability to service providers and other stakeholders on the objectives and obligations of the service provider;
- Recognising the rights and obligations of customers;
- Improving regulatory consistency across the sector and introducing greater levels of transparency in standard setting and performance monitoring;
- Annual public performance reporting with greater transparency and increased accountability of the service providers;
- Introducing flexibility into the arrangements to allow the industry to progress and adopt to the changes such as technological developments and improvements in best practice without requiring a major overhaul of legislation; and
- Increasing public involvement and consultation during the price review process and the periodic review of the operating licence. This will provide key stakeholders and the public the opportunity to participate in decision making to create a more customer responsive industry.

Given the complexity and significance of proposed reforms that are needed to establish a sustainable, robust and financially viable sector, a consistent and overarching legislative framework needs to be established. A review of current legislative and regulatory arrangements will need to occur to make sure that future arrangements can support the proposed regime.

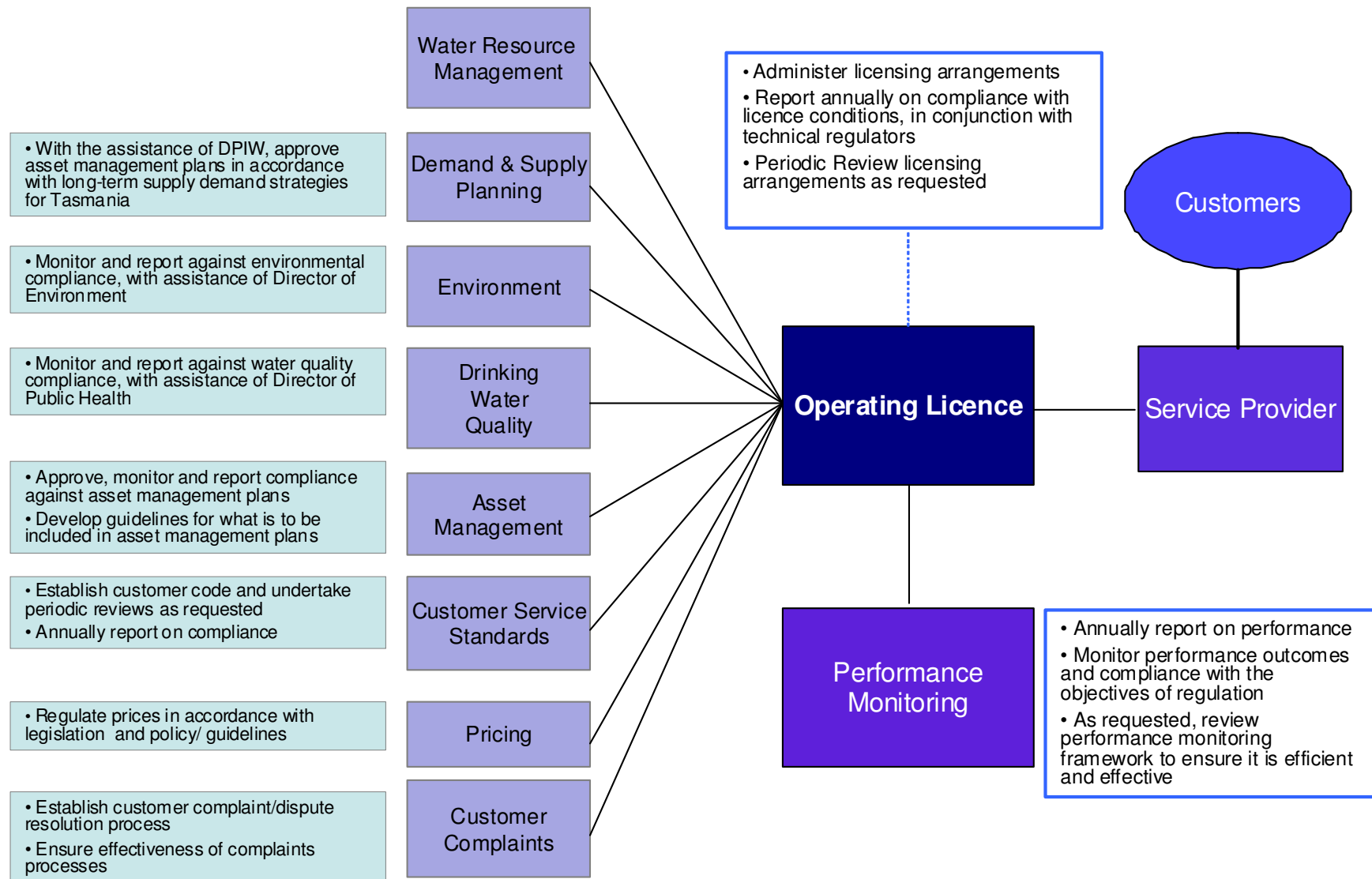
Further detail on the roles and responsibilities within the proposed regulatory framework are provided in Figures 3.3 to 3.9 below.

3.4 Economic Regulator

As outlined in Figure 3.3, the economic regulator will play a key role in the proposed regulatory arrangements. The proposed role will include:

- Approving and monitoring compliance against asset management plans and other plans where appropriate, with input from other regulators;
- Regulating prices in accordance with legislative objectives and government policies;
- Establishing a customer code to ensure customer service standards are implemented and customer complaints and disputes are adequately dealt with; and
- Administering the service provider operating licence including undertaking an annual reporting process to monitor compliance.

Figure 3.3 Economic Regulator – Proposed Roles & Responsibilities

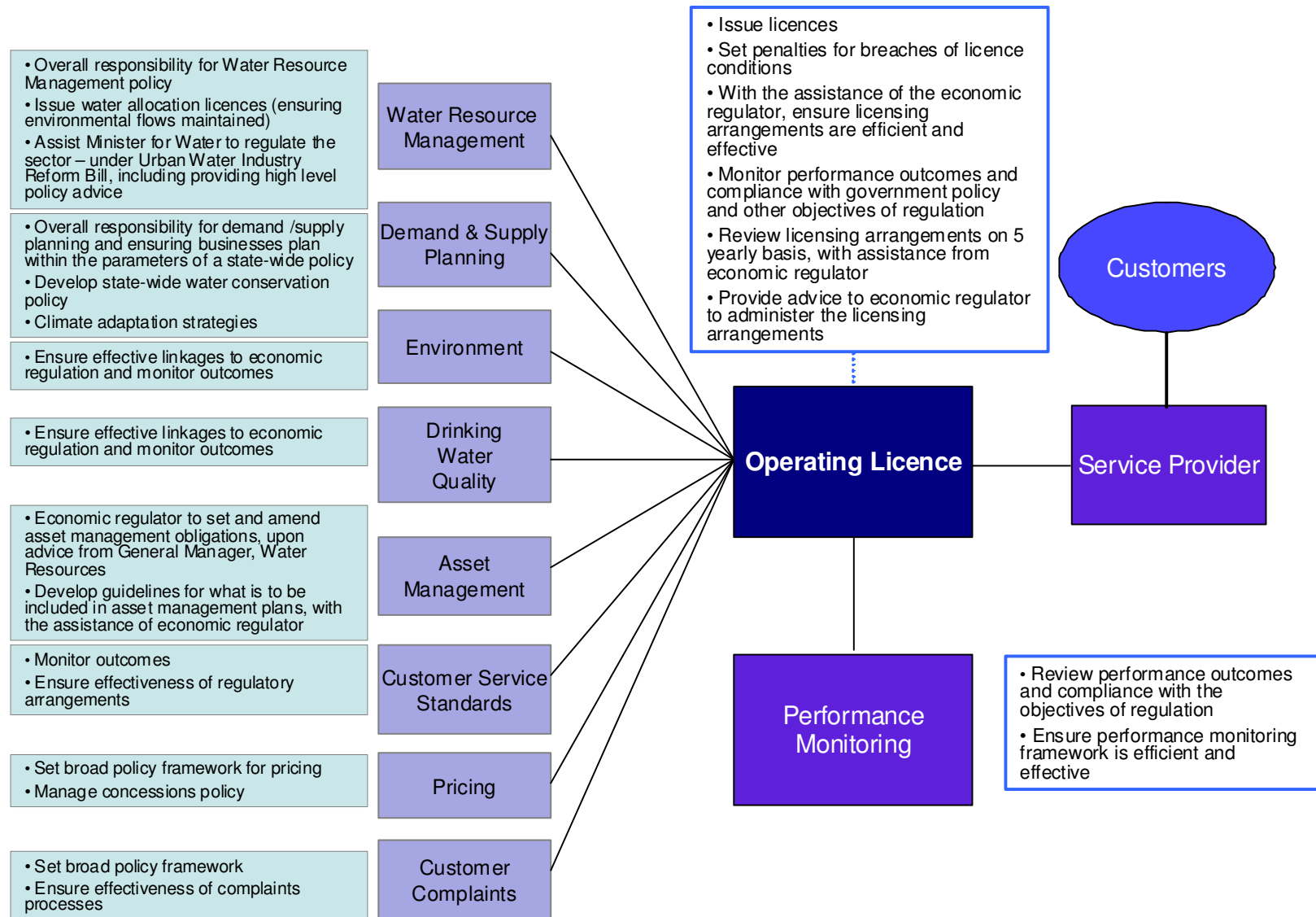


3.5 Department of Primary Industries & Water

Figure 3.4 outlines the expanded roles and responsibilities for the Department of Primary Industries and Water which includes:

- Overall responsibility for water resource management policy including long term supply and demand planning;
- Assisting the Minister for Water to regulate the water and sewerage sector including establishing the pricing framework and providing high level policy advice;
- Monitoring the outcomes and effectiveness of regulation of the sector including the linkages across the various regulatory functions;
- Ensuring compliance against the State's NWI obligations; and
- Issuing the service providers with operating licences.

Figure 3.4 Department of Primary Industries & Water – Proposed Roles & Responsibilities

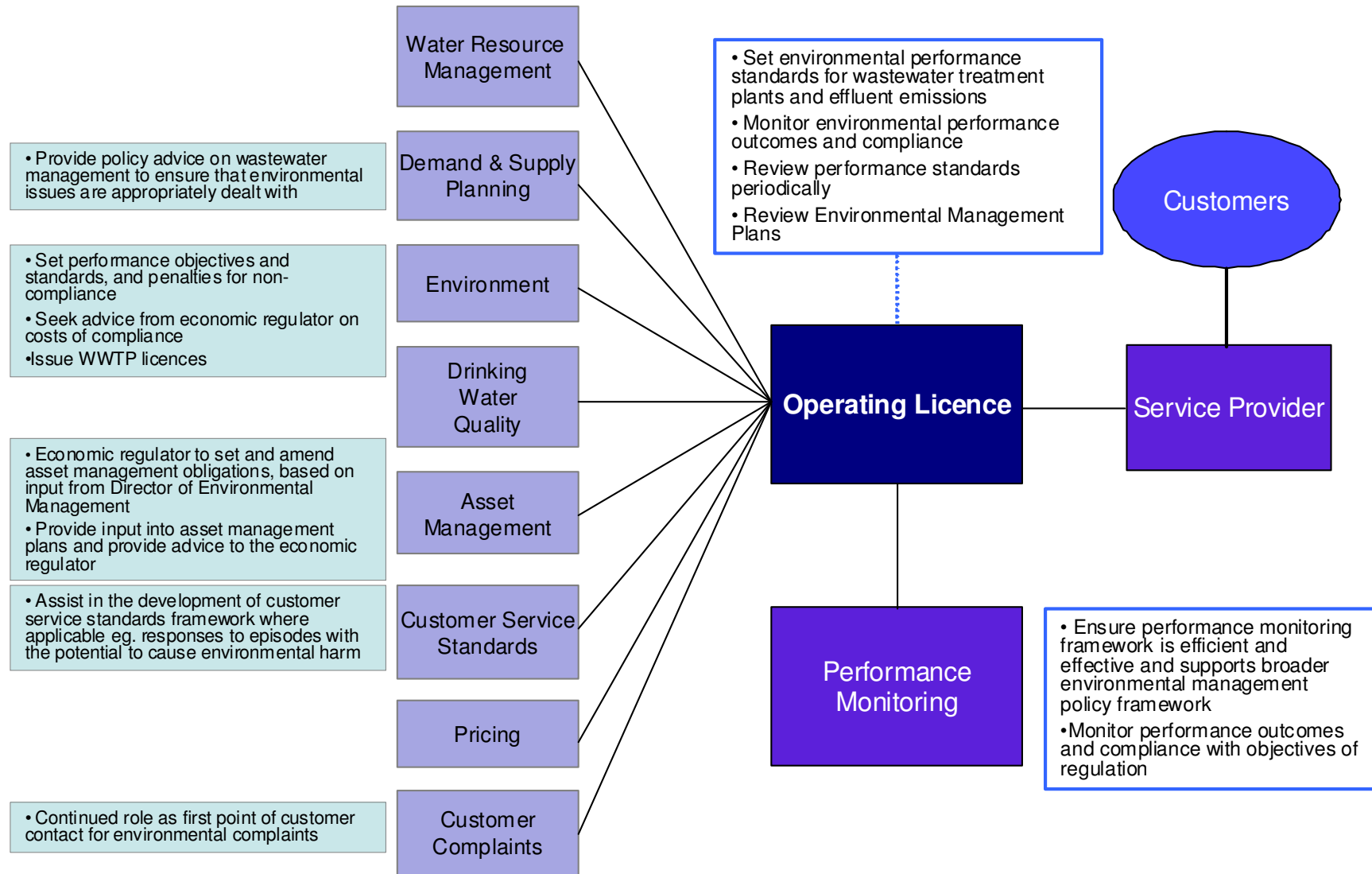


3.6 Director of Environmental Management

The Director of Environmental Management's role and responsibilities are outlined in Figure 3.5 and include:

- Establishing environmental performance objectives and standards including penalties for non-compliance;
- Issuing licences for Waste Water Treatment Plants and monitoring performance against the licences; and
- Working with the economic regulator to establish asset management plans to assist in the achievement of objectives and performance standards.

Figure 3.5 Director of Environmental Management – Proposed Roles & Responsibilities

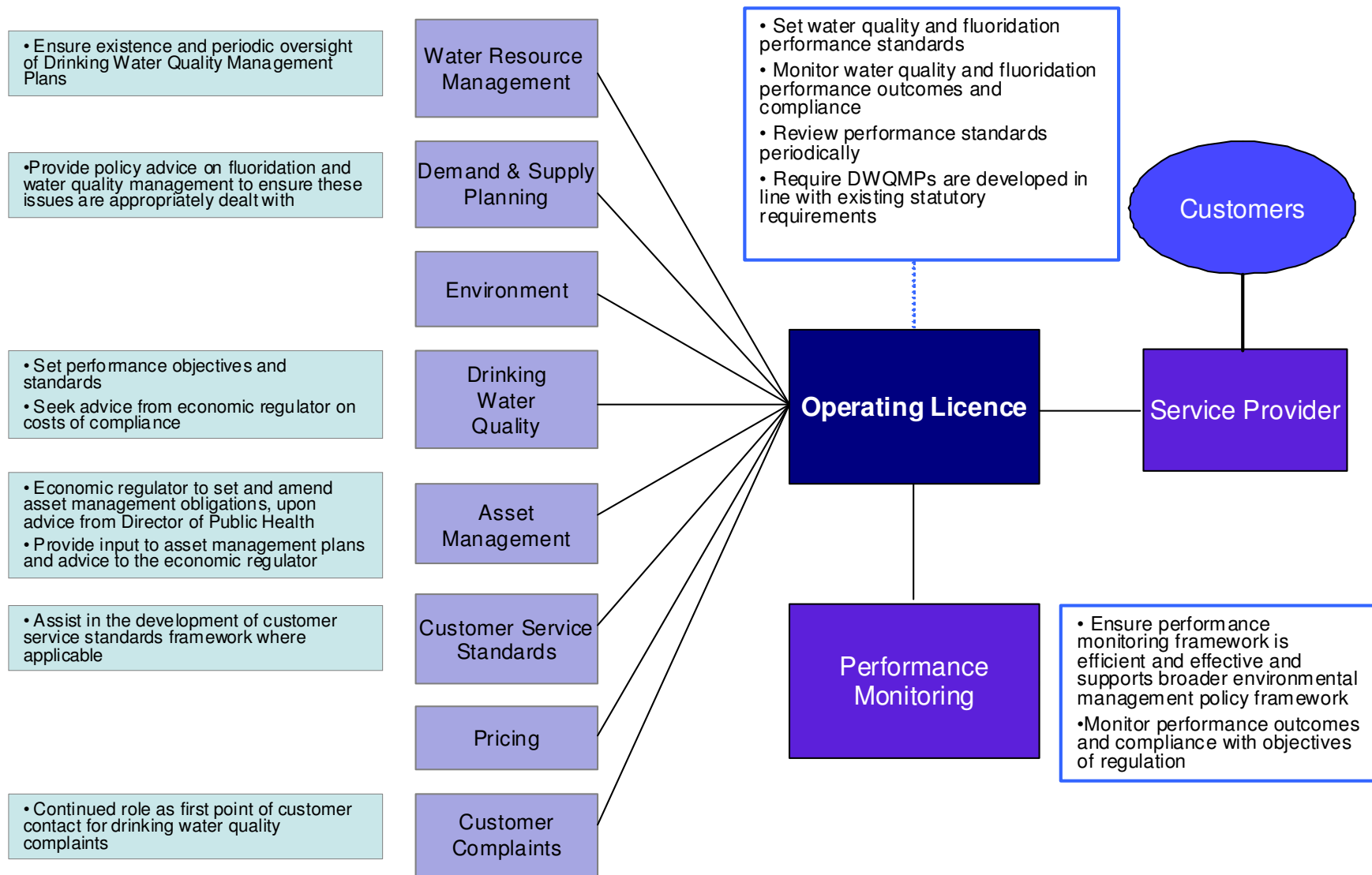


3.7 Director of Public Health

Figure 3.6 details the role and responsibilities for the Director of Public Health which includes:

- Establishing drinking water quality performance objectives and standards including penalties for non-compliance;
- Monitoring service provider performance against drinking water quality standards; and
- Working with the economic regulator to establish asset management plans to assist in the achievement of objectives and performance standards.

Figure 3.6 Director of Public Health – Proposed Roles & Responsibilities

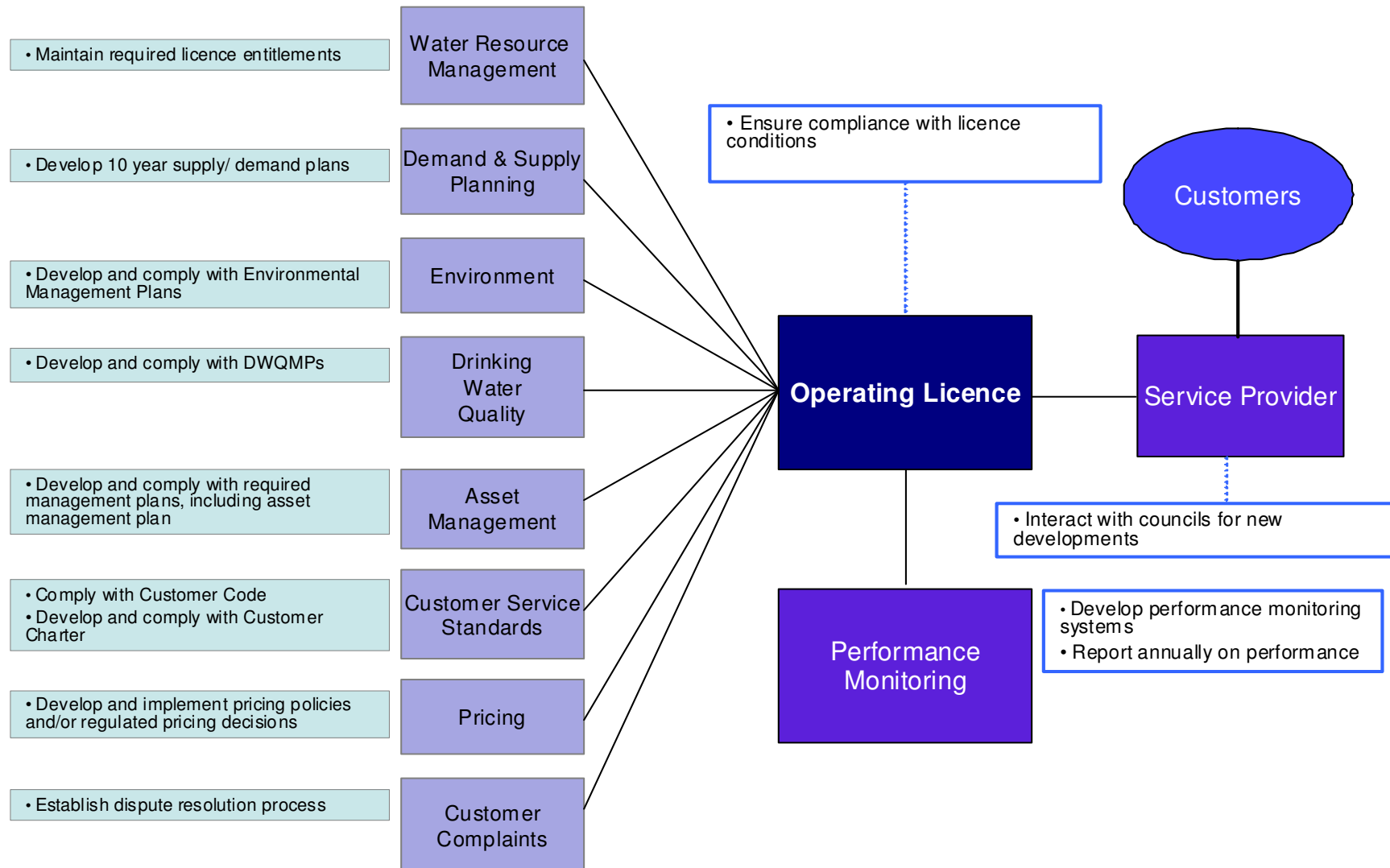


3.8 Service Provider

As shown in Figure 3.7, the proposed arrangements principally involve the service provider having a service delivery and compliance role which includes:

- Complying with its operating licence conditions relating to drinking water quality, environmental performance and service delivery to customers in accordance with defined service standards;
- Establishing a customer charter in consultation with customers to outline key performance targets and respective roles and responsibilities;
- Developing 10 year demand and supply plans;
- Developing and complying with various management plans relating to asset management, drinking water quality, environment, operations and maintenance and occupational health and safety; and
- Developing and implementing pricing arrangements that are consistent with the pricing decisions handed down by the economic regulator.

Figure 3.7 Service Provider – Proposed Roles & Responsibilities

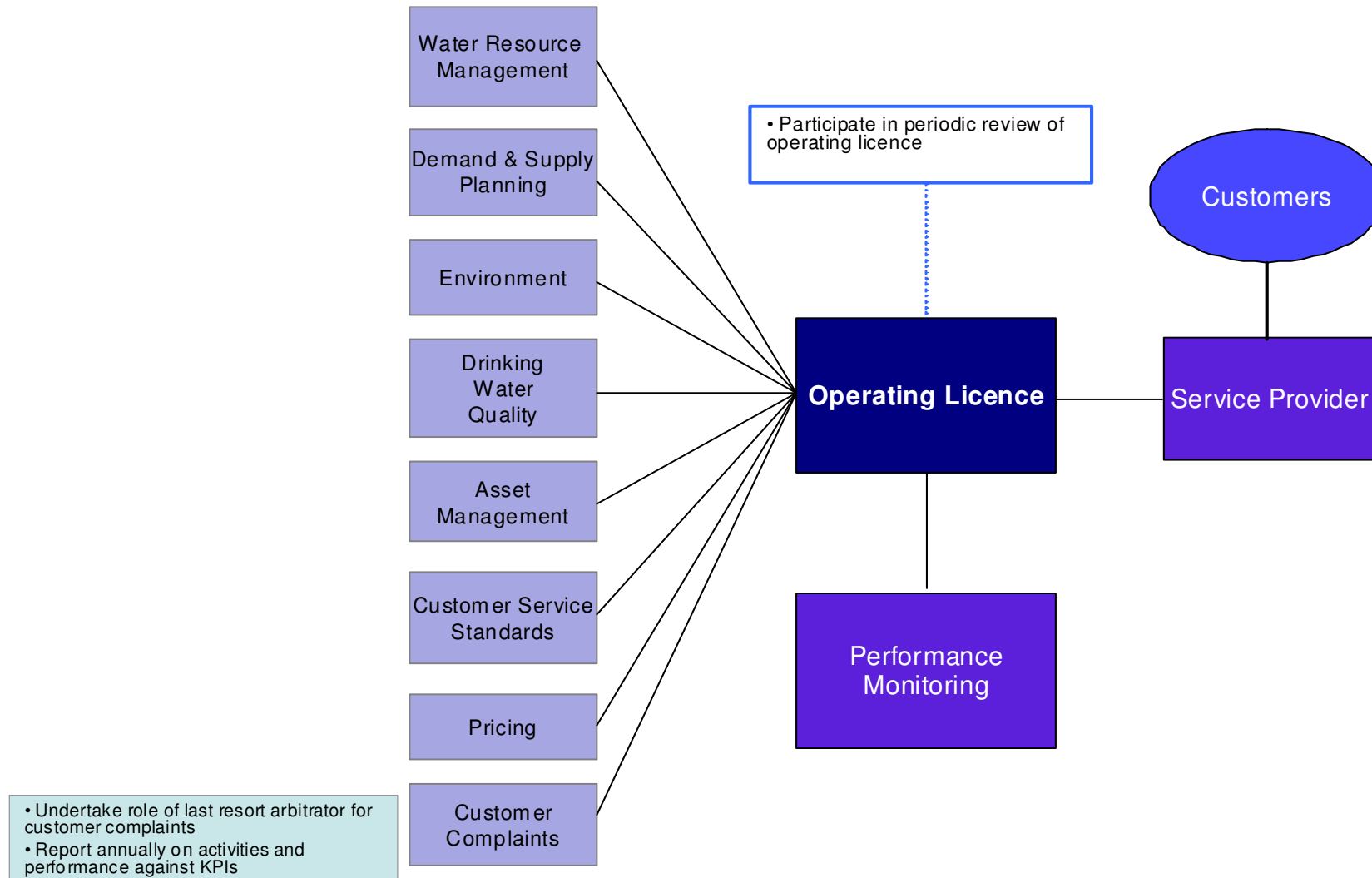


3.9 Ombudsman

The Ombudsman's role is shown in Figure 3.8 and principally involves:

- Undertaking the role of last resort arbitrator on customer service related issues such as standards of service and billing arrangements; and
- Reporting annually on its activities and its performance against key performance indicators.

Figure 3.8 Ombudsman – Proposed Roles & Responsibilities

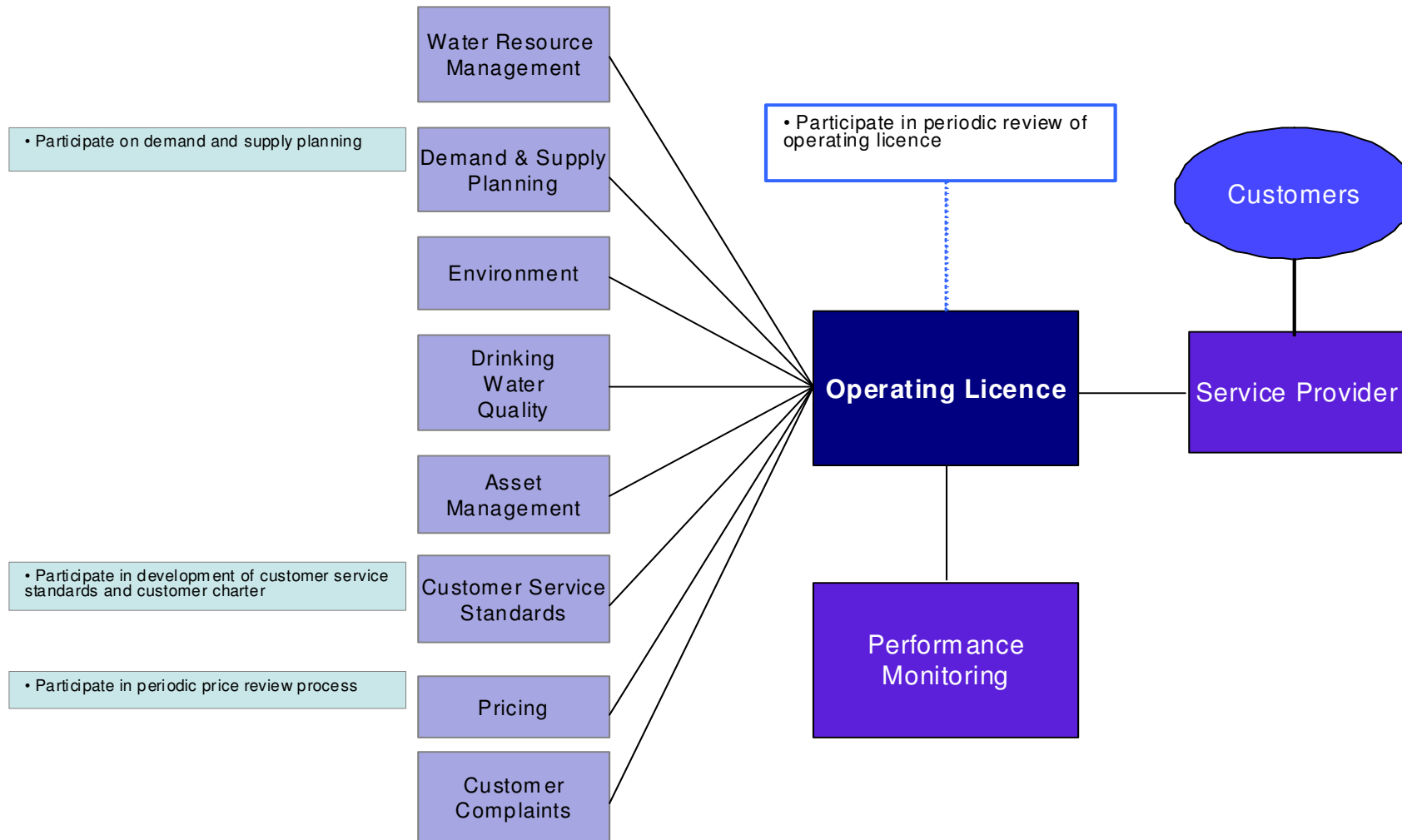


3.10 Customers

Figure 3.9 details the expanded involvement of the customers of the service providers in the future decision making processes. These processes include:

- Participating in the demand and supply planning process;
- Participating in the development of customer service standards including providing input into the trade-offs associated between level of service and price; and
- Providing input into the periodic price review and operating licence reviews.

Figure 3.9 Customers – Proposed Involvement



4. NEXT STEPS

The issues discussed in this paper have been compiled from a range of sources, including input from key stakeholders at a number of regulatory workshops held throughout the State in early October 2007.

The paper represents advice that is before the Taskforce for its consideration and does not represent Government policy. However, we have been advised that it is consistent with the current direction of the Taskforce's thinking.

Written submissions on this paper are sought from interested persons by the 14th January 2008.

Comments received on this paper will be considered by the Taskforce when it presents its preferred regulatory framework for the water and sewerage sector to Cabinet for approval in the first quarter of 2008.

It is intended that submissions to the Taskforce in response to this paper will be made publicly available on the water and sewerage reform pages of the Treasury website at www.treasury.tas.gov.au.

If you wish for your submission to remain confidential, please contact the Water and Sewerage Project Team on (03) 6233 9580 or email stewart.sharples@treasury.tas.gov.au

Written Submissions should be addressed to:

Ministerial Water and Sewerage Taskforce
Response to Preliminary Position Paper
GPO Box 147
HOBART TAS 7000

Alternatively, submissions can be e-mailed to:

stewart.sharples@treasury.tas.gov.au