



Economic Regulation Authority

Decision on application to amend water services licence WL31

South West Irrigation Management Co-operative
(trading as Harvey Water)

2 December 2021

Economic Regulation Authority

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1. Decision

1. In accordance with section 18 of the *Water Services Act 2012*, the Economic Regulation Authority has approved an amendment to Harvey Water's water services licence WL31 to extend the northern boundary of operating area plan OWR-OA-178/3 to allow Harvey Water to provide irrigation and non-potable water supply services to new farming and commercial customers.
2. As required by section 47(2)(a) of the *Water Act* and regulation 10 of the *Water Services Regulations 2013*, the ERA will publish a notice of its approval of the licence amendment in the Western Australian Government Gazette as soon as is practicable.

2. Reasons

3. Harvey Water is a co-operative that provides irrigation and non-potable water supply services in the Harvey and Collie areas. Harvey Water's water licence also authorises it to provide potable (drinking) water supply services to business customers in the Kemerton Industrial Park.
4. Harvey Water submitted an [application](#) to the ERA to amend WL31 to extend the northern boundary of its existing operating area OWR-OA-178/3 for the supply of irrigation and non-potable water supply services. This is to allow it to supply farming and commercial customers in the Pinjarra area, east of Mandurah.

2.1 Public consultation

Submissions received

5. On 6 October 2021, the ERA sought [public comment](#) on the application to amend WL31.
6. The ERA received one [submission](#), from the Department of Health. The Department made the following statement in its submission:

The Department of Health does not object to this licence amendment subject to the dot point conditions listed below.

Our position in relation to the provision of a water service that is not intended for drinking is that a Licensee should, in relation to water that is supplied by the Licensee:

- Advise customers receiving that service that the water is not to be used for drinking or food preparation;
 - Advise customers to notify tenants or guests at that property that the water is not to be used for drinking or food preparation;
 - Provide customers with an annual written reminder that the water is not to be used for drinking or food preparation;
 - Ensure that, if the Licensee provides water via a standpipe or to any public open space or area accessible to the public that the Licensee manages, the water service is to be clearly labelled as not suitable for drinking;
 - Notify the Department of Health prior to the supply of non-potable water to customers for in-house applications (e.g. toilet flushing and dedicated cold water laundry connection).
7. In response to the department's submission, Harvey Water advised the ERA that it currently provides the following information to its customers:
 - a. All documentation states that the water is non-potable.
 - b. Tenants are advised of the non-potable status. Landowners report a lease arrangement to Harvey Water, so that the water is leased out correctly.
 - c. All invoices carry the statement "supplies non-potable water which must not be used for drinking, cooking, cleaning, bathing, laundry or any other household purpose and may cause serious injury or death if consumed or used in such a manner."
 - d. Harvey Water's Customer Services Charter is on its website and advises customers on the safe use of non-potable water.

- e. All supply points are labelled non-potable and any new service documentation provided to customers has the same information as point c above. Accessible standpipes / fire / community points are locked and only accessible to authorised and informed customers.

ERA response to submissions

8. Harvey Water provides its customers regularly with information on what non-potable water can be used for. The ERA therefore does not consider it necessary to add conditions to WL31 at this time to make Harvey Water provide this information to customers.
9. However, as the matters raised by the Department of Health possibly affect all licensees that supply non-potable water, not just Harvey Water, the ERA will consider them in its next [water licence review](#), which is scheduled to start in the second half of 2022. The Department of Health agreed that the review was the most suitable mechanism to consider whether new conditions should be included in non-potable water licences to require licensees to provide customers with information on the uses of non-potable water.
10. The 2022 review will enable the ERA to consult broadly with stakeholders and licensees who would be affected by this change to their licence conditions and take their views into account before making a decision. It will also ensure that any decision will be applied consistently to water licensees that supply non-potable water.

2.2 Financial and technical assessments

11. Due to the relatively minor nature of the licence amendment and the fact that Harvey Water has supplied irrigation and non-potable water supply services to its customers for many years, the ERA did not consider it necessary to engage financial and technical consultants to assess the licence amendment application.
12. Since the administration of WL31 was transferred from the Office of Water Regulation to the ERA in 2004, Harvey Water has been subject to five operational audits and asset management system reviews. Overall, Harvey Water has demonstrated an adequate level of compliance with its licence since 2007 and is managing its assets effectively.
13. The new infrastructure to extend the network will be incorporated in Harvey Water's existing asset management system.

2.3 Assessment of public interest

Water Services Act 2012

14. Section 46 of the Water Act sets out the matters the ERA must take into account (to the extent to which the ERA considers they are relevant) when making a decision to amend a licence:
 - a. Environmental considerations, including the value of ecologically sustainable development.
 - b. Public health considerations relating to the provision of reliable water services.

Economic Regulation Authority Act 2003

15. The ERA must also have regard to the matters set out in section 26(1) of the *Economic Regulation Authority Act 2003*:¹
- 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.

ERA assessment of the public interest

16. The reason to expand the operating area for irrigation and non-potable water supply services is the opportunity for Harvey Water to supply new local farming and commercial customers. The interests of those customers are best served by allowing Harvey Water to supply them (section 26(1)(a) of the ERA Act).
17. As the water licence regulates certain performance and service standards and provides consumer protections to customers, the ERA is satisfied that the grant of the licence amendment will protect the long-term interests of consumers in relation to the quality and reliability of goods and services provided by Harvey Water (section 26(1)(b) of the ERA Act).
18. Harvey Water provides its customers with information on the safe use of non-potable water and labels its non-potable water supply points (section 26(1)(a) of the ERA Act and section 46(b) of the Water Act).
19. The licence amendment will support economic and regional growth by facilitating the operations of farming and commercial customers in the Pinjarra area (section 26(1)(c) of the ERA Act).
20. All water services licences are non-exclusive, which means that another water service provider could enter the market if conditions permitted (sections 26(1)(e) and (f) of the ERA Act).
21. The ERA has conducted public consultation on the licence amendment application and has stated in this decision the reasons for amending the licence, which is consistent with section 26(1)(g) of the ERA Act.

¹ The ERA has discretion as to the weight it gives to each of the matters listed in section 26 of the ERA Act in making its decision.

22. 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 amending WL31 would not be contrary to the public interest.