

Water Act 1989

Policies for Managing Take and Use Licences

This is a consolidated version, prepared by the Department of Sustainability and Environment, of the following instruments:

- *Policies for Managing Take and Use Licences- approved by the Minister for Water, Tim Holding MP, 7 September 2009.*
- *Amendment (Stormwater) of Policies for Managing Take and Use Licences – inserting sub-clause 7 (5), clause 9A and schedule 5- approved by the Minister for Water, Tim Holding MP, 27 July 2010.*
- *Amendment (Managed Aquifer Recharge) of Policies for Managing Take and Use Licences – inserting clause 9B, conditions 4a and 34a in schedule 2 and updating schedule 5 - approved by the Minister for Water, Tim Holding MP, 21 September 2010.*

PART 1 – GENERAL

1. Purpose

The purpose of this document is to establish written policies for the management of take and use licences.

2. Manner of taking effect

- (1) Where an Instrument of Delegation made under section 306 of the Act requires any powers, discretions, functions, authorities and duties to be exercised in accordance with any written policies issued by the Minister, a delegate managing take and use licences must do so in accordance with these Policies.
- (2) The provisions in the Act relating to the management of take and use licences include –
 - (a) sections 51, 53, 58 and 62 of the Act (concerning applications for the issue, renewal or transfer of a take and use licence), and
 - (b) section 56 of the Act (concerning conditions in a take and use licence).

3. Commencement

These Policies come into operation on the day on which they are issued.

4. Application

These Policies apply to all licences to take and use water in Victoria. It is clear from certain clauses however that those clauses only apply to licences for surface water or groundwater or to licences in particular areas or water systems.

Note: these Policies supplement but do not replace the requirements under section 53 of the Act for delegates to have regard to various matters notably those listed in section 40 of the Act, covering environmental and third party effects, before approving applications to issue, renew or transfer licences.

5. Revocation of guidelines made previously

The “Ministerial Guidelines for Managing Diversion Licences” issued by the Minister for Environment and Conservation on 14 October 2002 are revoked.

6. Definitions

“**Act**” means the *Water Act 1989*;

“**all-year licence**” means a licence that permits a person to take (including by harvesting in a catchment dam) surface water at any time during a year;

“**annual use limit**” in relation to a licence means the maximum volume of water that may be applied to the land specified in the licence in any water season;

“**available water**” for a catchment means the volume of water not yet authorised to be taken and thus currently available to be taken between 1 July and 31 October in any year, and is calculated by subtracting the volume of water currently authorised to be taken between 1 July and 31 October (under a licence, a bulk entitlement, or a private right under section 8(1) or 8(4)(c) of the Act) from the sustainable diversion limit for that catchment;

“**catchment dam**” means a dam that solely harvests run-off and is not on a waterway or used to store water taken from a waterway;

“**delegate**” means a person to whom the relevant power is delegated under an Instrument of Delegation made under section 306 of the Act;

“**Department**” means the Department of Sustainability and Environment;

“**licence**” means a take and use licence issued under Division 2 of Part 4 of the Act;

“**licence volume**” is the maximum volume that the licence holder is authorised to take under a licence in a water season or in any shorter take period stated in the licence;

“**management plan**” means a management plan that is for a water supply protection area and that has been approved by the Minister under section 32A of the Act;

“**new licence**” includes a licence that results from an application for issue of a licence or for approval of a transfer of a licence, but does not include a licence that results from an application to renew a licence under section 58 of the Act;

“**northern Victoria**” means that part of Victoria north of the Great Dividing Range (that is, that part of Victoria in the Murray-Darling Basin);

“**register operational date**” is –

- (a) for those licences managed by Goulburn-Murray Water or Melbourne Water or Southern Rural Water, 31 August 2009; and
- (b) for those licences managed by any other delegate, a date that the Secretary of the Department advises the delegate in writing;

“**southern Victoria**” means that part of Victoria south of the Great Dividing Range;

“**stormwater works**” means

- (a) channels, drains or pipes or associated works, including box culverts, owned or operated for the purpose of collecting or conveying stormwater runoff from an urban area or development; and
- (b) retarding basins or wetlands constructed or operated for the purpose of holding or treating stormwater runoff from an urban area or development; and

(c) in the case of Melbourne Water Corporation, works listed in Melbourne Water Corporation's asset register and used for the purposes of carrying out its regional drainage functions under Part 10 of the Act;

“sustainable diversion limit (SDL)” means, for a catchment, the total volume of surface water that may be taken in the catchment between 1 July and 31 October in any year, as determined by the Department as part of statewide assessments, unless a different value has been determined, either –

- (i) as part of a management plan, or
- (ii) after detailed study of a localised area in accordance with Schedule 1;

“unregulated water system” means a surface water system where flows in waterways are not regulated by public dams to secure water supplies to licence holders;

“unregulated trading zone” means a part of an unregulated water system listed in Schedule 4;

“water allocation” in relation to a licence, means the volume of water allowed to be taken under the licence in the current water season, and unless the delegate has determined a lower proportion in a particular water season is the same as the licence volume;

“water register” means the Victorian water register established under Part 5A of the Act;

“water season” means any period of 12 calendar months beginning on 1 July in any year and ending on 30 June in the following year;

“water share” means a water share issued under Division 2 of Part 3A of the Act;

“winter-fill licence” means a licence that only entitles a person to divert surface water to, or harvest surface water in, a private dam during specified months including some winter months.

PART 2 – ISSUE OF LICENCES

7. Limits on the issue of new licences

- (1) A delegate may not issue any new licence if this would result in the total volume of licences and other authorisations to take water from an area (for example, a river basin) or water system (for example, an aquifer), being greater than any permissible consumptive volume (PCV) determined for that area or water system under section 22A of the Act.

Note: this is consistent with section 55(2B) of the Act – though that section does not cover licences that result from transfers, for example; and frames the limit in terms of possible allocation or use of water, rather than in terms of the volume of licences and other authorisations.

- (2) In northern Victoria, a delegate may not issue any new licence for surface water, except where the delegate does this as a result of –
 - (a) a transfer of a licence under section 62 of the Act, or
 - (b) the cancellation of a water share under section 33ABA of the Act, or
 - (c) the surrender of licences to be replaced by consolidated licences or divided licences or licences with different conditions, or

(d) the surrender of a registration licence to be replaced by a licence in accordance with section 51A of the Act, or

(e) a sale of water by a water corporation or the Minister –

and in each of these cases the delegate may issue the licence only to the extent of the volume of the licence transferred or surrendered, the water share cancelled, or the water sold.

(3) In the river basins in southern Victoria, a delegate may not issue any new all-year licence, except where the delegate does this as a result of –

(a) a transfer of an all-year licence under section 62 of the Act, or

(b) the cancellation of a water share under section 33ABA of the Act, or

(c) the surrender of all-year licences to be replaced by consolidated licences or divided licences or licences with different conditions, or

(d) the surrender of a registration licence to be replaced by a licence in accordance with section 51A of the Act, or

(e) a sale of water by a water corporation or the Minister –

and in each of these cases the delegate may issue the licence only to the extent of the volume of the licence transferred or surrendered, the water share cancelled, or the water sold.

Note: even the issue of a winter-fill licence will generally need to be the result of a transfer, since most of the southern river basins have no room left under their PCVs or their SDLs.

Issue of a licence via a transfer is still subject to the trading rules below and the requirements under section 53 of the Act to have regard to adverse effects.

(4) Where sub-clause (2) or (3) would otherwise prevent a delegate from issuing a licence to extract water from a waterway, a delegate may issue a licence if the licence includes a condition that requires all the water to be returned to the waterway or to be used in the waterway for a non-consumptive purpose.

Note: in a declared water system, where licences generally have been replaced by “unbundled” rights, it is still possible, under section 51(1AA) of the Act, in specific circumstances to have a licence, including where full return is a condition.

(5) Where sub-clauses (1), (2) or (3) would otherwise prevent a delegate from issuing a licence to extract water, a delegate may issue a licence in the circumstances and subject to the conditions specified in clause 9A.

8. Management plans

In considering an application for the issue or renewal of a licence, or for approval of the transfer of a licence, in or into an area for which a management plan has been approved, a delegate must apply any requirements of that plan.

Note: this is consistent with sections 53(2)(e) and 55(2) of the Act, and leaves no room for doubt that management plans apply to renewal and transfer of licences.

9. Sustainable diversion limits applied to winter-fill licences

(1) In considering any application for the issue of a winter-fill licence, or for the transfer of a winter-fill licence to a different extraction point, or for the transfer of

an all-year licence to become a winter-fill licence at a different extraction point, a delegate must –

- (a) calculate, using the sustainable diversion limit methodology as set out in Schedule 1, the available water for:
 - (i) the catchment that covers the whole area upstream of the point at which water is proposed to be taken,and, as required under paragraph (b) of this Policy, for:
 - (ii) progressively larger catchments moving downstream from the point at which the water is proposed to be taken; and
 - (b) subject to sub-clause (2), refuse the application –
 - (i) where the application is for *issue* of a winter-fill licence with no transfer, if there is not enough available water in the catchment referred to in paragraph (a)(i) or in any of the downstream catchments referred to in paragraph (a)(ii) as far as the furthest downstream catchment for which sustainable diversion limits are defined for the river basin;
 - (ii) where the application is for any *upstream transfer* to be a winter-fill licence, if there is not enough available water in the catchment referred to in paragraph (a)(i) or in any of the downstream catchments referred to in paragraph (a)(ii) as far as the catchment immediately upstream of the one that includes the point from which the transfer is proposed.
- (2) A delegate may approve the transfer of an all-year licence to become a winter-fill licence which the delegate would otherwise be required to refuse under sub-clause (1)(b), if it is the delegate's view that –
- (a) the adverse effect on winter flows will be outweighed by the beneficial effect on summer flows, and this assessment is agreed to in writing by the relevant catchment management authority, and
 - (b) there will be no undue adverse impacts on other water users.

Note: any downstream transfer to be a winter-fill licence is allowable under this Policy, assuming the transfer is down the same tributary or to a waterway into which the tributary flows. If the transfer is to a different tributary that flows into the waterway further downstream, the transfer should be seen as consisting of two legs: a downstream transfer to where the different tributary flows in, and an upstream transfer.

9A. Licensing of stormwater

- (1) Notwithstanding the other provisions in this Part, a delegate may issue a licence, including an all-year licence, to extract water from –
 - (a) the stormwater works of an Authority; or
 - (b) a waterway within an urban area at a place downstream of the stormwater works of an Authority or a municipal council.
- (2) A delegate must not consider any application for a licence to extract water as provided for in sub-clause (1) from an area in respect of which a permissible consumptive volume has been declared, unless the Minister has made commensurate adjustments to that permissible consumptive volume or granted an exemption from the requirements of section 55(2B)(a) of the Act.

Note: an Order setting a PCV may expressly take into account extractions from the stormwater works of an Authority. Otherwise, if an application for a licence to extract water would result in a PCV being exceeded, a specific exemption from the requirement of section 55(2B)(a) of the Act must be obtained from the Minister to enable the licence application to be considered and assessed.

- (3) In respect of any licence to extract water from the stormwater works of an Authority that drain directly to the sea, the licence volume must not exceed the estimated amount of water available at the place specified in the licence as the point of extraction (the point of extraction).
- (4) In respect of any licence to extract water from the stormwater works of an Authority that do not drain directly to the sea, the licence volume must not exceed –
 - (a) in the case of stormwater works that service an urban area existing as at August 2006 –
 - (i) 50% of the estimated net increase in runoff and net decrease in groundwater recharge resulting from a existing urban development or a higher percentage if the findings of an environmental study demonstrates, to the satisfaction of the delegate, that the higher percentage will result in net environmental benefits;
 - (ii) less any authorised extractions of water from the stormwater works upstream of the point of extraction; or
 - (b) in the case of stormwater works that service an urban area that has been developed since August 2006 (a new urban development) –
 - (i) up to 100% of the estimated net increase in runoff and net decrease in groundwater recharge resulting from the new urban development;
 - (ii) less any authorised extractions of water upstream from the point of extraction.

Note: August 2006 is the month in which the Central Region Sustainable Water Strategy was released announcing the new state-wide policy for stormwater.

- (5) The delegate must not issue a licence to extract water from a waterway within an urban area unless –
 - (a) the licence volume does not exceed the amount calculated in the same way as provided for in sub-clause (4) in respect of the net increase in flow in the waterway due to discharges to the waterway from the stormwater works of an Authority or a municipal council; and
 - (b) the delegate has obtained the relevant catchment management authority's approval in principle to any associated works on the waterway.
- (6) Before estimating the net increase in runoff resulting from an urban development, the delegate must be satisfied that adequate modelling has been carried out to quantify the amount of stormwater generated by the development and the flows resulting from that development at the proposed point of extraction.
- (7) Any licence described in sub-clause (1) must include appropriate conditions, such as conditions restricting when water can be taken, the specification of a passing flow and metering and monitoring requirements to ensure that other authorised users are not adversely affected and the environmental water reserve is maintained in accordance with the environmental water reserve objective.

9B Licensing to recover water as part of a Managed Aquifer Recharge Scheme

- (1) In this clause–
 - “**MAR scheme**” means a scheme for the intentional recharge of an aquifer, either by injection or infiltration, and recovery by planned extraction;
 - “**recharge volume**” means, in relation to a MAR scheme, the volume of water disposed of underground under a section 76 MAR approval and in accordance with that approval;
 - “**section 76 MAR approval**” means approval issued under section 76 of the Act to dispose of water underground by means of a bore in relation to a MAR scheme.
- (2) The provisions of this clause, with the exception of sub-clause (11), relate to licences to recover water as part of a MAR scheme and, in the event of any inconsistency with other parts of this document, the provisions of this clause prevail.
- (3) An application for a licence must be accompanied by:
 - (a) a works licence(s), or an application for a works licence(s) under section 67;
 - (b) a section 76 MAR approval or an application for section 76 MAR approval; and
 - (c) a Project Plan satisfying the requirements in the Policies for Managing Section 76 Approvals.
- (4) A delegate must consult with the executive director responsible for water entitlements in the Department on an application for a licence.
- (5) A licence must include a condition that prohibits the licence holder from taking during a water season more than a specified percentage of the recharge volume for that water season (adjusted to take account of any permitted carryover and any volume temporarily transferred to another person or location).
- (6) A delegate must not specify a percentage that will result in a detrimental effect on the aquifer, other water users or the environment.
- (7) In the case of an unconfined aquifer, the specified percentage must not exceed 80 per cent of the recharge volume for a water season, unless the applicant provides sufficient evidence to warrant a higher percentage.
- (8) In the case of a confined aquifer, the specified percentage must not exceed 100 per cent of the recharge volume for a water season.
- (9) If a delegate is of the opinion that carryover could have a detrimental impact on the aquifer, other water users or the environment, a delegate should include a condition in the licence to manage those adverse impacts.
- (10) A delegate must refuse an application to temporarily transfer a licence, where the volume to be transferred exceeds the specified percentage referred to in sub-clause (5).
- (11) A delegate must refuse an application to take water from an aquifer which has been or will be recharged as part of a MAR scheme if the delegate is of the opinion that the issue of the licence may have an adverse effect on the MAR scheme.
- (12) If the proponent of a MAR scheme already holds a licence to take and use water from the aquifer and applies under section 59A for the amendment of the licence

to recover water as part of the MAR scheme, the provisions of this clause apply to the application to amend the licence and the provisions of the amended licence which relate to the MAR scheme.

10. Fencing of Crown frontages

Notwithstanding other provisions in this Part, where a landholder –

- (a) holds a licence under section 130 (“agricultural licence”) or section 138 of the *Land Act 1958* over a Crown land frontage along a waterway, which licence does not permit grazing other than for less than a month a year for conservation purposes, and the Crown land frontage has within the previous five years been fenced off to exclude stock access, or
- (b) has held a licence under the *Land Act 1958* allowing grazing of a Crown land frontage along a waterway, which licence has been –
 - (i) cancelled to implement a recommendation of the Victorian Environment Assessment Council, or
 - (ii) surrendered as part of an arrangement for the Crown land frontage to be managed by a committee of management,

a delegate may issue to the landholder an all-year licence to pump water from the waterway for stock to drink, provided that –

- (c) in northern Victoria the Murray-Darling Basin Authority has agreed to commensurate adjustments to the cap on diversions set in Schedule E of the Murray-Darling Basin Agreement, and in southern Victoria the Minister has made commensurate adjustments to any relevant permissible consumptive volume; and
- (d) the licence is for a volume that is no greater than a reasonable estimate of the volume of water that the landholder’s stock have been drinking directly from the waterway; and
- (e) the licence, and any future licence issued as a result of an application to renew the licence, includes –
 - (i) a condition that requires water taken under the licence to be used for the purpose of stock watering, and
 - (ii) conditions that require the licence holder to –
 - A. continue to hold and comply with the Land Act licence, for cases in paragraph (a), and
 - B. ensure that stock do not gain access to the waterway other than for short periods in accordance with the Land Act licence for cases in paragraph (a), or for short periods with the agreement of the relevant land manager for cases in paragraph (b), and
 - (iii) a condition that prevents the licence from being transferred to any other location; and
- (f) the delegate adheres to any guidelines set by the Secretary of the Department with respect to the circumstances where licences may be issued, calculation of licence volumes, and conditions to be placed in the licences; and
- (g) the delegate –
 - (i) takes action under section 60 of the Act to revoke the licence if there is a failure to comply with any conditions in paragraph (e)(ii), and

- (ii) does not approve any application to transfer the licence or any future licence issued as a result of an application to renew the licence, other than to new owners of the same land.

Note: in a declared water system, for a licence to be used in this situation requires the purpose to be prescribed in accordance with section 51(1AA) of the Act.

The water that stock drink represents a diversion that is not metered and is not provided for in the cap. Licences should only cover the amount stock were drinking in 1993/94 conditions, and then the cap should be able to be increased by the same amount.

11. Licensing dairy shed water

Notwithstanding other provisions in this Part, where a landholder has been taking water for a dairy shed in excess of the volume of a dairy wash licence, or relying on a private right under section 8(1) or 8(4)(c) of the Act, a delegate may amend the licence volume of the licence or issue a new licence to cover the unlicensed water use, provided that –

- (a) an application in the form approved by the Minister has been made to the delegate by the close of business on 26 February 2010; and
- (b) the licence is for a volume that is no greater than a reasonable estimate of the landholder's existing unlicensed use in the dairy shed, determined using the Department of Primary Industry's 2009 workbook *Dairy shed water – How much do you use?*; and
- (c) in northern Victoria the Murray-Darling Basin Authority has agreed to commensurate adjustments to the cap on diversions set in Schedule E of the Murray-Darling Basin Agreement, and in southern Victoria the Minister has made commensurate adjustments to any relevant permissible consumptive volume; and
- (d) the delegate adheres to stipulations advised by the Minister with respect to any relevant matter, including the circumstances where licences may be issued, calculation of licence volumes, information to be provided by the delegate, and conditions to be placed in the licences.

Note: this amnesty is for a limited time only. It recognises that some unlicensed usage has been tolerated in the past, and for unregulated surface water and groundwater there is limited scope to buy licences or save water. In northern Victoria, licences should only be issued to the extent of unlicensed usage in 1993/94 conditions.

PART 3 – CONDITIONS AND REQUIREMENTS

12. Taking of water

- (1) In issuing, renewing, or approving the transfer of a licence a delegate must include in the licence such conditions with respect to the taking of water that are required to protect the environment and other water users.
- (2) Any licence issued, renewed or transferred must include conditions that allow –
 - (a) in periods of low water availability or low water quality, the application of rosters and other restrictions by the delegate to regulate the rate at which water can be taken, and
 - (b) in the case of groundwater licences unless the delegate is satisfied that this is not necessary, water allocations to be determined by the delegate at the

beginning and during the course of a water season that are less than 100 per cent of the licence volume.

- (3) For all waterways and aquifers where the number of licences is more than twelve, a delegate should as far as is practicable agree in advance with –
 - (a) the relevant catchment management authority, or
 - (b) the executive director responsible for water entitlements in the Department –on an allocation policy or on a restriction policy, including trigger flow rates or quality levels or groundwater levels and the corresponding allocation or restriction levels to be applied, and publish these on its website.

Notes: before agreeing to any allocation or restriction policy the executive director responsible for water entitlements should consult with the executive director responsible for river health. A policy could be set in a management plan, and if so that is what must be followed. Publication of a policy could be as part of a management plan, local management rules or some other document.

- (4) The delegate should determine water allocations or apply restrictions:
 - (a) where an allocation policy or a restriction policy has been agreed in advance in accordance with sub-clause (3), consistent with what has been agreed; and
 - (b) in other cases, as necessary to protect the environment and other water users.
- (5) For licences that are being used to take water from waterways during the period between 1 July and 31 October, in establishing trigger flow rates and corresponding restriction levels under sub-clause (3), and in applying restrictions in other cases under sub-clause (4)(b), the delegate should have regard to the minimum flow thresholds for these months, in the way set out in Schedule 1.

13. Limitations on taking under a single licence

A delegate may not issue, renew or approve the transfer of a licence that allows the licence holder to take water under the licence –

- (a) from more than one type of water system (such as from groundwater *and* unregulated surface water); or
- (b) in the case of surface water licences, from more than one river basin, or from more than one waterway or catchment; or
- (c) in the case of groundwater licences, from more than one groundwater management unit, or from more than one aquifer; or
- (d) from more than one trading zone (an unregulated trading zone, or any other trading zone such as one for groundwater defined in a management plan); or
- (e) using more than one method of taking (such as via an on-waterway dam *and* harvesting in a catchment dam); or
- (f) during more than one take period (such as from July to October *and* all-year).

14. Take period for winter-fill licences

- (1) If a delegate issues a winter-fill licence, or approves the transfer of any surface water licence – whether winter-fill or all-year – to be a winter-fill licence including

where the extraction point stays the same, the delegate must, unless a management plan requires a different take period, make it a condition of the licence, –

- (a) where water will be taken from a waterway to an off-waterway dam, that water only be taken from the waterway between 1 July and 31 October; and
- (b) where water will be harvested in an on-waterway dam, that water only be harvested in the dam between 1 July and 31 October, and that at all other times flows be allowed to pass downstream without diminution; and
- (c) where water will be harvested in a catchment dam, that water only be harvested in the dam between 1 July and 31 October, and that at all other times run-off be allowed to run past the dam without diminution.

Note: for an on-waterway dam, bypass mechanisms are required that allow all the flows to pass outside the take period, but that also allow for minimum passing flows during the take period. See standard condition 13 in Schedule 2.

- (2) For an existing winter-fill licence which allows diversion or harvesting to start two months earlier than 1 July, any diversion or harvesting in May or June is to be interpreted as occurring after 1 July for the purposes of these Policies.

15. Licences for groundwater where the aquifer yield is uncertain

In cases where there is uncertainty about the yield of an aquifer or about the potential adverse impacts of groundwater extraction, in issuing or in approving the transfer of a licence for groundwater, the delegate should consider –

- (a) setting a term no greater than three years; and
- (b) including conditions relating to monitoring, protection of the environment, reporting, and compensation; and
- (c) including conditions relating to provision of information prior to renewal.

Note: this is consistent with the “Ministerial Guidelines for Licensing Groundwater for Urban Water Supply” issued by the Minister for Water on 7 July 2008.

16. Requirement to own or occupy land

- (1) Subject to sub-clauses (2) and (3), a delegate may not issue, renew, or approve the transfer of a licence to a person who does not own or occupy land specified in the licence where the water taken under the licence is to be used.
- (2) Sub-clause (1) does not apply in the following situations:
 - (i) where the water is to be carted, including for dust suppression, road works, or emergency supplies;
 - (ii) where the licence holder is to be a syndicate which uses the water to cover losses in transporting water to the syndicate’s members;
 - (iii) where the water is to be used for urban water supply;
 - (iv) in other situations agreed to in writing by the Secretary of the Department.
- (3) Despite sub-clause (1), if the land specified in a licence has been sold to another person, in order to give the holder of the licence sufficient time to transfer the licence a delegate may renew the licence once only, for a maximum period of 12 months, unless otherwise determined in writing by the Minister.

17. Use of water

- (1) In issuing, renewing, or approving the transfer of a licence a delegate must include in the licence such conditions with respect to the use of water on land that are required to protect the environment and other water users, as the delegate considers appropriate covering:
 - (a) managing groundwater infiltration,
 - (b) managing disposal of drainage,
 - (c) minimising salinity,
 - (d) protecting biodiversity, and
 - (e) minimising cumulative impacts of water use.
- (2) Any licence issued, renewed or transferred may include an annual use limit as well as the licence volume, and the annual use limit may specify a volume of water that is different from the licence volume.

Note: where the licence volume is less than the annual use limit or nil, then use of water may only exceed the licence volume if the balance of water that may be taken in the current water season is temporarily transferred to the licence holder.

- (3) A delegate may increase an annual use limit set in a licence, either –
 - (a) as part of a temporary or permanent transfer of another licence to the licence holder, or
 - (b) temporarily, to accommodate exceptionally high evapotranspiration, where the relevant catchment management authority has agreed to such an increase in writing.
- (4) In accordance with section 40(1)(m) of the Act, a delegate may refuse to issue or approve the transfer of a licence if, in the delegate’s view, the prospective holder of the licence could not reasonably use that amount of water on the nominated land.

18. Irrigation and drainage plans

- (1) Subject to sub-clause (3), a delegate must require a person who makes an application for the issue or renewal of a licence or for approval of the transfer of a licence to provide an irrigation and drainage plan that has been prepared in accordance with the requirements set out in Schedule 3.
- (2) A delegate may reject or seek changes to an irrigation and drainage plan that has been submitted in accordance with sub-clause (1), but must endorse an irrigation and drainage plan as approved before approving the application.
- (3) The requirement under sub-clause (1) to prepare an irrigation and drainage plan will not apply in any of the following circumstances:
 - (a) where an existing licence is being renewed, or transferred to a new licence holder but is to cover the same land, and in the delegate’s view the existing licence does not have significant deficiencies;
 - (b) where use of water under the licence is for domestic and stock purposes or for any other purpose that does not include irrigation.
- (4) A delegate may modify or waive the requirement under sub-clause (1) to prepare an irrigation and drainage plan where –

- (a) the annual use limit in the licence is to be less than 20 megalitres, and
- (b) in the delegate's view, any adverse impact from the use of water under the licence is likely to be minor.

19. Terms of licences

- (1) In issuing, renewing, or approving the transfer of a licence a delegate must specify the term for which the licence will remain in force, which in accordance with sections 56(3) and 58(5) of the Act is no more than 15 years.
- (2) In deciding on the term of a licence a delegate should have regard to the degree of uncertainty about the water resource and about the impacts of taking water, and should set a relatively short term where this uncertainty is relatively extensive.
- (3) For a licence for unregulated surface water, a delegate should consider setting a term no greater than five years.

Note: where licences on the Latrobe River have been renewed for an unlimited period and accordingly do not expire, the delegate may amend the conditions of these licences to the extent necessary to comply with a management plan, in accordance section 59(1) of the Act.

20. Metering requirements

- (1) In accordance with section 56(1)(a)(xii) of the Act, in issuing, renewing or approving the transfer of a licence a delegate may include conditions relating to the installation and use of meters.
- (2) In determining conditions relating to the installation and use of meters –
 - (a) subject to sub-clause (3) , a delegate must include in all new licences where the water taken under the licence is to be used for irrigation or commercial purposes, a condition requiring the installation of a meter approved by the delegate; and
 - (b) subject to sub-clause (3), where an existing licence is being renewed or amended a delegate must ensure that it includes a condition requiring the installation of a meter approved by the delegate if the licence volume is –
 - (i) 10 megalitres or greater, for unregulated surface water, and
 - (ii) 20 megalitres or greater, for groundwater; and
 - (c) the obligation on the delegate in paragraph (b) does not apply if in the delegate's view a meter would be impracticable, in which case the delegate must –
 - (i) document the reasons for its view, and
 - (ii) identify in the licence a substitute method for estimating to the delegate's satisfaction the volume of water taken.
- (3) Notwithstanding sub-clause (2), a delegate must follow any policy on metering that may in the future be adopted by the Minister.

Note: the above does not preclude a delegate from requiring more extensive metering. Metering requirements for an area could be stipulated in a management plan.

21. Standard conditions

- (1) Starting from the relevant register operational date, in issuing, renewing or approving the transfer of any licence, a delegate must include in the licence the

standard conditions as set out in Schedule 2, provided they are not inconsistent with any requirements of a management plan.

- (2) A delegate may, where the delegate deems it appropriate having regard to the matters to which the delegate must have regard under section 53 of the Act, –
 - (a) add any condition that is relevant to a particular situation, and that is chosen from a list of pre-defined conditions provided in the water register; or
 - (b) add a special condition that is not pre-defined but is relevant to a particular situation, in which case the delegate must signify in the water register any such special condition so that the Department can be informed about it.

PART 4 – PROCESS FOR DECIDING ON LICENCES

22. Applications, notifications etc for surface water licences

Where an application is made for the issue of a surface water licence, or for approval of the transfer of a surface water licence, a delegate must comply with, and should not consider an application unless the applicant complies with, the requirements set out in the “Ministerial Guidelines for Licensing Irrigation and Commercial Use – Surface Water” issued by the Minister for Environment and Conservation on 28 June 2002 (as amended or replaced from time to time), including with respect to:

- (a) notification by the applicant of the local council and neighbours;
- (b) provision of information by the applicant;
- (c) site inspection by the delegate; and
- (d) advice by the delegate to persons making submissions and to bodies to which an application has been referred.

23. Applications, notifications etc for groundwater licences

Where an application is being made for the issue, or for approval of the transfer, of a groundwater licence for urban water supply, a delegate must comply with, and may not consider an application unless the applicant complies with, the requirements set out in the “Ministerial Guidelines for Licensing Groundwater for Urban Water Supply” issued by the Minister for Water on 7 July 2008 (as amended or replaced from time to time), in particular regarding preparation of a groundwater assessment report.

24. Documentation of assessment

- (1) Prior to the determination of an application to issue, renew or transfer a licence, a delegate must document the manner in which it has had regard to the matters to which it must have regard under section 53 of the Act.
- (2) Where an existing licence is being renewed, or being transferred to a new licence holder but is to cover the same land, and within the last five years the delegate has undertaken a thorough consideration of the matters to which the delegate must have regard including where appropriate via a site inspection, then the delegate may rely on that earlier consideration, and the documentation under sub-clause (1) may simply note that this is how the matters have been considered.

PART 5 – RECORDING OF LICENCES

25. Use of the water register

- (1) Starting from the register operational date that applies to the licences that it manages, a delegate –
 - (a) must record in the water register any licence that the delegate issues or renews or whose transfer it approves;
 - (b) may record in the water register any licence that existed prior to the register operational date and that is still current –
 - (i) where the delegate renewed the licence less than four months prior to the register operational date and in doing so put standard water conditions in accordance with Policy 21 into the licence, or
 - (ii) where the delegate in any other way is at any time after the register operational date able to make a complete and authoritative record of the licence in the register;
 - (c) for any licence that existed prior to the register operational date and that is still current but does not have a complete and authoritative record in the water register in accordance with paragraph (b), must keep a note in the water register of the following aspects of the licence:
 - (i) a reference to the delegate’s file where the licence record is kept,
 - (ii) the name of the licence holder, the type of water system, the licence volume, and the expiry date.
- (2) A delegate must record the following details in relation to a licence that it records in the water register:
 - (a) the name and address of the holder of the licence;
 - (b) the name of the waterway, aquifer or works, the river basin or the groundwater management unit, the type of water system, the method of taking, the licence volume, the expiry date and any temporary transfers;
 - (c) the conditions to which the licence is subject; and
 - (d) any other information that the Minister or the delegate considers necessary.

PART 6 – TRANSFERS OF LICENCES

26. Temporary and permanent transfers

- (1) On approving an application for the permanent transfer of a licence or part of a licence to a different person or location, a delegate should –
 - (a) amend the licence of the seller (transferor), or cancel it and where appropriate issue a licence for a correspondingly smaller volume in its place, and
 - (b) amend any licence held by the buyer (or transferee) or for the new location, or where applicable cancel such a licence and issue a new licence reflecting the volume transferred.
- (2) On approving an application for the temporary transfer of a licence or part of a licence, a delegate should record in the water register –
 - (a) for the licence, the volume that has been transferred, and

- (b) for any other existing licence that relates to the location where the water is to be taken and used, the volume that has been transferred and is now to be taken and used in accordance with the conditions of this existing licence.
- (3) Any temporary transfer of a licence or part of a licence must conclude at the end of a water season.
- (4) Subject to sub-clause (5), a delegate may only approve an application for the temporary transfer of a licence or part of a licence for a period of one water season, or for the remainder of the current water season.
- (5) A delegate may approve the temporary transfer of a licence for a period of up to five years –
 - (a) if the licence is in an area declared to be a water supply protection area under section 27(1) of the Act and there is a requirement under section 54 of the Act, that has been in place for over 12 months, to defer applications for permanent transfers, or
 - (b) if in the view of the delegate after consultation with the executive director responsible for water entitlements in the Department other circumstances exist that warrant a temporary transfer for a period longer than one water season.
- (6) Any part of a licence that is the subject of a temporary transfer from the original licence holder to another person, may not be approved for any further temporary transfer by this other person to take effect during the term of the original temporary transfer.
- (7) While a licence or any part of a licence is the subject of a temporary transfer –
 - (a) except as set out in paragraph (b), only such part of the licence that is not subject to this temporary transfer may be approved for a permanent or temporary transfer; and
 - (b) the permanent transfer of the whole licence may be approved, with any temporary transfer still applying to it, but only where the licence is still to apply to the same land.
- (8) If any water has been used under a licence in the current water season –
 - (a) except as set out in paragraph (b), the amount of used water must be subtracted from the licence volume that could otherwise be approved in the current water season for a temporary or for permanent transfer;
 - (b) where the licence is still to apply to the same land, the permanent transfer of the whole licence volume may be approved, except that any used water must be deducted from the water allocation available to the buyer in the current year.
- (9) If a licence includes a “sales” clause that provides for additional water to be offered for sale, a delegate –
 - (a) must not approve any application to transfer any such offer of additional water, and
 - (b) may approve a temporary transfer of the licence or part of the licence only on condition that the licence holder forfeits any offer of additional water during the period to which the temporary transfer relates.

27. Transfers within or between unregulated trading zones

- (1) Unless a management plan has been approved that establishes different rules, a delegate may only approve an application for the permanent or temporary transfer of an all-year licence to take water from unregulated water systems –
 - (a) if the licence will be transferred to a downstream user; and
 - (b) in the northern Victoria, if the delegate imposes a condition on the buyer which entitles the buyer, as a result of the transfer, to receive only 80 per cent of the licence volume which has been transferred by the seller.
- (2) Where a transfer provided for under sub-clause (1) is from a tributary downstream to a larger waterway, in deciding whether to approve or refuse the transfer or, if it is to be approved, what conditions to include in the buyer's licence, a delegate –
 - (a) must have regard to whether the buyer would be able to take more water than the seller was able to take because water would be available to the buyer more reliably with fewer restrictions; and
 - (b) may impose a condition on the buyer which entitles the buyer to receive, in northern Victoria less than 80 per cent, and in southern Victoria less than 100 per cent, of the licence volume which has been transferred by the seller.
- (3) Sub-clause (1) does not apply –
 - (a) where the licence issued to the buyer is a winter-fill licence; or
 - (b) where the seller and the buyer are both located –
 - (i) on the main stem of the Kiewa River (unregulated trading zone 191),
or
 - (ii) on the main stem of the Upper Murray River (unregulated trading zone 161).
- (4) Sub-clause (1)(a) does not apply –
 - (a) where the licence issued to the buyer is for domestic and stock purposes only and has a licence volume of two megalitres or less, and in the delegate's view there are sufficient summer flows; or
 - (b) where the Secretary of the Department determines in writing, upon submission of the delegate, that there are sufficient summer flows and no alternative source of supply.
- (5) A delegate may not approve a temporary transfer of a winter-fill licence to be an all-year licence.
- (6) Where a licence is for harvesting run-off in a catchment dam, a delegate may not approve a transfer of the licence to another location unless –
 - (a) the transfer is permanent, and
 - (b) either the dam is decommissioned, or the volume transferred is reduced to account for losses from the dam through evaporation and seepage.
- (7) A delegate may only approve a transfer of a licence between different unregulated trading zones in accordance with the rules set out in Schedule 4.

Note: in considering any transfer that would result in a winter-fill licence, it is important to take into account the various policies set out above, in particular Policy 9 on sustainable diversion limits. Likewise any transfer upstream of an all-year licence for domestic and stock purposes, could only be allowed if, in the particular

circumstances, there would be no adverse impacts; thus there would need to be sufficient summer flows.

28. Transfers between unregulated and regulated water systems

A delegate may approve –

- (a) the issue of a licence in an unregulated trading zone as a result of the cancellation of a water share, or
- (b) the cancellation of a licence in an unregulated trading zone for the purpose of issuing a water share,

only if it is allowed under the “Trading Rules for Declared Water Systems” made by the Minister under sections 33AZ and 64AZ of the Act and under these Policies.

Note: the Trading Rules make it clear that, amongst other things, trade is only possible from an unregulated water system to a regulated water system if there has previously been trade the other way, and that exchange rates apply to trade in both directions.

Schedule 1: METHODOLOGY FOR APPLYING SUSTAINABLE DIVERSION LIMITS

Policies 9 & 12

Note: the Department has assessed the sustainable diversion limits for nearly 1,600 discrete catchments across the State, and publishes these from time to time. This Schedule explains how different numbers from these statewide assessments can be used in certain limited circumstances, and how the volume of water currently authorised to be taken is arrived at. The water currently authorised to be taken is subtracted from the SDL to calculate the available water.

The Department's work to assess SDLs included an assessment of base flows and peak flows during the winter months that should not be taken out of waterways. Under Policy 12, when a delegate is deciding on trigger flows and restrictions on winter taking, the delegate should take account of these assessments. And as noted under standard condition 13 in Schedule 2, the delegate should also take account of them when setting passing flows during winter for inclusion in the conditions of a winter-fill licence that relates to an on-waterway dam.

1. Definitions

“farm dam equivalence factor” for a catchment means the factor, published from time to time by the Department, by which licence volumes are multiplied to account for the additional impacts on streamflows of harvesting water in an on-waterway or catchment dam compared with taking water directly from a waterway;

“maximum daily volume” means, for a catchment, the total volume of water that could be taken in one day during the period 1 July and 31 October – and is as determined by the Department as part of statewide assessments, unless a different value has been determined by the delegate taking into account local circumstances;

“minimum flow threshold” means, for a waterway, the flow during the period 1 July and 31 October which should be kept in the waterway – and is as determined by the Department as part of statewide assessments, unless a different value has been determined by the delegate taking into account local circumstances.

2. SDLs for certain localised areas

If a delegate can demonstrate that, after carefully considering the results of appropriate topographic and hydrogeological investigation, a localised area would not, under natural drainage conditions, materially contribute to the surface or sub-surface flow of water to any waterways nearby, then the delegate may, in consultation with the relevant catchment management authority, determine the SDL in a way that is appropriate to the area.

This clause provides flexibility to deal with exceptional situations in which application of the statewide assessments of the SDLs is clearly inappropriate. It is expected to apply only in small, closed-catchment situations where natural drainage systems are relatively undeveloped because of recent geological and geomorphological formations, for example, some of the recent volcanic areas in the south-west and sand dune formations in the far west of the State. Delegates should have due regard to groundwater recharge in these closed catchments.

Note that in the standard catchments for which the Department has made assessments, where there is an application for issue of, or transfer to be, a winter-fill licence in one part of the catchment that has some special features (e.g. little resource), in having regard to various matters in section 40 a delegate should consider these features.

3. Determining the volume of water currently authorised to be taken

- (1) Subject to sub-clause (3), in determining, for a catchment, the volume of water currently authorised to be taken between 1 July and 31 October, the delegate must use the statewide assessments of this volume made by the Department, adjusted by the delegate to account for any subsequent increase or decrease in the volume authorised to be taken under licences between 1 July and 31 October since the date the statewide assessments were made.
- (2) When adjusting the statewide assessments under paragraph (1), the delegate must –
 - (a) include estimates of the volume of authorised water to be taken between 1 July and 31 October under:
 - (i) licences to take and use surface water, and
 - (ii) licences to take and use groundwater which the delegate considers have a significant impact on surface water flows (accounted for relative to impact); and
 - (b) for all-year licences, count the following proportion of the licence volumes, this being the fraction of the licence volume deemed to be used between 1 July and 31 October:
 - (i) 25% for a licence to take water for domestic and stock use, and
 - (ii) 10% for a licence to take water for irrigation use, and
 - (iii) 25% for a licence to take water for commercial or industrial use outside Melbourne Water’s management area, and
 - (iv) 33% for a licence to take water for commercial or industrial use inside Melbourne Water’s management area; and
 - (c) calculate the volume of water currently authorised to be taken as:
 - (i) one megalitre for each megalitre of water authorised to be pumped directly from a waterway under a licence, and
 - (ii) each megalitre of water licensed to be taken by means of an on-waterway dam or a catchment dam multiplied by –
 - A. the farm dam equivalence factor of 1.45, or
 - B. any different value for the farm dam equivalence factor determined and published by the Department.
- (3) In determining, for a catchment, the volume of water currently authorised to be taken between 1 July and 31 October, the delegate may use an alternative method to the one set out in sub-clause (1) if in the opinion of the delegate the alternative method provides a more accurate estimate of this volume, and in this case the delegate must –
 - (a) have regard for the principles and methods used by the Department to determine its statewide assessments, including those set out in sub-clause (2); and
 - (b) in addition to taking into account licences, take into account –
 - (i) bulk entitlements issued under Part 4 of the Act, and
 - (ii) other water extractions which the delegate considers to be significant, including private rights under section 8(1)(a) to (c) and section 8(4)(c) of the Act; and
 - (c) make a detailed record of the method and analysis carried out.

4. Determining if there is available water in a catchment

The delegate must determine the available water for a catchment by subtracting the volume of water currently authorised to be taken in the catchment, as determined under clause 3, from the SDL for the same catchment.

5. Trigger flows and restriction levels

- (1) In accordance with Policy 12(5), in establishing a restriction policy or in applying restrictions that regulate taking of water from a waterway between 1 July and 31 October, a delegate should aim –
 - (a) to avoid flows in the waterway at the bottom of the catchment falling, as a result of extraction, below the minimum flow threshold for the catchment;
or, if the delegate considers it more appropriate to use an indicator flow gauge located somewhere else in accordance with sub-clause (2),
 - (b) to avoid flows passing the indicator flow gauge falling, as a result of extraction, below the minimum flow threshold for that indicator flow gauge.
- (2) The delegate may select an indicator flow gauge for use in a restriction policy after considering:
 - (a) indicator flow gauges identified by the Department based on hydrological similarity and proximity, or
 - (b) other information that is available, including local knowledge.

Note: where there are existing on-waterway dams, it is recognised that minimum flow thresholds might in some cases be hard to meet.

6. Passing flows in a condition of a licence for an on-waterway dam

- (1) For the purposes of standard condition 13 in Schedule 2, the bypass mechanism associated with an on-waterway dam should allow all flows in the waterway between 1 July and 31 October to pass downstream of the dam up to and equal to –
 - (a) the minimum flow threshold for the catchment that covers the whole area upstream of the point at which water is proposed to be taken, or
 - (b) after consultation with the relevant catchment management authority, some other flow rate that the delegate considers more appropriate to adopt given the delegate's knowledge of the particular situation.
- (2) If the catchment upstream of the on-waterway dam is a sub-catchment of one of the catchments for which minimum flow thresholds have been determined as part of statewide assessments, the delegate may determine the minimum flow threshold by multiplying the volume-per-area form of the statewide assessment by the area of the sub-catchment.

7. Take rate in a condition of a winter-fill licence

For the purposes of standard condition 6 in Schedule 2, the maximum volume of water that may be taken out of a waterway in any one day between 1 July and 31 October should be set taking into account –

- (a) the statewide assessments of maximum daily volumes, adjusted to take into account other diversions from the catchment; or
- (b) other practical considerations that are relevant in the view of the delegate.

Note: this rule is not easy to apply in practice. In a perfect world, it would require accurate stream gauging for each catchment and a knowledge of how much water all licence holders in a catchment were harvesting at any one time. Delegates should adopt a practical approach. For pumped diversions, this would utilise a delegate's discretion to limit the pump size in the works licence, and recognition that not all licence holders would be pumping at the same time. Strict adherence to this rule is less critical than the minimum flow threshold.

Schedule 2: STANDARD CONDITIONS FOR TAKE AND USE LICENCES

Policy 21

Method of taking

1. Water may only be taken under this licence if it is taken by the following method:
<<method of taking to be specified>>
2. The licence holder must at all times provide the Authority with safe access to inspect all works and appliances used to take water under this licence.

Take location

3. Water may only be taken under this licence if it is taken at the location specified in the licence under “extraction point details”. *[for new or transferred licences the extraction point details should include the coordinates, unless there is a special reason why the extraction point can be allowed to move up and down a waterway reach]*

Take volume and rate

[for groundwater and all-year licences]

4. The volume of water taken under this licence in any twelve-month period from 1 July to 30 June must not exceed the licence volume, less any volume that has been temporarily transferred to another person or location << may add “, plus any carryover from the previous period that may be permitted”>>.

[for licences related to a MAR scheme]

- 4A The volume of water taken under this licence in any twelve-month period from 1 July to 30 June must not exceed–
 - a. the <<specified percentage >> of the volume of water disposed of underground in that twelve-month period under an approval issued under section 76 in relation to a managed aquifer recharge scheme and in accordance with that approval, including any water quality standards specified, and any relevant authorisations under any other Act;
 - b. plus <<if applicable, the volume of water under this licence not taken in relation to a managed aquifer recharge scheme >>;
 - c. plus any carryover from the previous period that may be permitted;
 - d. less any volume that has been temporarily transferred to another person or location.”

[for winter-fill licences]

5. The volume of water taken under this licence in the period during which water may be taken must not exceed the licence volume, less any volume that has been temporarily transferred to another person or location << may add “, plus any carryover from the previous period that may be permitted”>> << for an on-waterway dam or a catchment dam, add “, and the volume of water taken will be measured as the volume taken out of the dam between 1 July and 30 June”>>.

[for all licences except those in connection with on-stream dams and catchment dams]

6. The maximum volume of water that may be taken under this licence in any one day is <<insert number here>> megalitres. *[for winter-fill licences the maximum take rate should be determined as set out in Schedule 1]*

Temporary transfers to the licence holder

7. If there has been a temporary transfer of another licence to take water at the location, and use water on the land, specified in this licence –
 - a. the extra volume of water taken at the location specified in this licence as a result of the temporary transfer must not exceed the volume transferred, and
 - b. all the conditions of this licence apply to the taking and using of water consequential to the transfer.

Water allocations *[only for groundwater licences, and delegate may choose to omit]*

8. The Authority may determine water allocations at 1 July or during the course of the subsequent twelve-month period that are less than 100% of the licence volume, in which case the licence volume is correspondingly reduced for that twelve-month period.

Take period

[for groundwater and all-year licences]

9. Unless otherwise directed by the Authority, water may be taken at any time between 1 July and 30 June.

[for winter-fill diversion to an off-waterway dam]

10. Unless otherwise directed by the Authority, water may only be taken from the waterway <<period to be specified; normally “between 1 July and 31 October”, but if an existing licence has a longer period this may be retained on renewal>>.

[for winter-fill using an on-waterway dam]

11. Unless otherwise directed by the Authority, water may only be harvested in the on-waterway dam <<period to be specified; normally “between 1 July and 31 October”, but if an existing licence has a longer period this may be retained on renewal>>; at all other times, the entire streamflow must be passed downstream of the dam.

[for winter-fill using a catchment dam]

12. Unless otherwise directed by the Authority, water may only be harvested into the catchment dam <<period to be specified; normally “between 1 July and 31 October”, but if an existing licence has a longer period this may be retained on renewal>>; at all other times, the entire run-off must be passed around the dam.

Passing flows

[for an on-waterway dam]

13. Bypass mechanisms must be installed and maintained in good working order to ensure that –
 - a. outside the take period, none of the natural flow in the waterway is harvested into the dam, and
 - b. during the take period, minimum passing flow rates of <<number to be specified>> megalitres per day are passed by the dam. *[During the winter months the minimum flows should be in line with those determined as part of the statewide assessments, in line with Schedule 1. This condition is not mandatory, however, on renewal of an existing licence that included lesser requirements.]*

[for a catchment dam]

14. Bypass mechanisms must be installed and maintained in good working order to ensure no run-off is harvested outside the take period.

Rosters and restrictions *[which may include bans]*

[if rules have not yet been set]

15. When directed by the Authority, water must be taken in accordance with the rosters and restrictions determined by the Authority and advised to the licence holder.

[for when rules have been set in advance, and the Authority notifies people each time they apply]

16. When directed by the Authority, water must be taken in accordance with the rosters and restrictions as set out in <<“the management plan, local management rules or other document”, or else insert name of actual document>> that is available on the Authority’s website.

[for when rules have been set in advance, and the onus is on people to check when they apply]

17. Water must be taken in accordance with the rosters and restrictions as set out in <<“the management plan, local management rules or other document”, or else insert name of actual document>> that is available on the Authority’s website, and before taking water under their licence the licence holder must check the restrictions that currently apply.

Metering of water taken and used *[all these metering conditions only need to be included in licences where metering is required under Policy 20]*

18. Water may only be taken under this licence if it is taken through a meter approved by the Authority.
19. Meters must be installed at the licence holder’s expense, unless the Authority determines that it will contribute to the cost.
20. Meters used for the purpose of this licence are deemed to be the property of the Authority.
21. The licence holder must at all times provide the Authority with safe access to meters for the purpose of reading, calibration or maintenance.
22. The licence holder must notify the Authority within one business day if the meter ceases to function or operate properly.
23. The licence holder must not, without the consent of the Authority, interfere with, disconnect or remove any meter used for the purposes of the licence.
24. The Authority may, if it deems necessary, make an estimate of the total volume of water taken under this licence.

[the following two conditions – on maintaining works and preventing pollution – only need to be included where they are not covered by a works licence]

Maintaining works

25. The licence holder must keep all dams and other works associated with this licence, including spillways, outlet pipes and valves –
 - a. in a safe and operable condition; and
 - b. free from obstacles and vegetation that might hinder access to the works.

Preventing pollution

26. The licence holder must construct and maintain bund walls around any hydrocarbon-fuel-driven engine, motor, fuel storage or chemical storage used in connection with this licence, in accordance with the timeframe, specifications, guidelines or standards set down by the Authority.

Use of water

27. Water taken under this licence may only be used for the purposes specified in the licence.

[the next two conditions not required where no land is specified in accordance with Policy 16]

28. Water taken under this licence may only be used on the land specified in the licence.
29. The licence holder must at all times provide the Authority with safe access to inspect the land on which water is licensed to be used.

[for any licence that allows irrigation and does not require metering]

30. The maximum area that may be irrigated in any 12-month period from 1 July to 30 June is <<the licensed area>>.

[the four following conditions – on groundwater infiltration, disposal of drainage, salinity, and biodiversity – are only essential to be included in licences where the water is to be used for irrigation]

Managing groundwater infiltration

31. The maximum volume of water that may be applied to the land referred to in the licence in any 12-month period from 1 July to 30 June is the annual use limit of <<insert number here>> megalitres, or if the annual use limit is adjusted by the Authority on account of seasonal conditions, this adjusted annual use limit <<to this may be added: “, less any water applied to the same land in the same period under other licences or a water-use licence”>>.

[if the Authority has not specifically fixed a different volume, the annual use limit will be the same as the licence volume]

Managing disposal of drainage

32. Where irrigation results in drainage from the land specified in the licence, that drainage water must be disposed of:
- in accordance with any terms and conditions that apply to a drainage service that is employed; or
 - if any drainage arrangements have been specified in an endorsed irrigation and drainage plan, in accordance with those arrangements.

[the next two conditions only apply when an irrigation & drainage plan has been required]

Minimising salinity

33. Where the endorsed irrigation and drainage plan identifies that the quality of the water being used poses significant risk of salt accumulating in the soil, water may only be used if its electrical conductivity lies within the range specified in the endorsed irrigation and drainage plan.

Protecting biodiversity

34. Where the endorsed irrigation and drainage plan identifies that the use of water poses direct and ongoing risks to wetlands, native flora, or the habitat of native fauna, water may only be used while the licence holder meets the monitoring and correctional requirements specified in the plan.

[for protecting biodiversity, a number of more specific conditions that are pre-defined in the water register could be used as appropriate]

[the next condition only applies to a take and use licence in relation to a MAR scheme]

Managed Aquifer Recharge Scheme Project Plan

34A. Water taken under this licence in relation to a managed aquifer recharge scheme can only be taken if the obligations under the Project Plan <<*citation*>>are adhered to.

Fees

35. The licence holder must, when requested by the Authority, pay all fees, costs and other charges under the *Water Act 1989* in respect of this licence.

Schedule 3: IRRIGATION AND DRAINAGE PLANS

Policy 18

Background

Irrigation developments must meet the standards necessary to minimise the impacts of water use on other persons and the environment (in particular waterlogging, salinity and nutrient impacts). This must involve an assessment of local conditions and appropriate design of irrigation systems.

The key purpose of an irrigation and drainage plan is to match the way land is irrigated and drainage disposed of, with the characteristics of the land and soil, in order to meet efficiently the objective of minimising harmful side-effects.

In those regions covered by a Land and Water Management Plan or a Salinity Management Plan approved by the Minister, an appropriate overlay from within a certified whole-farm plan may be accepted as an irrigation and drainage plan.

In those regions where recycled water is used, a Customer Site Management Plan (CSMP) as required by the EPA may be accepted as an irrigation and drainage plan.

In accordance with Policy 18, an irrigation and drainage plan that meets the requirements of this Schedule must accompany an application for a new or varied water-use licence that will allow a new development or major expansion.

For the new or varied water-use licence to be granted, the irrigation and drainage plan must be endorsed by the Minister (or by the water authority if it has delegated responsibility). A reference to the plan will be recorded as part of the water-use licence.

Requirements

1. Requirements within this schedule may be waived by the Minister after consultation with and written agreement from the relevant Catchment Management Authority.
2. If the relevant Catchment Management Authority seeks further information on any of the matters listed below because it considers this necessary to determine whether the site is suitable for sustainable development and what the potential off-site impacts are, then the Minister may require that further information.
3. An irrigation and drainage plan must include:

A. MAP OF PROPOSED DEVELOPMENT

A map of the proposed development is to be prepared which clearly identifies:

- (a) property boundaries;
- (b) areas to be irrigated;
- (c) type and location of crops to be planted;
- (d) location of existing features e.g. buildings, roads, channels, drains, fences, water storages, reuse systems;
- (e) location of water resources (including depth to groundwater);
- (f) location of proposed features; and
- (g) existing native vegetation, wetlands, and other environmental features.

B. TOPOGRAPHICAL SURVEY

A topographical survey, including elevation data and suitable contours is to be prepared.

Melbourne Water can provide its customers with relevant contour maps in most circumstances.

Check-bank, flood and furrow irrigation systems: Please note, the maximum slope allowable is 1:50.

C. SOIL ASSESSMENT

Either:

C1. For pressurised irrigation systems anywhere and any form of irrigation on mallee soils (that is soils of aeolian origin)

(Pressurised irrigation systems include drippers, microjets, centre pivots, lateral move irrigators and fixed sprays. More detailed soil survey information is required on mallee soils because they are extremely variable.)

Soil profile survey

Note: the survey provides information which will assist the designer prepare an irrigation system capable of applying accurate irrigation depth to maximise productivity whilst reducing the risk of off-site impacts.

Information required for the area proposed to be irrigated, to be provided on an overlay of the map of the property and soil data sheets, is as follows:

- (a) soil information to be obtained by a suitably qualified soil surveyor;

Information to be obtained at each site	
⇒ Soil texture of each layer	⇒ Mottling
⇒ Depth of each layer	⇒ Pedality
⇒ Depth of potential crop root zone	⇒ Dispersion index
⇒ Readily available water	⇒ Coarse fragments
⇒ Soil colour	

- (b) minimum pit depth of 1.5 metres or soil core to 1.8 metres;
- (c) grid spacing of 75 metres by 75 metres (broader spacings may apply for less intensive agriculture); and
- (d) measurements of pH and soil salinity (EC_e) to be obtained at representative soil types. Soil salinities should be measured for each distinctive soil horizon to 1.5 metres.

Or:

C2. For flood irrigation systems on non-mallee soils in northern Victoria

Soil survey

Note: the soil survey provides information that will help the developer determine the soil's suitability for sustainable broadacre irrigation.

Information required for the area proposed to be irrigated is to be provided on an overlay of the base map of the property and on soil data sheets.

Soil samples are to be taken from cores dug every 150 metres by 150 metres or data from previously published soil maps that show:

- (a) soil salinity for the subsoil (60-90 cm depth) in dS/m ECe (maximum threshold of 4dS/m ECe); and
- (b) soil permeability (infiltration rates) based on texture determinations (with a minimum requirement of a >30 cm thick layer of >40 % clay within the top 90 cm of the soil surface).

Or:

C3. For irrigation systems in southern Victoria

Soil survey

Note: the soil survey provides information that will help the developer to design irrigation systems capable of applying irrigation water accurately and to uniform depths so as to maximise productivity whilst reducing the risk of off-site impacts.

An understanding of soil variability in the region (previous soil maps) will determine the required intensity of soil sampling. The required information includes:

- soil layers and depth
- any impervious layers
- soil texture
- hydraulic conductivity (permeability)
- soil pH
- salinity/sodicity
- nutrient availability – nitrogen, phosphorus and potassium

For all cases (C1, C2 and C3):

Written report

A written report must be provided which includes:

- (a) description of topography and previous land use;
- (b) key aspects of climate;
- (c) soil profile descriptions;
- (d) factors affecting potential root-zone depth;
- (e) soil/water interactions e.g. drainage, permeability, infiltration;
- (f) readily available water;
- (g) land capability;
- (h) soil amelioration proposals; and
- (i) hydrogeology – if in the view of the author this is relevant and the authority requires it.

An overlay of soils grouped into similar irrigation management units is also required.

D. IRRIGATION DESIGN AND MANAGMENT

For all developments:

The irrigation and drainage plan must show:

- (a) anticipated crop water requirements and proposed maximum application rates;
- (b) irrigation system specifications;
- (c) map identifying delivery supply point and area to be irrigated; and
- (d) proposed irrigation scheduling arrangements.

Additional requirements for horticultural properties and for all developments on mallee soils:

The irrigation design must be completed by a certified irrigation designer in accordance with the following principles:

- (a) The irrigation system should be capable of applying an irrigation depth equivalent to or less than the readily available water of the soil, appropriate to the crop. Areas of similar readily available water are to be grouped as irrigation management units and supplied separately based on the results of the soil survey.
- (b) Flood and furrow irrigation should not occur where the calculated minimum depth that can be applied (taking into account infiltration rates, slopes, length of irrigation runs and discharge rate) exceeds the readily available water within the estimated crop root-zone.

Additional requirements for southern Victoria:

- (a) a plan for monitoring nutrient balance and nutrient movement; and
- (b) a plan for monitoring groundwater depth and groundwater quality.

E. ARRANGEMENTS FOR DRAINAGE DISPOSAL

The irrigation and drainage plan must include an appropriate contingency drainage design.

The need for a subsurface and/or surface drainage scheme and re-use system must be considered. A design is to be developed for the appropriate system(s) including the:

- (a) volume of water to be collected;
- (b) details of any approved on-site disposal site and/or details of any off-site disposal site;
- (c) details of approvals for any proposed re-use schemes and/or irrigation storages;
- (d) location of pumps, discharge or re-use points.

Upstream of the Nyah pumps, if the weighted soil salinity is greater than 600EC, the irrigation and drainage plan must include a preliminary sub-surface drainage plan identifying an appropriate contingency area for *evaporative* disposal in the event that subsurface drainage is required. Any land identified as being required for evaporative disposal must not be developed for irrigation.

F. BIODIVERSITY PROTECTION ARRANGEMENTS

The irrigation and drainage plan must identify those parts of the property and adjacent land where the use of water for irrigation on the property poses direct and ongoing risks to wetlands, native vegetation, or the habitat of native animals.

For those areas, the irrigation and drainage plan must specify appropriate preventative measures, appropriate monitoring parameters, appropriate monitoring equipment, and appropriate locations for the equipment to be installed. The plan must also specify equipment maintenance standards, data reading, recording, reporting and auditing requirements, corrective action thresholds, corrective action procedures, and corrective action time limits.

Note: the granting of a licence does not remove the need to apply for any authorisation or permission necessary under any other Act with respect to anything authorised by the licence.

Schedule 4: TRADING ZONES FOR UNREGULATED SYSTEMS, AND THE UNREGULATED TRADING ZONES FROM WHICH A LICENCE CAN BE TRANSFERRED

Policy 27(7)

Zone	Description	Can transfer from
110	Goulburn Unregulated tributaries of the Goulburn River above Goulburn Weir, excluding King Parrot Creek and Yea River and their tributaries. Unregulated tributaries above full supply level of Lake Eildon.	110, 111, 112
111	King Parrot Creek King Parrot Creek and its tributaries, including Break O'Day Creek, Chyser Creek, Little Wallaby Creek, Pheasant Creek (including tributaries Cummins Creek and Johnston's Creek), Silver Creek, Stony Creek, Strath Creek and Wallaby Creek.	111
112	Yea River Yea River and its unregulated tributaries, including the Murrindindi River.	112
120	Broken Broken River above full supply level of Lake Nillahcootie and all unregulated tributaries of the Broken River excluding unregulated sections of the Broken Creek and tributaries below Waggarandall Weir.	120
130	Lower Goulburn All unregulated tributaries of the Goulburn River downstream of Goulburn Weir.	130
140	Campaspe Campaspe River above the full supply level of Lake Eppalock. All unregulated tributaries of the Campaspe River, excluding the Coliban River above Malmsbury Reservoir Embankment and its tributaries above Malmsbury Reservoir Embankment. Unregulated tributaries of the Lower Campaspe River downstream of the Campaspe siphon at Rochester.	140
141	Coliban Coliban River and unregulated tributaries above Malmsbury Reservoir Embankment.	141
150	Loddon Loddon River above the full supply level of Cairn Curran. Bullarook Creek downstream of Lawrence Weir. All unregulated tributaries of the Loddon River above Loddon Weir.	150

Zone	Description	Can transfer from
151	Lower Loddon The Loddon River and all its tributaries downstream of Loddon Weir to the River Murray and Lake Boort, Lake Leaghur, Lake Meering and Little Lake Meran.	151
160	Upper Murray Mitta Mitta River above the full supply level of Lake Dartmouth and all tributaries of the Mitta Mitta River. River Murray upstream of confluence with Swampy Plains River All of the River Murray tributaries above the full supply level of Hume Weir. Those parts of the unregulated tributaries of the River Murray downstream of Lake Hume to the bridge at Barmah that are above the backwater effects from the River Murray at high flow level.	160
161	Upper Murray main stem River Murray above the full supply level of Hume Weir and downstream of confluence with Swampy Plains River.	161
170	Barmah to Nyah Parts of the unregulated tributaries of the River Murray downstream from the bridge at Barmah to the pumping station at Nyah that are above the backwater effects from the River Murray at high flow level. Unregulated sections of the Broken Creek and tributaries below Waggarandall Weir.	170
180	Ovens and King The Ovens River upstream of its confluence with the Buffalo River, the Buffalo River above full supply level of Lake Buffalo, the King River above full supply level of Lake William Hovell and all tributary streams within the Ovens and King River System excluding the regulated components of Tea Garden Creek and Maloney's Creek.	180
190	Kiewa Catchment All tributary streams of the Kiewa River and the Kiewa River upstream of the pondage at Mt Beauty, including the pondage.	190, 191
191	Kiewa Main Stem The Kiewa River main stem between the pondage at Mt Beauty and the River Murray.	191

Schedule 5: RECORD OF CHANGES TO THE POLICIES

Document	Date	Purpose
Amendment (Stormwater) of Policies for Managing Take and Use Licences	27/07/2010	Consistent with the Sustainable Water Strategy for the Central Region, amends the Policies to facilitate the issue of licences to extract water from the stormwater works of an Authority, or from a waterway downstream of the stormwater works of an Authority or a municipal council.
Amendment (Managed Aquifer Recharge) of Policies for Managing Take and Use Licences	21/09/2010	Amends the Policies to facilitate the issue of licences to extract water associated with a MAR scheme.