

# Decision to renew water services licence WL3

Busselton Water Corporation

1 June 2021

**Economic Regulation Authority**

WESTERN AUSTRALIA

D232408

## **Economic Regulation Authority**

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## 1. Decision

1. Pursuant to section 13(2) of the *Water Services Act 2012*, the Economic Regulation Authority has renewed Busselton Water Corporation's water services licence [WL3](#).
2. Subject to its terms and conditions, the licence authorises Busselton Water to supply potable water services in the Busselton-Capel and Blackwood groundwater areas, including a two-kilometre offshore zone (as set out in operating area OWR-OA-085/2(E) in the licence).<sup>1</sup> Busselton Water has a 330-kilometre distribution network that supplies 12,860 residential properties and 1,020 business properties in Busselton, Port Geographe, Siesta Park, Vasse and Wonnerup.<sup>2</sup>
3. The term of the renewed licence is 25 years (the maximum period allowed by section 14 of the *Water Act*) from 02 June 2021.
4. 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.

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<sup>1</sup> The operating area [map](#) is available on the ERA website.

<sup>2</sup> The connections data is from the Bureau of Meteorology, Urban National Performance Report, ([Part B – The complete dataset 2019-2020](#)) [accessed 31 March 2021].

## 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 1 October 1996, Busselton Water was granted a licence by the Office of Water Regulation for a period of 25 years.<sup>3</sup>
7. On 26 March 2021, Busselton Water applied to the ERA to renew WL3.

### 2.2 Energy and Water Ombudsman Scheme

8. Section 70 of the Water Act states the ERA must not renew a licence unless it is satisfied the applicant is, or will become, a member of the ombudsman scheme.
9. Busselton Water is a member of the Energy and Water Ombudsman Scheme.

### 2.3 Public consultation

10. On 7 April 2021, the ERA sought [public comment](#) on the licence renewal application. The period for submissions closed on 28 April 2021.
11. The ERA did not receive any submissions.

### 2.4 Financial and technical assessments

12. Under section 13(2)(a) of the Water Act, the ERA may renew a licence if it 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.
13. Busselton Water provided access to its last three annual reports, which includes its financial reports and a written declaration from the Managing Director that the information, including the financial information, contained in the renewal application is correct. The information shows Busselton Water has made a profit each of the last three years and is projected continue making profits for each of the five years to 2024/25.
14. Based on the information provided, the ERA is satisfied that Busselton 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 area.
15. The ERA used Busselton Water's licence compliance and asset management history to determine whether it has the technical resources to continue to provide the licensed services.

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<sup>3</sup> On 1 January 2004, the Office of Water Regulation became part of the Economic Regulation Authority.

16. Based on its compliance and asset management history, the ERA considers that Busselton 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 area.

## 2.5 Assessment of public interest

### 2.5.1 Water Services Act 2012

17. 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.

### 2.5.2 Economic Regulation Authority Act 2003

18. The ERA must also have regard to the matters set out in section 26(1) of the *Economic Regulation Authority Act 2003*:<sup>4</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.

### 2.5.3 ERA assessment of public interest

19. The ERA has considered:
- Matters set out in section 26 of the ERA Act.
  - Public interest test in section 46 of the Water Act, as required by section 13 of the Water Act.
  - Busselton Water's licence compliance and asset management history.

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<sup>4</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.

- Busselton Water's financial reports for the past three years and financial projections for the next five years.
  - The written declaration from Busselton Water's Managing Director.
  - Outcome of the public consultation (no submissions received).
20. The interests of Busselton Water's customers are best served by Busselton Water continuing to be licensed, so it can maintain water services to those customers, (section 26(1)(a) and (b) of the ERA Act and section 46(b) of the Water Act).
  21. 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 and section 46(b) of the Water Act).
  22. 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).
  23. 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).
  24. 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 WL3 would not be contrary to the public interest.