

Our Ref : #3389279
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Mr Lyndon Rowe
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Dear Lyndon,

The Water Corporation (Corporation) requests an extension of its potable and non potable water, and sewerage Operating Areas to match the Controlled Areas for potable and non potable water, and sewerage supply.

This request is submitted in response in part to recommendations made in the 'Water Corporation Operational Licence Operational Audit 2009' Report. A key recommendation of the Operational Audit was 'to improve the controls that prevent the provision of services outside of the Corporation's Operating Areas.'

The approval of this request will address this recommendation as it will significantly reduce the possibility of the Corporation breaching one of its Licence conditions by providing a potable water or sewer service outside of its Operating Areas.

Operating Licences were first issued by the Office of Water Regulation in 1996. All Operating Areas matched the Controlled Areas and were non exclusive, that is more than one licensee could provide the same service within the same Operating Area. These Operating Areas were large in size and it was assumed that this would allow and promote competition through alternative service providers becoming licensed and providing services within these areas.

Following approaches from the Corporation these non exclusive licences were amended in 1998 to exclusive or sole-provider status, and the Operating Areas were delineated and restricted in size. The introduction of exclusivity necessitated the Economic Regulation Authority (ERA) to consider the following matters when determining Operating Area boundaries for expansions or amendments:

- The current area of operations (existing services/ reticulation/source works);
- Scheme capacity (where installed headworks have greater capacity than the current reticulated area);
- Previous infrastructure investment (assets already constructed);
- Margin for growth;
- Contractual arrangements in place (e.g. with land developers); and
- Government commitments (e.g. the infill sewerage program).



These changes were put into place on 1 January 2004, before the introduction of Section 31(1a) of the *Water Services Licensing 1995* (Act) which requires the ERA to be satisfied that an amendment would not be contrary to the public interest. As part of the test the Act provides that the ERA may take into account the importance of competition in water service industry markets.

In June 2004, the Corporation requested the amendment of the Metropolitan Water Supply and Wastewater Service Operating Areas to make the boundary consistent with the West Australian Planning Commission's boundary for the Metropolitan Region Scheme. The request was approved however, the sole provider status was removed and all future Operating Areas became non exclusive again.

Each time a landowner or a developer approaches the Corporation to provide water and sewerage services outside of its Operating Areas, the current process requires that a significant amount of work is undertaken by the Corporation and the ERA. Every application goes to public comment and both organisations must address all of the concerns and issues raised

Considerable Corporation time is devoted to the process of seeking ongoing approvals for minor changes to Operating Areas, and undertaking compliance audits. The submitting, tracking and maintenance of requests to amend Operating Areas produces significant costs for the Corporation, Government and customers, with limited benefit to customers or the regulatory environment in this process.

It is important to note that public comment is requested at various relevant stages throughout the Land Use Rezoning and the Land Development processes. As such, the granting of this request will not reduce the ability of the public or interested parties to raise important issues relating to developments.

The Corporation believes that the approval and implementation of this request will increase efficiency for the Corporation, its customers and the land development and building industries. Realigning the non exclusive Operating Areas with the Controlled Areas will reduce the administration time and costs for all parties concerned.

In support of this application the Corporation requests the ERA to consider the following responses to the requirements of outlined in relevant legislation:

Water Services Licensing Act 1995- Section 31

Section 31(1a)

The ERA is not to make a determination under subsection (1) unless the ERA is satisfied that it would not be contrary to the public interest to do so.

Public Interest is defined in section 19(1b)

Section 19(1b)

The Governor, in determining whether the making of the order would not be contrary to the public interest, may take into account one or more of the following matters-

(a) environmental considerations;

The Corporation has a proven history of environmental management and commitment, performed in consultation with the Department of Environment and Conservation.

The Corporation has in place an Environmental Policy requiring that it:

- develops and pursues environmental targets to meet our environmental commitments;
- builds genuine relationships with our stakeholders and to share information with them;
- continually improves its environmental performance;
- minimises waste and emissions to the environment;
- follows relevant standards and procedures to ensure compliance with all environmental legal requirements; and
- has appropriate environmental awareness and training programs to enable staff to perform and meet its environmental commitments.

(b) social welfare and equity considerations, including community service obligations;

Under the *Community Service Obligations Policy in Western Australia – April 2000*, a CSO only arises as a result of a directive or request by Government. If a CSO is required, it will be reviewed under the long-run avoidable cost method.

The uniform pricing policy of the Government requires the Corporation and the ERA to consider the impact of a CSO when providing recommendations on prices and not necessarily to extensions of operating areas.

(c) economic and regional development, including employment and investment growth;

The extended Operating Area will fit Western Australia's long term economic development plan by making available water and sewerage services to a wider area. This will provide developers and investors with an opportunity to utilise these services to achieve economic growth.

(d) the interests of the water services customers generally or a class of water services customers;

The proposed Operating Area realignment will, over time, result in an increase in the number of water users with a guaranteed quality water supply.

(e) the interests of any licensee, applicant for a licensee, in respect of the controlled area or part of controlled area to which the order, if made, would apply;

This extension would restore the alignment of the Corporation's Operating Areas with the Controlled Areas.

(f) the importance of competition in water services industry markets;

As Operating Areas are non exclusive the granting of this extension will not prevent or lessen competition.

(g) public health considerations in relation to the provision of a safe drinking water supply;

In conjunction with the DoH, the Corporation has developed and implemented rigorous drinking water quality processes and procedures that will apply to this extension of the operating area.

(h) The policy objectives of government in relation to water services;

This proposal will contribute greatly to the objectives detailed in the State Water Plan 2007 namely, “Delivering services for strong and healthy communities” and that “All Western Australians have access to viable and appropriate water services.”

Economic Regulation ERA Act 2003- Section 26

Section 26 (1)

In performing its functions the ERA must have regard to -

a) the need to promote outcomes that are in the public interest;

As above, *Water Services Licensing Act 1995* section 19(1b)

b) the long term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets;

The Corporation and its predecessors have a proven history of providing these services for over 100 years to the Western Australian community.

The Corporation will apply the same method and principles for determining prices and charges to the proposed extension as it currently uses. Under the relevant by-law the ERA must recommend all pricing and charges to the Government.

The same methods and principles used to provide services within the Corporation’s existing Operating Areas will apply to the proposed extension, as will the methods and processes used in the construction, operation and maintenance of its assets.

The Corporation has an existing Customer Charter that will apply to the proposed extension of the operating area. The Water Corporation Customer Charter can be found on the Water Corporation’s website:

http://www.watercorporation.com.au/_files/PublicationsRegister/6/cust_charter.pdf

c) the need to encourage investment in relevant markets;

The Corporation's ability to provide water and sewerage services to the extended Operating Area will introduce opportunities for growth and future investment and we don't believe it will have the effect of limiting competition.

d) the legitimate business interests of investors and service providers in relevant markets;

Currently, applications to extend the Operating Area are made mainly as a result of the developer / investor approaching the Corporation to become the provider of choice.

e) the need to promote competitive and fair market conduct;

As Operating Areas are non exclusive, this extension presents no impediment to competition and fair market conduct.

f) the need to prevent abuse of monopoly or market power;

As above.

g) the need to promote a transparent decision-making process that involves public consultation;

The ERA engages in public consultation for all matters concerning Operating Licences and Operating Areas. The public has ample opportunity to comment on all issues.

The Corporation is firmly of the view that matching the Operating Areas for water and sewerage services with the Controlled Areas, across the State, will generate greater efficiencies in the delivery and management of water and sewerage services without limiting the opportunity for competition, fair market conduct and the opportunity for the public to make comment on developments.

The Corporation commends this proposal to the ERA.

If there are any further questions please call Andrew Pascoe on (08) 9420 2025.

Yours sincerely

Ross Hughes
CHIEF FINANCIAL OFFICER