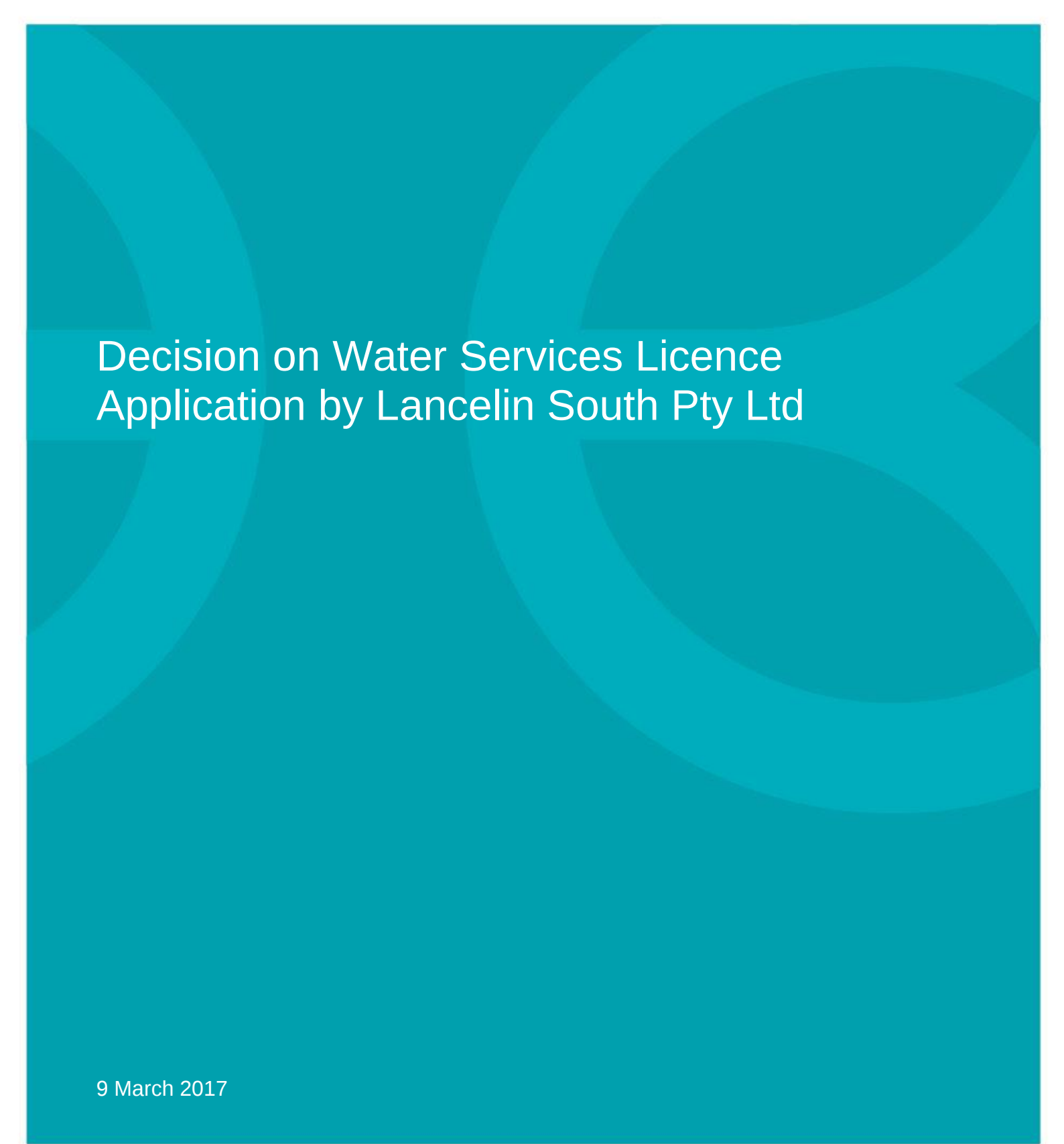




Decision on Water Services Licence Application by Lancelin South Pty Ltd

9 March 2017

Economic Regulation Authority

WESTERN AUSTRALIA

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Decision

1. Pursuant to section 11 of the *Water Services Act 2012* (**Act**), the Economic Regulation Authority (**ERA**) grants Lancelin South Pty Ltd (**the Applicant**) Water Services Licence No. 47 (**WL47**) to provide:
 - potable water services;
 - non-potable water services; and
 - sewerage servicesto the operating area (OWR-OA-311) 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.

Reasons

3. On 26 August 2016, the applicant applied for a water services licence to provide potable water, non-potable water and sewerage services within the approved operating area (OWR-OA-311).
4. Currently, the applicant has engaged Aquasol Pty Ltd to provide potable water, non-potable water and sewerage services to the development under WL42. However, the Applicant wishes to become the licensed water service provider for the development.
5. Under section 11(1)(a) of the Act, the ERA must grant a licence if it is satisfied that the Applicant has, and is likely to retain or will acquire within a reasonable time after the grant, and is then likely to retain, the financial and technical ability to provide the services authorised under the licence.
6. The ERA engaged financial and technical consultants to examine the financial and technical ability of the applicant to provide the water services the Applicant applied for. Following the assessment of this licence application:
 - The financial consultant concluded that the Applicant complies with the financial requirements set out under section 11(1)(a) of the Act.
 - The technical consultant concluded that the Applicant complies with the technical requirements set out under section 11(1)(a) of the Act.
7. The ERA has considered the licence application along with the consultants' assessments and is satisfied that the Applicant meets the requirements of section 11(1)(a) of the Act.
8. 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. Section 46 of the Act specifies what matters the ERA must take into account (to the extent it considers them relevant) when considering section 11(1)(b).

9. On 15 September 2016, the ERA sought public comment on the licence application by 6 October 2016. The ERA received a submission from Department of Health making the following statement:¹

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. The MOU will include provisions relating to monitoring, catchment to tap risk management and periodic reporting of water quality data and incidents to the DOH.

In relation to wastewater, a condition should be placed in the licence requiring the licensee to establish a separate MOU with the DOH for managing non-potable water services and sewerage services. This was foreshadowed in our letter to the Authority of 10 April 2013 on this subject, commenting on water services licence WL42.

10. The ERA notes that a MOU on drinking water is a standard licence condition.²
11. In relation to a MOU on non-potable water and sewerage services, the DOH made a similar request in relation to Aquasol Pty Ltd's application to amend WL42 to provide sewerage services. On 4 July 2013, with agreement of the DOH, the ERA decided not to include an MOU on sewerage services in the licence, as it would not impede the DOH's ability to regulate Aquasol's sewerage service under the *Health Act 1911*.³
12. The ERA also notes that:
- a number of other licensees provide non-potable water and sewerage services and the DOH has not made submissions to require these licensees to have an MOU on non-potable water.
 - The DOH did not make a submission to the ERA's recent review of water services licences to include this as a template licence obligation for all licensees providing non-potable water and sewerage services.
 - A number of non-potable water and sewerage service providers are exempt from licence requirements.⁴
13. As a result, the ERA sought additional information from DOH to justify the proposed requirement for Lancelin South to be required to enter into a MOU on non-potable water and sewerage services. However, the ERA did not receive further supporting information to justify the DOH proposal.
14. The ERA is of the view that the DOH has not made a case to justify the inclusion of a licence condition requiring a MOU on non-potable water and sewerage services. Therefore, the ERA has decided not to include such a condition in WL47.

¹ See www.erawa.com.au > [Water](#) > [Water Licensing](#) > [Public Submissions](#) (22 August 2016).

² The ERA notes that DOH has not yet found it necessary to enter into a MOU on drinking water services with the current licensee, Aquasol, in relation to WL42.

³ See www.erawa.com.au > [Water](#) > [Water Licensing](#) > [Reports and Decisions](#) > [Decision on amendment to Water Services Operating Licence No. 42 - Aquasol Pty Ltd](#) (4 July 2013) paragraphs 8 to 10.

⁴ See www.water.gov.au > Urban water > Water Services > [Water services licensing and licence exemptions](#).

15. The ERA has considered section 11(1)(b) of the Act, including the matters set out in section 46 of the Act, the public submission received, and the applicant's ability to undertake the activities to be authorised by a licence.
16. The ERA is satisfied that granting Water Services Licence No. 47 (potable water supply, non-potable water supply and sewerage services) to the Applicant would not be contrary to the public interest.