



Water Services Operating Licence

<The Company that holds the licence>

<WLX>, Version <#>, <Date of amendment>

Economic Regulation Authority

WESTERN AUSTRALIA

WATER SERVICES ACT 2012

Licensee Name: <The Company that holds the licence>
<ABN/ACN>

Licence Number: <WLX>

Commencement Date: <Original date of grant>

Version Number: <#>

Version Date <Date of amendment>

Expiry Date <Date of expiry>

[Drafting comment to explain amendments]

[Drafting Comment: This page is a summary similar to the one placed in energy licenses. It is included as an overview, and the information contained is also found elsewhere in the licence]

Signed by a delegate;
member; or
the Chairman of the Economic Regulation Authority
<D>/<M>/<YEAR>

WATER SERVICES OPERATING LICENCE

1. Definitions and Interpretation

Act means the *Water Services Act 2012* (WA).

[Drafting Comment: 'assets' has been deleted and replaced with 'water service works' for consistency with the Act]

amendment date means <Date of amendment>.

applicable legislation includes:

- (a) the *Act*;
- (b) the *Regulations*; and
- (c) the *Codes*.

asset management system means the measures that are to be taken by the *licensee* for the proper maintenance, expansion or reduction of the *water service works*.

[Drafting Comment: for consistency with the Act 'water service works' is used]

asset management system review means an assessment of the matters set out in section 24(2) of the *Act*.

[Drafting Comment: the definition of 'asset management system review' has been amended to be consistent with the new Act]

audit report means a signed, written document that presents the purpose, scope and results of the audit by the *Department of Health* on compliance by the *licensee* of its obligations under the *MoU*.

Authority means the Economic Regulation Authority.

business day means a day which is not a Saturday, Sunday or a public holiday in Western Australia.

Code means any code in force from time to time made pursuant to the *Act* and includes the *Customer Service Code*.

commencement date means the date specified in Schedule 1.

complaint means an expression of dissatisfaction made to an organisation, related to its products or services, or the complaints-handling process itself, where a response or resolution is explicitly or implicitly expected.¹

customer means a person or organisation to which *water services* are sold or supplied by the *licensee* for consumption or use.

¹ Standard AS ISO 10002 – 2006 Customer satisfaction – Guidelines for complaints handling in organizations, section 3.2.

[Drafting Comment: the following customer definitions are new and in accordance with the new Act]

customer contract means a "standard customer contract" referred to paragraph (a) of the definition of "standard terms and conditions of service" in section 71(1) of the Act.

Customer Contract Guidelines means the guidelines relating to the content of the licensee's *customer contract* issued by the *Authority*, as replaced or varied from time to time.

[Drafting Comment: The definition of customer service charter has been deleted. There is no specific requirement for a customer service charter and substantial parts of the Charter are replaced by the Water Code]

Customer Service Code means the *Water Services Code of Conduct (Customer Service Standards) 2013* as amended or replaced from time to time.

Department of Health means the Department of Health or its successors in Western Australia.

Department of Water means the *Department of Water* or its successors in Western Australia.

drainage services has the meaning in section 3 of the Act.

expiry date means the date specified in Schedule 1.

[Drafting Comment: The following financial hardship definitions are added in accordance with the new Act]

financial hardship policy means a policy referred to in clause 28 of the *Customer Service Code*.

Financial Hardship Policy Guidelines means the guidelines relating to the content of the licensee's financial hardship policy issued by the *Authority*, as replaced or varied from time to time.

general works has the meaning in section 134 of the Act.

individual performance standards mean any individual performance standards approved by the *Authority* pursuant to clause 13 and specified in Schedule 3 of the *licence*

[Drafting Comment: Individual performance standards provides for non-standard performance standards to be applied to a licence or group of licences. To be retained as it is understood that Codes and Regulations will not replace this. The approach is similar to what is adopted for energy licensees].

irrigation services has the meaning given to that term in section 3 of the Act.

last resort supply plan has the meaning given to that term in section 50 of the Act.

[Drafting Comment: Last resort supply plan is inserted in accordance with the new Act]

licence means:

- (a) this document (excluding the title page and the second page of this document);
- (b) any *Schedules* to this document; and
- (c) any *individual performance standards* approved by the *Authority* pursuant to clause 13.

licensee means <The Company that holds the licence>, <ABN/ACN>.

[Drafting Comment: The definition of Local Government Authority has been deleted as it is not used.]

major works has the meaning in section 133 of the *Act*.

MoU means the memorandum of understanding referred to in clause 31 as duly amended from time to time.

[Drafting Comment: The following two definitions are in accordance with the proposed record keeping and reporting framework, see clauses 13 and 16 and Schedule 3]

National Performance Framework: rural performance reporting indicators and definitions handbook means the handbook initially produced by the National Water Commission of the same name as amended or replaced from time to time.

National Performance Framework: urban performance reporting indicators and definitions handbook means the handbook initially produced by the National Water Commission of the same name as amended or replaced from time to time.

non-potable water supply services means the collection, treatment, transfer or delivery of water supplied from *water services works* not designed and operated to provide *potable water*.

non-residential customer means a *customer* who is not a *residential customer*.

[Drafting Comment: new definition, see clause 29 of the licence in relation to hardship]

notice means a written notice, agreement, consent, direction, representation, advice, statement or other communication required or given pursuant to, or in connection with, this *licence*.

operating area(s) has the meaning given to that term in section 3 of the *Act* and is the area specified in Schedule 1.

operational audit means an assessment of the matters set out in section 25(2) of the *Act*.

[Drafting Comment: the definition of "performance criteria" has been deleted as it is not used. See "individual performance criteria"]

potable water means safe potable water in accordance with the *MoU* between the *licensee* and the *Department of Health*.

potable water supply services means the collection, treatment, transfer or delivery of water supplied from *water service works* designed and operated to provide *potable water*.

publish in relation to a report or information means either:

- (a) posting the report or information on the *licensee's* website; or
- (b) sending the report or information to the *Authority* to be published on the *Authority's* website.

Regulations means any subsidiary legislation made under the *Act*, including but not limited to *Water Services Regulations 2013*.

[Drafting Comment: will be expanded when the full extent of the subsidiary legislation is known].

related body corporate has the meaning in section 50 of the *Corporations Act 2001* (Cwth).

[Drafting Comment: the definition of "review guidelines has been deleted as it is not used]

residential customer means a *customer* to which *water services* are sold or supplied for consumption or use solely for domestic purposes.

reviewable decision means a decision by the *Authority* pursuant to:

- (a) clause 13.2;
- (b) clause 14.4;
- (c) clause 17.3; and
- (d) clause 20.6

of this *licence*.

[Drafting Comment: Aligned with the Act and the approach for energy licences]

Schedule means the schedule or schedules which are appended to, and which form part of, this *licence*.

sewerage services has the meaning given to that term in section 3 of the *Act*.

supplier of last resort has the meaning given to that term in section 50 of the *Act*.

[Drafting Comment: Supplier of last resort inserted in accordance with the new Act]

terms and conditions means the terms and conditions in this *licence* including any terms and conditions contained in the *Schedules*.

[Drafting Comment: the definition of Water Acts has been deleted as it is not used.]

Water Compliance Reporting Manual means the reporting manual issued by the *Authority*, as replaced or varied from time to time.

[Drafting Comment: Water Compliance Reporting Manual (WCRM) inserted in accordance with the proposed reporting framework, which aligns water licences with energy licences, see clause 13 and 16 and Schedule 3. Currently used in Schedule 4 of licences]

water licensing email address means:

- (a) in relation to the *Authority*, the addressee's authorised *Authority* email address or other such email address as notified in writing to the *licensee*; and
- (b) in relation to the *licensee*, the email address specified in the *licence* application or other such email address as notified in writing to the *Authority*.

water service means the service or services that the *licensee* is authorised to provide by this *licence* being a *drainage service*, *irrigation service*, *sewerage service* and / or *water supply service* as more particularly described in Schedule 1.

[Drafting Comment: the following definitions are new and in accordance with the new Act]

water service works has the meaning given to that term in section 3 of the *Act*.

water services ombudsman scheme means a scheme approved under section 65 of the *Act*.

water supply service has the meaning given to that term in section 3 of the *Act*.

works holding arrangement means an arrangement as set out in section 23 of the *Act*.

[Drafting Comment: it is proposed for transparency that the licence include the statutory conditions so that the licence is a complete record of the terms and conditions, which apply to the licensee (so the Authority, the licensee and public do not have to look at two documents without at least a cross reference).]

2. Grant of Licence

[Drafting Comment: Clause 2 of current licences]

- 2.1 The *licensee* is granted a *licence* for the *operating area(s)* to provide the *water services* described in Schedule 1 in accordance with the *terms and conditions* of this *licence*.

3. Term [Section 14 of the Act]

[Drafting Comment: Clause 3 of current licences]

- 3.1 This *licence* commences on the *commencement date* and continues until the earlier of:
 - (a) the cancellation of the *licence* pursuant to clause 7 of this *licence*;
 - (b) the surrender of the *licence* pursuant to clause 8 of this *licence*; or
 - (c) the *expiry date*.

4. Fees

[Drafting Comment: Clause 4 of current licences]

4.1 The *licensee* must pay the applicable fees in accordance with the *Regulations*.

[Drafting Comment: This clause has been retained as a place-holder on the assumption that fees will be payable under the Regulations once promulgated.]

5. Compliance with applicable legislation [Section 26 and 27 of the Act]

[Drafting Comment: Clause 5 of current licences. Amendments for clarity and in accordance with the new Act.]

5.1 Subject to any modifications or exemptions granted pursuant to the *Act* and this *licence*, the *licensee* must comply with any *applicable legislation*.

5.2 The *licensee* must comply with any code of practice made by the Minister under section 26 of the *Act* to the extent to which it applies to the *licensee*.

5.3 The *licensee* must comply with any code of conduct made by the *Authority* under section 27 of the *Act* to the extent to which:

- (a) it applies to the *licensee*; and
- (b) it is not inconsistent with the terms and conditions of this *licence*.

5.4 Subject to the provisions of any *applicable legislation*, the *Authority* may direct the *licensee* in writing to do any measure necessary to:

- (a) correct the breach of any *applicable legislation*; or
- (b) prevent the breach of any *applicable legislation* occurring again, and specify a time limit by which such action must be taken.

6. Transfer of Licence [Section 15 of the Act]

[Drafting Comment: Clause 10 of current licences]

6.1 This *licence* may be transferred only in accordance with the *Act*.

7. Cancellation of Licence for Serious Default [Section 34 of the Act]

[Drafting Comment: Clause 11 of current licences. Amendments in accordance with the new Act]

7.1 This *licence* may be cancelled for serious default in accordance with the *Act*.

8. Cancellation of Licence by the licensee [Section 18 of the Act]

[Drafting Comment: Clause 12 of current licences. Amendments in accordance with the new Act]

8.1 The *licensee* may apply to the *Authority* to request cancellation of the *licence* at any time by written *notice* to the *Authority*.

8.2 The *Authority* may cancel the licence in accordance with the *Act*.

8.3 The *licensee* will not be entitled to a refund of any fees by the *Authority*.

[Drafting Comment: This clause has been retained as a place-holder on the assumption that fees will be payable under the Regulations once promulgated.]

9. Renewal of Licence [Section 13 of the Act]

[Drafting Comment: Clause 13 of current licences]

9.1 This *licence* may be renewed only in accordance with the *Act*.

10. Amendment of Licence by the licensee [Section 18 of the Act]

[Drafting Comment: consistent with clause 14 of current licences]

10.1 The *licensee* may, at any time, apply to the *Authority* to amend the *licence* in accordance with the *Act*.

11. Amendment of licence by the Authority [Section 17 of the Act]

[Drafting Comment: consistent with clause 14 of current licences]

11.1 The *Authority* may, at any time, amend the *licence* on its own initiative in accordance with the *Act* and the procedure specified in clause 11.2.

11.2 Before amending the *licence* under clause 11.1, the *Authority* must:

- (a) provide the *licensee* with written *notice* of the proposed amendments under consideration by the *Authority*;
- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
- (c) take into consideration those submissions.

11.3 Any amendments made to the *licence* will come into effect in accordance with the *Act* unless a longer period is specified by the *Authority* or a shorter period is agreed to by the *Authority* and the *licensee*.

[Drafting Comment: section 17 of the Act – For transparency the Act is referred to as it provides the Authority with discretion to impose a longer or shorter period]

11.4 This clause also applies to the substitution of the existing *licence*.

11.5 For avoidance of doubt, the *licensee* will not have to pay an associated application fee or *licence* fee for the purpose of clause 11.1.

12. Accounting Records

[Drafting Comment: Clause 15 of current licences]

12.1 The *licensee* and any *related body corporate* must maintain accounting records that comply with the Australian Accounting Standards Board Standards or equivalent International Accounting Standards.

13. Individual Performance Standards

[Drafting Comment: clause 19 of current licences. Clause 20 “Service and Performance Standards” in current water licences is amalgamated into clause 13 Individual Performance standards as a new clause 13.4. This is based on the current understanding of the content of Code and Regulations]

13.1 The *licensee* must comply with the *individual performance standards* as set out in Schedule 3.

[Drafting Comment: The term “performance standards” is not included in the new legislation, and the licence now only refers to individual performance standards under the licence.]

13.2 The *Authority* may prescribe *individual performance standards* in relation to the *licensee* of its obligations under this *licence* or the *applicable legislation*.

[Drafting Comment: a reviewable decision consistent with energy licences]

13.3 Before approving any *individual performance standards* under this clause, the *Authority* will:

- (a) provide the *licensee* with a copy of the proposed *individual performance standards*;
- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed *individual performance standards*; and
- (c) take into consideration those submissions.

13.4 Once approved by the *Authority*, the *individual performance standards* are included as additional *terms and conditions* to this *licence* as set out in Schedule 3.

14. Operational Audit [Section 25 of the Act]

[Drafting Comment: Clause 16 of the current licences. Amendments in accordance with section 25 of the new Act and replaces 16.3 and 16.4 of the current licences]

14.1 The *licensee* must, unless otherwise notified in writing by the *Authority*, provide the *Authority* with an *operational audit* within 24 months after the *commencement date*, and every 24 months thereafter.

14.2 The *operational audit* must be conducted by an independent expert appointed by the *Authority* in its sole discretion. The *Authority* will determine the terms of the appointment of the *independent expert*.

14.3 Before appointing an independent expert the *Authority* will:

- (a) consult with the *licensee* in a manner and form determined by the *Authority*; and
- (b) take into account any relevant matters raised by the *licensee* from that consultation.

14.4 The *licensee* must cooperate with the independent expert and comply, with the *Authority’s* standard audit guidelines dealing with the *operational audit*.

15. Reporting a Change in Circumstances

[Drafting Comment: clause 18 of existing water licences. The clause is made more clear and aligned with energy licences]

15.1 The *licensee* must report to the *Authority*:

- (a) if the *licensee* is under external administration as defined by the *Corporations Act 2001* (Cwth) within two *business days*; or
- (b) if the *licensee*:
 - (i) experiences a material change in the *licensee's* corporate, financial or technical circumstances upon which this *licence* was granted; and
 - (ii) which may materially affect the *licensee's* ability to meet its obligations under this *licence*,within 10 *business days* of the change occurring; or
- (c) if the:
 - (i) *licensee's* name;
 - (ii) *licensee's* ABN;
 - (iii) *licensee's* address;
 - (iv) description of the *water service works*,changes, within 10 *business days* of the change occurring; or
- (d) if the *licensee provides or undertakes water service works* that are *major works* or *general works*, within 10 *business days* of the provision or undertaking occurring.

16. Provision of Information

[Drafting Comment: Clause 21 in current water licences. Amendments in accordance with the proposed new record keeping and reporting framework consistent with energy licences]

- 16.1 The *licensee* must provide to the *Authority* any information that the *Authority* may require in connection with its functions under the *Act* in the time, manner and form specified by the *Authority*.
- 16.2 The *licensee* must comply with any information reporting requirements prescribed by the *Authority*, including but not limited to the provisions of the *Water Compliance Reporting Manual* which apply to the *licensee*.
- 16.3 Without limiting clause 16.1, the *licensee* must provide the *Authority* with the data required for performance reporting purposes that is specified in:
- (a) the *Water Compliance Reporting Manual*;

- (b) the *National Performance Framework: urban performance reporting indicators and definitions handbook*; and [delete if not applicable to this licence]
- (c) the *National Performance Framework: rural performance reporting indicators and definitions handbook*. [delete if not applicable to this licence]

17. Publishing Information

[Drafting Comment: Clause 22 in current water licences.]

- 17.1 The *Authority* may direct the *licensee* to *publish* any information within a specified timeframe it considers relevant in connection with the *licensee* or the performance by the *licensee* of its obligations under this *licence*.
- 17.2 Subject to clause 17.3, the *licensee* must *publish* the information referred to in clause 17.1.
- 17.3 If the *licensee* considers that the information is confidential it must:
 - (a) immediately notify the *Authority*; and
 - (b) seek a review of the *Authority's* decision in accordance with clause 19.
- 17.4 Once it has reviewed the decision, the *Authority* will direct the *licensee* in accordance with the review to:
 - (a) *publish* the information;
 - (b) *publish* the information with the confidential information removed or modified; or
 - (c) not *publish* the information.

18. Notices

[Drafting Comment: Clause 23 in current water licences]

- 18.1 Unless otherwise specified, all *notices* must be in writing.
- 18.2 A *notice* will be regarded as having been sent and received:
 - (a) when delivered in person to the addressee; or
 - (b) three *business days* after the date of posting if the *notice* is posted in Western Australia; or
 - (c) five *business days* after the date of posting if the *notice* is posted outside Western Australia; or
 - (d) if sent by facsimile when, according to the sender's transmission report, the *notice* has been successfully received by the addressee; or
 - (e) if sent by email when, according to the sender's electronic record, the *notice* has been successfully sent to the addressee's *water licensing email address*.

19. Review of the Authority's Decisions

[Drafting Comment: Clause 24 in current water licences]

- 19.1 The *licensee* may seek a review of a *reviewable decision* by the *Authority* pursuant to this *licence* in accordance with the following procedure:
- (a) the *licensee* must make a submission on the subject of the *reviewable decision* within 10 *business days* (or other period as approved by the *Authority*) of the decision; and
 - (b) the *Authority* will consider the submission and provide the *licensee* with a written response within 20 *business days*.
- 19.2 For the avoidance of doubt, this clause does not apply to a decision of the *Authority* pursuant to the *Act*, nor does it restrict the *licensee's* right to have a decision of the *Authority* reviewed in accordance with the *Act*.

20. Asset Management System [Section 24 of the Act]

[Drafting Comment: included as clause 17 in existing water licences. Amendments in accordance with section 24 of the Act]

- 20.1 The *licensee* must provide for, and notify the *Authority* of, an *asset management system* in respect of the *licensee's water service works* within two *business days* from the *commencement date* unless otherwise notified in writing by the *Authority*.
- 20.2 The *licensee* must notify the *Authority* of any material change to the *asset management system* within 10 *business days* of such change.
- 20.3 The *licensee* must, unless otherwise notified in writing by the *Authority*:
- (a) conduct an *asset management system review*; and
 - (b) provide the *Authority* with a report on the *asset management system review*, within 24 months after the *commencement date* and every 24 months thereafter.
- 20.4 The *asset management system review* must be conducted by an independent expert appointed by the *Authority* in its sole discretion. The *Authority* will determine the terms of the appointment of the independent expert.
- 20.5 Before appointing an independent expert the *Authority* will:
- (a) consult with the *licensee* in a manner and form determined by the *Authority*; and
 - (b) take into account any relevant matters raised by the *licensee* from that consultation.
- 20.6 The *licensee* must cooperate with the independent expert and comply with the *Authority's* standard guidelines dealing with the *asset management system review*.

21. Water Services Ombudsman Scheme [Section 70 of the Act]

[Drafting Comment: New clause consistent with legislative requirements]

- 21.1 If the Authority has approved a *water services ombudsman scheme*, the *licensee* must not supply *water services* to *customers* unless the *licensee* is:
- (a) a member of the *water services ombudsman scheme*; and
 - (b) bound by, and compliant with, any decision or direction of the water services ombudsman under the *water services ombudsman scheme*.

22. Standard Terms and Conditions of Service [Section 71 of the Act]

[Drafting Comment: New clause consistent with legislative requirements]

- 22.1 Subject to:
- (a) the *Act*; and
 - (b) the terms of a *customer contract* (if any) that apply to the *water service*,
- the terms and conditions of service in this *licence* that apply to the *water service* are set out in Schedule 4.
- 22.2 The terms in Schedule 4 may be supplemented by terms published from time to time by the *licensee* on the *licensee's* website or as otherwise prescribed.

23. Customer Contract

[Drafting Comment: New clause consistent with legislative requirements. Relevant clauses of the Act 10, 12, 71, 72, and 74 and replacing clause 5 of Schedule 3 of the current licences]

- 23.1 The *licensee* must, if directed by the *Authority*, submit a draft *customer contract* for approval by the *Authority*.
- 23.2 The *licensee* must comply with any *Customer Contract Guidelines* which apply to the *licensee*.
- 23.3 Once approved, the *licensee* may only amend the *customer contract* with the *Authority's* approval.
- 23.4 The *licensee* may amend the *customer contract* at any time by submitting to the *Authority*:
- (a) a proposed amendment to the *customer contract*; or
 - (b) a proposed substituted *customer contract*.
- 23.5 The *Authority* may:
- (a) approve the amendment to the *customer contract* or substituted *customer contract*; or
 - (b) specify the amendments the *licensee* must make to the amended or substituted *customer contract* before the *Authority* will amend the *customer contract*,

and notify the *licensee* of its decision within 10 *business days* of making the decision.

23.6 The *Authority* may, at any time, by *notice* in writing, direct the *licensee* to amend the *customer contract* by specifying:

- (a) the amendments to be made to the *customer contract*; and
- (b) the latest date at which the amendments will come into force.

24. Non Standard Terms and Conditions of Service

[Drafting Comment: Carries over clause 5, of Schedule 3 of existing water licences in the context of the new Customer Services Code]

24.1 Subject to compliance with this clause, the *licensee* may enter into an agreement with a *customer* to provide *water services* that exclude, modify or restrict the:

- (a) *terms and conditions* of this *licence*; or
- (b) the requirements of the *Customer Services Code*.

24.2 Subject to clause 24.3, an agreement referred to in clause 24.1:

- (a) must be approved by the *Authority* prior to its commencement; and
- (b) must not be amended without the prior approval of the *Authority*.

24.3 The *licensee* does not need the approval of the *Authority* if:

- (a) the terms that exclude, modify or restrict the *terms and conditions* of this *licence* or the requirements of the *Customer Services Code* have previously been approved by the *Authority* in another agreement that applies to the same class of *customer*; or
- (b) the terms that exclude, modify or restrict the *terms and conditions* of this *licence* were in force before the *amendment date*.

24.4 If a licensee enters into an agreement with a customer that excludes, modifies or restricts the terms and conditions of this licence, or the Customer Services Code, the licensee must publish a report annually that includes the following information:

- (a) the total number of agreements entered into by the licensee, categorised by location and the type of exclusion, modification or restriction;
- (b) the number of agreements entered into by the licensee during the reporting period, categorised by location and the type of exclusion, modification or restriction;
- (c) the total number of agreements entered into by the licensee, categorised by location and by land use; and
- (d) the number of agreements entered into by the licensee during the reporting period, categorised by location and by land use.

25. Supplier of Last Resort [Section 60 of the Act]

[Drafting Comment: New clause consistent with legislative requirements]

- 25.1 If the *licensee* is appointed the *supplier of last resort* for a designated area under the *Act*, the *licensee* must perform the functions of the *supplier of last resort* for the designated area and the class of *water service*, comply with the duties imposed in relation to those functions under the *Act* and carry out its operations under or for the purposes of the *last resort supply plan* in accordance with the *Act*.

26. Duties of the licensee [Section 29 of the Act]

[Drafting Comment: New clause consistent with legislative requirements]

- 26.1 The *licensee* must:

- (a) comply with the duties imposed on the *licensee* under the *Act*, and
- (b) carry out the *licensee's* operations under, or for the purposes of, the *licence* in accordance with the *Act*.

27. Provision of water services [Section 21 of the Act]

[Drafting Comment: New clause consistent with legislative requirement]

- 27.1 The *licensee* must provide the *water service* set out in Schedule 1:

- (a) to persons entitled to the *water service* under the *Act*, except to the extent otherwise provided for by the *Act*; and
- (b) if requested, to any other person within the *operating area* on reasonable terms, unless the provision of the *water service* is not financially viable or is otherwise not practicable.

28. Provision of water services outside operating area [Section 22 of the Act]

[Drafting Comment: New clause consistent with legislative requirements]

- 28.1 If the *licensee* provides a *water service* outside of the *operating area* specified for that *water service*, the *licensee* must:

- (a) notify the *Authority* as soon as is practicable before commencing to provide the *water service*; and
- (b) apply to amend the *licence* in accordance with clause 10 unless otherwise notified by the *Authority*.

[Drafting Comment: Section 11(b)(2) of the Act provides that:

For each class of water service authorised by a licence, the licence authorises the provision of the service —

(a) in the operating area or areas of the licence specified for the service; and

b) outside of the operating area or areas, unless the licence provides otherwise.

Therefore it is not a breach of the licence to operate outside of the operating area unless the Authority specifies otherwise in the licence.

However, a provision has been included to oblige the licensee to amend the licence where it proposes to supply outside of the operating area. Operating areas would become meaningless if they are not updated to reflect operations on the ground.]

29. Works holding arrangements [Section 23 of the Act]

[Drafting Comment: New clause consistent with legislative requirements]

- 29.1 The licensee must hold, or otherwise be subject to a *works holding arrangement* in respect of, all *water service works* used for the provision of a *water service*.

[Drafting Comment: Section 11(3) allows the Authority to consider whether it wants to specify works that must be provided, operated or maintained for the provision of the water service in accordance with section 11(3). At this stage, the Authority considers that the new legislative requirement is satisfactory.]

30. Hardship Policy

[Drafting Comment: New clause consistent with legislative requirements. Where a licensee supplies residential and non-residential customers the Financial Hardship Policy Guidelines is anticipated to recommend that the financial hardship policy does not apply to the supply of water services to non-residential customers.]

- 30.1 If the licensee is supplying, or intends to supply, *water services* to a *residential customer*, the licensee must have a *financial hardship policy*.
- 30.2 Notwithstanding clause 27(1) of the *Customer Service Code*, the licensee is not required to have a *financial hardship policy* where the licensee is supplying *water services* solely to *non-residential customers*.
- 30.3 The Authority may produce *Financial Hardship Policy Guidelines* from time to time.
- 30.4 The licensee must comply with any *Financial Hardship Policy Guidelines* which apply to the licensee.

31. Memorandum of Understanding

[Drafting Comment: clause 9 in current licences. It is proposed to scale back the detailed requirements for a MOU to compliance with a requirement for legally binding MOU in accordance with DOH requirements; and to maintain a level of transparency. Other than that, the content and operation of the MoU is a matter between the licensee and the DoH.]

- 31.1 Where the licensee is, or intends to, provide *potable water*, the licensee must enter into a *MoU* with the *Department of Health* as soon as practicable after the *commencement date*.
- 31.2 The *MoU* must:
- (a) specify that the *MoU* is a legally binding document between the licensee and *Department of Health*;

- (b) requiring an audit by the *Department of Health* on compliance by the *licensee* with its obligations under the *MoU* at least once every three years, or other such time as notified by the *Department of Health*, and the provision of the *audit report* to the *Authority*.

[Drafting Comment: As a matter of transparency, compliance and "power" for DOH to monitor compliance]

31.3 The *licensee* must comply with the terms of the *MoU*.

[Drafting Comment: to be maintained for enforcement purposes]

31.4 The *licensee* must publish the *MoU* and any amendments to the *MoU* on the *licensee's* website within one month of entering into the *MoU* or of making amendments to the *MoU* in a form agreed with the *Department of Health*.

31.5 The *licensee* must publish the *audit report* on the *licensee's* website within one month of the completion of the audit.

[Drafting Comment: to be kept for public information and transparency]

31.6 The *licensee* must *publish* any other reports required by the *Department of Health* or set out in the *MoU* on the *licensee's* website quarterly or at a reporting frequency specified by the *Department of Health*.

Schedule 1 – Licence Details

[Drafting comment: this schedule will be customized to individual licences, in accordance with current licence conditions. Where clauses are not relevant “Not Used” will be used.]

1. Activities Authorised under this Licence

[Drafting Comment: Changed format]

1.1 In accordance with clause 2, the *licensee* is authorised by this *licence* to provide:

- (a) *water supply services*:
 - (i) *potable water supply services*
 - (ii) *non-potable water supply services*
- (b) *sewerage services*
- (c) *drainage services*
- (d) *irrigation services*

[Drafting Comment: The current licences differentiate between potable and non-potable water supply as does our application guideline. Non-potable is not included in the Act (aside from being included in the definition of water supply service) However, the regulatory requirements for the two “sub-services” are very different:

- Australian water guidelines differ; and
- current licences have been granted clearly identifying whether the licensee is allowed to provide potable or non-potable services.

It is necessary to continue to clearly identify the two services.

2. Operating Area [Drafting Comment: Currently Schedule 2 of water licences]

2.1 The *operating area* is set out in Plan Number:

OWR-OA-XXX...

[Drafting Comment: For consistency, it is not proposed to change the existing map numbering system emanating from the “Office of Water Regulation” and “Operating Area”. It is not practical for service providers to have to apply for licence renewals for staggered expiry dates for each service.]

3. Commencement Date

3.1 <Original date of grant>

4. Expiry Date

4.1 <insert date>

[Drafting Comment: This adopts the more simple date format of the Electricity Integrated Regional Licences. The old water licences had commencement and expiry dates for each service. Any water service is allowed under the licence from the date of grant (clear in any licence from the version date) until the expiry date – unless otherwise approved by the Authority]

[Drafting Comment: Schedule 2 of the current licences have been deleted and the content moved to Schedule 1]

Schedule 2 – Customer Provisions

[Drafting Comment: The new Water Services Customer Code and the Ombudsman Scheme are anticipated to replace the content of this schedule. However, until the Ombudsman Scheme comes into effect the existing customer complaints procedure is maintained. Subsequently, the Schedule will be empty]

In the future any customer provisions added will be customized to individual licences.

[Drafting Comment: The clause on Customer Service Charters have been deleted as charters are not intended under the new legislation]

1. Customer Complaints

[Drafting Comment: Maintained until the water ombudsman scheme is approved.]

- 1.1 This clause will apply until such time as the *Authority* approves a *water services ombudsman scheme*.
- 1.2 Where the *customer* makes a *complaint* regarding a provided or requested *water service*, the *customer* may refer the *complaint* to the *Department of Water*.
- 1.3 Where a *complaint* has not been resolved to the *customer's* satisfaction within 15 *business days* the *licensee* must inform the *customer* of the option of referring the *complaint* to the *Department of Water*.
- 1.4 The *Department of Water* may:
 - (a) conciliate the *complaint*; or
 - (b) direct the *licensee* or *customer* to binding arbitration.
- 1.5 During the process of investigation and conciliation, the *licensee* must make every endeavour to promptly cooperate with the *Department of Water's* (or its representative's) requests, which shall include the expeditious release of any relevant information or documents requested by the *Department of Water* and the availability of the relevant staff of the *licensee*.
- 1.6 The *licensee* must, on request, provide the *Department of Water* with details of *complaints* made, names and addresses of *customers* who have made *complaints* and the manner in which the *complaint* was resolved.

[Drafting Comment: The clause on complaints handling for sewerage services has been deleted and is superseded by Part 6 of the Code and the Ombudsman scheme]

[Drafting Comment: the clause on arbitration in relation to Water Services have been deleted as it is to be dealt with by the Customer Code and the Ombudsman Scheme]

[Drafting Comment: the clause on Customer Consultation has been deleted. Energy licensees are not required to undertake consultation and its is not clear what additional benefits of requiring water licensees to consult are, while costs are imposed and ultimately passed on to customers]

[Drafting Comment: The clause on Customer Contracts has been deleted as the content is covered by Act and clause 23 of the draft licence]

[Drafting comment: The clause on customer surveys has been deleted. It is not required by the Act, not applicable to energy licensees, and it is not clear what the additional benefits of requiring water licencees to survey customers are, while a cost is imposed and ultimately passed on to customers]

Schedule 3 – Performance Standards

[Drafting Comment: Existing Performance Standards are not required by the Act and not covered by any Water Code requirements. This Schedule carries forward the majority of the performance standards in existing licences, with the addition of new standards that are consistent with current best practice, as drawn from regulatory regimes in other jurisdictions and through the Urban National Performance Framework.]

The key change from existing licences is setting performance targets based on the size of the water or sewerage supply scheme. The differential standards attempt to fit the target to the customer impact for each size of supply scheme, as well as reflect the practical implications for the licensee being able to achieve the performance standard.

This Schedule has some variation between licences depending on the water services being provided and the size of the supply scheme, see above. The Schedule will be customized to individual licences with the heading of clauses not relevant to the licensee replaced by “**Not Used**” and the text deleted]

Any content of current individual licences not amended by the following will be carried over in the amended Water Compliance Reporting Manual or licence as appropriate.

The *licensee* must comply with the standards, principles and reporting requirements as set out below.

Drafting Comment:

Current licences

The current licences contain standards for telephone service. The Water Corporation is required to answer at least 70% of calls to its call centre within 30 seconds and have less than 5% of calls abandoned after 5 seconds. Other licensees (who do not have call centres) are required to respond to at least 90% of emergency calls within one hour. All licensees are required to resolve at least 90% of customer complaints within 15 business days.

Proposal

It is proposed that benchmarks for telephone service and customer complaint resolution be removed. Instead licensees will be required to publish an annual report on their performance (using the powers in clause 17 of the licence) in relation to:

Telephone Service

- Total number of telephone calls to the call centre (excludes calls handled solely by the IVR system)
- Total number of calls answered by a call centre operator within 30 seconds
- Percentage of calls answered by a call centre operator within 30 seconds [NWI C14]

- Average duration before a call is answered by a call centre operator (seconds)
- Total number of calls answered by a call centre operator that are unanswered
- Percentage of calls answered by a call centre operator that are unanswered

Complaints

- Water quality complaints (per 1000 properties) [NWI C9]
- Water service complaints (per 1000 properties) [NWI C10]
- Sewerage service complaints (per 1000 properties) [NWI C11]
- Billing and Account complaints (per 1000 properties) [NWI C12]
- Total water and sewerage complaints (per 1000 properties) [NWI C13]
- Number of total water and sewerage complaints concluded within 15 business days
- Percentage of total water and sewerage complaints concluded within 15 business days

The replacement of service standards with record keeping and reporting obligations is consistent with the approach adopted in energy licences.]

POTABLE WATER

1. Potable Water System

[Drafting Comment: it is important to define the generic pressure and flow standard (15-100m, 20L/min) across the board for all water providers as a benchmark against which to report their performance.]

- 1.1 The *licensee* shall maintain pressure, flow and continuity of services in accordance with the standard detailed in the following tables.

[Drafting Comment: the following will be individual to each licence and are unchanged from the current framework.]

Pressure and Flow Standards

Area	Minimum Static Pressure (metres of water)	Maximum Static Pressure (metres of water)	Minimum Flow (litres per minute)
Water Corp Perth Metropolitan	15	100	20
Water Corp Country Urban Areas	13	100	20
All other water licences	15	100	20

[Drafting Comment: The current licences contain a standard for pressure/flow faults. Water Corporation and the water boards are required to meet the pressure and flow standard for 99.8% of connected properties, whereas other (smaller) licensees are required to meet the standard for 90% of connected properties.]

The current licences contain a >1hr interruption standard of 75% of properties not experiencing an [planned or unplanned] interruption (equivalent to 25% of properties experiencing an interruption).

The current water licences include a service standard for water main breaks (20 per 100km of main).

It is proposed to remove benchmarks for pressure and flow faults, unplanned water interruptions and water main breaks. Instead licensees will be required to publish an annual report on their performance (using the powers in clause 17 of the licence) in relation to:

- Number of connected properties with a confirmed water pressure/flow fault (>30 minutes in duration)
- Percentage of connected properties with a confirmed water pressure/flow fault (>30 minutes in duration)
- Average duration of an unplanned water interruption (minutes) {NWI C15}
- Average frequency of unplanned water interruptions (per 1,000 properties) [NWI C17]
- Average customer minutes off supply
- Number of connected properties experiencing an unplanned water interruption (properties counted once)
- Percentage of connected properties experiencing an unplanned water interruption (properties counted once)
- Water main breaks (per 100km of water main)

The replacement of service standards with record keeping and reporting obligations is consistent with the approach adopted in energy licences.]

2. Potable Water System – Pressure and Flow Exemptions

[Drafting Comment: Currently this is only applicable to the Water Corporation, and no changes are proposed. The section will be marked “Not Used” for other licensees]

2.1 Exemptions from the flow and pressure standards set out in section 2 of this Schedule are provided for the areas detailed in the following table.

Pressure and Flow Exemptions

Town	Area	No. of Services affected	Comment
<insert>			

...			
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[Drafting Comment: There are no non-Potable Water Standards and currently none are contemplated.]

SEWERAGE

3. Sewerage System Standards

The current licences contain a standard for sewerage overflows. Water Corporation is required to meet the standard for 99.8% of connected properties (this is the percentage of properties that do not experience an overflow), whereas the City of Kalgoorlie-Boulder, Hamersley Iron, Rottnest Island Authority and the other small private and local government licensees are required to meet the standard for 90% of connected properties.

The current licences contain a standard for sewer blockages. All sewerage licensees are required to achieve a performance benchmark of 40 per 100km of sewer main.

[Drafting comment: the decision has been taken to remove benchmarks for sewage overflows and sewer main breaks and chokes. Instead licensees will be required to publish an annual report on their performance (using the powers in clause 17 of the licence) in relation to:

- Average sewerage interruption (minutes) [NWI C16]
- Number of connected properties experiencing a sewerage overflow (properties counted once)
- Percentage of connected properties experiencing a sewerage overflow (properties counted once)
- Sewerage mains breaks and chokes (per 100km of sewer main)

The replacement of service standards with record keeping and reporting obligations is consistent with the approach adopted in energy licences.]

DRAINAGE

4. Drainage Services Standards

[Drafting Comment: Only relevant to the Water Corporation and the Rottnest Island Authority. The standards are individual and the following text is for the Water Corporation. For other licenses this will be 'Not Used']

- 4.1 The *licensee* must operate, manage, maintain, plan and construct its drains and drainage schemes as set out below, and shall consult in relation to such activities as required by this Schedule.
- 4.2 Urban drainage scheme infrastructure provided by the *licensee* for the purpose of protection against flooding shall be designed, constructed, operated and maintained such that the peak flows of stormwater runoff from rainfall events can be accepted into and will not overflow from the system in accordance with the following standard.

Drainage Service Standard

[Drafting comment: Not standard across service providers. Water Corp's used below]

	How Is It Measured	Performance Indicator / Targets
Drainage – Design of new urban infrastructure.	Desk audit of scheme to test if design of new urban drainage scheme infrastructure protects against flooding from peak flows of stormwater runoff from rainfall events with intensities up to – Residential – 5 year average recurrence interval Commercial – 10 year average recurrence interval.	100% of schemes audited comply with the standard.

- 4.3 In the above table the meaning of the term “average recurrence interval” shall be consistent with the discussion on probability concepts for flood estimation and rainfall intensity – frequency – duration estimation, as contained in Books 1 & 2 respectively of the Institution of Engineers Australia publication, Australian Rainfall and Runoff (1987).
- 4.4 In planning and designing urban infrastructure, the *licensee* must have due regard to the principles, concepts and recommendations of Australian Rainfall and Runoff (1987).
- 4.5 If, prior to 1 January 1996, the *licensee* constructed drainage infrastructure to levels of service standards which were less than those specified in this Schedule then there will be no obligation under this *licence* for the *licensee* to upgrade any infrastructure existing as at 1 January 1996, to meet the above standards where there have been no instances of flooding confirmed to be due to the under capacity of the infrastructure to meet those standards. Where there have been instances of flooding confirmed to be due to under capacity of infrastructure to meet the standards of this Schedule, the *licensee* must upgrade the infrastructure to those standards or must take such action as agreed with affected *customers*.
- 4.6 The drainage system will accept drainage water from Local Government works, but will not be required under this *licence* to be upgraded to accept any additional drainage water.
- 4.7 Notwithstanding that the *licensee's* urban drainage infrastructure shall itself be designed to the capacity standards listed in this Schedule, in planning and designing such infrastructure the *licensee* must have due regard to the major/minor concept of drainage design discussed in Book 8, 1.5.1 of Australian Rainfall and Runoff (1987). Such due regard will be adequately demonstrated by:
- (a) in the case of it undertaking, commissioning or accepting a design for new drainage infrastructure, by the *licensee* ensuring that the local authorities involved have been made aware of the predicted response of the combined major/minor system to major storm events, for the information of those authorities in relation to their responsibilities for the establishment and management of the major (as described in Australian Rainfall and Runoff (1987)) elements of the major/minor system infrastructure; and

- (b) in the case of it undertaking a capacity review of an existing *licensee* drainage scheme, by the *licensee* causing a broad assessment to be made of the behaviour of the combined major/minor system under major event conditions, and conveying the conclusions of such assessment to the local authorities involved, for the information of those authorities in relation to their responsibilities for management of the major (as described in Australian Rainfall and Runoff (1987)) elements of the major/minor system infrastructure.

4.8 The *licensee* will ensure all new rural drainage infrastructure complies with the Rural Drainage Manual of Standards 1977. The *licensee* shall endeavour to operate and maintain its rural drainage infrastructure so that the period of inundation to land abutting a drain that forms part of the system shall be a maximum of 72 hours. If the period of inundation should exceed 72 hours the *licensee* must carry out an investigation of the adequacy of those operations and maintenance procedures. An exception is those low lying land areas where the contours make this impossible or where detention basins have been constructed for the retention of water for longer periods. Low lying areas include those areas within lots which abut the drain, which would normally not readily drain to the drain. However, land that would normally drain to the drain, but where this is prevented by high flow levels in the drain, will be subject to the maximum 72 hour inundation period. This inundation period shall apply provided multiple storm events do not increase flow levels in the drains above the rural drainage infrastructure discharge points. The drainage system serves the general drainage requirements of rural properties in the Drainage Services Control Areas and there will be no obligation under this *licence* for the *licensee* to extend the service to other properties.

4.9 The following flood protection works will be operated and maintained to cater for the peak flows of stormwater runoff from individual rainfall events shown in the following table.

Flood Protection Works	Location	Level of protection (average recurrence interval)
Preston River levees	Bunbury – Leschenault Inlet to Picton Bridge	1 in 100 year
Vasse River Diversion	Busselton	1 in 20 year

IRRIGATION

5. Irrigation

[Drafting Comment: irrigation standards are individual performance standards to be inserted into the applicable licences. Again, it is proposed that the performance targets are replaced by a record keeping and reporting framework, where the licensee is required to report on their compliance when the licence is audited. Otherwise "Not used"]

- 5.1 The *licensee* must supply water that is suitable for irrigation purposes.
- 5.2 The *licensee* must provide at least 5 *business days* notice to a *customer* of any planned service interruption.

- 5.3 The *licensee* must provide annual notification to all *customers* provided with a *non-potable water supply service* that the water supplied is not suitable for drinking. The licensee must comply with the standards and principles as set out below.

Irrigation Service Standards

Irrigation Water Quality	Percentage of customers given 5 days notice of a planned interruption	Percentage of customers provided with a not suitable for drinking notice annually
<1,200mg/L TDS	>90	100

The three service standards in the above table replicate the standards in the current irrigation licences. The Authority does not propose to introduce any additional standards at this time.

[Drafting Comment: The clause on drought response is limited to a few licences and is covered by the *Water Agencies (Water Restrictions) By-laws 1998*].

- 5.4 The *licensee* must inform the *Authority* of any restrictions applied in accordance with the *Water Agencies (Water Restrictions) By-laws 1998* to a *potable water supply*, detailing restrictions by scheme, type (severity), duration, start date and number of services affected.

[Drafting Comment: The Clause on Services by Agreement (applicable to the Water Corporation has been deleted. It is a matter for the licensee to ensure that they have documented agreements with customers. If a new customer is not able to obtain information from Water Corp regarding the service they are receiving then they can refer the matter to the Ombudsman.]

[Drafting Comments: licence conditions that are specific to a licensee will follow. The existing licence conditions will carry over. For example Farmland Areas Water System Standards clause in the Water Corporation's licence will be carried over.]

Schedule 4 – Standard Terms and Conditions of Service

[The proposed amended schedule will initially be empty. Any future amendments will be customized to individual licences.]

Drafting comment: The clause dealing with definitions for this schedule has been deleted.

Drafting comment: The clause dealing with Benchmarking and Performance Monitoring Information has been deleted. This will be dealt with by the reporting framework in clause 16.[Drafting comment: It is proposed that the State specific reporting requirements for all water licences into a separate reporting framework document (see above). The information in the following sections will be moved out of the licence into the Framework document(s).]

[Drafting Comment: It is proposed that the following paragraphs be deleted and the Water Compliance Reporting Manual is relied upon]

[Drafting Comment: The clause dealing with a drainage service standard for the water corporation, has been deleted. It is dealt with by the new reporting framework.

Schedule 5 – Other Provisions

[Drafting Comment: Schedule 6 of current water licences included a clause "obligations to Customers: Availability and Connection of Services. This clause is proposed to be replaced by the Code). This means that this Schedule will be empty in all licences. However, it will be maintained to include any licence specific requirements not related to Performance Standards (Schedule 4) or Reporting Requirements (Schedule 5).

Amendment Record Sheet

Version Date	Description of Amendment
	[Drafting Comment: Individual licences amendment history will be included]
<Date of amendment>	Amendment by substitution - <i>Water Services Act 2012</i>