

# Decision on Water Licence Review

Water Licences Amended by Substitution

18 November 2013

**Economic Regulation Authority**

WESTERN AUSTRALIA

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## Decision

1. Pursuant to section 17 of the *Water Services Act 2012* (**Water Act**), the Economic Regulation Authority (**Authority**) has amended all water licences by substitution.
2. The Authority has followed the procedure for amendment set out in each licence by providing each licensee with notice of the proposed amendments and giving each licensee at least 15 business days to provide a submission on the proposed amendments. Where the licensee has provided a submission to the Authority, the Authority has taken account of that submission. The Authority has set out its views in the reasons section below.
3. As part of the consultation with licensees, the Authority notified licensees that the new licences would come into effect on the day Part 2 of the new Act comes into operation. No submissions were received to the contrary.
4. The Water Act does not require the Authority to publish notice of the amendments in the *Government Gazette*.

## Reasons

5. In anticipation of the new legislation, including the *Water Services Code of Conduct (Customer Service Standards) 2013* (**Water Customer Services Code**), the Authority developed a new water licence template to align water licences with the new Water Act and the Water Customer Services Code.
6. As part of the development of the new water licence template, on 10 May 2013, the Authority held a round table with a number of existing licensees and the Department of Water to seek feedback on the draft water licence template.
7. On 15 July 2013, the Authority sought public comment on the draft water licence template by 7 August 2013.
8. The Authority received public submissions from the Department of Agriculture and Food, the National Water Council and Rio Tinto Pty Ltd on behalf of Hamersley Iron Pty Ltd. The public submissions can be found on the Authority's [website](#). The Authority also received a number of private submissions from licensees in respect to individual licences.
9. The Department of Agriculture and Food suggested that water licences consider the application of water restrictions and disconnection policies in the context of animal welfare.
10. The National Water Council (NWC) would like to see:
  - The water licences include provisions that enable water service providers to engage with their customers in determining values and preferences.
  - The Water Customer Services Code to include a provision for customer engagement which allows utilities flexibility to tailor their services to meet the needs of each region and customer grouping.
  - Increased national harmonisation of regulatory frameworks.

11. Rio Tinto is supportive of the new licence framework.
12. The Authority has considered all public submissions and all submissions made by individual licensees in respect to their individual water licences.
13. In regards to the submissions received, the Authority makes the following observations:
  - Proposals to amend the water licences beyond the scope of the Water Licence Review should be detailed and should be consulted on in detail. This is important both in relation to existing licence conditions, and the introduction of new licence obligations.
  - The risk of regulatory failure and imposing unnecessary regulatory costs is a concern when introducing licence obligations that relate to government policies under different legislation. A strong case would have to be made that the Authority's licences are the most appropriate instrument to implement those policy objectives.
  - The State Government has indicated its policy intention with new legislation. The Authority is of the view that it would not be appropriate to deviate significantly from this new framework without having gained experience with the operation and effectiveness of the new regime.
  - The Authority's obligation under section 27 of the Water Act to review the operation and effectiveness of Water Customer Services Code. The Authority will consider improvements to the water licensing framework in this context. Customer engagement and a range of other issues are best addressed in this context and after experience has been gained with the new regime.
14. Pursuant to section 17(1) of the Water Act, the Authority has found no reason to amend the proposed water licence template or the individual licences proposed by the Authority, as a result of the public submissions received or the submissions received from individual licensees in relation to individual licences.
15. The Authority has made minor corrections to ensure proper alignment of the water licences and the water licence template with the new legislation, particularly the Water Customer Service Code. The corrections are not material. The Water Customer Service Code was developed in parallel to the licences and was proclaimed on 26 July 2013. The corrections generally pick up on amendments to the Water Customer Service Code, which were made after public consultation had commenced.
16. The Authority is satisfied that the amendment of water licences by substitution and the adoption of the new water licence template will not be contrary to the public interest.