



Economic Regulation Authority

# Decision to renew water services licence WL23 and approval of financial hardship policy

Shire of Moora

13 January 2022

## **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 Moora's water services licence [WL23](#).
2. Subject to its terms and conditions, the licence authorises the Shire to provide sewerage and non-potable water services in the operating area centred on the township of Moora (as set out in the operating area [OWR-OA-058/2\(C\)](#)).
3. The term of the renewed licence is 25 years (the maximum period allowed by section 14 of the *Water Act*) from 14 January 2022.
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](#) for WL23.
5. As required by section 47(2) of the *Water Act*, the ERA will publish notice of the renewal of the licence in the Government Gazette as soon as practicable.

## 2. Reasons

6. The Office of Water Regulation issued a water licence to the Shire of Moora on 29 April 1996 under the *Water Services Coordination Act 1995*.<sup>1</sup> The Shire's licence was issued for a period of 25 years and expired on 28 April 2021.
7. The Shire has an operating licence to provide sewerage and non-potable water services in the operating area that is centred on the township of Moora, approximately 170 kilometres north of Perth.
8. The Shire provides the water services through 14km of gravity mains, 3.4km of pressure mains, seven pumping stations, a wastewater treatment plant, three secondary ponds and a re-use lagoon. The treated sewage effluent is used to water the town's ovals and parks. As at 30 June 2021, there were 497 residential and 55 commercial properties connected to the Shire's sewerage network.
9. 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 expiry of the licence. Section 13(4) of the Act states that where a licensee applies to renew their licence, and the licence expires before the ERA makes a decision, the licence continues to remain in force.
10. The Shire of Moora, along with several other shires, is currently covered by an exemption granted by the Minister for Water under section 7 of the Water Act. The exemption expires in May 2022.

### 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 licence is a member of an approved ombudsman scheme.
12. As part of its licence renewal application, the Shire provided evidence of communication with the Energy and Water Ombudsman, which confirmed that the Shire's membership of the Water Services Ombudsman Scheme ended when its licence exemption came into force on 22 April 2016. The Shire was not required to be a member of the scheme while exempt from holding a licence. The Energy and Water Ombudsman confirmed that the Shire would need to advise him in writing of its desire to become a member of the scheme again once their ERA licence has been renewed.

### 2.1.2 Financial assessment

13. 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.
14. 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 CEO that the Shire has the financial resources to undertake the activities authorised by the licence.

<sup>1</sup> On 1 January 2004, the Office of Water Regulation became part of the Economic Regulation Authority.

15. The Shire confirmed that as of 30 June 2020 its sewerage infrastructure was valued at \$16,284,880 and the Shire's sewerage reserve fund was \$855,176.
16. Overall, the ERA is satisfied that the applicant has, and is likely to retain, the financial ability to provide the services authorised by the licence.

### **2.1.3 Technical assessment**

17. 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.
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 as appropriate.
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. Pursuant to clause 29(2) of the Code, the ERA approves the Shire's financial hardship policy for WL23.

### **2.1.5 Public consultation**

22. On 3 September 2021, 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*.<sup>2</sup>

- 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 WL23 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).
- b. The interests of the Shire's existing customers are best served by the Shire continuing to be licenced so it can maintain services to those customers (section 26(2)(a) and (b) of the ERA Act).
- 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).
- 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 WL23 would not be contrary to the public interest.

<sup>2</sup> 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.

