

Decision on licence application and financial hardship policy

Aqua Ferre (Muchea) Pty Ltd (trading as Muchea Water)

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Economic Regulation Authority

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1. Decision

1. Pursuant to section 11 of the *Water Services Act 2012*, the Economic Regulation Authority grants Aqua Ferre (Muchea) Pty Ltd (trading as Muchea Water) water services licence WL51 to provide potable water services to the operating area set out in the licence.
2. The grant is subject to and in accordance with the terms and conditions in the licence for a period of 25 years.
3. Pursuant to clause 29 of the *Water Services Code of Conduct (Customer Services Standards) 2018*, the ERA approves Muchea Water's financial hardship policy for WL51.

2. Reasons

Licence

4. On 7 October 2019, Mucnea Water [applied](#) for a water services licence to provide potable water services to the residential customers in the Riverside Development and to the commercial / industrial allotments in stage one of the Mucnea Employment Node (MEN) Development.

Financial hardship policy

5. The Applicant submitted a financial hardship policy with its licence 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.
6. The ERA reviewed the Applicant's financial hardship policy as part of the licence application assessment process. Pursuant to clause 29(2) of the Code, the ERA approves the Applicant's [financial hardship policy](#) for WL51.

Public consultation

7. On 12 November 2019, the ERA sought public comment on the licence application. The ERA received [submissions](#) from the Department of Health and Mucnea Industrial Park Services.
8. The department made the following statement in its submission:

The Department of Health (DOH) does not object to this licence application, provided that any potable water supply licence that is granted incorporates provisions requiring the licensee to enter a Memorandum of Understanding (MOU) with the DOH about drinking water, and that those provisions are consistent with the content of other potable water supply licenses previously granted by the Authority.

9. The Mucnea Industrial Park Services' submission covered three main topics:
 - a. Regulatory approvals

The submission raised an expectation that Mucnea Water and the Department of Health would have in place an in-principle agreement on the delivery of safe drinking water to customers. Mucnea Water is not required to have an MOU in place with the department until after the licence is granted.

The submission also included a comment that the application does not identify how water efficiency and conservation measures are to be implemented, and whether provision has been made to supply sufficient water for customers' basic living needs.

Water services licences do not regulate water efficiency and conservation measures for a water supplier's operation, but the application states the developments will follow the requirements of the planning scheme, including adherence to ecologically sustainable design codes.

The water supply capacity of Mucnea Water's supply scheme is addressed in paragraph 13 (item b).

b. Tariffs and charges

Water services licences do not regulate the price or quality of water services, which are matters for the State Government. Muchea Water is free to set its own tariffs and charges for the water service.

c. Technical design of the water supply system

The comments about the hydraulic design of the water supply scheme were referred to Muchea Water for comment. The comments provided by Muchea Water were assessed by the ERA's technical consultant, who concluded there were no concerns about the design of the water services infrastructure. The infrastructure design has been developed by experienced professionals, who have calculated the capacity of the infrastructure to meet the forecast demand using industry standard practices. Muchea Water also confirmed that the supply scheme has been designed to meet the design standards applying to fire hydrants.

Financial and technical assessments

10. Under section 11(1)(a) of the Act, the ERA must grant a licence if it is satisfied that the applicant:

a. has, and is likely to retain, for each class of water service, the financial and technical ability to provide the service in the operating area or areas to be specified for the service

or

b. will acquire within a reasonable time after the grant, and is then likely to retain, that ability.

11. The ERA engaged financial and technical consultants to examine the financial and technical ability of Muchea Water to provide the proposed water services.

12. Following the financial assessment of Muchea Water's application, the financial consultant concluded that Muchea Water complies with the financial requirements of section 11(1)(a) of the Act. The ERA has considered the financial consultant's report, including the information relied on in the report and the reasons for its conclusion. The ERA agrees with the conclusions in the financial consultant's report for the following reasons:

a. The construction of the water reticulation system in the Riverside Development has been completed, and progress has been made on constructing the water treatment plant and the pipeline connecting the plant to the MEN.

b. Muchea Water has the funds needed to complete the construction of the water treatment plant available in its bank account and it has secured the funding needed to pay for the construction of the pipeline from the water treatment plant to the MEN.

c. Muchea Water has pre-sold lots in the Riverside Development and there is demand for further sales if the water services licence is granted. There are also other revenue opportunities that involve selling surplus water to third parties.

d. Muchea Water has a financial plan that shows it has the capacity to fund the operating costs of the water supply service until it becomes cashflow positive. The owners of

the Riverside Development have committed to providing the necessary financial support in the interim.

Taking all the above matters into account, the ERA is satisfied that Muchea Water complies with the financial requirements of section 11(1)(a) of the Act.

13. Following the technical assessment of Muchea Water's application, the technical consultant concluded that Muchea Water complies with the technical requirements of section 11(1)(a) of the Act. The ERA has considered the technical consultant's report, including the information relied on in the report and the reasons for its conclusion. The ERA agrees with the conclusions in the technical consultant's report for the following reasons:
- a. The technical consultant found the infrastructure that will provide the water supply service has been developed by experienced professionals. The servicing, maintenance and repair of the infrastructure will be undertaken by Muchea Water personnel supported by external tradesmen.
 - b. The water treatment, pumping and storage facilities have been constructed to meet the ultimate design capacity.
 - c. Muchea Water has developed a comprehensive asset management plan for the water infrastructure, including a forecast of the costs to operate and maintain the service. There is also a Drinking Water Source Protection Plan in place for the bore that will supply customers.
 - d. The application provides an adequate description of how Muchea Water will manage its customers, covering customer billing, customer information (policies and a Customer Service Charter), customer information management systems and tariffs. Muchea Water has also submitted a financial hardship policy with the application for the ERA's approval.

Taking all the above matters into account, the ERA is satisfied that Muchea Water complies with the technical requirements of section 11(1)(a) of the Act.

Assessment of public interest – *Water Services Act 2012*

14. Section 11(1)(b) of the Act states that the ERA must grant a licence if it is satisfied that it would not be contrary to the public interest to do so. In determining whether the grant would not be contrary to the public interest, section 46 provides that, without limiting the things that the Authority may take into account, the following matters must be taken into account to the extent to which the ERA considers them relevant:
- a. Environmental considerations, including the value of economically sustainable development.
 - b. Public health considerations relating to the provision of reliable water services.

Assessment of public interest – *Economic Regulation Authority Act 2003*

15. The ERA must also have regard to the matters set out in section 26(2) of the *Economic Regulation Authority Act 2003* (ERA Act):¹

¹ The ERA has a discretion as to the weight it gives to each of the matters listed in section 26(2) of the Act in making its decision on Muchea Water's application for a water services licence.

- 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 long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets.
- d. the need to encourage investment in relevant markets.
- e. the legitimate business interests of investors and service providers in relevant markets.
- f. the need to promote competitive and fair market conduct.
- g. the need to prevent abuse of monopoly or market power.
- h. the need to promote transparent decision-making processes that involve public consultation.

Assessment of public interest

The ERA has considered section 11(1)(b) of the Act, the matters set out in section 46 of the Act, the public submissions received, the reports of its financial and technical experts and evidence of Muchea Water's ability to undertake the activities to be authorised by the licence provided with the application.

As the water services licence regulates certain performance and service standards and provides consumer protections to residential customers, the ERA is satisfied that the grant of the licence will promote regulatory outcomes in the long-term interests of consumers, consistent with section 11(1)(b) and section 26(2)(a), (b) and (c).²

In relation to the need to promote competitive conduct and prevent abuse of market power, the ERA notes that the developments that will be supplied by Muchea Water are relatively small and the scope for competition is limited.³ 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 grant of the licence will be consistent with section 26(e), (f) and (g).

16. In all the circumstances, after taking into account the matters referred to in section 11(1)(b) of the Act and section 26 of the ERA Act, the ERA is satisfied that granting a water licence to Muchea Water would not be contrary to the public interest.

² The [Water Services Code of Conduct \(Customer Service Standards\) 2018](#) deals with the conduct of water licensees in relation to customers and potential customers. The code applies to all potable water and sewerage licensees.

³ Muchea Water's licence application states that the Riverside Development will consist of about 238 residential lots and stage one of the MEN will consist of about 30 commercial / industrial lots.