



Economic Regulation Authority

Decision to renew water services licence WL13 and approve financial hardship policy

Shire of Coolgardie

13 July 2023

Economic Regulation Authority

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1. Decision

1. In accordance with section 13(2) of the *Water Services Act 2012*, the Economic Regulation Authority has renewed the Shire of Coolgardie's water services licence WL13.
2. Subject to its terms and conditions, the licence authorises the Shire to provide sewerage and non-potable water services to customers in Coolgardie, located approximately 550 kilometres east of Perth (as set out in the operating area OWR-OA-080(C)).
3. The term of the renewed licence is 25 years (the maximum period allowed by section 14 of the *Water Act*) from 14 July 2023.
4. Pursuant to clause 29(2) of the *Water Services Code of Conduct (Customer Services Standards) 2018*, the ERA approves the Shire's financial hardship policy.
5. As required by section 47(2) of the *Water Act*, the ERA will publish notice of the licence renewal in the Government Gazette as soon as practicable.

2. Reasons

6. The Office of Water Regulation issued a water services licence to the Shire of Coolgardie on 29 April 1996 under the *Water Services Coordination Act 1995*.¹ The Shire's licence was issued for a period of 25 years and expired on 29 April 2021.
7. Under section 13(1) of the *Water Services Act 2012*, a licensee must apply to the ERA if it wants to renew its licence and must do so before the licence expires.
8. Section 13(4) of the Act states that where a licensee applies to renew its licence, and the licence expires before the ERA makes a decision whether or not to renew the licence, the licence continues to remain in force until the ERA makes a decision.
9. The Shire of Coolgardie, along with other local government water service providers with less than 1,000 customers, currently has a licence exemption to provide sewerage services and/or non-potable water supply services, which was granted by the Minister for Water under section 7 of the *Water Act*.² The exemption expires on 30 June 2027.³
10. As the Shire has a licence exemption until at least 30 June 2027, it will be able to operate under the licence exemption despite its licence being renewed. If the licence exemption is not extended beyond 30 June 2027, the Shire will be required to comply with its licence from that date.

2.1.1 Water Services Ombudsman Scheme

11. Section 70(1) 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. As part of its licence renewal application, the Shire provided evidence that it is a member of the Water Ombudsman Scheme.

2.1.2 Financial assessment

12. Section 13(2) of the *Water Act* states that the ERA may renew a licence if it is satisfied that the applicant has, and is likely to retain, the financial ability to provide the service.
13. The Shire provided the following information about its current financial position to assist the ERA to determine if it has the financial capacity to continue to provide the licensed service:
 - a. Financial reports for the last three years.
 - b. A written declaration from the Shire's Director of Operations that the Shire has the financial ability to provide the licensed services in its operating area.
14. The Shire has a provision in its budget to fund the cost of all sewerage operations and any required capital upgrades. The Shire has also established a reserve to cover potential shortfalls or additional capital upgrades.

¹ On 1 January 2004, the Office of Water Regulation became part of the Economic Regulation Authority.

² *Class Exemption for Small Local Government Sewerage and/or Non-Potable Water Services Providers*.

³ See the [class exemption](#) for further details.

15. Based on the financial information provided by the Shire, the ERA is satisfied that the Shire has, and is likely to retain, the financial ability to provide the services authorised by the licence.

2.1.3 *Technical assessment*

16. Section 13(2) of the Water Act states that the ERA may renew a licence if it is satisfied that the applicant has, and is likely to retain, the technical ability to provide the service.
17. The ERA engaged a technical consultant to examine the technical resources of the Shire to be able to continue to provide the services authorised by the licence.
18. Following technical assessment of the Shire's renewal application, the technical consultant concluded that the Shire complied with the technical requirements of section 13(2) of the Water Act. The ERA considered the technical consultant's report, including information relied on in the report and the reasons for its conclusion. The ERA agrees with the conclusions in the report for the following reasons:
- a. The Shire has a history of managing, operating and maintaining sewerage and non-potable water services to the requirements of its water services licence.
 - b. The operation, management and maintenance of sewerage and non-potable water supply services infrastructure and assets is undertaken by experienced staff, assisted by specialist sub-contractors.
19. Overall, the ERA is satisfied that the applicant has, and is likely to retain, the technical ability to provide the services authorised by the licence.

2.1.4 *Financial hardship policy*

20. The Shire submitted a financial hardship policy with its licence renewal application. Clause 29(2) of the Code requires a licensee to have a financial hardship policy approved by the ERA. A financial hardship policy assists residential customers who are unable to pay for their water services because of financial hardship.
21. The ERA reviewed the Shire's financial hardship policy as part of the licence renewal application process. Pursuant to clause 29(2) of the Code, the ERA approves the Shire's financial hardship policy.

2.1.5 *Public consultation*

22. On 10 June 2022, the ERA published the Shire's application to renew its licence for public comment. No submissions on the application were received.

2.1.6 *Assessment of public interest*

2.1.6.1 *Water Services Act 2012*

23. 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.

2.1.6.2 *Economic Regulation Authority Act 2003*

24. The ERA must also have regard to the matters set out in section 26(1) of the *Economic Regulation Authority Act 2003*:⁴
- 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.

2.1.6.3 *ERA assessment of public interest*

25. The ERA is satisfied that renewing WL13 would not be contrary to the public interest because:
- a. There are environmental and public health benefits from the Shire providing the sewerage service (section 46(a) and (b) of the Water Act). This is because the Shire has a history of managing Coolgardie's sewerage and non-potable water supply services under its licence. The Shire has also established a new asset management system for its assets, which has been independently assessed by the consultant appointed by the ERA as part of the assessment of this licence renewal application.
 - b. The interests of the Shire's existing customers are best served by the Shire continuing to be licensed, so it can maintain services to those customers (section 26(2)(a) and (b) of the ERA Act). If the Shire is unable to continue to provide services to its customers, it is unclear who would service those customers and what infrastructure they would use (if they do not have access to the Shire's infrastructure).
 - c. As the water services licences regulate 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 (sections 26(1)(a) and (b) of the ERA Act).

⁴ 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.

- d. All water services licences are non-exclusive, so another water service provider can enter the market if conditions permit (sections 26(1)(e) and (f) of the ERA Act).
- e. The ERA conducted public consultation on the licence renewal application and has stated in its decision the reasons for renewing the licence (section (26(1)(g) of the ERA Act).
- f. 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 WL13 would not be contrary to the public interest.