

Water Licence Review 2016

Decision

18 May 2016

Economic Regulation Authority

WESTERN AUSTRALIA

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Decision

1. Following consideration of the submissions received in response to the Economic Regulation Authority (**ERA**) Water Licence Review 2016 Discussion Paper (**Discussion Paper**), the ERA approves the amended water services licence template (**water licence**) attached to this Decision (**Appendix 1** and **Appendix 2** includes a version with tracked changes).
2. In accordance with section 17 of the *Water Services Act 2012* (**Water Act**), the ERA will issue new licences by substitution to all existing water licensees that incorporate the amendments in the licence templates relevant to the licensee.

Background

3. The Water Act governs the operation of the water licensing regime in Western Australia and defines the ERA's functions and powers with regard to administering licences, and monitoring and enforcing compliance.
4. The ERA aims to review its standard water licence regularly to ensure that it maintains a best practice licensing regime.
5. On 11 February 2016, the ERA published the Discussion Paper and a proposed draft water licence for the Water Licence Review 2016 (**Review**).
6. The Discussion Paper invited public submissions by 3 March 2016.

Submissions received

7. In response, the ERA received public submissions from:
 - a. The Busselton Water Corporation (trading as **Busselton Water**).
 - b. The Water Corporation.
 - c. The Department of Health (**DOH**).
8. Subsequent to the closure of the public consultation process, the ERA received and accepted two further submissions from interested parties (Mr Bertola and Mr Davenport) in response to the Review and the submission from the Water Corporation.
9. All five public submissions are available on the ERA's [website](#).¹
10. The submissions are summarised below, and the ERA's response to the submissions is set out in the section titled "Reasons".

¹ www.erawa.com.au >Water>Water Licensing>Public Submissions.

Summary of submissions

11. Busselton Water advised that it had considered the proposed changes and found no reason to make comment or alternate recommendations.
12. The Water Corporation supported a number of the Discussion Paper's proposed water licence amendments and made further submissions in relation to the following areas:
 - a. Changing the scope of the Review to include the ERA's Water Compliance Reporting Manual (**Compliance Manual**) and the Water, Sewerage, Irrigation and Drainage Performance Reporting Handbook (**Performance Handbook**).
 - b. Drafting issues such as wording changes (e.g. the definitions of "customer" and "water service works"), or clarification of licence obligations (e.g. drainage service standards, water restrictions, and financial hardship policies).
 - c. Amending licence obligations in relation to the management of pressure and flow exemptions.
 - d. Removing certain licence obligations in relation to asset management and operational audits
 - e. Adding specific performance targets.
13. DOH raised a number of drafting issues such as wording changes and clarification of certain matters (e.g. the definition of "potable water" and the memorandum of understanding between licensees providing potable water services and the DOH. The DOH also suggested broadening the customer notification requirements in relation to the use of "non-potable water".
14. Mr Bertola and Mr Davenport raised a number of issues in relation to the requirements for management of pressure and flow exemptions in the water licence with particular focus on notification of affected customers.

Reasons

15. The ERA has considered all submissions made and responds to the issues raised in the following sections.
16. All references to water licence clauses are to the new water licence (Attachment 1 - Marked-up version (amendments resulting from the public consultation process are marked-up in green), and Attachment 2 – Clean version), unless otherwise stated.

Scope of Water Licence Review

17. The scope of the Review (as outlined in the Discussion Paper) is to examine:
 - a. The format of the standard water licence.
 - b. The terms and conditions to be included in the standard water licence.

- c. Whether any deviations from the standard water licence are required and, if so, in what circumstances.
18. The Scope of the Review explicitly excluded the examination of the ERA's processes and procedures that are contained in its "Regulatory Guidelines" documents. The ERA has a separate review processes for each of these documents.²
19. The Water Corporation submits that the Compliance Manual and the Performance Handbook form part of the wider licence framework and should form part of the Review.
20. The ERA notes the Water Corporation's request, but has decided not to expand the scope of the Review for the following reasons:
 - a. There is a hierarchical relationship between the Water Act, the water licence and supporting documents, which makes it both logical and practical to review guideline documents subsequent to water licences being settled.
 - b. In the ERA's experience, the practice of consecutive reviews of licence documents and processes has worked efficiently across all licensed industries, and no other stakeholders have made submissions raising concern about this process.
 - c. Stakeholders have the opportunity to make submissions through consultation processes associated with other ERA documentation, and can contact the ERA to raise issues with the ERA's administration of the licensing regime outside any consultation process.

Administration of water licence

21. In the existing water licences (clause 16, and clauses in Schedule 1 and Schedule 2), the ERA has adopted an approach of labelling licence clauses, which are not applicable to an individual licensee, as "Not used".
22. In the Discussion Paper, the ERA proposed to adopt this approach consistently throughout the proposed water licence. The ERA notes that it has adopted this approach for electricity licences for a number of years.
23. The Water Corporation submits that this approach may cause confusion and would prefer if affected licence clauses be removed, or an explanation be inserted about why the relevant clause is not used.
24. The ERA has decided to maintain the proposed approach for the following reasons:
 - a. The approach ensures consistency between the numbering of clauses across all individual water licences regardless of what water services are licensed. This facilitates the efficient administration of licences, as compliance documentation can refer to the same licence clauses for all water licences.

² www.erawa.com.au > Water licensing > Regulatory Guidelines.

- b. The approach has been used successfully in electricity licences for several years, and no issues have been identified with the partial adoption in the current water licences. For this reason, it would also appear that adding additional wording is unnecessary.

Water licence

Front page: Water Services Licence

25. The Water Corporation disagrees with the proposed change from “Water Service Operating Licence” to “Water Services Licence” as it could cause confusion with water abstraction licences.
26. The ERA has decided to keep the proposed change of title to “Water Services Licence”, for the following reasons:
 - a. “Water services licence” is consistent with the Water Act, which provides for licensing of water services.³
 - b. The Department of Water uses similar terminology in relation to water licensing and exemptions from water licensing (while also administering licences to take or abstract water).
 - c. The term “Water Services Licence” clearly distinguishes it from water abstraction or other water related licences, and there does not appear to be any significant risk of confusion.

Clause 3.5.1 (Works holding arrangements): Definition of water service works

27. The Water Corporation submits that the water licence should clarify the definition of “water service works not held by the licensee”. The Water Corporation asserts that it is not clear if the intent of the clause is to include works such as stand pipes, tanking trucks or other minor works.
28. The ERA has decided to maintain clause 3.5.1 in its current form for the following reasons:
 - a. The clause captures the requirement in section 23 of the Water Act and uses the definition of “water service works” set out in the Water Act.
 - b. The definitions of “water service works” and “water service works of a licensee” in the Water Act are clear and excludes certain works such as tanking trucks.
 - c. The clause is an existing licence clause, and the ERA has not identified any issues with its operation that would justify it to be amended.

³ The Water Act moved away from the use of the term “operating licence”, which was used by the previous legislation (*Water Services Licensing Act 1995*).

Clause 4.1.3: Requirement to conduct asset management system review

29. Clause 4.1.3 of the proposed water licence reads:
- 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.
30. The Water Corporation submits that:
- a. The clause should be deleted, as the independent expert is appointed by the ERA to undertake and provide the report to the ERA.
 - b. Alternatively, if the clause is retained, it should explicitly state that the interval at which the review is to be completed is at the discretion of the ERA.
31. The ERA has decided to maintain clause 4.1.3 in its current form for the following reasons:
- a. The clause captures the requirement in section 24 of the Water Act.
 - b. The current drafting clearly identifies that the ERA may write to the licensee to notify of any changes to the requirement.
 - c. The clause is an existing licence clause, and the ERA has not identified any issues with its operation that would require amendment.

Clause 4.3.1: Requirement to provide operational audit

32. Clause 4.3.1 of the proposed water licence reads:
- 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.
33. The Water Corporation submits that the clause should be deleted as an independent expert is appointed by the ERA to undertake and provide the audit to the ERA.
34. The ERA has decided to maintain clause 4.3.1 in its current form, for the following reasons:
- a. The clause captures the requirement in section 25 of the Water Act.
 - b. The clause is an existing licence clause, and the ERA has not identified any issues with its operation that would require amendment.

Section 6 (Health)

35. The DOH submits that the proposed heading "Health" should be changed to "Drinking Water", as the section relates to the Memorandum of Understanding (**MOU**) that deals with the Australian Drinking Water Guidelines.

36. The ERA has decided to retain the proposed heading, “Health”, as it is intentionally broad to allow coverage of a range of issues. Licence obligations evolve over time and it is impractical to tailor headings too narrowly, which could lead to a larger number of headings.

Clause 6.1 (Memorandum of understanding): Provide greater flexibility

37. Clause 6.1.1 requires affected licensees and the DOH to enter into a Memorandum of Understanding for Drinking Water (MOU) “as soon as practicable”.
38. The DOH submits that the clause should be amended to allow greater flexibility about when a MOU has to be entered into. The DOH argues that it could be reasonable to delay entering into a MOU, if there is a lag between the grant of the licence and commencement of the supply of water.
39. The ERA agrees and has decided to amend clause 6.1.1 of the draft licence accordingly:
- 6.1.1 Where the *licensee* is, or intends to provide *potable water*, the *licensee* must enter into a *MOU* with the Department of Health as soon as practicable after the *commencement date*, or as otherwise agreed with the Department of Health.
40. The DOH also submits that clause 6.1.4 should be amended to allow any confidential parts of a MOU to be removed from the published version of a MOU.
41. While this does not appear to have been an issue for parties to a MOU in the past, the ERA agrees to clarify the drafting and has decided to amend 6.1.4 accordingly:

The *licensee* must *publish, in a form agreed with the Department of Health*, the *MoU* and any amendments to the *MoU* on the *licensee’s* website within one month of entering into the *MoU* or of making amendments to the *MoU* ~~in a form agreed with the Department of Health~~.

Clause 7 (Definitions): Clarify definition of ‘customer’

42. The Water Corporation notes that the definition of “customer” differs between the Water Act and the *Water Services Code of Conduct (Customer Service Standards) 2013 (Water Code)*.
43. The Water Corporation submits that the definition of a “customer” in the water licence should be clarified to state if it is consistent with the Water Act or the Water Code.
44. The Water Act defines a “customer” as:⁴

customer, of a licensee, means a person to whom water services are provided by the licensee or who is entitled to the provision of water services by the licensee, other than a person who is a member of the licensee

45. The Water Code defines a “customer” as:⁵

customer, of a licensee, means a customer as defined in section 3(1) who is —

- (a) an owner of the land in respect of which the water services are provided; or

⁴ Section 3(1) of the Water Act.

⁵ Section 4(1) of the Water Code.

- (b) an occupier of the land in respect of which the water services are provided who is authorised by an owner to receive bills for the water services,

and includes any other person who is authorised by an owner of the land in respect of which the water services are provided to receive bills for the water services.

46. The current definition of a “customer” in the water licence is:

customer means a person or organisation to which water services are sold or supplied by the licensee for consumption or use.

47. The ERA notes that:

- a. The definition of “customer” in the Water Code follows on from the definition in the Water Act albeit it is more specific.
- b. The current definition of a “customer” in the water licence is consistent with the definition in the Water Act.

48. The ERA has amended the definition of “customer” in the water licence as follows:

customer has the meaning given to that term in section 3 of the Act. ~~means a person or organisation to which water services are sold or supplied by the licensee for consumption or use.~~

49. The definition in the Water Act is a legislative matter, but the ERA will consider the definition in the Water Code further in the upcoming review of the Water Code.

Clause 7 (Definitions): “potable water” and “non-potable water”

50. The DOH submits that the terms “potable” and “non-potable water” should be replaced by “drinking” and “non-drinking water”. The DOH states that “drinking water” is universally used in Australia.

51. The ERA has decided to maintain the current terminology for the following reasons:

- a. The Water Act uses the term “potable” in the definition of “water supply service” (“drinking water” does not appear in the Water Act itself).
- b. The Water Code broadens the circumstances in which it applies to “water that is not potable but that is supplied on the basis that the customer is responsible for treating the water to make it fit for humans to drink” (clause 3). This allows the Water Code to apply to a subset of non-potable water supply.
- c. The water industry uses both the “potable” and the “drinking water” terminology:
 - i. The DOH itself uses both terms interchangeably on its website and its documents.⁶
 - ii. The Department of Water uses “potable” and “non-potable” for water licence exemptions, urban water services, design and management,

⁶ The DOH uses the two terms interchangeably, including in relation to: “The Australian Drinking Water Guidelines”; the DOH’s “Guideline for approval of non-drinking water systems in Western Australia”; the DOH’s “Guidelines for the Non-potable uses of Recycled water in Western Australia”; and the DOH’s “Factsheet for warning signs for non-potable water schemes. Further, the Australian Drinking Water Guidelines also uses the term potable water (although more commonly *drinking water*, defined as water intended primarily for human consumption (but excluding bottled, for the purposes of these guidelines).

“drinking water” in relation to the protection and management of water used for drinking.

- iii. The *Plumbers Licensing and Plumbing Standards Regulations 2000*, which adopts the Australian Plumbing Code in Western Australia, uses “potable water”.
- iv. Reflecting the different regulatory frameworks, the water licensees also use both sets of terminologies.

Clause 7 (Definitions): The definition of “potable water” is circular

52. The water licence defines potable water in the following way:

potable water means safe potable water in accordance with the *MoU* between the licensee and the *Department of Health*.

- 53. The DOH notes that the definition of “potable water” is self-referencing and proposes that it be replaced with the definition of drinking water in the *Safe Drinking Water Act 2004 (Vic)* and *Safe Drinking Water Act 2011 (SA)*.
- 54. While this has not been an issue for the parties to a MOU in the past, the ERA agrees that the definition is circular.
- 55. The ERA has formed the view that the definition of “potable water” should refer to the Australian Drinking Water Guidelines⁷, which apply in Western Australia rather than adopting a definition from legislation of another jurisdiction.
- 56. Therefore, the ERA has decided to amend the definition of “potable water” accordingly:

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

Clause 7 (Definitions): “Provide”

- 57. The DOH submits that the term “provide” has a specific meaning in the Water Act, and that the water licence uses the term more broadly.
- 58. The ERA has decided to maintain the current drafting for the following reasons:
 - a. The Water Act definition only relates to “water service works”.
 - b. “Provide” is not defined in the licence and it is intended that it be read with its ordinary meaning.
 - c. This relates to existing drafting and the ERA has not identified any issues with its interpretation that would require amendment.

⁷ The guideline defines drinking water as “water intended primarily for human consumption (but excluding bottled water, for the purposes of these guidelines).”

Schedule 2, clause 1.2 (Potable water system standards): pressure and flow exemption

59. Clause 1.2 sets out pressure and flow exemptions to the pressure and flow standards stipulated in clause 1.1 of the water licence.
60. The ERA has not approved any standard exemptions that apply to the supply of potable water. Therefore, the water licence does not include any pressure and flow exemptions. The only licence that has pressure and flow exemptions granted is WL32, which is held by the Water Corporation.
61. The Water Corporation submits that the table of pressure and flow exemptions in its licence WL32, is inefficient, as the list of affected areas will change over time. Instead, the Water Corporation proposes to use a dynamic map, which would be updated annually to reflect any changes.
62. The Water Corporation's proposal led to two late submissions from individuals in affected areas, Mr Bertola and Mr Davenport, who make the following proposals to include additional licence obligations in relation to pressure and flow exemptions:
 - a. Notification of existing and new customers that their properties are affected or within areas that fall outside of the standard pressure and flow standards, and any relevant information (potential impact and any assistance to manage the exempt pressure and flow).
 - b. Notification of Landgate to update its Property Interest and any other relevant systems to inform property owners or buyers.
 - c. Notification of Plumbers Licensing Board to update members and require that customers be informed when a licensed plumber visits an affected property.
63. In addition, Mr Davenport suggests that WL32 be amended:
 - a. At regular intervals to ensure that the correct information is included in the pressure and flow exemption section.
 - b. To include an obligation to reimburse the cost of pressure and flow valves.
64. The ERA notes that individual licence amendments are explicitly excluded from the Review⁸, and will be dealt with separately by the ERA.
65. The ERA considers that it is impractical for the water licence to include the number of affected properties and an indicative pressure range as:
 - a. Both numbers change over time due to a number of factors such as the water infrastructure, housing developments (e.g. sub-divisions), and water use.
 - b. Information about the number of affected services is better reported on within the ERA's performance framework. This would allow for better monitoring of affected properties over time (see paragraph 67 and 68 below in relation to a new obligation to notify customers).

⁸ Water Licence Review 2016 – Discussion Paper.

- c. Including an indicative pressure range in the licence is not helpful to inform customers, as customers do not refer to the licence for information, but to their service provider for information about their water service.

66. Therefore, the ERA has decided to delete clause 1.2.1.

~~1.2.1 Exemptions from the flow and pressure standards set out in section 1.1 of this Schedule are provided for the areas detailed in the following table.~~

Pressure and flow exemptions

| Town | Area | No. of Services affected | Comment |
|----------|------|--------------------------|---------|
| <insert> | | | |
| ... | | | |

67. The ERA considers that a key issue is to inform customers, which is best done by imposing obligations on the licensee to:

- a. Inform new customers who are affected by pressure and flow exemptions in their first account.
- b. Inform existing customers who are affected at least annually.

68. The ERA has inserted the following in Schedule 2, clause 1.2 (Potable Water):

1.2.2 The licensee must notify:

- (a) new customers upon purchase of the affected property as soon as practicable; and
- (b) existing customers at least annually,

where pressure and flow of the water supplied falls outside of the standard pressure and flow set out in section 1.1 of this Schedule.

1.2.3 The notification set out in section 1.2.2 must include:

- (a) what the pressure and flow range is; and
- (b) further information about how to manage the exempt pressure and flow.

69. The ERA anticipates a licence amendment proposal from the Water Corporation in relation to this matter (including in relation to the map canvassed in the Water Corporation's submission) and the ERA will consult publically on that proposal.

Schedule 2, Clause 4.1(Drainage service standards): Clarify requirements

70. The Water Corporation submits that subclause 4.1.2 should include more information about who is responsible for what parts of the drainage infrastructure:

- a. The Department of Water is responsible for drainage design under the *Metropolitan Arterial Drainage Act 1982* (WA).
- b. Local governments are responsible for local drains that feed into the arterial drainage network (only the latter of which is the Water Corporation's responsibility).

71. The ERA has decided to maintain the current drafting of the water licence for the following reasons:
- a. The clause places an obligation on Water Corporation to audit their relevant drainage assets licensed under the Water Act, including for any drainage design service it contracts out, to ensure compliance with the requirements of the legislation.
 - b. The clause relates to drainage service provided by the licensee. It is not the role of the ERA to deal with matters that fall outside of the licensing framework (such as the drainage design), or to clarify aspects of other legislation that may affect the licensee.
 - c. This is an existing licence clause, and the ERA has not identified any issues with its operation that would require amendment.

Schedule 2 – Notification in relation to non-potable water supply

72. The DOH notes the requirement in the licence for irrigators to notify customers that the irrigation water is not suitable for drinking (clause 5 of Schedule 2). The DOH submits that this obligation should be imposed on all licensees providing non-drinking water including to public spaces.
73. The obligation on irrigators existed in the licences prior to the ERA taking responsibility for licensing, and is understood to have been inserted as a response to an audit finding regarding the practice of irrigators.
74. The ERA has not expanded the scope of the obligation to all licensees for the following reasons:
- a. This is an existing licence clause, and the ERA has not identified any issues with its operation that would require amendment of the water licence.
 - b. A range of other requirements ensure that non-potable water supply is not used for drinking water:
 - i. It would appear to be commonly accepted that non-potable water is not intended for use as drinking water.
 - ii. There are technical regulations to guide industry practices to ensure physical separation of potable and non-potable water, including building and plumbing codes, and Australian Standards.
 - iii. The DOH has a role in regulation of non-potable or non-drinking water. It is understood that the DOH requires:
 - Warning signs for non-potable water schemes.⁹

⁹ The DOH requires non-potable water schemes (licensed or exempt) to comply with requirements for the design and application of warning signs for non-potable water schemes. Warning signs will need to comply with the following Australian Standards (AS): AS 1319 - 1994 Safety signs for the occupational environment; AS 2416 - 2002 Design and application of water safety signs; AS 1744 – 1975 Forms of letters and numerals for road signs; AS 2700S – 1996 (R13) Colour standards for general purposes – Red; and ISO 20712-1:2008 Water safety signs and beach safety flags - Part 1: Specifications for water safety signs used in workplaces and public areas.

- Licensees subject to its MOU to notify customers annually that non-potable water supply is not suitable for drinking. As a result, adding an obligation would add an unnecessary requirement on licensees providing both potable and non-potable water.
 - Recyclable water schemes to comply with its "Guidelines for the Non potable uses of Recycled water in Western Australia", which regulate the use of recyclable water.
- c. A large number of water licence exemptions are granted for the provision of non-potable water services. These are not subject to the requirements to hold a licence, but are captured by the regulatory requirements outside of the water licence regime. The adoption of the DOH proposal would not capture all non-potable water service providers.
75. For these reasons, the ERA has removed the requirement for irrigators to notify customers annually that irrigation water is not suitable for drinking (Schedule 2, clause 5.1.3).

~~5.1.3—The licensee must provide annual notification to all customers provided with a non-potable water supply service water for irrigation purposes that the water supplied is not suitable for drinking.~~

Schedule 2, clause 5.1.3 (water restrictions): Move to a separate clause

76. The Water Corporation submits that this clause is not specific to irrigation schemes and recommends the clause be moved elsewhere.
77. The ERA agrees for the following reasons:
- a. Prior to the last water licence review, the clause was placed under the heading "Drought response".
 - b. The clause relates to restrictions associated with scheme water for a water corporation¹⁰, and was unintentionally placed in the irrigation section during the last licence review.
78. The ERA has decided to move existing clause 5.1.1 of Schedule 2 to new clause 1.3 "Water restrictions" in Schedule 2.

Schedule 2 (Performance standards): Re-introduce specific targets

79. Performance targets were largely removed from the water licence after the Water Act came into effect. This was done in consultation with the Department of Water, water licensees, and the public. Stakeholders generally supported the removal of specific targets from the licence. Consequently, the ERA adopted the framework used for energy licences where the Compliance Manual and Performance Handbook identify legislative requirements with which licensees have to comply.
80. The Water Corporation submits that specific performance targets be re-introduced into the water licence to clarify compliance requirements and drive desired behaviour.

¹⁰ I.e. the Water Corporation, Bunbury Water Corporation, and Busselton Water.

81. The ERA has decided to maintain the current approach to performance standards for the following reasons:
- a. The current performance reporting framework (which is consistent across water, electricity and gas) establishes a transparent mechanism that profiles the performance of each licensee over time, and, where possible, permits benchmarking of licensees against their peers. It provides detailed data for each scheme, which allows the ERA to monitor performance trends without setting arbitrary targets.
 - b. Specific targets in licences could impose additional costs on licensees, if they are making decisions to meet the specific targets rather than making efficient expenditure decisions across their work program.
 - c. Specific targets historically provided data on aggregate performance, and did not provide for the identification of any poorly performing locations.
 - d. The re-introduction of specific performance targets in the water licence would not relieve licensees from complying with their legislative requirements¹¹ and would therefore increase regulatory burden.
 - e. The ERA has not identified any issues with the operation of the current framework that would require amendment of the water licence. The ERA also notes that the current approach has worked well across its licensed industries.

Schedule 3 – Customer provisions – Financial Hardship

82. The DOH and the Water Corporation query the drafting of the customer provisions in Schedule 3, clause 1.1.2:
- 1.1.2 For the purposes of clause 1.1, a water service does not include non-potable water supply services, except where the non-potable water supply service is supplied on the basis that the customer is responsible for treating the water to make it fit for humans to drink.
83. The DOH is concerned that the definition establishes a water service for which consumers are responsible for treating the non-potable water to a level where it is suitable for humans to drink.
84. The Water Corporation notes that in third party supply schemes¹² residential customers receive both potable and non-potable water supply.
85. The ERA has decided to maintain the current drafting as it clearly relates the requirements for financial hardship policies¹³ and uses the relevant definition of “drinking water” used in the Water Code ((clause 4(2)(a)) dealing with requirements for financial hardship policy.

¹¹ The Compliance Manual and particularly the Performance Handbook summarises these other legislative requirements.

¹² Treated wastewater from a water recycling plant is transported via a third pipe (purple) scheme to multiple users for watering lawns and gardens and for in-house non-drinking uses. The scheme can include irrigation of public open space within the community.

¹³ Authorisation for water services is set out in clause 1, and this section in Schedule 3 deals with additional customer protection requirements for a financial hardship policy.

New Schedule to list compliance obligations that are duplicate or unfeasible

86. The Water Corporation is of the view that its 2015 operational audit identified a range of requirements that were “duplicate or unfeasible”. It proposes a new licence schedule to list compliance obligations of this nature.
87. The ERA has decided to maintain the current drafting for the following reasons:
- a. Where the ERA is aware of duplication resulting from the water licence, the amended water licence has consolidated those clauses as discussed in the ERA’s Discussion Paper.¹⁴
 - b. A number of other issues are outside of the scope of the Water Licence Review in that they relate to:
 - i. duplication of legislative instruments outside of the licence¹⁵; or
 - ii. the practice of licensees being inconsistent with obligations on licensees outside of the water licence.
 - c. Providing for a list of compliance issues in the licence would set up an unnecessarily bureaucratic process that would also increase the cost of administering licences.
 - d. The ERA has not identified any issues with the operation of the current framework that would require amendment of the water licence. The existing compliance framework, which also applies to energy licensees, deals effectively and efficiently with this issue.
 - e. Any issues relating to non-compliances are appropriately addressed by the ERA through the compliance process.

¹⁴ Particularly in relation to compliance with the applicable legislation, which is now consolidated into clause 3.1 of the Water Licence (see Water Licence Review 2016 – Discussion Paper).

¹⁵ E.g. certain non-compliances may breach both section 29 (Licensee must comply with duties under Act) and section 26 (Compliance with codes of practice made by Minister) or 27 (Compliance with code of conduct made by ERA).

Appendices

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Appendix 1 – Water Licence (Marked-up)

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Appendix 2 – Water Licence (Clean)

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