

Decision on Water Services Licence Application by Water West North Dandalup Pty Ltd

13 February 2017

Economic Regulation Authority

WESTERN AUSTRALIA

Economic Regulation Authority

4th Floor Albert Facey House
469 Wellington Street, Perth

Mail to:

Perth BC, PO Box 8469
PERTH WA 6849

T: 08 6557 7900

F: 08 6557 7999

E: records@erawa.com.au

W: www.erawa.com.au

National Relay Service TTY: 13 36 77
(to assist people with hearing and voice impairment)

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Decision

1. Pursuant to section 11 of the *Water Services Act 2012 (Act)*, the Economic Regulation Authority (**ERA**) grants Water Services Licence No. 46 (**WL46**) to Water West North Dandalup Pty Ltd (**the Applicant**), to provide:
 - non-potable water services; and
 - sewerage serviceswithin the operating area (OWR-OA-310) set out in the licence.
2. The grant is subject to and in accordance with the terms and conditions in the licence for a period of 25 years.

Reasons

3. On 21 July 2016, the applicant applied for a water services licence to provide non-potable water and sewerage services within the approved operating area (OWR-OA-310).
4. Under section 11(1)(a) of the Act, the ERA must grant a licence if it is satisfied that the Applicant has, and is likely to retain or will acquire within a reasonable time after the grant, and is then likely to retain, the financial and technical ability to provide the services authorised under the licence.
5. The ERA engaged financial and technical consultants to examine the financial and technical ability of the applicant to provide the water services the Applicant applied for. Following their assessment of this licence application:
 - The financial consultant concluded that the Applicant complies with the financial requirements set out under section 11(1)(a) of the Act.
 - The technical consultant concluded that the Applicant complies with the technical requirements set out under section 11(1)(a) of the Act.
6. The ERA has considered the licence application along with the consultants' assessments and is satisfied that the Applicant meets the requirements of section 11(1)(a) of the Act.
7. Section 11(1)(b) of the Act states that the ERA must grant a licence if it is satisfied that it would not be contrary to the public interest to do so. Section 46 of the Act specifies what matters the ERA must take into account (to the extent it considers them relevant) when considering section 11(1)(b).
8. On 27 July 2016, the ERA sought public comment on the licence application by 17 August 2016. The ERA received one submission from Department of Water (22 August 2016) raising the following key issues:¹

¹ See www.erawa.com.au > [Water](#) > [Water Licensing](#) > [Public Submissions](#)

The department while supporting the approach notes that recycled water schemes involving third pipes systems and in-house use (e.g. for toilet flushing and washing machines) are often complex to manage and can be relatively expensive compared to other sources of water. To assist in the ongoing viability of this innovative approach the department requests that the ERA take into balanced consideration the need for the scheme to:

- meet all regulatory requirements for public health, through an appropriate reporting and approval regime with the Department of Health;
 - meet all environmental regulatory requirements by the Department of Environment Regulation, which may include a nutrient irrigation management plan for the discharge of any treated wastewater to public open space or the environment;
 - include a mechanism for dealing with the disposal of treated wastewater in the event that there is a failure in the wastewater recycling system and for times when there is an excess in the supply quantity relative to demand;
 - incorporate arrangements regarding the supply of water to customers in the event of a supply failure or when supply quantities are less than demand;
 - clearly define the ownership and management responsibilities of the sewerage and recycling scheme assets, ensuring that the service provider has appropriate access to its assets, and that customers fully understand which assets they are responsible for;
 - ideally, to deliver water to customers at a cost less than other alternative sources available to them;
 - where feasible, allow customers the option at some stage to opt out of the recycled water scheme and use another water source.
9. The ERA's assessment of the application has not identified any concerns about the matters raised by the Department of Water. In summary, the licence application:
- demonstrates that the Applicant is aware of and is progressing other regulatory approvals including those administered by Department of Health and Department of Environmental Regulation;
 - addresses the technical concerns raised by the Department of Water, and has received a satisfactory assessment by the ERA's technical consultant; and
 - satisfactorily addresses the customer protection concerns raised by the Department of Water.
10. The ERA also notes that water service providers are subject to ongoing regulation including under the *Water Services Act 2012*², the *Environmental Protection Act 1984*³ and the *Health Act 1911*⁴.
11. As a result, the ERA is of the view none of the issues raised by the Department of Water would prevent the ERA from granting a licence to the Applicant.

² This Act provides powers for the ERA in relation to asset management, operational performance, and customer service standards, and the Department of Water and provides customers with access to the Water Services Ombudsman Scheme. The ERA notes that further customer protection is also provided by the Australian Consumer Law (Schedule 2 of the *Competition and Consumer Act 2010* (Cth)).

³ This Act provides powers for the Department of Environmental Regulation and the relevant local government authority.

⁴ This Act provides powers for the Department of Health and the relevant local government authority.

12. Further, given that no specific issues have been identified, and a broader regulatory framework is in place for ongoing regulation, the ERA is of the view that it would be inappropriate for the ERA to impose other licence conditions than those forming part of the standard water services licence template.
13. The ERA has considered section 11(1)(b) of the Act, including the matters set out in section 46 of the Act, the public submission received, and the applicant's ability to undertake the activities to be authorised by a licence.
14. The ERA is satisfied that granting Water Services Licence No. 46 (potable water supply and sewerage services) to the Applicant would not be contrary to the public interest.