



# Water Services Licence

City of Kalgoorlie-Boulder

WL4, Version 6, 1 July 2016

**Economic Regulation Authority**

WESTERN AUSTRALIA

**WATER SERVICES ACT 2012**

Licensee Name: City of Kalgoorlie-Boulder  
ABN 63 711 737 609

Licence Number: WL4

Commencement Date: 29 April 1996

Version Number: 6

Version Date: 1 July 2016

Expiry Date: 29 April 2021

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Signed by a delegate; member; or  
the Chairman of the Economic Regulation Authority  
1 July 2016

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## **1. LICENCE AUTHORISATION**

### **1.1 Activities authorised under this licence**

1.1.1 The *licensee* is granted a *licence* for the *operating area(s)* to provide the following *water services* in accordance with the *terms and conditions* of this *licence*:

- (a) *water supply services*:
  - (i) not used
  - (ii) *non-potable water supply services*
- (b) *sewerage services*
- (c) not used
- (d) not used

### **1.2 Commencement date**

1.2.1 29 April 1996

### **1.3 Expiry date**

1.3.1 29 April 2021

### **1.4 Term [Section 14 of the Act]**

1.4.1 This *licence* commences on the *commencement date* and continues until the earlier of:

- (a) the cancellation of the *licence* pursuant to clause 2.5 of this *licence*;
- (b) the surrender of the *licence* pursuant to clause 2.6 of this *licence*; or
- (c) the *expiry date*.

### **1.5 Operating area**

1.5.1 The *operating area* is set out in plan(s):

OWR-OA-028(C)

1.5.2 The operating area plan(s) is provided in Schedule 1.

## **2. LICENCE ADMINISTRATION**

### **2.1 Amendment of licence by the licensee [Section 18 of the Act]**

2.1.1 The *licensee* may, at any time, apply to the *ERA* to amend the *licence* in accordance with the *Act*.

### **2.2 Amendment of licence by the ERA [Section 17 of the Act]**

2.2.1 The *ERA* may, at any time, amend the *licence* on its own initiative in accordance with the *Act* and the procedure specified in clause 2.2.2.

2.2.2 Before amending the *licence* under clause 2.2.1, the *ERA* must:

- (a) provide the *licensee* with written *notice* of the proposed amendments under consideration by the *ERA*;
- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
- (c) take into consideration those submissions.

2.2.3 Any amendments made to the *licence* will come into effect in accordance with the *Act* unless a longer period is specified by the *ERA* or a shorter period is agreed to by the *ERA* and the *licensee*.

2.2.4 This clause also applies to the substitution of the existing *licence*.

2.2.5 For avoidance of doubt, the *licensee* will not have to pay an associated application fee or *licence* fee for the purpose of clause 2.2.1.

## **2.3 Transfer of licence [Section 15 of the Act]**

2.3.1 This *licence* may be transferred only in accordance with the *Act*.

## **2.4 Renewal of licence [Section 13 of the Act]**

2.4.1 This *licence* may be renewed only in accordance with the *Act*.

## **2.5 Cancellation of licence for serious default [Section 34 of the Act]**

2.5.1 This *licence* may be cancelled for serious default in accordance with the *Act*.

## **2.6 Cancellation of licence by the licensee [Section 18 of the Act]**

2.6.1 The *licensee* may apply to the *ERA* to request cancellation of the *licence* at any time by written *notice* to the *ERA*.

2.6.2 The *ERA* may cancel the *licence* in accordance with the *Act*.

2.6.3 The *licensee* will not be entitled to a refund of any fees by the *ERA*.

## **2.7 Notices**

2.7.1 Unless otherwise specified, all *notices* must be in writing.

2.7.2 A *notice* will be regarded as having been sent and received:

- (a) when delivered in person to the addressee; or
- (b) three *business days* after the date of posting if the *notice* is posted in Western Australia; or
- (c) five *business days* after the date of posting if the *notice* is posted outside Western Australia; or
- (d) if sent by facsimile when, according to the sender's transmission report, the *notice* has been successfully received by the addressee; or
- (e) if sent by email when, according to the sender's electronic record, the *notice* has been successfully sent to the addressee's *water licensing email address*.

## **2.8 Publishing information**

- 2.8.1 The *ERA* may direct the *licensee* to *publish* any information within a specified timeframe it considers relevant in connection with the *licensee* or the performance by the *licensee* of its obligations under this *licence*.
- 2.8.2 Subject to clause 2.8.3, the *licensee* must *publish* the information referred to in clause 2.8.1.
- 2.8.3 If the *licensee* considers that the information is confidential it must:
- (a) immediately notify the *ERA*; and
  - (b) seek a review of the *ERA*'s decision in accordance with clause 2.9.
- 2.8.4 Once it has reviewed the decision, the *ERA* will direct the *licensee* in accordance with the review to:
- (a) *publish* the information;
  - (b) *publish* the information with the confidential information removed or modified; or
  - (c) not *publish* the information.

## **2.9 Review of the *ERA*'s decisions**

- 2.9.1 The *licensee* may seek a review of a *reviewable decision* by the *ERA* pursuant to this *licence* in accordance with the following procedure:
- (a) the *licensee* must make a submission on the subject of the *reviewable decision* within 10 *business days* (or other period as approved by the *ERA*) of the decision; and
  - (b) the *ERA* will consider the submission and provide the *licensee* with a written response within 20 *business days*.
- 2.9.2 For the avoidance of doubt, this clause does not apply to a decision of the *ERA* pursuant to the *Act*, nor does it restrict the *licensee*'s right to have a decision of the *ERA* reviewed in accordance with the *Act*.

## **3. GENERAL LICENCE OBLIGATIONS**

### **3.1 Compliance with applicable legislation [Section 26, 27, 29 and 31 of the Act]**

- 3.1.1 Subject to any modifications or exemptions granted pursuant to the *Act* and this *licence*, the *licensee* must comply with any *applicable legislation*.
- 3.1.2 Subject to the provisions of any *applicable legislation*, the *ERA* may direct the *licensee* in writing to do any measure necessary to:
- (a) correct the breach of any *applicable legislation*; or
  - (b) prevent the breach of any *applicable legislation* occurring again, and specify a time limit by which such action must be taken.

### **3.2 Fees**

- 3.2.1 The *licensee* must pay the applicable fees and charges in accordance with the *Economic Regulation Authority (Licensing Funding) Regulations 2014*.

### **3.3 Provision of water services [Section 21 of the Act]**

3.3.1 The licensee must provide the water service set out in clause 1.1:

- (a) to persons entitled to the *water service* under the *Act*, except to the extent otherwise provided for by the *Act*; and
- (b) if requested, to any other person within the *operating area* on reasonable terms, unless the provision of the *water service* is not financially viable or is otherwise not practicable.

### **3.4 Provision of water services outside operating area [Section 22 of the Act]**

3.4.1 If the *licensee* provides a *water service* outside of the *operating area* specified for that *water service*, the *licensee* must:

- (a) notify the *ERA* as soon as is practicable before commencing to provide the *water service*; and
- (b) apply to amend the *licence* in accordance with clause 2.1 unless otherwise notified by the *ERA*.

### **3.5 Works holding arrangements [Section 23 of the Act]**

3.5.1 The *licensee* must hold, or otherwise be subject to a *works holding arrangement* in respect of, all *water service works* used for the provision of a *water service*.

### **3.6 Accounting records**

3.6.1 The *licensee* and any *related body corporate* must maintain accounting records that comply with the Australian Accounting Standards Board Standards or equivalent International Accounting Standards.

### **3.7 Reporting a change in circumstances**

3.7.1 The *licensee* must report to the *ERA*:

- (a) if the *licensee* is under external administration as defined by the *Corporations Act 2001 (Cwth)* within two *business days*; or
- (b) if the *licensee*:
  - (i) experiences a material change in the *licensee's* corporate, financial or technical circumstances upon which this *licence* was granted; and
  - (ii) which may materially affect the *licensee's* ability to meet its obligations under this *licence*,within 10 *business days* of the change occurring; or
- (c) if:
  - (i) the *licensee's* name;
  - (ii) the *licensee's* ABN;
  - (iii) the *licensee's* address;

- (iv) the description of the *water service works*,  
changes, within 10 *business days* of the change occurring.

### **3.8 Provision of information**

- 3.8.1 The *licensee* must provide to the *ERA* in the manner and form specified by the *ERA*, specified information on any matter relevant to the operation or enforcement of the *licence*, the operation of the licensing scheme provided for in Part 2 of the Act, or the performance of the *ERA*'s function under that Part.
- 3.8.2 The *licensee* must comply with any information reporting requirements prescribed by the *ERA*, including but not limited to the provisions of the *Water Compliance Reporting Manual*<sup>1</sup>, which apply to the *licensee*.
- 3.8.3 Without limiting clause 3.8.1, the *licensee* must provide the *ERA* with the data required for performance reporting purposes that is specified in:
  - (a) the *Water, Sewerage and Irrigation Licence Performance Reporting Handbook*<sup>2</sup>; and
  - (b) the *National Performance Framework: urban performance reporting indicators and definitions handbook*.

## **4. AUDITS AND PERFORMANCE REPORTING OBLIGATIONS**

### **4.1 Asset management system [Section 24 of the Act]**

- 4.1.1 The *licensee* must provide for, and notify the *ERA* of, an *asset management system* in respect of the *licensee's water service works* within two *business days* from the *commencement date* unless otherwise notified in writing by the *ERA*.
- 4.1.2 The *licensee* must notify the *ERA* of any material change to the *asset management system* within 10 *business days* of such change.
- 4.1.3 The *licensee* must, unless otherwise notified in writing by the *ERA*:
  - (a) conduct an *asset management system review*; and
  - (b) provide the *ERA* with a report on the *asset management system review*,  
within 24 months after the *commencement date* and every 24 months thereafter.
- 4.1.4 The *asset management system review* must be conducted by an independent expert appointed by the *ERA* in its sole discretion. The *ERA* will determine the terms of the appointment of the independent expert.
- 4.1.5 Before appointing an independent expert the *ERA* will:
  - (a) consult with the *licensee* in a manner and form determined by the *ERA*; and

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<sup>1</sup> See [www.erawa.com.au](http://www.erawa.com.au) -> Water Licensing -> Regulatory Guidelines.

<sup>2</sup> See [www.erawa.com.au](http://www.erawa.com.au) -> Water Licensing -> Regulatory Guidelines.



- (b) take into account any relevant matters raised by the *licensee* from that consultation.

4.1.6 The *licensee* must cooperate with the independent expert and comply with the *ERA's* standard guidelines dealing with the *asset management system review*.

## **4.2 Individual performance standards**

4.2.1 The *licensee* must comply with the *individual performance standards* as set out in Schedule 2.

4.2.2 The *ERA* may prescribe *individual performance standards* in relation to the *licensee* of its obligations under this *licence* or the *applicable legislation*.

4.2.3 Before approving any *individual performance standards* under this clause, the *ERA* will:

- (a) provide the *licensee* with a copy of the proposed *individual performance standards*;
- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed *individual performance standards*; and
- (c) take into consideration those submissions.

4.2.4 Once approved by the *ERA*, the *individual performance standards* are included as additional *terms and conditions* to this *licence* as set out in Schedule 2.

## **4.3 Operational audit [Section 25 of the Act]**

4.3.1 The *licensee* must, unless otherwise notified in writing by the *ERA*, provide the *ERA* with an *operational audit* within 24 months after the *commencement date*, and every 24 months thereafter.

4.3.2 The *operational audit* must be conducted by an independent expert appointed by the *ERA* in its sole discretion. The *ERA* will determine the terms of the appointment of the independent expert.

4.3.3 Before appointing an independent expert the *ERA* will:

- (a) consult with the *licensee* in a manner and form determined by the *ERA*; and
- (b) take into account any relevant matters raised by the *licensee* from that consultation.

4.3.4 The *licensee* must cooperate with the independent expert and comply with the *ERA's* standard audit guidelines dealing with the *operational audit*.<sup>3</sup>

## **5. CUSTOMERS**

### **5.1 Customer contract**

5.1.1 The *licensee* must, if directed by the *ERA*, submit a draft *customer contract* for approval by the *ERA*.

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<sup>3</sup> See [www.erawa.com.au](http://www.erawa.com.au) -> Water Licensing -> Regulatory Guidelines.

5.1.2 The *licensee* must comply with any *Customer Contract Guidelines*<sup>4</sup>, which apply to the *licensee*.

5.1.3 The *licensee* may only amend the customer contract by submitting to the *ERA*:

- (a) a proposed amendment to the *customer contract*; or
- (b) a proposed substituted *customer contract*.

5.1.4 The *ERA* may:

- (a) approve the amendment to the *customer contract* or substituted *customer contract*; or
- (b) specify the amendments the *licensee* must make to the amended or substituted *customer contract* before the *ERA* will amend the *customer contract*,

and notify the *licensee* of its decision within 10 *business days* of making the decision.

5.1.5 The *ERA* may, at any time, by *notice* in writing, direct the *licensee* to amend the *customer contract* by specifying:

- (a) the amendments to be made to the *customer contract*; and
- (b) the latest date at which the amendments will come into force.

## **5.2 Standard terms and conditions of service [Section 71 of the Act]**

Not used.

## **5.3 Non standard terms and conditions of service**

5.3.1 Subject to compliance with this clause, the *licensee* may enter into an agreement with a *customer* to provide *water services* that exclude, modify or restrict:

- (a) the terms and conditions of this licence; or
- (b) the requirements of the *Code of Conduct*.

5.3.2 Subject to clause 5.3.3, an agreement referred to in clause 5.3.1:

- (a) must be approved by the *ERA* prior to its commencement; and
- (b) must not be amended without the prior approval of the *ERA*.

5.3.3 The *licensee* does not need the approval of the *ERA* if:

- (a) the terms that exclude, modify or restrict the *terms and conditions* of this licence or the requirements of the *Code of Conduct* have previously been approved by the *ERA* in another agreement that applies to the same class of *customer*; or
- (b) the terms that exclude, modify or restrict the *terms and conditions* of this licence were in force before the *amendment date*.

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<sup>4</sup> See [www.erawa.com.au](http://www.erawa.com.au) -> Water Licensing -> Regulatory Guidelines.

5.3.4 If a *licensee* enters into an agreement with a *customer* that excludes, modifies or restricts the terms and conditions of this *licence*, or the *Code of Conduct*, the *licensee* must publish a report annually that includes the following information:

- (a) the total number of agreements entered into by the *licensee*, categorised by location and the type of exclusion, modification or restriction;
- (b) the number of agreements entered into by the *licensee* during the reporting period, categorised by location and the type of exclusion, modification or restriction;
- (c) the total number of agreements entered into by the *licensee*, categorised by location and by land use; and
- (d) the number of agreements entered into by the *licensee* during the reporting period, categorised by location and by land use.

## 5.4 Hardship policy

5.4.1 Clause 26 of the *Code of Conduct* requires applicable *licensees* to have a *financial hardship policy*. Notwithstanding clause 26(1) of the *Code of Conduct*, the *licensee* is not required to have a financial hardship policy where the *licensee* supplies water services solely to:

- (a) *non-residential customers*; or
- (b) members of the *licensee*.

5.4.2 The *ERA* may produce *Financial Hardship Policy Guidelines* from time to time.

5.4.3 The *licensee* must comply with any *Financial Hardship Policy Guidelines*, which apply to the *licensee*.

## 5.5 Water Services Ombudsman Scheme [Section 70 of the Act]

5.5.1 The *licensee* must not supply *water services* to *customers* unless the *licensee* is:

- (a) a member of the *water services ombudsman scheme*; and
- (b) bound by, and compliant with, any decision or direction of the water services ombudsman under the *water services ombudsman scheme*.

## 5.6 Supplier of last resort [Section 60 of the Act]

5.6.1 If the *licensee* is appointed the *supplier of last resort* for a designated area under the *Act*, the *licensee* must perform the functions of the *supplier of last resort* for the designated area and the class of *water service*, comply with the duties imposed in relation to those functions under the *Act* and carry out its operations under or for the purposes of the *last resort supply plan* in accordance with the *Act*.

## 6. HEALTH

### 6.1 Memorandum of understanding

Not used.

## 7. DEFINITIONS AND INTERPRETATION

### 7.1 Definitions

7.1.1 In this *licence*, the following definitions apply unless the context otherwise requires:

**Act** means the *Water Services Act 2012* (WA).

**amendment date** means 1 July 2016.

**applicable legislation** includes:

- (a) the *Act*;
- (b) any relevant subsidiary legislation including:
  - (i) regulations made under the *Act*; and
  - (ii) the *Economic Regulation Authority (Licensing Funding) Regulations 2014*; and
- (c) any code in force from time to time made pursuant to the *Act*.

**asset management system** means the measures that are to be taken by the *licensee* for the proper maintenance, expansion or reduction of the *water service works*.

**asset management system review** means an assessment of the matters set out in section 24(2) of the *Act*.

**audit report** means a signed, written document that presents the purpose, scope and results of the audit by the *Department of Health* on compliance by the *licensee* of its obligations under the *MoU*.

**business day** means a day which is not a Saturday, Sunday or a public holiday in Western Australia.

**Code of Conduct** means the *Water Services Code of Conduct (Customer Service Standards) 2013* as amended or replaced from time to time.

**commencement date** means the date specified in clause 1.2.

**complaint** means an expression of dissatisfaction made to or about an organisation, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.

**customer** has the meaning given to that term in section 3 of the *Act*.

**customer contract** means a "standard customer contract" referred to paragraph (a) of the definition of "standard terms and conditions of service" in section 71(1) of the *Act*.

**Customer Contract Guidelines** means the guidelines relating to the content of the *licensee's customer contract* issued by the *ERA*, as amended or replaced from time to time.

**Department of Health** means the Department of Health or its successors in Western Australia.

**Department of Water** means the Department of Water or its successors in Western Australia.

**ERA** means the Economic Regulation Authority.

**expiry date** means the date specified in clause 1.3.

**financial hardship policy** means a policy referred to in clause 26 of the Code of Conduct.

**Financial Hardship Policy Guidelines** means the guidelines relating to financial hardship policies for water services issued by the *ERA*, as amended or replaced from time to time.

**individual performance standards** mean any individual performance standards approved by the *ERA* pursuant to clause 4.2 and specified in Schedule 2 of the *licence*.

**last resort supply plan** has the meaning given to that term in section 50 of the *Act*.

**licence** means:

- (a) this document (excluding the pages prior to clause 1, the header and footer of this document, and the amendment record sheet);
- (b) any *Schedules* to this document; and
- (c) any *individual performance standards* approved by the *ERA* pursuant to clause 4.2.

**licensee** means City of Kalgoorlie-Boulder, ABN 63 711 737 609.

**National Performance Framework: urban performance reporting indicators and definitions handbook** means the handbook initially produced by the National Water Commission of the same name as amended or replaced from time to time.

**non-potable water supply services** means the collection, treatment, transfer or delivery of water supplied from *water services works* not designed and operated to provide *potable water*.

**non-residential customer** means a *customer* who is not a *residential customer*.

**notice** means a written notice, agreement, consent, direction, representation, advice, statement or other communication required or given pursuant to, or in connection with, this *licence*.

**operating area(s)** has the meaning given to that term in section 3 of the *Act* and is the area specified in clause 1.5.

**operational audit** means an assessment of the matters set out in section 25(2) of the *Act*.

**potable water** means drinking water in accordance with the Australian Drinking Water Guidelines or as otherwise defined in the *MoU* between the *licensee* and the *Department of Health*.

**publish** in relation to a report or information means either:

- (a) posting the report or information on the *licensee's* website; or
- (b) sending the report or information to the *ERA* to be published on the *ERA's* website.

**related body corporate** has the meaning given to that term in section 50 of the *Corporations Act 2001* (Cwth).

**residential customer** means a *customer* to which *water services* are sold or supplied in respect of the place used solely or primarily as the *customer's* dwelling.

**reviewable decision** means a decision by the *ERA* pursuant to:

- (a) clause 2.8.3;
- (b) clause 4.1.6
- (c) clause 4.2.2; and
- (d) clause 4.3.4;

of this licence.

**Schedule** means the schedule or schedules which are appended to, and which form part of, this *licence*.

**sewerage services** has the meaning given to that term in section 3 of the *Act*.

**supplier of last resort** has the meaning given to that term in section 50 of the *Act*.

**terms and conditions** means the terms and conditions in this *licence* including any terms and conditions contained in the *Schedules*.

**Water Compliance Reporting Manual** means the reporting manual issued by the *ERA*, as amended or replaced from time to time.

**water licensing email address** means:

- (a) in relation to the *ERA*, the addressee's authorised *ERA* email address or other such email address as notified in writing to the *licensee*; and
- (b) in relation to the *licensee*, the email address specified in the *licence* application or other such email address as notified in writing to the *ERA*.

**water service** means the service or services that the *licensee* is authorised to provide by this *licence* being a *drainage service*, *irrigation service*, *sewerage service* and/or *water supply service* as more particularly described in clause 1.

**water service works** has the meaning given to that term in section 3 of the *Act*.

**water services ombudsman scheme** means a scheme approved under section 65 of the *Act*.

**Water, Sewerage and Irrigation Licence Performance Reporting Handbook** means the handbook produced by the *ERA* of the same name as amended or replaced from time to time.

**water supply service** has the meaning given to that term in section 3 of the *Act*.

**works holding arrangement** means an arrangement as set out in section 23 of the *Act*.

## 7.2 Interpretation

- 7.2.1 A reference in this *licence* to any *applicable legislation* includes, unless the context otherwise requires, any statutory modification, amendment or re-enactment of that *applicable legislation*.

# Schedule 1 – Operating area

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## Schedule 2 – Performance standards

The *licensee* must comply with the standards, principles and reporting requirements as set out below.

**1. POTABLE WATER**

**1.1 Potable water system – pressure and flow standards**

Not used.

**1.2 Potable water system – pressure and flow exemptions**

Not used.

**1.3 Water restrictions**

1.3.1 Not used.

**2. NON-POTABLE WATER**

Not used.

**3. SEWERAGE**

**3.1 Sewerage service standards**

Not used.

**4. DRAINAGE**

**4.1 Drainage service standards**

Not used.

**5. IRRIGATION**

**5.1 Irrigation service standards**

Not used.

## **Schedule 3 – Customer provisions**

- 1. ADDITIONAL CUSTOMER PROVISIONS**
- 1.1 Not used**

**Amendment record sheet**

Version No. <sup>5</sup>	Version Date	Description of Amendment
1	6 August 2008	Water Licence Review 2016
2	15 May 2009	Remove requirement to report incidents
3	28 February 2011	Remove the reference to drainage services and change "Potable" to "Non-potable" in the sub-title in Schedule 2.
4	3 December 2012	Correction to area map reference in Schedule 2 to OWR-OA-028(B)
5	18 November 2013	Amendment by substitution - <i>Water Services Act 2012</i>
6	1 July 2016	Water Licence Review 2016

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<sup>5</sup> Amendment record sheet added to licence August 2008.