

OFFICIAL



# Robusto Investments Pty Ltd Drinking Water Preservation Regulatory Determination: Draft Decision

Statement of Reasons

April 2023

OFFICIAL

**Request for submissions:**

The Essential Services Commission (**Commission**) invites written submissions on this draft report. Written comments should be provided by **12 May 2023**.

It is the Commission's policy to make all submissions publicly available via its website ([www.escosa.sa.gov.au](http://www.escosa.sa.gov.au)), except where a submission either wholly or partly contains confidential or commercially sensitive information provided on a confidential basis and appropriate prior notice has been given.

The Commission may also exercise its discretion not to publish any submission based on length or content (for example containing material that is defamatory, offensive or in breach of any law).

Responses to this paper should be directed to: **Robusto Investments Pty Ltd Drinking Water Preservation Regulatory Determination: Draft Decision**

It is preferred that submissions are sent electronically to: [escosa@escosa.sa.gov.au](mailto:escosa@escosa.sa.gov.au)

Alternatively, submissions can be sent to:  
Essential Services Commission  
GPO Box 2605  
Adelaide SA 5001

Telephone: (08) 8463 4444  
Freecall: 1800 633 592 (SA and mobiles only)  
E-mail: [escosa@escosa.sa.gov.au](mailto:escosa@escosa.sa.gov.au)  
Web: [www.escosa.sa.gov.au](http://www.escosa.sa.gov.au)

## Table of contents

Executive Summary .....	1
1 Background.....	3
1.1 Previous determinations and external review.....	3
1.2 Reasons to make a preservation regulatory determination .....	4
2 Methodology.....	6
2.1 Purpose .....	6
2.2 Preserving maximum allowable revenues.....	6
2.1 Term of the regulatory period .....	7
2.2 Adjusting for customer numbers and consumption .....	9
2.3 Pricing options for consideration .....	11
3 Decision.....	13
3.1 Commission’s draft decision.....	13
3.2 Discussion.....	13
3.3 Steps, assumptions, and the calculation of the draft decision .....	15
Worked calculation of the preservation determination.....	16

## Executive Summary

The Essential Services Commission (**Commission**) has made a draft regulatory determination to apply to Robusto Investments Pty Ltd (ACN 117 034 545) (**Robusto Investments**), for the 24-month regulatory period 1 July 2023 to 30 June 2025 (inclusive), in accordance with Part 3 of the *Essential Services Commission Act 2002* (**ESC Act**) and Part 4 of the *Water Industry Act 2012* (**WI Act**). The current regulatory determination, which took effect on 1 July 2022, will expire on 30 June 2023.

This determination is, in effect, a form of preservation determination. It is referred to herein as the **preservation regulatory determination**.

This (draft) preservation regulatory determination sets Robusto Investments maximum allowable revenue to be recoverable from residential customers and Mount Compass Property, formerly known as Mount Compass Sand and Loam, and it also sets out maximum pricing outcomes for residential customers. The (draft) preservation determination carries forward the substantive terms of the current regulatory determination (such as the determination of efficient and prudent costs and the maximum revenue in inflation-adjusted terms that can be recovered by Robusto Investments). It limits variations to only those price-setting based parameters where there is new and relevant information which has led the Commission to determine that adjustments ought to be made. This includes adjustments made to account for forecasts of changes in Consumer Price Index (**CPI**) inflation, customer numbers and customer consumption.

Importantly, the proposed 24-month term of operation allows for, and promotes, engagement, consultation and stakeholder input into a comprehensive review (potentially including new capital expenditure) to inform a subsequent determination to apply to Robusto Investments. The subsequent determination is planned to take effect from 1 July 2025. Should the subsequent determination be completed in advance of 1 July 2025, the Commission may revoke the preservation regulatory determination at that time for the subsequent determination to take effect.

The key terms made under this (draft) preservation regulatory determination are as follows.

1. **Term:** The term of the preservation regulatory determination is a period of 24 months from 1 July 2023 to 30 June 2025.
2. **Maximum revenue:** The maximum revenue that Robusto Investments can recover over the regulatory period from residential customers and Mount Compass Property is set at \$414,189 (in nominal terms) and \$359,472 (in real, December 2018 prices).
3. **Pricing:** The maximum nominal prices Robusto Investments can recover from residential customers over the regulatory period are as set out in Table 1 below. Maximum nominal prices are derived from the maximum nominal revenue allowance (as above). Prices are set on the basis of the pricing structure adopted in the current regulatory determination, which takes into account updated forecasts for customer numbers (including estimates of vacant, but connected, lots) and customer consumption.
4. **Compliance:** The Commission will assess Robusto Investments' compliance with the requirements of the preservation regulatory determination at the conclusion of the regulatory period (ie 30 June 2025, or earlier, if required). This determination will allow for the Commission to review forecast errors for customer consumption, customer numbers and CPI inflation, and will allow for any under or over recovery attributable to these factors to be allowed for in any subsequent determination.

Table 1: Draft Decision on pricing outcomes

*Note to stakeholders: the pricing and revenue outcomes in this draft decision may change between the draft and final stages, subject to stakeholder input and the Commission's consideration.*

Tariff element	Current period	<i>Draft Decision</i>	<i>Draft Decision</i>
	1 July 2022 to 30 June 2023	1 July 2023 to 30 June 2024	1 July 2024 to 30 June 2025
Quarterly supply charge	\$84.59	\$92.59	\$90.75
Tier 1 charge per kL (0-30kL)	\$3.09	\$3.80	\$3.73
Tier 2 charge per kL (30-130kL)	\$4.41	\$5.43	\$5.33
Tier 3 charge per kL (>130kL)	\$4.77	\$5.88	\$5.76

It is noted that there are ongoing proceedings before the South Australian Civil and Administrative Tribunal (**Tribunal**) in respect of the regulatory determination made by the Commission in August 2021. Until that process is finalised, the Commission does not propose to consider adjustments (if any) that might arise from Robusto Investments' compliance with the maximum revenues and maximum prices set out in the previous regulatory determination made on 26 August 2021 and varied in a subsequent determination to take effect on 1 July 2022.

This is because any new regulatory determination will need to account for findings, directions and/or recommendations made by the Tribunal. This includes accounting for them when the Commission reconciles economic and operational information, on an *ex-post* basis, against Robusto Investments' compliance with the maximum revenues and maximum prices.

If there are relevant findings, directions and/or recommendations made by the Tribunal *before* the Commission has made its preservation regulatory determination, to take effect 1 July 2023, those will, to the extent practicable, be taken into account when making that specific determination. If findings, directions and/or recommendations are made by the Tribunal *after* the Commission has made its preservation regulatory determination, that determination can be varied, in order to take those into account, or the Commission's subsequent determination (planned for 1 July 2025) can account for those findings. However, this will depend upon the nature of any findings, directions and/or recommendations made by the Tribunal and the circumstances at the relevant time.

In the making of this (draft) preservation regulatory determination, the Commission has acted in accordance with its primary statutory objective (as set out in section 6(a) of the ESC Act: the protection of the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services). At the same time, it has had regard to the matters set out in section 6(b) of the WI Act, as well as the other statutory factors and requirements as set out in the ESC Act and the WI Act.

### Next steps

The Commission is seeking stakeholder views on this draft preservation regulatory determination by **12 May 2023**. The Commission would be pleased to meet with stakeholders. If you or your organisation wish to meet with Commission staff, please use the contact details on the inside cover of this draft decision. The Commission aims to publish its final decision in June 2023, following consideration of any relevant submissions made.

# 1 Background

## 1.1 Previous determinations and external review

- 1.1.1 Pursuant to Part 3 of the *Essential Services Commission Act 2002 (ESC Act)* and Part 4 of the *Water Industry Act 2012 (WI Act)*, the Essential Services Commission (**Commission**) has, currently in place, a regulatory determination that applies to Robusto Investments Pty Ltd (ACN 117 034 545) (**Robusto Investments**), the holder of a water retail licence under the WI Act.
- 1.1.2 The current regulatory determination took effect on 1 July 2022 and, under the ‘rollover’ methodology that was adopted, it set the maximum total revenue that Robusto Investments could recover from its residential customers and one non-residential customer (Mount Compass Property, formerly known as Mount Compass Sand and Loam) and the maximum prices that could be charged to residential customers over the regulatory period (1 July 2022 to 30 June 2023 inclusive).<sup>1</sup>
- 1.1.3 The Commission previously had in place a regulatory determination applying to Robusto Investments that was made on 26 August 2021. That regulatory determination was in effect across the period 1 April 2021 to 30 June 2022 (inclusive). It, too, set the maximum revenues that could be recovered by Robusto Investments from residential customers and one non-residential customer and the maximum prices that could be charged to residential customers.<sup>2</sup>
- 1.1.4 Originally, the Commission made a regulatory determination on 25 May 2021 applying to Robusto Investments.<sup>3</sup> That regulatory determination was to be in effect across the period 1 April 2021 to 30 June 2022; however, following an internal review application, submitted by Robusto Investments under Section 31 of the ESC Act on 23 June 2021,<sup>4</sup> the Commission made a regulatory determination on 26 August 2021, which:
- 1.1.4.1 confirmed its decision in relation to the issues raised by Robusto Investments in its internal review application (ie the Commission did not vary its decision on any of those issues), and
- 1.1.4.2 made a variation to the original regulatory determination in relation to the allowance made within the overall revenue requirement for

<sup>1</sup> This is known as the further varied regulatory determination. Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination: Final Further Variation Decision - Statement of Reasons*, June 2022, pp. 1-18, available at <https://www.escosa.sa.gov.au/ArticleDocuments/21897/20220630-Water-RobustoInvestments-RegulatoryDetermination-FinalFurtherVariationDecision-StatementOfReasons.pdf.aspx?Embed=Y>.

<sup>2</sup> This is known as the varied regulatory determination. Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination: Review Application Decision - Statement of Reasons*, August 2021, pp. 1-8, available at <https://www.escosa.sa.gov.au/ArticleDocuments/21740/20210826-Water-RobustoInvestments-RegulatoryDetermination-ReviewApplicationDecision-StatementOfReasons.pdf.aspx?Embed=Y>.

<sup>3</sup> This is known as the original regulatory determination. Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination - Statement of Reasons*, May 2021, pp. 1-148, available at <https://www.escosa.sa.gov.au/ArticleDocuments/21695/20210525-Water-RobustoInvestments-RegulatoryDetermination-StatementOfReasons.pdf.aspx?Embed=Y>.

<sup>4</sup> Refer to information published on the Commission’s website about the application for a review at <https://www.escosa.sa.gov.au/ArticleDocuments/21740/20210826-Water-RobustoInvestments-RegulatoryDetermination-ReviewApplicationDecision-StatementOfReasons.pdf.aspx?Embed=Y>.

bad debt, mediation and dispute resolution expenses; this resulted in the operating cost allowance for those expenses being varied from \$15,000 (in real, December 2018 prices) to \$625 (in real, December 2018 prices) and a decrease in the maximum revenue and maximum prices recoverable by Robusto Investments.<sup>5</sup>

- 1.1.5 On 8 September 2021, under Section 32 of the ESC Act, Robusto Investments lodged an application with the South Australian Civil and Administrative Tribunal (**Tribunal**) for an external review of the Commission's regulatory determination made on 26 August 2021.<sup>6</sup> That external review remains before the Tribunal in accordance with the *South Australian Civil and Administrative Tribunal Act 2013*.
- 1.1.6 It is noted that at the conclusion of the external review process, by virtue of section 32(6) of the ESC Act, the Tribunal may:
- 1.1.6.1 affirm the regulatory determination made by the Commission on 26 August 2021, or
  - 1.1.6.2 set aside the decision being reviewed and send the matter back to the Commission for reconsideration in accordance with any directions, findings or recommendations that the Tribunal considers appropriate (or may make any other order the Tribunal considers appropriate).
- 1.1.7 The Commission understands that any new regulatory determination that is made will need to account for any findings, directions and/or recommendations made by the Tribunal (pursuant to section 32(6) of the ESC Act). This includes accounting for them when the Commission reconciles economic and operational information, on an *ex post* basis, against Robusto Investments' compliance with the maximum revenues and maximum prices.
- 1.1.8 If there are any findings, directions and/or recommendations made by the Tribunal *before* the Commission has made its preservation regulatory determination, to take effect 1 July 2023, those will, to the extent practicable, be taken into account when making that specific determination. If any findings, directions and/or recommendations are made by the Tribunal *after* the Commission has made its preservation regulatory determination, that determination can be varied in order to take these into account or any subsequent determinations can account for those findings, directions and/or recommendations made by the Tribunal (which will depend on the nature of any findings, directions and/or recommendations).

## 1.2 Reasons to make a preservation regulatory determination

- 1.2.1 The Commission's draft decision is that, in order to protect consumers' long-term interests with respect to the price, quality and reliability of essential water retail services, a preservation regulatory determination applying to

<sup>5</sup> Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination: Review Application Decision - Statement of Reasons*, August 2021, pp. 6-7.

<sup>6</sup> Refer to information available on the Commission's website about the external review, available at <https://www.escosa.sa.gov.au/projects-and-publications/projects/water/decision-to-make-a-price-determination-to-apply-to-robusto-investments>.

Robusto Investments should be in effect during the remainder of the Tribunal proceedings and until a comprehensive review and subsequent determination can be undertaken by the Commission.

- 1.2.2 The current regulatory determination applying to Robusto Investments will expire on 30 June 2023. Without the making of a new regulatory determination, there is a risk that Robusto Investments – as a monopoly water retail service provider facing limited competition – could use market power to provide service levels that are not valued by its customers and/or set customer prices higher than they need to be.<sup>7</sup> It is the Commission's position that Robusto Investments' pricing proposals have, in the past, had deficiencies that made them inconsistent with efficient costs, including that they were developed with insufficient stakeholder consultation.<sup>8</sup>
- 1.2.3 In addition, as noted earlier, the proceedings before the Tribunal with respect to the Commission's regulatory determination made in August 2021 remain ongoing, so there is uncertainty as to when this process will be completed and what may be required by the Tribunal in terms of directions and/or recommendations.
- 1.2.4 Consequently, the Commission's draft decision is to make a preservation regulatory determination that will maintain maximum revenues in inflation-adjusted terms for a regulatory period of 24 months.<sup>9</sup> Where appropriate, the (draft) preservation regulatory determination will adjust for new information, including forecasts for Consumer Price Index (CPI) inflation, customer numbers and consumption, in order to set maximum nominal prices for residential customers. The methodology in this draft decision, including reasons and supporting information, is outlined in the following chapter.

---

<sup>7</sup> Robusto Investments' characteristics are such that it is considered a monopoly provider of drinking water retail services, as discussed in detail in the Commission's original regulatory determination made on 25 May 2021. Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination - Statement of Reasons*, May 2021, pp. 11-13.

<sup>8</sup> This was discussed in the Commission's original regulatory determination in May 2021. Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination - Statement of Reasons*, May 2021, pp. 14, 34-36.

<sup>9</sup> Being maintained in inflation-adjusted terms (or real terms as it is commonly referred) means that the real terms maximum revenue allowance takes away the effects of inflation. The maximum revenue allowance in nominal terms refers to the dollar value of the allowance in current prices.



## 2 Methodology

### 2.1 Purpose

- 2.1.1 For the purposes of the Commission's (draft) preservation regulatory determination, the substantive provisions of the current regulatory determination will be maintained. The maximum allowable revenue allowed under the current determination will be preserved in inflation-adjusted terms and adjusted for a regulatory period of 24 months, from 1 July 2023 to 30 June 2025. The proposed methodology therefore includes only the recovery of (previously determined) efficient and prudent costs.<sup>10</sup>
- 2.1.2 This draft preservation regulatory determination sets Robusto Investment's *maximum allowable revenue* to be recoverable from residential customers and Mount Compass Property, and it also sets out *maximum pricing outcomes* for residential customers. The proposed methodology provides near-term certainty to Robusto Investments and its customers, and at the same time, it accounts for known uncertainties (given the ongoing Tribunal proceedings) and allows sufficient opportunity for stakeholder consultation in the making of a subsequent determination to apply to Robusto Investments from 1 July 2025 (or earlier as the case may be). The methodology is considered to be transparent to all stakeholders. It is also consistent with the Commission's statutory duty to protect consumers' long-term interests with respect to the price, quality and reliability of essential water retail services.
- 2.1.3 The remainder of this chapter outlines: the method for the preservation of maximum allowable revenues, the reasons for a regulatory period of 24 months, the various and necessary adjustments to customer numbers and consumption, and the pricing options that have been considered.

### 2.2 Preserving maximum allowable revenues

- 2.2.1 The Commission's draft decision is that it has determined that a preservation regulatory determination will be made, which:
- 2.2.1.1 **sets the regulatory term** for a period of 24 months, noting that:
- if a subsequent determination is completed by the Commission in advance of 1 July 2025, the Commission may revoke the preservation regulatory determination and introduce a subsequent determination, and
  - if there are findings, directions and/or recommendations made by the Tribunal *before* the Commission has made its preservation regulatory determination to take effect 1 July 2023, those will, to the extent practicable, be taken into account when making that specific determination. If findings, directions and/or recommendations are made by the Tribunal *after* the Commission has made its preservation regulatory determination, that specific determination can be varied in order to take these into account or the Commission's

<sup>10</sup> This approach eschews any new assessment of the prudent and efficient costs of Robusto Investments' supply of drinking water services during the regulatory period.

subsequent determination (planned for 1 July 2025) can account for those findings, directions and/or recommendations made by the Tribunal (which depends on the nature of those findings, directions and/or recommendations).

- 2.2.1.2 **maintains the annual maximum revenue** (in inflation-adjusted terms, as per the current regulatory determination, for each 12-month period within the 24-month period), but adjusts the maximum nominal revenue to reflect:
- the length of the regulatory period for which the determination will apply (ie 24 months), and
  - a percentage change corresponding to the forecast rate of change in CPI inflation (based on inflation forecasts as published by the Reserve Bank of Australia (RBA), as an accepted source of independent forecasts) (see Box 1).<sup>11</sup>

### Box 1. Adjustment for CPI inflation

The Commission's previous regulatory determinations applying to Robusto Investments (made in August 2021 and varied in a subsequent determination to take effect on 1 July 2022) provided a mechanism to review forecast errors for certain factors, including CPI inflation, and to make an allowance for under or over recovery attributable to those factors in subsequent determinations. This (draft) preservation regulatory determination does not account for any historical CPI inflation forecast errors of those determinations. While actual CPI inflation outcomes have exceeded the Commission's forecasts at the time, given that the Tribunal proceedings remain on foot, the Commission's draft decision is that it is not appropriate to adjust for any CPI inflation forecast errors at this time.

In terms of converting revenues that are in real terms (ie inflation-adjusted revenues) into a nominal amount (ie into today's current prices), the Commission's draft decision is to adopt the RBA's February 2023 published forecasts of year-ended CPI inflation for the 24-month period of this regulatory determination. By contrast, in the current regulatory determination, published in June 2022, the most recent available observation for year-ended CPI inflation was adopted as the forecast for the year ahead. This determination does not continue this practice for two reasons: first, this determination has a forecast horizon of 24 months, rather than 12 months, and second, CPI inflation appears to have now peaked (so the use of the latest available

## 2.1 Term of the regulatory period

- 2.1.1 The regulatory period of 24 months has been proposed on the basis that, if adopted, it would allow for, and promote, stakeholder input into a

<sup>11</sup> RBA, *Statement of Monetary Policy - February 2023*, pp. 1-77, available at <https://www.rba.gov.au/publications/smp/2023/feb/pdf/statement-on-monetary-policy-2023-02.pdf>. The RBA has reported that inflation is likely to have peaked at the end of 2022 (p. 1, 55). In February 2023, the RBA has reported year-ended CPI inflation forecasts of 3.6 percent for June 2024 and 3.0 percent for June 2025. See Box 1 (above) for a discussion of adjustments made for the expected rate of change in CPI inflation. Issues

comprehensive review informing a subsequent determination to apply to Robusto Investments to take effect from 1 July 2025. The Commission considers that more can be done in this regard, particularly by Robusto Investments. As explained earlier, should a full determination be completed in advance of 1 July 2025, the Commission may revoke the preservation regulatory determination and introduce the full subsequent determination.

- 2.1.2 In making this draft decision, various regulatory periods (6, 12 or 24 months) were considered.
- 2.1.2.1 Robusto Investments indicated to the Commission a preference for a 6-month term, which the Commission has considered.<sup>12</sup> A six-month term may allow for the completion of ongoing Tribunal proceedings. More generally, if a shorter regulatory period (such as 6 or 12 months) were adopted, it might lower the risk of any limitations (and forecast errors) from the current regulatory determination accumulating and therefore carrying over and impacting subsequent regulatory determinations.
- 2.1.2.2 The key disadvantages are that a regulatory period of 6 or 12 months is unlikely to contain sufficient contingency to allow for information collection from all stakeholders so as to fully inform the statutory regulatory determination process and decision. Further, it may not allow all stakeholders sufficient opportunity to provide input into the completion of a full subsequent determination. Allowing sufficient opportunity for stakeholder input is consistent with stakeholder submissions made to the Commission in 2021. Submissions at that time raised concerns regarding a lack of perceived responsiveness and engagement by Robusto Investments.<sup>13</sup> As highlighted in the Commission's original regulatory determination on 25 May 2021, the engagement process must not be a discrete, one-off activity. Rather, the engagement process must be timely and ongoing.
- 2.1.3 The Commission's draft decision is that the regulatory period must provide sufficient opportunity to complete a comprehensive subsequent regulatory determination (to take effect 1 July 2025, or earlier as the case may be).
- 2.1.3.1 A 24-month regulatory period will allow all stakeholders the opportunity to make submissions and attend public meetings across every stage in the process and for the Commission to consider these submissions. Also, the 24-month regulatory period will allow contingency in relation to information gathering processes; for example, the Commission may need to examine

---

around forecasts of CPI inflation were discussed in the statement of reasons for the current regulatory determination; see Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination: Final Further Variation Decision - Statement of Reasons*, p. 9.

<sup>12</sup> Based on correspondence from Robusto Investments in December 2022.

<sup>13</sup> Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination - Statement of Reasons*, May 2021, pp. 19-20, 34-35, 43-44, and p. 48.

particular matters, seek copies of information and relevant records and ask questions of stakeholders.

- 2.1.3.2 A shorter period, such as 6 or 12 months, is expected to have the practical consequence of:
- limiting the ability of customers to provide input and comment on any Robusto Investments' pricing proposal/s (and aspects of the proposal/s)
  - limiting the ability of Robusto Investments to present its plans and proposals directly to its customers and subsequently incorporate feedback and comments from its customers, and
  - limiting the ability of all stakeholders to attend public meetings and provide submissions to the Commission.

## 2.2 Adjusting for customer numbers and consumption

- 2.2.1 For the purposes of setting maximum prices in this (draft) preservation regulatory determination, several recent outcomes and challenges were considered.
- 2.2.2 By way of background, under the Commission's current pricing formula, the maximum nominal prices for residential customers are derived in the current regulatory determination from the maximum nominal revenue, after adjusting for forecasts of customer numbers (assuming implicitly that all customers connected to the network are users of water from the supply network) and forecasts of the volume of drinking water consumption, and adopting an allocated proportion of supply-usage charges.
- 2.2.3 There are therefore three recent outcomes that have been considered.
- 2.2.3.1 **Increased customer connections:** The number of customer connections has likely increased since the current regulatory determination was published in June 2022 and the number of connections is expected to increase further.
- 2.2.3.2 **Prevalence of vacant (but connected) lots:** There are reports and indicators that suggest a material number of connected customers do not consume any water from Robusto Investments' water supply network.<sup>14</sup>
- 2.2.3.3 **Uncertainty regarding consumption per customer:** There are reports and indicators that suggest that consumption per customer has been lower than previously allowed for in the Commission's current

<sup>14</sup> In June 2022, Robusto Investments provided new information about the number of residential customers that are being charged both supply and usage, and those who are just being charged for supply only. At that time, the Commission noted that there were inconsistencies in source information originally provided by Robusto Investments to the Commission in submissions and information provided to the Commission throughout the regulatory process. Accordingly, the Commission noted the need to verify new information to determine if and how it may be taken into account in a regulatory determination process. Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination: Final Further Variation Decision - Statement of Reasons*, pp. 10-11. Information submitted by Robusto Investments to the Commission on 31 January 2023 has assisted in verifying that there is a material number of vacant (but connected) lots.

regulatory determination (and also as allowed for in the Commission's August 2021 determination).<sup>15</sup>

2.2.4 Consequently, for prices to be set as part of the Commission's preservation regulatory determination, this new information (as per above) will, to the extent practicable, need to be considered and accounted for. Without adjusting for these factors there is a risk that these limitations may accumulate and impact the calculation of subsequent regulatory determinations. This could increase the risk of bill shock to customers in subsequent determination regulatory periods.

2.2.4.1 **Customer connections:** While there is uncertainty about the precise number and rate of increase in customer connections, the Commission estimates (based on current information) total connections will increase to be approximately 210 in 2023-2024 and in 2024-2025.<sup>16</sup>

2.2.4.2 **Vacant (but connected) lots:** The Commission estimates a **weighted average total customer connection number**. It estimates that 162 customers are connected and using water for 2023-2024 and 174 are connected and using water for 2024-25,<sup>17</sup> and it weights these forecasts according to the current portion of revenue allocated to either supply or usage in the current regulatory determination (ie 32.1 percent (supply) and 67.9 percent (usage)).<sup>18</sup> This is calculated as follows:

- for 2023-2024, this is calculated as 210 multiplied by 32.1 percent plus 162 multiplied by 67.9 percent, which gives a weighted average total customer connection number of 177, and
- for 2024-2025, this is calculated as 210 multiplied by 32.1 percent plus 174 multiplied by 67.9 percent, which

<sup>15</sup> For instance, see the reports highlighted by Robusto Investments in the Commission's current regulatory determination; see Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination: Final Further Variation Decision - Statement of Reasons*, pp. 12-13. Also, information submitted by Robusto Investments to the Commission on 31 January 2023 suggests that – notwithstanding any quarterly and yearly seasonal impacts – annual consumption per customer (even adjusting for vacant but connected lots) is likely to be below an assumption of 198kL (which is based on the current regulatory determination).

<sup>16</sup> This figure of 210 customers is based on correspondence from Robusto Investments to the Commission in June 2022. In that particular correspondence Robusto Investments states an expectation of 209 residential customer connections in 2023-2024 and 2024-25. The Commission assumes one non-residential customer. This takes the total connection number to 210.

<sup>17</sup> The customer consumption numbers of 161 and 173 are informed by correspondence from Robusto Investments in June 2022. The Commission assumes one non-residential customer. This takes the total connection numbers to 162 and 174.

<sup>18</sup> The allocation of supply-usage proportions is consistent with the current regulatory determination and the regulatory determinations made in May 2021 and in August 2021. See Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination - Statement of Reasons*, May 2021, p. 106, Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination: Review Application Decision - Statement of Reasons*, August 2021, pp. 1-8, and Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination: Final Further Variation Decision - Statement of Reasons*, June 2022, pp. 11-12, 15-16.

gives a weighted average total customer connection number of 186.

2.2.4.3 **Consumption per customer:** The Commission understands that average annual consumption per customer in recent years has been below the 198kL<sup>19</sup> that was adopted in past regulatory determinations<sup>20</sup>. By comparison, SA Water reports an average annual residential customer consumption figure of 180kL.<sup>21</sup> Therefore, for price setting purposes, there are two options that could be appropriately adopted for annual consumption per customer:

- A per customer consumption forecast of 180kL per year (based on data from SA Water's website) or
- A per customer consumption of 198kL per (based on the current regulatory determination).

2.2.5 In considering this new information about customer numbers and consumption, it is worth noting that there are risks surrounding the Commission's forecast of total customer numbers and the adjustment for supply-only customers (ie the weighted average customer number approach), and the Commission's forecast of annual per customer consumption. However, as discussed later, those risks can be appropriately mitigated in this draft preservation regulatory determination through the inclusion of a mechanism that allows the Commission to review forecast errors for certain factors, such as customer numbers and consumption, and to include an allowance for any under or over recovery directly attributable to these factors in any subsequent determination.<sup>22</sup>

## 2.3 Pricing options for consideration

2.3.1 The following example options presented in Table 2 (below) display pricing outcomes when adopting various customer consumption assumptions. Both options in Table 2 use weighted average customer numbers of 177 in 2023-24

<sup>19</sup> Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination - Statement of Reasons*, May 2021, pp. 105, Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination: Review Application Decision - Statement of Reasons*, August 2021, pp. 1-8, and Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination: Final Further Variation Decision - Statement of Reasons*, June 2022, pp. 16-18.

<sup>20</sup> Robusto Investments submitted to the current regulatory determination that residential customer usage has been lower than allowed for and supply and tiered prices should be adjusted; see Commission, *Robusto Investments Pty Ltd: Drinking Water Regulatory Determination: Final Further Variation Decision*, June 2022, pp 12-13. In addition, it is noted that information submitted by Robusto Investments to the Commission on 31 January 2023 suggests that – notwithstanding any quarterly and yearly seasonal impacts – annual consumption per customer (even adjusting for vacant but connected lots) is likely to be below an assumption of 198kL (which is based on the current regulatory determination).

<sup>21</sup> SA Water has reported average usage per residential customer; it is available here: <https://www.sawater.com.au/my-account/water-and-sewerage-prices/water-prices/residential-water-prices#:~:text=While%20there%20is%20no%20right,customer%20uses%20180kL%20per%20year>.

<sup>22</sup> This reconciliation mechanism was included in the Commission's regulatory determination made on 26 August 2021 and varied in a subsequent determination to take effect on 1 July 2022. Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination: Final Further Variation Decision - Statement of Reasons*, June 2022, pp. 1-2, and Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination - Statement of Reasons*, May 2021, pp. 113-114.

and 186 customers in 2024-25. The parameter varied in the table is annual consumption per customer.

Table 2: Pricing options

		2023-24	2024-25
<b>Example option 1</b> Assumptions Usage: 180kL	Supply charge per quarter	\$92.59	\$90.75
	Tier 1: 0-30kL	\$3.80	\$3.73
	Tier 2: 30-130kL	\$5.43	\$5.33
	Tier 3: >130kL	\$5.88	\$5.76
<b>Example option 2</b> Assumptions Usage: 198kL	Supply charge per quarter	\$92.59	\$90.75
	Tier 1: 0-30kL	\$3.38	\$3.31
	Tier 2: 30-130kL	\$4.83	\$4.73
	Tier 3: >130kL	\$5.22	\$5.12

2.3.2 It is noted that the options presented in Table 2 are not an exhaustive list. They indicate issues that have been considered.<sup>23</sup>

2.3.3 Further options considered include if the Commission were to maintain maximum revenues in inflation-adjusted terms but allow Robusto Investments flexibility to set its prices. A limitation, though, is the risk of large increases in the supply portion of customer charges, which, as discussed in previous regulatory determinations, could have distributional impacts on certain customers.<sup>24</sup> Another option considered by the Commission involved capping maximum supply charges for the 24-month period but allowing Robusto Investments to set tiered prices how it sees fit within this constraint. Under both options, Robusto Investments would remain subject to the maximum allowable revenue in inflation-adjusted terms.

<sup>23</sup> For example, alternative example approaches could include different forecasts for the number of connected customers who are consuming water and different approaches to weighting those customers.

<sup>24</sup> This risk was discussed in the Commission's original regulatory determination in May 2021. Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination - Statement of Reasons*, May 2021, pp. 112-113.

## 3 Decision

### 3.1 Commission's draft decision

3.1.1 The Commission's draft decision is to make the following preservation regulatory determination for the 24-month period from 1 July 2023 to 30 June 2025 (subject to considering submissions provided on the draft determination):

3.1.1.1 A maximum allowable revenue that Robusto Investments can recover from residential customers and Mount Compass Property is set at \$414,189 (in nominal terms) and \$359,472 (in real, December 2018 prices)

3.1.1.2 The pricing structure that must be adopted by Robusto Investments has been specified in respect of the water retail services it provides through its water retail business to residential customers (that structure is the same as used in the current regulatory determination), and

3.1.1.3 The maximum nominal prices that Robusto Investments can charge residential customers in 2023-2024 (2024-2025) are:

- A quarterly supply charge of \$92.59 (\$90.75)
- A Tier 1 charge of \$3.80 (\$3.73) per kL
- A Tier 2 charge of \$5.43 (\$5.33) per kL and
- A Tier 3 charge of \$5.88 (\$5.76) per kL

Table 3: Draft Pricing Decision

Tariff element	Current period	<i>Draft Decision</i>	<i>Draft Decision</i>
	1 July 2022 to 30 June 2023	1 July 2023 to 30 June 2024	1 July 2024 to 30 June 2025
Quarterly supply charge	\$84.59	\$92.59	\$90.75
Tier 1 charge per kL (0-30kL)	\$3.09	\$3.80	\$3.73
Tier 2 charge per kL (30-130kL)	\$4.41	\$5.43	\$5.33
Tier 3 charge per kL (>130kL)	\$4.77	\$5.88	\$5.76

### 3.2 Discussion

3.2.1 The pricing outcomes in the Commission's draft decision results in a price increase in 2023-2024 (the supply charge rises by around 10 percent and tiered



prices rise by 23 percent). This increase largely reflects the adoption of a forecast of an annual consumption per customer of 180kL.

- 3.2.2 The decrease in prices in 2024-2025 is due to the forecast increase in customer connections, which are assumed to consume water (the number increases from 162 to 174). This results in existing costs being spread over a larger base of customers (who are connected and consuming).
- 3.2.3 The adoption of a lower forecast for customer consumption (of 180kL rather than 198kL) has been made in light of reporting by Robusto Investments.<sup>25</sup> While forecasts of per customer consumption will inevitably involve the use of judgment, having regard to the balance of risks, the Commission's draft decision is that a forecast of 180kL is appropriate for the purposes of this preservation regulatory determination. It has been informed by publicly available information,<sup>26</sup> and its adoption can help to avoid the risk of carrying forward forecast error (while allowing the Commission to monitor customer consumption to inform the subsequent regulatory determination), and as mentioned below, is complemented by several risk mitigating mechanisms in-built into the preservation regulatory determination.
- 3.2.4 For instance, forecasts of consumption, customers who consume water and CPI inflation could each turn out differently. To the extent that forecasts remain persistently either too high or too low, there is a risk that limitations (and forecast errors) could accumulate and therefore carryover and impact subsequent regulatory determinations.
- 3.2.5 However, these risks are appropriately addressed through several means, including via the selection of parameters for this (draft) preservation regulatory determination and inclusion of certain risk mitigating mechanisms.
- 3.2.5.1 First, the use of 180kL annual customer consumption is based on available information from SA Water and is within a range of reasonable estimates, and its use:
- helps avoid the use of out-of-date assumptions and the reliance on recent outcomes that may have their own set of limitations<sup>27</sup>, and
  - allows more information on consumption to be gathered over the next 12-24 months, which can be used, if needed, in the Commission's subsequent determination.
- 3.2.5.2 Second, the use of a higher total customer connection number aims to capture the customer growth in Robusto Investments water

<sup>25</sup> For instance, see Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination: Final Further Variation Decision - Statement of Reasons*, pp. 12-13. Also, as noted earlier, information submitted by Robusto Investments to the Commission on 31 January 2023 suggests that – notwithstanding any quarterly and yearly seasonal impacts – annual consumption per customer (even adjusting for vacant but connected lots) is likely to be below an assumption of 198kL (which is based on the current regulatory determination).

<sup>26</sup> See SA Water website.

<sup>27</sup> For example, wetter-than-average weather could be having an impact on the consumption per customer numbers observed. The nearest Bureau of Meteorology weather station to Mount Compass is Kuitpo Forrest. Annual rainfall amounts for calendar years 2020, 2021 and 2022 were all above the long-term mean.

supply network. It is informed by customer information previously provided by Robusto Investments.

- 3.2.5.3 Third, the use of a weighted average customer connection number – while having limitations – aims to be a simple approach to capture, in the current pricing formula, some of the potential impact from consumers who are connected to the network but do not use any water.
- 3.2.5.4 Fourth, the inclusion of a mechanism in the draft preservation regulatory determination which allows the Commission to review forecast errors for factors, such as CPI inflation, customer numbers and consumption, and to include an allowance for any under or over recovery directly attributable to these factors in any subsequent determination.

### 3.3 Steps, assumptions, and the calculation of the draft decision

- 3.3.1 The Commission's draft decision for the preservation regulatory determination has been derived as follows. The process of steps below is undertaken for each financial year (2023-2024 and 2024-2025).
- 3.3.2 Step 1: The 12-month maximum revenue allowance (in real December 2018 prices), as determined in the current regulatory determination,<sup>28</sup> is converted into a maximum nominal revenue allowance based on CPI inflation forecasts.
- 3.3.3 Step 2: The supply and usage customer numbers are combined to calculate a weighted customer number of 177 for 2023-2024 and 186 for 2024-2025, for the purposes of setting prices.
- 3.3.4 Step 3: The 12-month nominal maximum revenue allowance is converted into maximum prices for residential customers based on assumptions regarding:
  - 3.3.4.1 the weighted customer number is applied as per Step 2 above,
  - 3.3.4.2 annual customer usage (customer usage has been adjusted to reflect an updated estimate for actual usage), and
  - 3.3.4.3 pricing structures (the ratio between supply and usage charges remains fixed at the ratio set out in both previous regulatory determinations, as do the ratios between the three pricing tiers).
- 3.3.5 A worked calculation of the steps in the preservation determination is below.

---

<sup>28</sup> Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination: Final Further Variation Decision - Statement of Reasons*, p. 1.

## Worked calculation of the preservation determination

The following assumptions and steps can be followed to calculate the proposed maximum nominal revenue and the maximum prices for Robusto Investments' drinking water retail services.

### Parameters

$RR_{12\text{-month}}$  is the real maximum revenue control for the 12-month regulatory period (in real, December 2018 prices)<sup>(a)</sup>

$R_{2023-24}$  is the maximum revenue control for the period 1 July 2023 to 30 June 2024 (in nominal terms)

$R_{2024-25}$  is the maximum revenue control for the period 1 July 2024 to 30 June 2025 (in nominal terms)

$Q$  is the number of quarters (or part thereof) in a 12-month period

$P_s$  is the quarterly supply charge

$\pi_{\text{Dec18-June21}}$  is the inflation forecast for the period December 2018 to June 2021 as per the varied regulatory determination<sup>(b)</sup>

$\pi_{2021-22}$  is the inflation forecast for 2021-22 as per the varied regulatory determination<sup>(b)</sup>

$\pi_{2022-23}$  is the inflation forecast for 2022-23 as per the further varied regulatory determination<sup>(a)</sup>

$\pi_{2023-24}$  is the inflation forecast for 2023-24 based on the latest annual CPI inflation as forecasted by the RBA<sup>(c)</sup>

$\pi_{2024-25}$  is the inflation forecast for 2024-25 based on the latest annual CPI inflation as forecasted by the RBA<sup>(c)</sup>

$\alpha$  is the proportion of  $R$  recoverable via supply charges

$P_{T1}$  is the tier 1 unit charge (per kL)

$P_{T2}$  is the tier 2 unit charge (per kL)

$P_{T3}$  is the tier 3 unit charge (per kL)

$N\text{-supply}_{2023-2024}$  is the supply customers for 2023-24

$N\text{-supply}_{2024-2025}$  is the supply customers for 2024-25

$N\text{-usage}_{2023-2024}$  is the usage customers for 2023-24

$N\text{-usage}_{2024-2025}$  is the usage customers for 2024-25

$N$  is the weighted customer number

$\lambda_{T12}$  is the price differential between  $P_{T1}$  and  $P_{T2}$ , as set in percentage terms<sup>(b)</sup>

$\lambda_{T23}$  is the price differential between  $P_{T2}$  and  $P_{T3}$ , as set in percentage terms<sup>(b)</sup>

$V_1$  is the assumption regarding annual average customer usage, in kL, applicable to Tier 1

$V_2$  is the assumption regarding annual average customer usage, in kL, applicable to Tier 2

$V_3$  is the assumption regarding annual average customer usage, in kL, applicable to Tier 3

### References

(a) Commission, *Robusto Investments Pty Ltd: Drinking Water Final Regulatory Determination: Final Further Variation Decision - Statement of Reasons*, p. 17.

(b) Commission, *Robusto Investments Pty Ltd Drinking Water Final Regulatory Determination – Statement of reasons*, May 2021, p. 104-105, 109-110

(c) Reserve Bank of Australia, *Forecasts Table*, Australia, February 2023, available at <https://www.rba.gov.au/publications/smp/2023/feb/forecasts.html>.

## Data and assumptions for financial year 2023-2024

$$RR_{12\text{-month}} = \$179,736$$

$$Q=4$$

$$\alpha = 32.12849 \text{ percent}$$

$$V_1 = 120$$

$$V_2 = 60$$

$$V_3 = 0.00$$

$$\lambda_{T12} = 42.90909 \text{ percent}$$

$$\lambda_{T23} = 8.14249 \text{ percent}$$

$$\pi_{\text{Dec18-June21}} = 2.7162 \text{ percent}$$

$$\pi_{2021-22} = 1.5 \text{ percent}$$

$$\pi_{2022-23} = 5.1 \text{ percent}$$

$$\pi_{2023-24} = 3.6 \text{ percent}$$

$$N\text{-supply}_{2023-24} = 210$$

$$N\text{-usage}_{2023-24} = 162$$

## Calculation

### Step 1

$$\text{Inflation index} = (1 + \pi_{\text{Dec18-June21}}) \times (1 + \pi_{2021-22}) \times (1 + \pi_{2022-23}) \times (1 + \pi_{2023-24}) = (1 + 0.027162) \times (1 + 0.015) \times (1 + 0.051) \times (1 + 0.036)$$

Substituting in the data and assumptions from above gives Inflation index = 1.135187

$$\text{Then, } R_{2023-24} = RR_{12\text{-month}} \times \text{Inflation index} = \$179,736 \times 1.135187$$

Substituting in the data and assumptions from above gives  $R = \$204,034$

### Step 2

$$N = \alpha * N\text{-supply}_{2023-24} + (1 - \alpha) * N\text{-usage}_{2023-24}$$

Substituting in the data and assumptions from above gives  $N = 177$  (N is rounded to the nearest whole number)

### Step 3

$$P_s = \frac{\alpha R}{QN}, \text{ and substituting in the data and assumptions from above gives, } P_s = \$92.59$$

$$P_{T1} = \frac{(1-\alpha)R}{(V_1 + (1+\lambda_{T12})V_2 + (1+\lambda_{T12})(1+\lambda_{T23})V_3)N}$$

$$P_{T2} = (1+\lambda_{T12})P_{T1}$$

$$P_{T3} = (1+\lambda_{T23})P_{T2}$$

Substituting in the data and assumptions gives the following maximum prices for residential customers:

$$P_{T1} = \$3.80$$

$$P_{T2} = \$5.43$$

$$P_{T3} = \$5.88$$

### Data and assumptions for financial year 2024-2025

$$RR_{12\text{-month}} = \$179,736$$

$$Q=4$$

$$\alpha = 32.12849 \text{ percent}$$

$$V_1 = 120$$

$$V_2 = 60$$

$$V_3 = 0.00$$

$$\lambda_{T12} = 42.90909 \text{ percent}$$

$$\lambda_{T23} = 8.14249 \text{ percent}$$

$$\pi_{\text{Dec18-June21}} = 2.7162 \text{ percent}$$

$$\pi_{2021-22} = 1.5 \text{ percent}$$

$$\pi_{2022-23} = 5.1 \text{ percent}$$

$$\pi_{2023-24} = 3.6 \text{ percent}$$

$$\pi_{2024-25} = 3.0 \text{ percent}$$

$$N\text{-supply}_{2024-25} = 210$$

$$N\text{-usage}_{2024-25} = 174$$

### Calculation

#### Step 1

$$\text{Inflation index} = (1 + \pi_{\text{Dec18-June21}}) \times (1 + \pi_{2021-22}) \times (1 + \pi_{2022-23}) \times (1 + \pi_{2023-24}) \times (1 + \pi_{2024-25}) = (1 + 0.027162) \times (1 + 0.015) \times (1 + 0.051) \times (1 + 0.036) \times (1 + 0.03)$$

Substituting in the data and assumptions from above gives Inflation index = 1.169243

$$\text{Then, } R_{2024-25} = RR_{12\text{-month}} \times \text{Inflation index} = \$179,736 \times 1.169243$$

Substituting in the data and assumptions from above gives  $R = \$210,155$

#### Step 2

$$N = \alpha * N\text{-supply}_{2024-25} + (1 - \alpha) * N\text{-usage}_{2024-25}$$

Substituting in the data and assumptions from above gives  $N = 186$  ( $N$  is rounded to the nearest whole number)

#### Step 3

$$P_s = \frac{\alpha R}{QN}, \text{ and substituting in the data and assumptions from above gives, } P_s = \$90.75$$

$$P_{T1} = \frac{(1-\alpha)R}{(V_1 + (1+\lambda_{T12})V_2 + (1+\lambda_{T12})(1+\lambda_{T23})V_3)N}$$

$$P_{T2} = (1+\lambda_{T12})P_{T1}$$

$$P_{T3} = (1+\lambda_{T23})P_{T2}$$

Substituting in the data and assumptions gives the following maximum prices for residential customers:

$P_{T1} = \$3.73$

$P_{T2} = \$5.33$

$P_{T3} = \$5.76$



The Essential Services Commission  
Level 1, 151 Pirie Street Adelaide SA 5000

GPO Box 2605 Adelaide SA 5001

T 08 8463 4444

E [escosa@escosa.sa.gov.au](mailto:escosa@escosa.sa.gov.au) | W [www.escosa.sa.gov.au](http://www.escosa.sa.gov.au)