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Policy Statement on
Water Sharing

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Foreword

This Policy Statement has been prepared as an interim high level policy for the Water and Rivers Commission Water Allocation Business. It is largely based on current practice and existing policy positions such as the 1990 General Principles and Policy for Groundwater Licensing in Western Australia.

The policy sits at the top of the policy hierarchy for the Allocation Business with the intent of providing guidance to Commission staff and external stakeholders on the overall policy approach to sharing water between competing users. This policy is administered through the provisions of the *Rights in Water and Irrigation Act 1914*.

It is expected that this policy will be reviewed and modified following the expected passage by Parliament of the *Rights in Water and Irrigation Amendment Bill 1999*. This policy will also be subject to review in line with a proposed overall review of water management policy structures within the Commission.

I believe that it is worth repeating a substantial portion of the Foreword of the 1990 groundwater licensing principles and policy document as the statements are still very relevant today. While the following statements refer to groundwater allocation policy, the fundamentals apply to this Policy Statement in respect of both surface and groundwater management.

"The policies have evolved from many decisions taken in dealing with groundwater well licence applications and development of management criteria for the many groundwater management areas throughout the State. It could be said that every licence decision has something different about it. This is true, at least to the extent that in deciding every licence, a minor precedent is set that is effectively an extension, if not a change in policy....."

"There is a continuous challenge for water managers to ensure policies are mindful of the need to be flexible and obliging. The simple test of a policy is whether it allows a worthwhile project to proceed where that project does not compromise the principles and objectives of good groundwater management. If the policy opposes such a project, then the policy should be examined and modified where appropriate. The policy change should, however, seek to ensure the fundamental aims and objectives of groundwater management remain preserved."

"There is no doubt the policies described in this document will continue to change with time. This document will need to be continually reviewed and updated if it is to have value in expressing current values. The policies will be tested through their application to new and innovative projects. These applications may result in innovative changes in the policies to accommodate worthwhile outcomes. As long as the fundamental aims of groundwater management are preserved, consequent policy changes can only be improvements."



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5 June 2000



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Policy Statement on Water Sharing

Water sharing is the generic term for the processes and policies used by the Water and Rivers Commission in administering the allocation of the State's water resources to uses and users.

This paper sets out a proposed interim policy basis for managing surface and groundwater allocations in Western Australia. It is based, in part, on the historical approach that has been taken. Aspects of this approach were under review at the time of writing. This policy is intended to apply generally and except where it is inconsistent with local water management plans or policy positions. Where it is inconsistent with local management plans or policy positions, then the latter will prevail.

In developing local management plans, this policy should be considered for local relevancy and appropriate incorporation into those plans.

1. Water sharing framework

The Water and Rivers Commission undertakes its water sharing function within a planning and regulatory framework that aims to achieve:

- protection of the long-term security of the State's water resources and their prioritised beneficial uses;
- equitable¹ sharing of the State's water resources between competing beneficial uses and water users; and
- maximization of economic benefit to the State within the limits of acceptable social and environmental consequences².

1.1. Planning framework

The planning approach provides for identification of the priority beneficial uses of the resource at three scales: regional; sub-regional and local. This approach provides the basis for administering allocations at the individual level. The outcomes of this planning are reflected in allocation management plans at the appropriate scale.

1.2. Regulatory framework

Licences to extract water from watercourses or groundwater are the primary allocation management instrument in both defining the amounts of water that can be taken and in placing conditions on that taking of water. Licensing is administered with the intention of:

- preventing problems before they occur;
- monitoring the extent of water extraction;
- limiting extracting or taking water within the limits of the sustainable yield³ of the resource;
- identifying and securing rights of users; and
- sharing the resource equitably.

Licences also provide the means of identifying entitlements to water for the purposes of trading (see Water trading). Licences should specify water allocations in terms of an annual quantity unless circumstances require otherwise. This allocation is not an implied guarantee that the quantity will always be available. The allocation may be subject to resource-specific security arrangements. For example, resources with water availability directly related to the variability in rainfall will have a level of security that reflects this dependence.

¹ Equity in the context of water sharing means fairness, reflected through treating those in the same circumstances in the same manner, through a system of principles, policies and processes that supplement the common and statutory law framework. These systems should be designed to avoid arbitrary and capricious decision-making in the administration of the legal framework. Equity does not mean equality.

² The process for consideration of social and environmental consequences is detailed in the Commission's environmental water provisions policy document: "Environmental Water Provisions Policy for Western Australia, May 2000."



2. Approach to implementation

The approach to controlling extractions through licensing should be to progressively introduce controls as needed to ensure the taking of water from a resource does not exceed its sustainable yield. Overlaying this is the need to minimise regulation to achieve the desired outcomes, involving self-management and self-regulation where possible.

Where an individual resource has been allocated to its sustainable limit, new applications or applications for additional water should be refused. Where allocations are believed to exceed the sustainable yield of a resource, the Commission will take action to address the over-allocation, taking into account all interests.

In considering licence applications in areas where water is available for further allocation, the following approach should be adopted:

2.1. Order of precedence

Historical usage by established users have generally been confirmed in recognition of their proven commitment and pioneering contribution. This approach is currently subject to review³.

Later applicants should generally be treated on a demand basis⁴ provided the applicant satisfies basic criteria such as demonstrated need, development timetables, environmental clearances and development approvals and conformance with the identified beneficial use of the resource. However, applications for allocation of significant portions of a resource (or of the unallocated portion of a resource) to a single user or to a few users should be carefully considered based on hydrogeological, social, economic and environmental issues (see Large or non-conforming projects).

³ At the time of writing, a review of the “first come, first served” approach was being undertaken by consultants.

⁴ The *demand basis* for treating allocation applications is to consider them in the order they are made (“first-come, first-served”). An alternative approach is the *pro rata* method where water is pre-allocated to landholdings on a pro rata basis according to the area of the land holding. Allocations can then be redistributed through water trading. A variation on this approach is to make equal allocations independent of land area. There are a variety of other options that will be considered by the “first come, first served” review.

Applications displaying an immediate justifiable use should be seen as having a stronger claim than those having a possible or future need. “In the bank” allocations⁵ should be discouraged or development conditions imposed where there is any uncertainty on the future of a project.

2.2. Domestic water

Domestic water is acknowledged as a priority need for all landholders except in areas where such use makes up a major portion of availability and requires close management or where alternative supplies are reasonably available for this purpose. Where this need is such a priority or unless specifically addressed in management plans for the area, allocations for domestic and stock purposes should be granted automatically.

2.3. Large or non-conforming projects

Large or non-conforming projects can be defined as those:

- with unusually large water requirements compared to availability;
- where an allocation will significantly reduce water available for allocation to other applicants; or
- that do not conform with either the nature or magnitude of other allocations in the area (such as an industrial project in a predominantly agricultural area), or with established allocation policies.

Water allocations for large or non-conforming projects should only be approved after demonstration to the satisfaction of the Commission of the following:

- the project is bona fide in terms of being expected to proceed and has all other necessary approvals, including environmental;
- water requirements are minimised (appropriate water conservation techniques applied);
- the water requirements are within the sustainable yield limits of the resource;
- the allocation has no potential to create an unreasonable disadvantage to other landholders in the region for existing projects or their reasonable expectations;

⁵ “In the bank” allocations are allocations that are set aside for future use, without clear qualifications on when they are to be utilised, particularly where that utilisation is expected to be in the medium to long-term.



- the project is appropriately staged with staged allocations subject to development conditions;
- the proponent has appropriate legal access to the land; and
- there are no other known competing demands for the water.

2.4. High benefit uses

Applications from projects involving high benefit uses of water should receive priority over lower benefit project applications unless contrary to Government policy for the specific area or project.

Projects may qualify as a high benefit use if they:

- are consistent with land use planning priorities (eg, Swan Valley Policy);
- provide a high level of social or economic benefit to the community and do not result in unacceptable impacts on the water resource, environment or community; or
- produce a high value product per unit volume of water consumed.

2.5. Unused allocations

Allocations that are not taken up and utilised within a reasonable time after being issued should be reviewed and the licensee given adequate opportunity to justify why water has not been used. Unless there are good reasons to the contrary, the allocation be recovered for re-allocation. This particularly applies to allocations subject to specific development conditions and where those conditions have not been met.

Re-allocation of unused allocations should be merit based. In areas where water trading is in place, re-allocation could be by auction, with the proceeds being distributed amongst those who gave up water, after covering recovery and auction costs.

2.6. Water trading

Water trading is introduced in areas where allocations are at or near the sustainable yield limit for the resource and there is demand for additional water.⁶ The aim of water trading is to provide access to water for new or expanding projects in fully allocated areas, allowing market mechanisms to operate as an alternative to traditional 'command and control' approaches. Water trading should result in water being used more efficiently and for higher value uses in accordance with the aim of this policy to maximise economic benefit to the State. Trading may be undertaken on the basis of permanent or temporary transfers of water allocations, the latter being under leasing arrangements.

Water trading will only be introduced in those areas that the community, through a Local Water Resource Committee, supports the need and determines the 'rules' that should apply to any trading.

In areas where allocation levels are less than the sustainable yield, but are growing, there is a need to carefully manage sharing of the remaining water to enable trading to be introduced in an orderly manner as the superseding sharing mechanism.⁷

2.7. Storage depletion or 'mining'

Storage depletion ('mining') of groundwater⁸ is discouraged as a general principle. However, this may be acceptable where there is a strategic advantage to the State and the impacts are, when balanced against the benefits, considered acceptable. Such depletion needs to be carefully managed to minimise impacts. Extraction regimes used to define sustainable yield (see footnote 3) in circumstances that result in substantial levels of storage depletion may limit the extraction rate(s) as well as the period those extraction rates can apply for.

⁶ The ability to fully implement water trading depends upon passage through Parliament of the current water law reform proposals.

⁷ Approaches to this issue are under consideration as part of the "first come-first served" review.

⁸ Mining of groundwater usually occurs when extraction rates exceed the net recharge rate such that the storage continues to deplete as extraction continues. Continued mining ultimately eliminates the storage completely.



3. Administration

3.1. Access to Land

Licences can only be issued to applicants demonstrating that they are the legal owner or occupier of the land associated with the taking of the water and that the land tenure matches the application purpose.

3.2. Measurement of use

Measurement of use should be undertaken to a level of accuracy commensurate with local management needs, having regard for cost, efficiency and effectiveness. In the case of irrigation and stock use, the allocation may be based on the water use requirements as supplied by Agriculture WA for the specific crop/area/locality or animal numbers. The crop area or animal numbers can then be monitored as a surrogate for metering water use.

3.3. Allocation tenure and licence term

Allocations should be made for the period of the expected life of the project which may in some cases be indefinite (allocation tenure). Licences terms may be for periods less than this tenure period, with a clear expectation of renewal subject to:

- satisfactory performance of the licensee in complying with conditions of licences issued; and
- satisfactory performance of any water resources drawn from by the licensee.

Changes in the ownership of land should result in automatic transfer of the licence unless the new licensee wishes to change the purpose for the water. Where the purpose is proposed to change, the proposal should be treated under the same process and policy as a new application.

Allocations may have levels of security attached to them that specify when and how they may be modified to respond to periods of low availability of water. The intent of this will be to provide higher levels of security for uses that have lower levels of tolerance to changes in water availability (tree crops, process industries etc.).

3.4. Monitoring and review

Monitoring of the performance of water resources is necessary to:

- review performance of the resource to ensure it is not being over utilised, including understanding the cumulative and regional impacts on the resource;
- provide data for progressive reviews of availability of water from a resource; and
- review the effectiveness of management strategies and policies applied to the resource.

Where a resource is subject to exploitation by one or a very small number of users, or where one user is dominant in terms of quantity taken, those users should be responsible for undertaking monitoring and review of the data. This can be imposed through licence conditions. The Commission will oversee such monitoring to ensure its fitness and veracity.

Where there are larger numbers of users, coordination of monitoring and the inequity of imposing the responsibility on less than all users usually requires the State to take responsibility. However, where circumstances will reasonably permit, the responsibility for resource monitoring should be placed with users to the greatest possible extent.

The Commission will periodically review performance of the resource and its management plans and policies.

3.5. Community involvement

Local advisory committees can assist the Commission where broader community advice is required to assist in making sharing decisions and preparing allocation management plans. Local Water Resource Committees will be required when water trading is introduced in an area and could be formed in other areas to deal with other water resources management issues at the local level.

