

Decision to renew water services licence WL16

Shire of Dumbleyung

1 June 2021

Economic Regulation Authority

WESTERN AUSTRALIA

D232564

Economic Regulation Authority

Level 4, Albert Facey House

469 Wellington Street, Perth WA 6000

Telephone 08 6557 7900

Email info@erawa.com.au

Website www.erawa.com.au

This document can also be made available in alternative formats on request.

National Relay Service TTY: 13 36 77

© 2021 Economic Regulation Authority. All rights reserved. This material may be reproduced in whole or in part provided the source is acknowledged

1. Decision

1. Pursuant to section 13(2) of the *Water Services Act 2012*, the Economic Regulation Authority has renewed the Shire of Dumbleyung's water services licence [WL16](#).
2. Subject to its terms and conditions, the licence authorises the Shire to provide non-potable water and sewerage services to customers in the township of Dumbleyung, as set out in operating area OWR-OA-035(C) in the licence.¹
3. The term of the renewed licence is 25 years (the maximum period allowed by section 14 of the *Water Act*).
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.

¹ The township of Dumbleyung is located about 267 kilometres south-east of Perth.

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. The Shire's licence was granted on 29 April 1996 for a period of 25 years, with an expiry date of 28 April 2021.
7. On 25 March 2021, the Shire applied to the ERA to renew WL16. Section 13(4) of the Water Act provides that the licence is taken to continue until the ERA makes a decision whether or not to renew the licence.

2.2 Public consultation

8. On 27 April 2021, the ERA sought [public comment](#) on the licence renewal application. The period for submissions closed on 18 May 2021.
9. The ERA did not receive any submissions.

2.3 Water services ombudsman scheme

10. As required by section 70(1)(a) of the Water Act, the Shire is a member of the water services ombudsman scheme.

2.4 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 audited financial reports for the past three financial years and a written declaration from the Shire's acting finance manager that it has 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 and asset management history to determine whether it has the technical ability to continue to provide the licensed service.
15. Based on its compliance and asset management 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.

2.5 Assessment of public interest

2.5.1 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 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

17. The ERA must also have regard to the matters set out in section 26(1) of the *Economic Regulation Authority Act 2003*:²
- 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

18. The ERA has considered the:
- public interest test in section 46 of the Water Act, as required by section 13(2)(b) of the Water Act
 - matters set out in section 26(1) of the ERA Act
 - Shire's financial reports for the past three financial years
 - written declaration from the Shire's acting finance manager
 - Shire's previous compliance and asset management history
 - outcome of the public consultation (no submissions received).

² 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.

19. The interests of the Shire's existing customers are best served by the Shire continuing to be licensed, so it can maintain supply to those customers (section 26(1)(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 (section 26(1)(a) and (b) of the ERA Act and section 46(b) of the Water Act).
21. All water services licences are non-exclusive, which means that another water service provider could enter the market if conditions permitted (section 26(1)(e) and (f) of the ERA Act).
22. The ERA conducted public consultation on the licence renewal application and has stated in this decision its reasons for renewing the licence (section 26(1)(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(1) of the ERA Act, the ERA is satisfied that renewing WL16 would not be contrary to the public interest.