

# Decision to renew water services licence WL11

Shire of Gnowangerup

18 March 2021

Economic Regulation Authority

WESTERN AUSTRALIA

D226478

## 1. Decision

1. Pursuant to section 13(2) of the *Water Services Act 2012*, the Economic Regulation Authority has renewed the Shire of Gnowangerup's [water services licence WL11](#).
2. Subject to its terms and conditions, the licence authorises the Shire of Gnowangerup to provide non-potable water and sewerage services to customers centred on the township of Ongerup, approximately 400 kilometres southeast of Perth (as set out in operating area OWR-OA-090(C) in the licence).
3. The term of the renewed licence is 25 years (the maximum period allowed by section 14 of the Water Act) from 19 March 2021.
4. As required by section 47(2) of the Water Act, the ERA will publish a notice of the renewal of the licence in the Government Gazette as soon as practicable.

## 2. Reasons

### 2.1 Licence

5. Section 5 of the Water Act requires a person to hold a licence to provide a water service.
6. On 29 April 1996, the Shire of Gnowangerup was granted a licence by the Office of Water Regulation for a period of 25 years.<sup>1</sup>
7. On 7 December 2020, the Shire applied to the ERA to renew WL11.
8. As required by section 70 of the Water Act, the Shire is a member of the Water Ombudsman scheme.

### 2.2 Public consultation

9. On 21 December 2020, the ERA sought [public comment](#) on the licence renewal application. The period for submissions closed on 27 January 2021.
10. The ERA did not receive any submissions.

### 2.3 Financial and technical assessments

11. Under section 13(2)(a) of the Water Act the ERA may renew a licence if it is satisfied that the licensee has, and is likely to retain, for each class of water service to be authorised by the licence, the financial and technical ability to provide the service in the operating area or areas to be specified for the service.
12. As part of its renewal application, the Shire provided its audited financial reports for the past three financial years and a written declaration from the Shire's chief executive officer that it has, and will retain, the financial ability to continue to undertake the activities authorised by the licence.
13. Based on the information provided, the ERA is satisfied that the Shire has, and is likely to retain, for each class of water service to be authorised by the licence, the financial ability to provide the service in its operating area.
14. The ERA used the Shire's licence compliance history to determine whether it has the technical resources to continue to provide the licensed service.
15. Based on its compliance history, the ERA considers that the Shire has, and is likely to retain, for each class of water service to be authorised by the licence, the technical ability to provide the service in its operating area.<sup>2</sup>

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<sup>1</sup> On 1 January 2004 the Office of Water Regulation became part of the Economic Regulation Authority.

<sup>2</sup> The 2020 asset management system review of the Shire's licence found it did not have an up-to-date asset management plan. However, the review didn't find any evidence that having an out-of-date plan had affected the Shire's technical ability to provide the sewerage and non-potable water services.

## 2.4 Assessment of public interest

### 2.4.1 Water Services Act 2012

16. Section 13(2)(b) of the Water Act states the ERA may renew a licence if it is satisfied that it would not be contrary to the public interest to do so. Section 46 of the Water Act specifies what matters the ERA must take into account (to the extent it considers them relevant) when considering section 11(1)(b). These matters are:
- a. Environmental considerations, including the value of ecologically sustainable development.
  - b. Public health considerations relating to the provision of reliable water services.

### 2.4.2 Economic Regulation Authority Act 2003

17. The ERA must also have regard to the matters set out in section 26 of the *Economic Regulation Authority Act 2003*:<sup>3</sup>
- a. The need to promote regulatory outcomes that are in the public interest.
  - b. The long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets.
  - c. The need to encourage investment in relevant markets.
  - d. The legitimate business interests of investors and service providers in relevant markets.
  - e. The need to promote competitive and fair market conduct.
  - f. The need to prevent abuse of monopoly or market power.
  - g. The need to promote transparent decision-making processes that involve public consultation.

### 2.4.3 ERA assessment of public interest

18. The ERA has considered:
- section 13(2)(b) of the Water Act
  - the matters set out in section 46 of the Water Act
  - section 26 of the ERA Act
  - the Shire's financial reports for the past three financial years
  - the written declaration from the Shire's chief executive officer
  - the Shire's previous compliance history.

<sup>3</sup> The ERA has discretion to decide the weight it gives to each of the matters listed in section 26 of the ERA Act in making its decision.

19. The interests of the Shire's existing customers are best serviced by the Shire continuing to be licenced, so it can maintain supply to those customers (section 26(2)(a) and (b) of the ERA Act and section 46(b) of the Water Act).
20. As the water services licence regulates certain performance and service standards and provides consumer protections to customers, the ERA is satisfied that the renewal of the licence will promote regulatory outcomes in the long-term interests of consumers, consistent with section 26(2)(a) and (b) of the ERA Act.
21. All water services licences are non-exclusive, which means that another water service provider could enter the market if conditions permitted. The ERA is therefore satisfied that the renewal of the licence will be consistent with section 26(e) and (f) of the ERA Act.
22. The ERA conducted public consultation on the licence renewal application and has stated in this decision the reasons for renewing the licence, which is consistent with section 26(g) of the ERA Act.
23. In all circumstances, after taking into account the matters in section 46 of the Water Act and section 26 of the ERA Act, the ERA is satisfied that renewing WL11 would not be contrary to the public interest.