



Our Ref: CEO1792016

3 March 2016

Mr Rasmus Moerch
Assistant Director Licensing
Economic Regulation Authority
PO Box 8469
PERTH BUSINESS CENTRE WA 6849

Dear Mr Moerch

SUBMISSION ON LICENCE REVIEW DISCUSSION PAPER

Thank you for the opportunity to provide comments on the discussion paper and draft water services licence template.

The Water Corporation is supportive of the review process and the Economic Regulation Authority's (ERA's) objective to reduce regulatory burden and to utilise best practice principles.

The Corporation's comments are as follows.

Proposal 1: Proposed restructure of licence template

The Corporation is supportive of the restructure as it improves document navigation of the licence.

Proposal 2: Proposed restructure of schedules

The Corporation is supportive of the schedule restructure. Furthermore, the Corporation suggests the ERA gives consideration to the introduction of an additional schedule. An additional schedule could be inserted for licence exemptions. The recent 2015 Operational Audit identified licence obligations which were either duplicates or unfeasible. Exemptions from such obligations could be captured in a specific schedule to keep track on any such exemptions that may be granted in the future. The Corporation believes that providing exemptions from such obligations would meet the ERA's objectives for best practice regulation and reduction of regulatory burden.

Proposal 3: Insertion of "Not used"

The Corporation is concerned that the insertion of "Not used" may create confusion. The Corporation would prefer to see the removal of any clauses not relevant to licensees from the licence. Alternatively, in circumstances where "Not used" is inserted, it is suggested this could be followed by an explanation as to why a clause is not relevant to a licensee.

Proposal 4: Deletion of clause 15.1(d)

The Corporation is supportive of the removal of clause 15.1(d). The Corporation believes the previous requirement to report major and general works was onerous considering the volume of general works carried out by the Corporation.

Proposal 5: Financial Hardship Policy

The Corporation would like to raise the issue of third pipe supply schemes which supply non-potable water to residential customers. In the ERA's discussion paper, it states a Financial Hardship Policy is not relevant to services that receive non-potable water. In third pipe supply schemes, residential customers receive both potable and non-potable water supply and the ERA's proposal suggests the non-potable water supply component for these customers would not be covered under a Financial Hardship Policy.

Proposal 6: Amalgamation of clauses 5 and 26

The Corporation is supportive of this amalgamation and would like to see the same approach to duplications applied to licence obligations listed in the ERA's Water Compliance Reporting Manual (WCRM). The Corporation believes having duplicate clauses and obligations is onerous and increases regulatory burden.

Re-introduction of Targets

Previous versions of water licences included performance targets. The Corporation recommends the ERA to replace WCRM obligations and to re-introduce performance targets. This will remove ambiguity regarding compliance requirements as current licence obligations are open for interpretation, making it difficult to determine if compliance has been achieved. The Corporation is in favour of performance targets over current obligations as targets provide a specific and measureable indicator for which compliance can be audited against.

Targets can also be used by the ERA as a means to define and drive desired performance behaviour.

If targets are re-introduced, they should clearly state what the target is for, and what performance behaviour the target is aiming to achieve.

Exemption Table to be published on the Corporation's website, with a link in the Operating Licence

In section 1.2.1 of Schedule 2 – the table of pressure and flow exemptions uses the number of services affected as a measure. This is not efficient as it will change over time, with something as simple as a subdivision of an existing block making the number of services inaccurate. The Corporation proposes using a dynamic map on its website that would be updated annually to reflect any changes in the number of properties affected.

Best practice legislation

The Corporation seeks further information on the ERA's review process in terms of best practice legislation and ensuring water licences reflect the current regulatory environment. In particular, the Corporation is interested to know if the ERA engaged with other regulators or Government Departments to conduct a peer review of licensing procedures, documentation and templates.

Definition of a customer

The definition of a customer is inconsistent between the *Water Services Act 2012* (Act) and the *Water Services Code of Conduct 2013* (Code). This inconsistency relates to the inclusion of tenants in the Code where tenants are absent from the Act. This issue has previously been raised with the Authority for their consideration. The Corporation recommends the definition of a customer in the licence be clarified to state if it is consistent with the Act or the Code.

Comparison of Operational Audit results

The Corporation believes there is merit in the Authority comparing recent Operational Audit results for water licence holders to determine if there is a common trend in non-compliances. A common trend may indicate compliance with a particular licence condition is not practical and subsequently could benefit from review in the licence template.

Reporting requirements moved to handbook

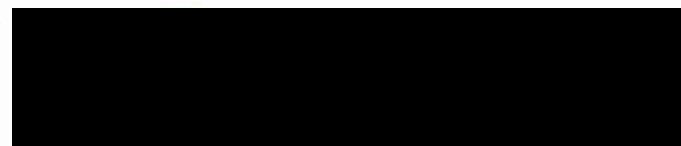
Clause 3.8.3(a) of the marked-up licence template states performance reporting requirements have been moved from the ERA's WCRM to the Water, Sewerage and Irrigation Licence Performance Reporting Handbook (the Handbook). The Corporation would appreciate the opportunity to comment on the two abovementioned documents and believes these documents should be reviewed at the same time as the licence template, with licensees provided with the opportunity to comment.

The Corporation is concerned that the process for publishing the annual handbook may not involve sufficient consultation. Section 2 of the WCRM states the ERA will consult with licensees when the document is revised. In comparison the Handbook does not specify the consultation requirements. If performance reporting requirements are moved into the Handbook, then the ERA could potentially make annual changes to reporting requirements without consultation with licensees.

A comprehensive list of the Corporation's comments on the marked up licence template is attached for the ERA's consideration.

If you have any further questions, please contact Wayne Kearney, our Manager Risk and Assurance, on telephone 9420 2782, who would be pleased to assist.

Yours sincerely



Sue Murphy
CHIEF EXECUTIVE OFFICER

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Comments on Appendix 3 – Proposed water services licence template (marked-up)

Page Number	Comment
Cover page	The Water Corporation is supportive of leaving “Operating” in the heading. The licence is regularly referred to as the Operating Licence and helps to avoid confusion with other licences such as abstraction licences. Additionally clause 4.3 refers to “Operational” Audit.
7	Clause 3.5.1 – Could benefit from a clearer interpretation of water services works not held by the licensee. It is not clear if the intent of this clause is to include works such as stand pipes and/or tanking trucks and similar minor works.
8	Clause 3.8.3 – The Water Corporation wishes to be able to provide feedback on changes to Handbook each year. Review of operating Licence needs to be in conjunction with the WCRM and Handbook as all three relate to each other.
9	Clause 4.1.3 – It is the independent expert appointed by the Authority, not the licensee, who provides the Authority with the Asset Management System Review. As such this clause is not applicable to licensees and it is recommended this clause be removed.
9	Clause 4.1.3 – States the Review is to be completed every 24 months. It is recommend to include “or period as determined by the Authority.
10	Clause 4.3.1 – It is the independent expert appointed by the Authority, not the licensee, who provides the Authority with the Operational Audit. As such this clause is not applicable to licensees and it is recommended this clause be removed.
12	Clause 5.4 – refer to comments provided in covering letter for proposal 5.
18	The definition for the Water, Sewerage and Irrigation Licence Performance Reporting Handbook would benefit from a link to the ERA’s website.
21	Exemption table in clause 1.2.1. is not adequate as it does not allow for flexibility as per proposal 8.
22	<p>Clause 4.1.2 – Appears to require the Licensee to design drainage infrastructure, however section 98 of the <i>Metropolitan Arterial Drainage Act</i> clearly states that this is the responsibility of the Minister. Hence, it is the Department of Water that has the responsibility to ensure that any drainage design service it contracts out complies with the requirements.</p> <p>The clause does not mention that the licensee’s responsibilities extend to only arterial drainage infrastructure in the metropolitan area. Local Government is responsible for local drains that feed into the arterial drainage network.</p>
24	Clause 5.1.4 – Refers to restrictions. This clause is not specific to irrigation schemes and is recommended to be moved to a more appropriate section.
25	Clause 1.1.2 – refer to comments provided in the covering letter for proposal 5.