

# Decision on licence application

**Aquasol Pty Ltd**

5 February 2013

**Economic Regulation Authority**

WESTERN AUSTRALIA

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## DECISION

1. Pursuant to section 23 and 31A of the *Water Services Licensing Act 1995* (the **Act**), the Economic Regulation Authority (**Authority**) approves the grant of a water services operating licence to Aquasol Pty Ltd (the **Applicant**) for the provision of potable water and irrigation services at Lancelin South subject to and in accordance with the terms of the licence for a period of 25 years.
2. As required by section 26 of the Act, the Authority will publish a notice of the grant of licence in the Government Gazette as soon as practicable.

## REASONS

3. On 14 May 2012, the Applicant submitted a water services operating licence application to provide potable and irrigation water services at a development 2.2 km south of Lancelin.
4. Under section 23 of the Act, the Authority is not to grant a licence unless the Authority is satisfied that:
  - the applicant has, and is likely to continue to have, the financial and technical ability to provide the water services that will be covered by the licence; and
  - it would not be contrary to the public interest to grant the licence.
5. Section 31A of the Act further specifies that, where the Authority is required to determine whether something would not be contrary to the public interest, the Authority, in making its determination, may take into account one or more of the matters referred to in section 19(1b).
6. The Authority engaged financial and technical consultants to examine the financial and technical ability of the applicant to provide the water services applied for.
7. The Authority requested significant additional information from the Applicant in regards to its financial and technical ability. In response to these requests, the Applicant made a number of additional submissions to the Authority to further support its application.
8. Following the assessment of the original application and the additional information provided by the Applicant:
  - the financial consultant found that the Applicant has the financial ability to provide the water services that will be covered by the licence; and
  - the technical consultant found that the Applicant has the technical ability to provide the water services that will be covered by the licence.
9. The Authority has considered the licence application, including the consultants' assessments conducted for the purpose of the licence application, and is satisfied that the Applicant meets the requirements of section 23(a) of the Act.
10. On 18 May 2012, the Authority called for public submissions on the application. The closing date for submissions was 8 June 2012. Two submissions were received, one each from Department of Health and the Department of Water.

11. The Department of Health enquired about the Applicant's commitment to operate and invest in the required infrastructure for the duration of the licence, and the Applicant's ability to meet operating standards comparable to other licensed service providers and Government policies in regards to health.
12. For the purpose of granting a water services operating licence, the Authority is of the view that these issues are addressed by the Authority's financial and technical assessments, and that clause 9 in the standard potable water services licence requires the licensee to enter into a memorandum of understanding with the Department of Health in respect of drinking water quality.
13. The Department of Water queried the status of the Applicant's regulatory approvals required in relation to a water extraction licence and a Drinking Water Source Protection Plan.
14. The Authority sought the Applicant's response to the Department of Water's submission and received evidence that the issues had been addressed through the grant of a water extraction licence to the Water Corporation for the Lancelin South development, and the existence of an in principal agreement between the parties to facilitate the transfer of the water extraction licence to the Applicant when the Authority had granted them a water services operating licence.
15. The Authority also understands that it has been determined that a Public Water Source Protection Plan is not required. It is noted that a memorandum of understanding with the Department of Health, as required under clause 9 of the standard potable water services operating licence, will include a number of requirements in regards to Water Quality Management Processes and Procedures. Also, a memorandum of understanding typically includes a separate requirement for a Drinking Water Source Protection Plan. Accordingly, the Authority is of the view that there is a regulatory framework in place that addresses the Drinking Water Source Protection Plan issue raised by the Department of Water.
16. On 17 October 2012, the Shire of Gingin wrote to the Authority noting that the Western Australian Planning Commission's subdivision approval No. 142820 was subject to water supply and sewerage services being provided by the Water Corporation. In response to this, the Applicant submitted advice from the Western Australian Planning Commission that, if another licensed service provider is engaged to provide either water or wastewater services to the Lancelin South development, the Western Australian Planning Commission is prepared to clear the condition with the alternative service provider in place of the Water Corporation. As such, the Authority considers that the issue raised by the Shire of Gingin has been addressed.
17. In its consideration of the application, the Authority has considered the public interest including all of the matters set out in section 19(1b) of the Act, as required by section 31A. The Authority is satisfied that granting a water services operating licence to the Applicant would not be contrary to the public interest.