

Decision to renew water services licence WL31

South West Irrigation Management Cooperative Limited
(trading as Harvey Water)

26 August 2020

Economic Regulation Authority

WESTERN AUSTRALIA

D218145

1. Decision

1. Pursuant to section 13(2) of the *Water Services Act 2012*, the Economic Regulation Authority has renewed Harvey Water's [water services licence WL31](#).
2. Subject to its terms and conditions, the licence authorises Harvey Water to provide irrigation and non-potable water supply services in the Waroona, Harvey and Collie River areas (as set out in operating areas OWR-OA-178/3(F) and OWR-OA-300(A) in the licence).
3. The term of the renewed licence is 25 years (the maximum period allowed by section 14 of the Water Act) from 27 August 2020.
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.

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. On 9 October 1996 Harvey Water was granted a licence by the Office of Water Regulation for a period of 25 years.¹
7. On 24 June 2020, Harvey Water applied to the ERA to renew WL31.
8. As required by section 70 of the Water Act, Harvey Water is a member of the water ombudsman scheme.

2.2 Public consultation

9. On 13 July 2020, the ERA sought [public comment](#) on the licence renewal application. The period for submissions closed on 3 August 2020.
10. The ERA did not receive any submissions.

2.3 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, Harvey Water provided its audited financial reports for the past three financial years and a written declaration from Harvey Water's chief financial officer 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 Harvey Water 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 areas.
14. The ERA used Harvey Water's licence compliance and asset management history to determine whether it has the technical resources to continue to provide the licensed service.
15. Based on its compliance and asset management history, the ERA considers that Harvey Water 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 areas.

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

2.4 Assessment of public interest

2.4.1 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 11(1)(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.

2.4.2 Economic Regulation Authority Act 2003

17. The ERA must also have regard to the matters set out in section 26 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.

2.4.3 ERA assessment of public interest

18. The ERA has considered section 13(2)(b) of the Water Act, the matters set out in section 46 of the Water Act, section 26 of the ERA Act, Harvey Water's financial reports for the past three financial years, the written declaration from Harvey Water's chief financial officer and Harvey Water's previous compliance and asset management history.
19. 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, consistent with section 26(2)(a) and (b) of the ERA Act.

² The ERA has discretion to decide the weight it gives to each of the matters listed in section 26 of the ERA Act in making its decision.

20. All water services licences are non-exclusive, which means that another water service provider could enter the market if conditions permitted. The ERA is therefore satisfied that the renewal of the licence will be consistent with section 26(e) and (f) of the ERA Act.
21. The ERA conducted public consultation on the licence renewal application and has stated in this decision the reasons for renewing the licence, which is consistent with section 26(g) of the ERA Act.
22. 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 WL31 would not be contrary to the public interest.