

POLICIES FOR MANAGING WATER-USE LICENCES IN SALINITY IMPACT ZONES

I, John Thwaites, Minister for Water, Environment and Climate Change, in accordance with clause 4 of the Instrument of Delegation made under the **Water Act 1989**, establish the following policies relating to the granting and managing of water-use licences under Part 4B of the Act.

Authorising provision

1. These policies are established under the Instrument of Delegation that was made under section 306 of the Act on ~~20~~ June 2007.

Commencement

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

Application

3. These policies apply to all water-use licences that relate to any land that is in a salinity impact zone.

Definitions

4. **“Act”** means the **Water Act 1989**;
“annual use limit” means the maximum volume of water that in any 12 month period may be applied to the land specified in a water-use licence;
“delegate” means a person to whom the powers to manage water-use licences and to set any related charges are delegated under the Instrument of Delegation;
“Minister” means the Minister administering the Act
“salinity impact zone” means a salinity impact division delineated in Schedule 1;
“water-use licence” means a licence granted under section 64L of the Act.

Caps on annual use limits in salinity impact zones

5. A delegate must not grant or vary a water-use licence if—
 - (i) the annual use limit in the water-use licence that is granted, or
 - (ii) any change to the annual use limit in the water-use licence that is varied—would result in the sum of annual use limits that apply to land—
 - (a) in the high impact zone (“HIZ”), increasing above the level that existed immediately prior to the delegate granting or varying the water-use licence;
 - (b) in any other salinity impact zone, exceeding the maximums set down in Schedule 2.

Annual use limits set as part of conversion

6. Where a water-use licence has been created under Schedule 15 of the Act as a result of a water system being declared under section 6A of the Act—
- (a) clause 5(a) must not be interpreted as preventing the annual use limit being set, in accordance with the conversion rules established under Schedule 15, at a level that is higher than the volume of the prior domestic and stock right, water right, prior joint right, or take and use licence in force immediately before the appointed day; and
 - (b) notwithstanding clause 7, a charge to off-set salinity impacts must not be applied with respect to an annual use limit set as part of creation of the water-use licence if the water-use licence has been created from a prior domestic and stock right, water right, prior joint right.

Note: this clause is to ensure that, in the process of defining initial annual use limits immediately after unbundling, the sum of annual use limits in the high impact zone may be increased within certain headroom (after that, in accordance with clause 5(a) the sum in the high impact zone will never increase, it can only decrease), and the charges to pay for works or measures to offset salinity impacts will, in this process, only apply to low impact zones outside irrigation districts.

Charges to off-set salinity impacts

7. In granting a new water-use licence, or in varying an existing water-use licence to allow an increase in annual use limit, a delegate must, subject to clauses 8 and 9:
- (a) require the owner, under section 287A of the Act, to make a payment or payments towards the cost of works or measures to off-set any impact on river salinity; and
 - (b) calculate the payment or payments in paragraph (a) from each megalitre—
 - (i) of the annual use limit, in a new water-use licence, or
 - (ii) of the increase in annual use limit, in a varied water-use licence—and from the charges per megalitre for the relevant salinity impact zone as set out in Schedule 3; and
 - (c) if an increase in annual use limit is for only one season—
 - (i) subject to paragraph (ii), apply ten per cent of the charge per megalitre in Schedule 3;
 - (ii) not apply any charge if, in a season of high evapotranspiration, the Minister has temporarily raised all the annual use limits in an area; and
 - (d) place a condition on the water-use licence stipulating that water may only be used for irrigation while payments are being made as required by the notice given under paragraph (a); and
 - (e) if the annual use limit is being increased for only one season, place a condition on the water-use licence specifying that the annual use limit will, at 30 June next, return to its previous level.

New licences that replace an existing licence

8. No payment towards the cost of works or measures to off-set salinity impacts under clause 7 is required where a water-use licence is cancelled under section 64S of the Act as a result of part of the land to which it refers being transferred to a different party, and—
- (a) each new water-use licence issued for part of the land has an appropriate share of the annual use limit stipulated in the former water-use licence; and
 - (b) the sum of the annual use limits in all the new water-use licences issued for the land is no greater than the annual use limit stipulated in the former water-use licence.

Transfer of annual use limit from one licence to another licence

9. Where there is a joint application under section 64AH of the Act for the variation of two water-use licences by the holders of the water-use licences, being an application where—
- (i) the holder of one water-use licence is applying to reduce the annual use limit for the water-use licence held by that person; and
 - (ii) the holder of the other water-use licence is applying to increase the annual use limit for the water-use licence held by that person by the same amount—
- (a) if the transfer is to a water-use licence in the same salinity impact zone, no payment towards the cost of works or measures to off-set salinity impacts under clause 7 is required; and
 - (b) if the transfer is to a water-use licence in a lower salinity impact zone (salinity impact zones in Schedule 1 are numbered L1 to HIZ in the order where L1 is the lowest salinity impact zone), no payment towards the cost of works or measures to off-set salinity impacts under clause 7 is required; and
 - (c) if the transfer is to a water-use licence in a higher salinity impact zone, the payment or payments required under clause 7 must be calculated using the difference between the charges per megalitre for the two salinity impact zones that are set out in Schedule 3; and
 - (d) if the transfer is for only one irrigation season, the delegate must include a condition on each the water-use licences specifying that the annual use limit will, at 30 June next, return to its previous level.

Dated:

20.6.57



JOHN THWAITES MP

Minister for Water, Environment and Climate Change

Schedule 2
(clause 5)

**Maximum Sums of Annual Use Limits
in Salinity Impact Zones**

Salinity impact zone	Maximum sum of annual use limits (ML)
L4	-
L3	-

Note: Caps on annual use limits in L4 and L3 have been proposed but not yet agreed. Caps may be put in place by an amendment to these policies to insert volumes in the above table.

Schedule 3
(clause 7)

**Charges per Megalitre of Annual Use Limit for
Different Salinity Impact Zones**

Capital charges for new or increased AUL (without a transfer of AUL), for 2006/07

Each megalitre of new or increased annual use limit will attract a capital charge, to contribute towards the capital cost of works or measures to offset salinity impacts.

This charge may be paid either as a single upfront payment or as ten equal annual instalments. The amounts payable for 2006/07 are shown in the table below.

(The charge for L2 is 2.5 times the charge for L1; the charge for L3 is 2.0 times the charge for L2; and the charge for L4 is 2.0 times the charge for L3.)

(The instalments are calculated so as to generate the same Present Value as the single upfront payment, assuming payments are made at the end of each year and assuming a discount rate of 4%.)

Salinity Impact zone	Upfront capital charge per megalitre of AUL	Alternatively – 10 annual instalments of
L1	\$28.81	\$3.56
L2	\$72.04	\$8.90
L3	\$144.09	\$17.75
L4	\$288.17	\$35.51

Capital charges for a transfer of AUL from one licence to another, for 2006/07

(Under clause 8, these only apply where a transfer is to a higher impact zone, and are calculated as the difference between the charges for the two zones as set out in the table above. The table below sets out the results of these calculations.)

Transfer	Upfront capital charge per megalitre of AUL	Alternatively – 10 annual instalments of
From L3 to L4	\$144.08	\$17.75
From L2 to L4	\$216.13	\$26.63
From L2 to L3	\$72.05	\$8.11
From L1 to L4	\$259.36	\$31.96
From L1 to L3	\$115.28	\$14.21
From L1 to L2	\$43.23	\$5.33

Delegates must set charges under section 287A that are the same as the charges above.

Ongoing operation and maintenance charges, for 2006/07

Each megalitre of annual use limit that is a consequence of entitlement traded in since 1994, including any annual use limit temporarily transferred to a property, will attract an ongoing charge to contribute towards the cost of operating and maintaining works and measures to offset salinity impacts.

The ongoing operation and maintenance charge for each megalitre of annual use limit within any salinity impact zone is \$3.57 a year, as at 2006/07.

Delegates must set annual fees under section 64R that are the same as this charge.

Adjustments for inflation

The amounts of all the fees and charges in this Schedule are for the year 2006/07. Delegates must adjust all the fees and charges (including all instalments, where capital charges are being paid over 10 years) annually for inflation in line with the Consumer Price Index.

Notes: in these policies it is assumed that taking say 50 ML off one parcel of land has a salinity benefit equal to the salinity harm of putting 50 ML on another parcel of land in the same zone. (In other cases we assume that the harm is immediate, eg so a charge to pay for offsets has to be paid upfront. In practice harm – as well as benefits – often take some decades to eventuate, since groundwater movements are slow.)

Under the present policies, transfer of 50 ML from a higher impact zone will yield the same 50 ML of annual use limit in a lower impact zone. This has created headroom to allow for uptake of unused entitlements. In the future this could be reformed so that it would yield a higher volume, eg 100 ML, given this higher volume may have the same salinity impact because it is in a lower impact zone.