

# Decision to renew water services licence WL2

Bunbury Water Corporation (trading as Aqwest)

18 October 2021

**Economic Regulation Authority**

WESTERN AUSTRALIA

D239501

## Economic Regulation Authority

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## 1. Introduction

1. Pursuant to section 13(2) of the *Water Services Act 2012*, the Economic Regulation Authority has renewed Bunbury Water Corporation's (trading as Aqwest) water services licence [WL2](#).
2. Subject to its terms and conditions, the licence authorises Aqwest to provide potable water to the Greater Bunbury Region (as set out in operating area OWR-OA-084/4(F) in the licence).<sup>1</sup> As at 30 June 2021, Aqwest supplied water services to 17,744 connected residential and business premises.<sup>2</sup>
3. The term of the renewed licence is 25 years (the maximum period allowed by section 14 of the *Water Act*) from 19 October 2021.
4. As required by section 47(2) of the *Water Act*, the ERA will publish notice of the renewal of the licence in the *Government Gazette* as soon as practicable.

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<sup>1</sup> The operating area [map](#) is available on the ERA website.

<sup>2</sup> Data supplied to the ERA on 11 October 2021.

## 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 17 January 1997, the Office of Water Regulation granted WL2 to Aqwest for a period of 25 years, with an expiry date of 16 January 2022.<sup>3</sup>
7. On 25 August 2021, Aqwest applied to the ERA to renew WL2.

### 2.2 Water Services Ombudsman Scheme

8. Section 70 of the Water Act states that the ERA must not renew a licence unless it is satisfied that the licensee is a member of an approved ombudsman scheme.
9. Aqwest is a member of the Water Services Ombudsman Scheme.

### 2.3 Public consultation

10. On 7 September 2021, the ERA sought [public comment](#) on the licence renewal application. The period for submissions closed on 21 September 2021.
11. The ERA did not receive any submissions.

### 2.4 Financial and technical assessments

12. Under section 13(2)(a) of the Water Act, the ERA may renew a licence if it 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.
13. As part of its renewal application, Aqwest provided audited financial statements for the past three financial years and a written declaration from its Chief Financial Officer and Chief Executive Officer that Aqwest has, and is likely to retain, the financial ability to provide the licensed service in its operating area.
14. Based on the information provided, the ERA is satisfied that Aqwest has, and is likely to retain, the financial ability to provide the licensed service in its operating area.
15. The ERA used Aqwest's licence compliance and asset management history to determine whether it has the technical ability to continue to provide the licensed service.
16. Based on its compliance and asset management history, the ERA considers that Aqwest has, and is likely to retain the technical ability to provide the licensed service in its operating area.

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<sup>3</sup> On 1 January 2004, the Office of Water Regulation became part of the Economic Regulation Authority.

## 2.5 Assessment of public interest

### 2.5.1 Water Services Act 2012

17. 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 13(2)(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.

### 2.5.2 Economic Regulation Authority Act 2003

18. The ERA must also have regard to the matters set out in section 26(1) of the *Economic Regulation Authority Act 2003*:<sup>4</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.

### 2.5.3 ERA assessment of public interest

19. The ERA has considered:
- Matters set out in section 26 of the ERA Act.
  - The public interest test in section 46 of the Water Act, as required by section 13 of the Water Act.
  - Aqwest's licence compliance and asset management history.
  - Aqwest's financial reports for the past three financial years.
  - The written declaration from Aqwest's Chief Finance Officer and Chief Executive Officer.
  - Outcome of the public consultation (no submissions received).

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<sup>4</sup> The ERA has discretion to decide the weight it gives to each of the matters listed in section 26(1) of the ERA Act in making its decision.

20. The interests of Aqwest's customers are best served by Aqwest continuing to be licensed, so it can maintain the supply of water to these customers, consistent with section 26(1)(a) and (b) of the ERA Act and section 46(b) of the Water Act.
21. As water services licences regulate certain performance and service standards and provide 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 sections 26(1)(a) and (b) of the ERA Act and section 46(b) of the Water Act).
22. All water services licences are non-exclusive, so another water service provider can enter the market if conditions permit, consistent with sections 26(1)(e) and (f) of the ERA Act.
23. The ERA conducted public consultation on the licence renewal application and has stated in this decision the reasons for renewing the licence, consistent with section 26(1)(g) of the ERA Act.
24. 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 WL2 would not be contrary to the public interest.