



Gippsland Irrigation Development Guidelines

2023



Acknowledgments

Acknowledgment of Country

We acknowledge and pay our respects to the Traditional Owners of the region, their rich culture and spiritual connection to Country. We also acknowledge the contribution and interest of Aboriginal and/or Torres Strait Islander Peoples and organisations in natural resource management and pay respects to Elders, past and present.

Partner and stakeholder acknowledgements

The development of the Gippsland Irrigation Development Guidelines has involved the collective effort of numerous individuals and organisations including:

RM Consulting Group, West Gippsland Catchment Management Authority, East Gippsland Catchment Management Authority, Southern Rural Water, Department of Energy, Environment and Climate Action, Environment Protection Authority, First Peoples - State Relations Group, Wellington Shire, East Gippsland Shire, Latrobe Shire, Baw Baw Shire, Gippsland Water, East Gippsland Water, South Gippsland Water, GippsDairy, Food & Fibre Gippsland, Lake Wellington Irrigator Reference Group, Macalister Customer Consultative Committee, SRW Groundwater and Rivers Forum

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Forward

Irrigated agriculture accounts for around 70% of the water use in Victoria and generates substantial economic, social and regional benefits. The irrigation sector in Gippsland contributes approximately \$1.5 billion annually to the regional economy and accounts for 10% of all jobs in Gippsland.

The Central and Gippsland Sustainable Water Strategy identifies that there are opportunities for farm businesses to further lift the value of Gippsland's agricultural production and significant new agricultural developments are already occurring. Further irrigation development is possible, but it is essential that any development takes into account and addresses a range of legislative requirements that promote sustainability and avoid impacts on other values (e.g., cultural heritage, native vegetation).

The Gippsland Irrigation Development Guidelines (the Guidelines) were first developed in 2011, and this second edition of the Guidelines brings them in to line with a range of new legislative and procedural areas. It also provides consistency with Guidelines in other jurisdictions in the State.

The Guidelines aim to minimise risk associated with applying irrigation water to land and the impact of irrigation on natural and built assets. The Guidelines will also ensure improved water-use efficiency through application of higher standards while also providing for protection and enhancement of biodiversity and heritage values.

The Guidelines primarily provide guidance for government agencies to process applications for new irrigation development and make this process as clear and streamlined as possible for the applicant. The successful delivery of the Guidelines will rely on a catchment partnership approach between key agency partners including West and East Gippsland Catchment Management Authorities, Southern Rural Water and the Department of Energy and Environment and Climate Action.

Martin Fuller

Chief Executive Officer – West Gippsland Catchment Management Authority

Bec Hemming

Chief Executive Officer – East Gippsland Catchment Management Authority

Cameron FitzGerald

Managing Director – Southern Rural Water



EAST GIPPSLAND
CATCHMENT
MANAGEMENT
AUTHORITY



Energy,
Environment
and Climate Action

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Abbreviations in this document

| | | | |
|--------|---|-------------------------|--|
| AHD | Australian Height Datum | ML | Megalitre |
| AUL | Annual Use Limit | NID-WG Working Group | New Irrigation Development Working Group |
| Ag Vic | Agriculture Victoria | NRM | Natural Resource Management |
| AV | Aboriginal Victoria | PLM | Public Land Manager |
| CHMP | Cultural Heritage Management Plan | PV | Parks Victoria |
| CMA | Catchment Management Authority | RAP | Registered Aboriginal Party |
| DEECA | Department of Energy, Environment and Climate Action | RCS | Regional Catchment Strategy |
| EC | Electrical Conductivity | SRW | Southern Rural Water |
| Ha | Hectare | T&UL | Take and Use Licence |
| Ha/yr | Hectares per year | VCAT | Victorian Civil and Administrative Tribunal |
| ID | Irrigation Development | VPP | Victorian Planning Provisions |
| IDA | Irrigation Development Application | VWR | Victorian Water Register |
| IDC | Irrigation Development Coordinator | WC | Water Corporation |
| IDG | Irrigation Development Guidelines | WL | Works Licence |
| IDP | Irrigation and Drainage Plan | WP | Works Plan |
| LWMP | Land and Water Management Plan | WUL | Water Use Licence |
| MAR | Maximum Application Rate | | |

Glossary of terms

Annual Use Limit (AUL): The maximum volume of water that in any twelve-month period may be applied to the land specified in a water use licence or water use registration.

Applicant: Landholder or representative of landholder who is the proponent for new irrigation development. The terms 'applicant' and 'proponent' are interchangeable in this document.

Approved Irrigation Footprint: The irrigation footprint that is defined by the map/design of the irrigable area or shape file on an approved Irrigation Drainage Plan that is required for, and referred to, as a condition on a Take and Use Licence or Water Use Licence. This may be the whole property title or an approved shape within a title.

Catchment Management Authority (CMA): Statutory body established under the *Catchment and Land Protection (CaLP) Act 1994*. CMAs have responsibilities under both the *CaLP Act 1994* and the *Water Act 1989*, which include river health, regional and catchment planning and coordination, and waterway, floodplain, salinity and water quality management.

Declared water system: A water system that has been declared in accordance with Section 6A of the *Water Act 1989*. Water rights and Take and Use Licences (TUL) in declared water systems have been converted into unbundled entitlements.

Delegate: A person to whom the power is delegated under the instrument of delegations.

Delivery share: An entitlement to have water delivered to land in an irrigation district and a share of the available water flow in a delivery system.

Designated Waterway: Designated waterways are named or unnamed, permanent or seasonal, and range in size from a river to a natural depression. Designated waterways are declared under the *Water Act 1989*.

Extraction share: A share of the total amount of water that can be drawn from regulated rivers at a certain point over a given period of time. Extraction shares are used to restrict water extraction in times of high demand. The extraction share is expressed as a condition on a works licence.

High-reliability water share: A water share against which seasonal allocations made as a first priority.

Irrigation and drainage plan (IDP): The IDP must provide the information necessary to demonstrate how the development meets the necessary standards to minimise the impacts of water use on other persons and the environment (in particular waterlogging, salinity and nutrient impacts). An application for a new water use licence or for a variation to a water use licence which must be accompanied by an irrigation and drainage plan

Land and Water Management Plan: A Land and Water Management Plan may be prepared by a Catchment Management Authority under the *Regional Catchment Strategy*.

Maximum Application Rates (MAR): The maximum application rates (in megalitres per hectare per year), which are to be used in conjunction with irrigated areas (in hectares) to determine annual use limits on water use licences. The MAR are defined in Schedule 2 of Standard Water Use Conditions which apply to all water use licences.

Ministerial Water Use Objectives: The objectives for water use licence conditions as described in the Policies for Managing Take and Use Licences. These are a) managing groundwater infiltration, b) managing the disposal of drainage, c) minimising salinity, d) protecting biodiversity, e) minimising the cumulative effects of water use.

Proponent: Same as applicant for new development (see above).

Standard Water Use Conditions: The standard conditions, set in accordance with section 64P, 64Y(1) and 64AI of the Water Act 1989, that apply to all water use licences and take and use licences including an annual use limit to ensure irrigation is carried out in accordance with Ministerial Water Use objectives. In addition to these there can be conditions recorded on each water-use licence are specific to local areas.

Take and Use Licence (T&UL): A fixed term entitlement to take and use water from unregulated water systems such as: a waterway, catchment dam, spring, soak or aquifer. Each licence is subject to conditions set by the Minister and specified on the licence.

Unbundling: The term unbundling refers to the separation of water entitlements from land (30 June 2007 for some systems). The conversion of a prior water right, or take and use licence, in a declared water system into three separate entitlements being: a water share, a delivery share or extraction share, and a water use licence.

Water Corporation: Corporations established under the *Water Act 1989* that have responsibilities to supply water for urban, irrigation, domestic, stock and commercial use in irrigation districts and water districts. Some corporations also have delegated responsibilities for controlling the diversion of water from waterways, passing flows and the extraction of groundwater. In the Gippsland Region, where these guidelines apply, the relevant water corporation is Southern Rural Water.

Water Entitlements: A generic term that encompasses water shares and take and use licences.

Water Register: The public register of all water-related entitlements in Victoria where water licences and entitlements are created and stored in the register.

Water Share: A Water Share is a legally recognised, secure share of the water available for use in a defined water system. A water share is specified as a maximum volume of seasonal allocation that may be made against that share. Water shares may be high or low reliability.

Water Use Licence (WUL): A licence that authorises the use of water from a regulated system for the purposes of irrigation on the land specified under that licence. The licence sets out the conditions for use, such as how much water can be used on the specified parcel of land in a single irrigation season. A WUL is needed to irrigate the property and the licence is tied to the land.

Works Licence (WL): A licence that authorises the construction, alteration, operation, removal or decommissioning of any works on a waterway, or a bore, or a dam belonging to a prescribed class of dams.

Works Plan: A plan prepared by the proponent outlining the location of infrastructure to service the new irrigation development. A Works Plan (WP) must clearly describe the type and location of irrigation infrastructure required to be constructed to extract water from the water source and the intended pathway to deliver it to the farm. A WP must include siting map of proposed works, construction plan, decommissioning plan, operation plan. It must demonstrate how the risks associated with construction and ongoing operation of the infrastructure will be mitigated.

1 Introduction

1.1 PURPOSE

The Gippsland Irrigation Development Guidelines (Guidelines) provide guidance for government agencies to process applications for new irrigation development. This includes:

- The roles and responsibilities of agencies
- The communication protocols between agencies and liaison through a New Irrigation Development Working Group (NID-WG)
- The relevant legislation that underpins the approval to issue new, planning approvals, works licences, water-use licences, or take and use licences with site specific conditions (including annual use limits) that reflect the outcomes of the approvals processes
- The approval processes used by agency staff
- The development standards required to manage impacts on the environment and other values
- The linkages to other environmental or cultural heritage protection measures and agencies.

The Guidelines ensure the statutory requirements for each agency are fully considered and addressed. Noting where there is a change in policy direction, from the date they come into effect the current Ministerial or legislative requirements override the Irrigation Development Guidelines (i.e., Irrigation Development Guidelines are subordinate and where there is inconsistency, the higher documents are observed.)

1.2 PROCESS

Interagency cooperation is integral to the assessment and approval process. These guidelines propose a New Irrigation Development Working Group (NID-WG) is formed with representatives from:

- Agriculture Victoria (Ag Vic.),
- Southern Rural Water (SRW), and
- relevant Catchment Management Authorities (West and/or East Gippsland CMAs).

Supporting this core group will be other representatives depending on the type of proposals being considered and their potential impacts. The supporting representatives can include:

- Department of Energy, Environment and Climate Action (DEECA)
- Parks Victoria (PV)
- Registered Aboriginal Party (RAP)
- Local Government
- Urban Water Authorities
- Environment Protection Authority (EPA)

An Irrigation Development Coordinator (IDC) from the West Gippsland CMA coordinates the NID-WG and it is expected to meet on an 'as needs' basis to discuss new applications and relevant issues.

The Guidelines provide a process for the informed consideration of applications relating to an irrigation development. Agencies will provide their advice to SRW on applications. SRW will then consider this advice when assessing applications and setting conditions for a Works Licence (WL) and:

- A Take and Use Licence (T&UL) if supply is from an unregulated water source and/or an undeclared surface system; Or

- A Water Use Licence (WUL) if supplied from a declared regulated water source. Water entitlements on the Macalister/Thomson1 regulated water systems are declared water systems.

Once a proposal has been assessed, provided cultural heritage approvals are in place, to comply with the Aboriginal Heritage Act 2006 and the Aboriginal Heritage Regulations 2018, the Water Corporation is then able to, subject to its own requirements, consider issuing the WL and/or WUL/T&UL. Refer to Section 5.1 Aboriginal Heritage for further information.

Cultural heritage approvals are required prior to developmental approval by SRW. But the remaining approvals, such as native vegetation, public land manager's consent and planning permits can be finalised after the WL and WUL/T&UL are issued. Under the *Water Act 1989*, the issue 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.

In assessing an application and advising on conditions for an irrigation development approval, agencies must take into consideration information provided by the applicant and ensure the information is adequate in demonstrating that the development complies with all relevant legislation and meeting the Ministerial Water Use Objectives for:

- Managing groundwater infiltration
- Managing disposal of drainage
- Minimising salinity
- Protecting biodiversity
- Minimising cumulative effects of water use.

The applicant must comply with the Ministerial policies for Take and Use Licences and Water Use Licences or Standard Water Use Conditions. These specify the requirements for an Irrigation and Drainage Plan (IDP) and provides standard conditions for new or varied WULs/T&ULs.

The Guidelines assist in processing applications for new, or variations to existing WULs and T&ULs. Also relevant are the Ministerial Policies for Managing Works Licences.

The process is designed to reveal the legislative requirements to the applicant and to enable an applicant to provide sufficient evidence that legislative requirements have been satisfied. An application, which does not satisfy legislative requirements will be refused, unless the applicant:

- Provides more evidence that the development will be compliant with legislation
- Amends or revises the proposed development so that it meets all the requirements.

1.3 WHEN THESE GUIDELINES APPLY

The Guidelines apply to previously unirrigated land for which there is no existing water-use licence or take and use licence, or when redevelopment would result in a change in the conditions of the existing WUL/T&UL (e.g. intensification of irrigation within the existing irrigation footprint, or expansion of the irrigation footprint on an existing licence).

In issuing a new licence on previously unirrigated land it is important to delineate the approved area or "the irrigation footprint", within a property title, on which water use is approved. Typically, the irrigation footprint will

¹ Declared water systems are: a) Lake Glenmaggie and the Macalister River downstream of Lake Glenmaggie to the confluence of the Thomson River (including the pool formed by, and immediately upstream of, Maffra Weir); and b) Thomson Reservoir and the Thomson River downstream of Thomson Reservoir to the confluence of the Latrobe River (including the pool formed by, and immediately upstream of Cowwarr Weir); and c) Rainbow Creek; and d) Cowwarr Channel; and e) Macalister Irrigation District.

be defined in the Irrigation and Drainage Management Plan, and this plan should be referenced in the Licence conditions. Where no Irrigation and Drainage Plan exists, the irrigation footprint is assumed to be the title boundary.

The decision regarding whether the guidelines are triggered rests with SRW. However, SRW may consult with the NID-WG.

In determining whether the Guidelines apply, the following hierarchy shall be applied:

Does the land have an existing water-use licence or take and use licence?

No → The Guidelines apply

Yes → Proceed to next question

Is an increase in the volume of annual use limit on a water-use licence proposed? Or is an increase in the licensed volume on a take and use licence proposed?

Yes → The Guidelines apply

No → Proceed to next question

Will the area irrigated be outside the currently approved irrigation footprint?

Yes → The Guidelines apply

No → The Guidelines DO NOT apply

Typically, once the Guidelines have been triggered, the NID-WG shall apply a risk assessment to determine the next steps, including the requirements for an Irrigation and Drainage Management Plan. See section 2 for further details.

1.4 WORKS LICENCES (WL)

A Section 67 works licence is required to construct and operate works on a waterway, groundwater bore and certain private dams. A works licence is generally required to pump water from a waterway or aquifer. A works licence can authorise a person to enter onto and install works on Crown Land; but it does not authorise the applicant to lay pipes on freehold land or to remove vegetation.

The Guidelines are used to process works licence applications and consider the appropriate standard and, where appropriate, particular conditions required to authorise the take, use, conveyance, and storage of water from Victorian waterways. The Guidelines will be initiated for works licence applications if:

- New works are required to deliver water to the land specified in a new licence application (or changing conditions)
- Existing works are being modified to deliver water to land specified in a new licence application.

An application for a works licence being renewed, amended, or transferred may not necessitate the requirement of preparing a Works Plan if the Water Corporation deems that the works licence does not have significant deficiencies or amendments. The delegate may determine which, if any, of the standard conditions for works licences should be added to the licence.

1.5 WHEN THE GUIDELINES DO NOT APPLY

The IDGs, and approval process will NOT be initiated:

- When the sale of land, **land subdivision or land consolidation** requires the issuing of a new WUL/T&UL on land already being irrigated, provided there is no net increase in the AUL/licensed volume or change in the approved irrigation footprint that is allowed to be irrigated. However, where a significant land use change is known to be occurring as a result of the sale of land, SRW will inform the relevant CMA, Agriculture Victoria and relevant Local Government for potential extension opportunities (refer to Section 1.7.4).
- When further land is developed within the approved irrigation footprint provided the AUL/licensed volume specified in the WUL/T&UL is not exceeded or increased above the maximum application rates.

Except for Cultural Heritage requirements, the issuing of a water use licence or a works licence cannot be withheld based on the requirements of other Acts of Parliament. However, it is important for proponents to be aware that the proposed developments may not proceed without first obtaining all necessary approvals (DSE, 2010).

1.6 REVIEW AND AMENDMENTS OF THE GUIDELINES

The West Gippsland CMA is the custodian of this Guideline document which is reviewed and updated every 10 years, or sooner if deemed necessary by the NID-WG. Each review is led by the West Gippsland CMA, in consultation with the agencies involved in their implementation, as listed in Section 1.2. The revised document will be required to be endorsed by the Boards of directors for the SRW, and the East and West Gippsland CMAs, and the DEECA Executive Director Statewide Infrastructure and Rural Strategy.

The Guidelines may be amended within this timeframe to improve clarity and accuracy. These are considered to be editorial in nature and will not require broad consultation or Board signoff, but will be endorsed by the NID-WG.

1.7 OTHER ASPECTS

1.7.1 FUTURE CHANGES

Irrigation technologies, and the knowledge used to inform best management practices for irrigation, are constantly evolving in response to research, innovation, monitoring, regulation and other factors. The process for implementing the Irrigation Development Guidelines will therefore continue to be adapted to ensure irrigation is sustainable and the Water Use Objectives are met. Where necessary the Guidelines may be updated as per Section 1.6.

Within the bounds set by the *Water Act 1989*, the development or redevelopment of irrigation will be assessed with consideration of risk and precautionary approaches. It should be noted that a suite of tools and policies will be used alongside the guidelines, including land and water management plans and extension activities. By using a mix of these tools, agencies will be able to support irrigators in implementing best management practices for irrigation.

1.7.2 RISK MANAGEMENT THROUGH A COLLABORATIVE APPROACH

Under the precautionary principle, risks arising from irrigation redevelopment in existing areas and irrigation development in new areas must be proactively managed. Land and water management plans and extension, as well as these Guidelines, where triggered, will be used to encourage the adoption of best management practices in order to minimise risk.

As technologies change and irrigators take more innovative approaches to enterprise management, the types of irrigation redevelopment may become more complex to assess and, as a result, require broader input in the assessment process.

Therefore, the relevant water authority should seek advice from relevant parties where the application poses a potential risk to the achievement of the Minister's Water-Use Objectives. This will usually be via the Irrigation Development Coordinator (IDC), and the New Irrigation Development Working Group (NID-WG). It may also include, when appropriate, regional committees, short-term working groups or similar.

The instances in which a water authority should consider obtaining advice/support/guidance include (but are not limited to):

- When uncertain about any particular environmental impact or approval process
- When an alternative water resource is proposed for use to irrigate a property that has previously been irrigated with another resource, for example when adding groundwater irrigation to a licensed area historically irrigated with surface water or vice versa
- Where there are potential cumulative impacts associated with using multiple irrigation water sources
- Where there are land use change, particularly those involving increased cultivation
- If the water requires treatment to ameliorate the effects of water quality issues
- Where the proposal may trigger protection requirements for native vegetation or cultural heritage
- Where the development is within a potable water supply catchment
- The authority has insufficient data/knowledge to make informed licensing decisions (for example if there is no understanding of the annual volumes of water available for extraction)

This collaborative, precautionary approach will better integrate the key tools to support sustainable irrigation redevelopment by:

- Ensuring the assessment process is consistent and transparent and commensurate with the level of risk the application poses
- Increasing landholder awareness or access to extension services and regional projects
- Promoting the adoption of best irrigation management practices and irrigation technologies
- Minimising the risk of adverse impacts to cultural heritage, the environment or third parties e.g. waterlogging, salinisation, or water quality degradation
- Meeting the Minister's Water-use Objectives

1.7.3 WASTEWATER AND INDUSTRIAL WATER FOR IRRIGATION

Some irrigators are seeking to diversify their sources of water. Depending on location, a property may have access to recycled water or wastewater from treatment plants, large processing plants (e.g. milk factory) or other commercial enterprises.

The EPA oversees the use of wastewater and industrial water reuse. The EPA can be contacted on **1300 372 842 (1300 EPA VIC)**, and general advice is provided at <https://www.epa.vic.gov.au/about-epa/publications/168>.

While the Irrigation Development Guidelines do not apply in the licensing or approval of wastewater or industrial water use, the information contained in Irrigation Development Guidelines may be useful.

It is strongly recommended that the total annual volume of water use from all sources should not exceed the annual use limit on, nor go outside the polygon approved by, existing water use licences, or take and use licences, through the additional use of wastewater or industrial water reuse. And, where possible, the approval processes for irrigation with wastewater, industrial water reuse should meet or exceed the standards specified in these guidelines.

For irrigation developments where recycled water is to be used, the documentation and plans as required by the EPA, may be accepted as an Irrigation and Drainage Plan. Further information on EPA requirements for the use of reclaimed water can be found in the Victorian Guideline for Water Recycling (publication 1910) (2021) and the Technical Information for the Victorian Guideline for Water recycling (publication t1911) (2021).

Using effluent for irrigation

Many dairy farmers may seek to utilise their irrigation infrastructure to apply animal effluent as a fertiliser. Further information is available at <https://www.epa.vic.gov.au/for-business/find-a-topic/about-dairy-farm-effluent>

On site water treatment

IDGs may be triggered if on-site water treatment changes the irrigation or drainage practices that are permitted within a WUL/T&UL where this impacts upon the Minister's Water Use Objectives. An example may be disposal of a brine stream from desalination into a drain. EPA licensing may also apply in these instances.

1.7.4 SIGNIFICANT LANDUSE CHANGES

Significant landuse changes (or redevelopment) occurs when the landuse changes to higher intensity irrigation. This landuse change may lead to an increase to AUL, increase to the irrigation footprint and/or a transition to new agricultural and land management practices. An example of this is when an existing irrigated pasture-based enterprise is transitions to a form of intensive cultivation, such as vegetables. Risks associated with such land use change in Gippsland were explored in RMCG (2015) Risks and Management Options for the Vegetable Industry. This report identified the landuse change key risks include, but are not limited to, erosion of exposed soil and turbidity in receiving waterways and run-off of nutrients (N & P) and other chemicals and the impact on environmental assets e.g. Gippsland Lakes.”

Landuse changes will trigger the IDGs, when a TUL or WUL holder applies to vary the AUL or irrigation footprint of their licence. If the landuse change increases risks to the environment or other water users, a modification to an existing license may be made by SRW as per the Water Act 1989 and delegations by the Minister for Water. It is recommended that the IDGs are used to consider amendments to existing TUL and WUL licences.

Where a significant land use change is known to be occurring, but does not trigger the Guidelines, SRW, the relevant CMA, Agriculture Victoria and relevant Local Government will coordinate efforts to ensure the timely delivery of information and extension services to assist the developer and property manager in understanding their obligations and promote best management practices in accordance with regional strategies such as the Lake Wellington Land and Water Management Plan.

2 Irrigation development assessment process

2.1 GENERAL OVERVIEW

The process for assessing Irrigation Development (ID) applications is presented in Table 2-2. To facilitate the process a dedicated IDC operates to support the applicant in identifying and contacting the relevant government agencies from the start to the completion of the approvals process.

It should be noted that this process has been designed for a high risk/complexity application. It is expected that most applications will be simpler when some of the steps may not be required.

The level of information requested, and other requirements are dependent upon the complexity and level of potential risk identified for the proposed development. A proposed development that has identified impacts on the environment such as groundwater rise, native vegetation removal, or large-scale land-use changes, for example, may be required to provide more comprehensive information and employ suitably qualified experts. While for redevelopment scenarios where the risks may be much lower, a simpler application process with less information would apply.

While the IDC, can provides some guidance on information requirements, the risk assessment and information needed is provided by each of the relevant agencies. These guidelines do not describe internal business procedures for each agency as this is the responsibility of each respective agency.

2.2 WHEN IS AN IRRIGATION & DRAINAGE PLAN (IDP) REQUIRED

An Irrigation Drainage Plan (IDP) will be required for:

- Land parcels that do not currently have a TUL or WUL.
- Land parcels which have an existing TUL or WUL and on which an applicant is applying for an increase in the AUL/licenced volume and/or the approved irrigation footprint.

Under the Ministerial Policies for TUL or WUL an IDP can be waived by the licencing delegate when:

- The annual use limit in the TUL or WUL is less than 20 ML; and in the delegate's view, any adverse impact from the use of water under the licence is likely to be minor. Or,
- It has the written approval of the CMA after undertaking a risk assessment against the Ministerial Water Use Objectives.
- Where a WUL/T&UL is cancelled because part of the land to which it refers is transferred to a different party – new licences may be issued for each part of the land without the imposition of any extra conditions, provided that each licence has an appropriate share of the previous AUL/licensed volume and the sum of the new AUL/licensed volume is no greater than the previous AUL/licensed volume.

As a guide, the applicant's requirement to prepare an IDP for existing WUL/T&UL licences, is indicated as per the table below.

Table 2-1 Guide for Irrigation and Drainage Plan Requirements¹

| RISK OF OFFSITE IMPACT | MACALISTER IRRIGATION AREA (WHERE MAX OF 9 ML/HA APPLIES) | OUTSIDE OF MACALISTER IRRIGATION AREA | APPLICATION REQUIREMENTS |
|------------------------|---|---------------------------------------|---|
| Low risk | <5 ML/ha | <3 ML/ha | <ul style="list-style-type: none"> ▪ A basic IDP is preferable but may be waived in very low risk settings > recommend low risk IDP template adapted to site specific settings ▪ Demonstrated appropriate method of irrigation scheduling (eg. soil moisture monitoring, evapotranspiration, etc) ▪ The applicant must be able to demonstrate that they have considered their irrigation water requirements and how the volume of water they are applying for will be utilised effectively on their property. ▪ Depending on site - may require demonstrable means of preventing or capturing irrigation runoff and demonstrable means of preventing excess deep drainage. |
| Moderate risk | 5-7 ML/ha | 3-5 ML/ha | <ul style="list-style-type: none"> ▪ Modified IDP is mandatory > recommend moderate risk IDP template adapted to site specific settings. ▪ Irrigation layout should be matched to soil type (eg. spray or high flow flood on higher permeability soils) ▪ Demonstrable means of preventing or capturing irrigation runoff ▪ Demonstrable means of preventing excess deep drainage ▪ Demonstrated appropriate method of irrigation scheduling (eg. soil moisture monitoring, evapotranspiration, etc) ▪ The applicant must be able to demonstrate that they have considered their irrigation water requirements and how the volume of water they are applying for will be utilised effectively on their property. |
| High risk | 7-9 ML/ha | 5-9 ML/ha | <ul style="list-style-type: none"> ▪ IDP is mandatory > recommend high risk template adapted to adapted to site specific settings ▪ Irrigation setup must be matched to soil type (eg. spray or high flow flood on higher permeability soils) ▪ All irrigators must have demonstrable means of preventing or capturing irrigation runoff, including sediment and nutrient runoff. ▪ All irrigators must have demonstrable means of preventing excess deep drainage ▪ Flood irrigators must capture irrigation runoff (eg. a reuse dam) ▪ All irrigators must demonstrate an appropriate method of irrigation scheduling (eg. soil moisture monitoring, evapotranspiration, etc) ▪ The applicant must be able to demonstrate that they have considered their irrigation water requirements and how the volume of water they are applying for will be utilised effectively on their property. |

¹ This table is a guide only and individual applications will be assessed on a case-by-case basis as per the requirements of the Water Act 1989 and in particular the Water Use Objectives.

2.3 APPLICATION RESPONSE TIMES

The IDC and all agencies involved in assessing applications will work together to ensure applications are reviewed and assessed in a timely manner. To aid the efficiency and effectiveness of the application process all agencies will apply a thirty-day response time from the time they receive an application, to review, provide comment and request additional information.

If further information is required the process will not proceed until the information is provided.

In total, depending on the complexity, scale and likely environmental impacts that need to be assessed, there is typically a minimum of 2-6 months of work to get all the necessary information required with the application. Proposals with potentially high risks and requiring detailed investigations to support the application may take up to 2 years.

2.4 COSTS ASSOCIATED WITH THE PROCESSING OF APPLICATIONS

There are fees and charges associated with the processing of T&UL/WUL and WL forms by SRW.

Other authorities may have fees and charges associated with assessing an irrigation development application e.g. Local Planning permit etc. These fees and charges are available from the relevant agency and are to be paid by the applicant.

Fee schedules can be obtained by contacting the relevant agencies.

2.5 COMPLAINTS PROCESS

There is a two-step process in place for applicants that are not satisfied with how the Guidelines have been applied to their irrigation development application. These steps include:

- Step 1: if an applicant is dissatisfied with the handling of the application, including the process, standards, or timelines applied in this process, the applicant will first request an appointment to meet and discuss their grievance with the IDC and the relevant organisation
- Step 2: if Step 1 does not resolve the issue, the applicant can then write to the Chief Executive Officer, (CEO), of the relevant CMA to seek a review of the process. The CEO may refer the issue to an independent arbiter.

2.6 APPEALS PROCESS

Where the relevant legislation allows for an appeal to be lodged, the applicant may lodge an appeal to the Victorian Civil and Administrative Tribunal (VCAT).

VCAT deals with disputes between people and government (State/Local) bodies about planning and land valuation, licences to carry on a business and many other Government decisions.

Table 2-2: Itemised steps for the approval process. Shading of agency/proponent box indicates organisation responsible.

| STEP | AGENCY / PROPONENT | EXPLANATION OF STEP |
|--|--------------------|--|
| INITIAL CONTACT & APPLICATION SUBMISSION | | |
| 1 | Proponent | <p>Proponent initiates contact with agencies Initial contact can be made by a potential applicant via a number of different avenues including the Water Corporation, CMA, Local Council, Ag Vic etc. All agencies are required to refer the enquiry directly to the SRW by providing the potential applicant with the SRW contact details or forwarding their details to the SRW. The applicant contacts SRW and SRW seeks information on the types of works, property location, scale of development, crop type and water requirement, etc.</p> |
| 2 | SRW | <p>Development Information Pack SRW will provide the applicant with a Development Information Pack about the general requirements involved in undertaking the Irrigation Development process, timeframes, potential risks, resources available, relevant application forms, irrigation and drainage plan example, etc.</p> |
| 3 | Proponent | <p>Proponent submits relevant Application Forms to SRW: Section 51 Take and Use Licence: <ul style="list-style-type: none"> • Application for a licence to take and use groundwater and to operate works • Application for a licence to take and use surface water and to operate works • Application to transfer water entitlement (Take and use licence) Section 64 Water Use Licence: <ul style="list-style-type: none"> • Form 23 Application for a Water-Use Licence or Water-Use Registration • Form 24 Application to Vary a Water-Use Licence or Water-Use Registration Section 67 Works Licence <ul style="list-style-type: none"> • Form 29 Application for the Issue of a Works Licence (in a declared system) • Form 31 Application to Amend, Renew and/or Transfer a Works Licence NB: The formal IDG assessment process commences on submission of the relevant completed application forms > Proceed to step 4</p> |
| PRELIMINARY ASSESSMENTS & INITIAL REFERRALS | | |
| 4 | SRW | <p>On receipt of an application, SRW are obliged to refer the application, without delay, to relevant agencies, for example:</p> <ul style="list-style-type: none"> • CMA: Irrigation Development Guidelines, Works on Waterways, Flood Assessments • Local Government: Planning permits in accordance with the Planning and Environment Act 1987 and relevant Planning Schemes. • Urban Water Authorities: for water quality/resource impacts with potable water supply catchments. • DEECA/PV: <i>Environment Effects Act and Fauna Guarantee Act (impacts on protected flora)</i>. Native vegetation investigation and offset plan, biodiversity buffers and Public Land Manager / Landowner consent. • EPA • Registered Aboriginal Party: Cultural Heritage and Native Title • Australian Govt – Dept. of Agriculture, Water and the Environment • Others as required: e.g. power. road crossings, coastal boards, etc. <p>SRW are to allow agencies 30 days to respond from the date of referral NB: <i>The onus is on each individual organisation to respond to the referral within the required timeframe. It is not the role of SRW or the Irrigation Development Coordinator to follow up responses from other referral agencies.</i></p> |

| STEP | AGENCY / PROPONENT | EXPLANATION OF STEP |
|--|--------------------|--|
| 5 | SRW | <p>Resource and delivery assessment, early check for showstoppers and further information requirements</p> <p>SRW determines if there are any water resource, extraction share or delivery share constraints and advise proponent of delivery infrastructure requirements. SRW also determine what additional requirements the applicant will need to meet, e.g. Hydrogeological Assessment, Cultural Heritage Management Plan and/or Irrigation Development Guidelines.</p> <p>To determine if the IDGs are triggered, the following checks are completed (refer to Section 1.3 and 1.5 of the Guidelines for further details):</p> <p>The delegate 'SRW' may modify or waive the requirement for an IDMP where, in the delegates view, any adverse impact from the use of water is likely to be minor AND the application fits into one of the following categories:</p> <ol style="list-style-type: none"> 1. T&UL or AUL volume is less than 20ML 2. The application is a one-year temporary AUL increase OR a one-year temporary T&UL transfer 3. The application is a 1-5-year T&UL temporary transfer AND leads to an increase in total licenced volume of less than 20% <p><i>NB: If the application requires a new (previously unirrigated) parcel of land to be added to an existing licence, then this is an automatic trigger for referral (i.e. greenfield developments)</i></p> <p>Where the above criteria are met, there is no requirement for the SRW to refer the application on the grounds of the IDG. However, there may be other matters that necessitate referral to the CMA and/or other agencies (eg. Section 40 matters) > IDG PROCESS ENDS.</p> <p>Where the above criteria are NOT met, or if there is any doubt > Proceed to Step 6.</p> <p>SRW may also consult with the IDC or NID-WG to help inform whether the application triggers the IDGs.</p> |
| 6 | CMA | <p>Preliminary IDG Risk Assessment</p> <p>A preliminary IDG risk assessment is required to determine whether the area is at risk of creating off site impacts, eg. nutrient pollution to waterways. This preliminary assessment will determine if there is sufficient existing data available to provide the evidence and certainty to categorise the level of risk. The IDC will consult with other agencies/expertise as required. The assessment will categorise the development as either:</p> <ol style="list-style-type: none"> 1. LOW RISK and NO further information required - In some cases, where the information provided can confirm the development is low risk, the CMA may waive any further requirements and respond to SRW accordingly > Proceed to Step 10. 2. LOW RISK but further information required – In this case the CMA will contact the developer directly to seek further information. In some cases, a site visit may be warranted. Once information is provided and risk is confirmed as low, the CMA may waive any further requirements and respond to SRW accordingly > Proceed to Step 10. 3. MEDIUM RISK > Proceed to Step 7. 4. HIGH RISK > Proceed to Step 7. |
| SITE VISIT & NID-WG REVIEW (for Medium or High-risk applications) | | |
| 7 | SRW | <p>Site visit by NID-WG</p> <p>SRW will coordinate a site visit with the applicant to discuss the proposal directly with the developer. This will assist in identifying issues that may have a bearing on the risk assessment, and the type and level of information required to be presented by the applicant.</p> <p>Following the site visit the CMA will finalise the Preliminary IDG Risk Assessment and share with relevant agencies for comment.</p> |

| STEP | AGENCY / PROPONENT | EXPLANATION OF STEP |
|--|---|---|
| 8 | New Irrigation Development Working Group (NID-WG) | <p>Irrigation Development Group Review</p> <p>The Irrigation Development Coordinator will convene a meeting of the NID-WG. Nominally this will include relevant staff from the CMA, SRW and Agriculture Victoria. However, depending on the location and nature of development may also include the relevant Local Government, Urban Water Corporation, DEECA, Parks Victoria, EPA or RAP.</p> <p>The NID-WG reviews the application, the Preliminary IDG Risk Assessment, and any other preliminary information collected. This provides an opportunity for the ID Group to confirm if there are any pre-existing or known 'showstoppers', and the issues that will need to be addressed.</p> <p>At this point the NID-WG discusses the additional requirements for the application including; Irrigation & Drainage Plan (Low, Medium or High Risk), Hydrogeological Investigation, CHMP, Planning Permit (Native Vegetation Clearance), Public Land Managers Consent, Works on Waterways Permit, etc.</p> |
| 9a | CMA | <p>Letter of Advice</p> <p>The CMA responds to the initial SRW referral with a 'letter of advice' outlining further information requirements for the application based on the recommendations from the NID-WG.</p> <p>The letter provides the applicant with the opportunity to assess the level of effort and expense associated with proceeding with the irrigation development application before any expense has been incurred.</p> <p>It is important to note that additional information may be identified as the process progresses and as a result of more detailed assessments.</p> <p>Throughout the process the onus is on the applicant to engage suitably qualified experts to undertake the necessary assessments and collect the information needed.</p> |
| 9b | All Referral Authorities | <p>Referral Response</p> <p>At this point all referral authorities have the opportunity to submit a response to SRW. In most cases responses must clearly state whether the referral agency:</p> <ol style="list-style-type: none"> 1. Object to the granting of a licence, 2. Do not object to the granting of a licence, or 3. Do not object to the granting of a licence subject to conditions |
| REFERRAL RESPONSES & FURTHER INFORMATION REQUESTS | | |
| 10 | SRW | <p>Assessment of Referral Responses</p> <p>SRW assess all responses from referral agencies and assesses next steps. Most likely this will be a request for further information > Proceed to Step 11. However, if no further information is required from the applicant then SRW may move immediately to application determination > Proceed to Step 16.</p> |
| 11 | SRW | <p>Request for Further Information</p> <p>SRW prepares a letter and information request detailing next steps and requirements from the applicant.</p> <p>The information request should take into consideration all responses to the referral process.</p> |
| 12 | Proponent | <p>Preparation of IDP, Other Requirements and Amended Application Submission</p> <p>Proponent prepares requested information, for example, Irrigation Drainage Plan, Works Plan, CHMP and others as required.</p> <p>The CMA and Ag Vic can provide advice and information to the applicant during this phase to assist in the development of the Irrigation and Drainage Management Plan. However, the onus is on the applicant to engage appropriately qualified professionals to assist in meeting the requirements.</p> <p>Proponent submits IDP and other relevant plans/documents with an amended licence application to SRW</p> |
| FINAL APPLICATION ASSESSMENTS | | |
| 13 | SRW | <p>Referral of Further Supporting Information</p> <p>SRW checks the proponent's information is compliant with requests for further information and refers amended application and supporting material to relevant agencies.</p> |

| STEP | AGENCY / PROPONENT | EXPLANATION OF STEP |
|------------------------------|---|--|
| | | SRW are to allow agencies 30 days to respond from the date of referral of the amended application. <i>NB: The onus is on each individual organisation to respond to the referral within the required timeframe. It is not the role of SRW or the Irrigation Development Coordinator to follow up responses from other referral agencies.</i> |
| 14 | New Irrigation Development Working Group (NID-WG) | Review of FINAL Irrigation & Drainage Management Plan & Conditions on Licence. The Irrigation Development Coordinator liaises with the NID-WG to confirm the Irrigation & Drainage Management Plan appropriately addresses the identified risks and determines if there are particular conditions that need to be set on the licence. Depending on the nature of the application, this may be done via a second NID-WG meeting or via email. The intent of this second meeting is to ensure consistency, collaboration and transparency between agencies and reduce duplication of effort both for agencies and the applicant. Where further information/clarification is required, the NID-WG may liaise directly with the proponent to obtain this information. If this additional information is likely to take significant time, the relevant agency (or agencies) may need to request an extension of time from SRW. Once all information requirements have been met, ideally, the NID-WG will unanimously approve the Irrigation & Drainage Management Plan. However, it is the responsibility of each agency to respond to SRW within the timeframe as per Step 15. |
| 15 | All Referral Authorities | Referral Response & Licence Conditions At this point, all referral authorities have the opportunity to prepare a formal response to the application clearly indicating whether it: <ol style="list-style-type: none"> 1. Objects to the application; or 2. Does not object to the application; or 3. Does not object to the application subject to conditions A brief explanation for the response should be given with reference to the NID-WG endorsement, or otherwise, of the Irrigation Drainage Plan. In most cases, a condition on the licence will be recommended as follows: <ul style="list-style-type: none"> • That the development proceeds in accordance with the approved Irrigation and Drainage Management Plan (Ref: #####) |
| LICENCE DETERMINATION | | |
| 16 | SRW | Licence Determination SRW completes licence determination in accordance with its delegated responsibilities and may: <ol style="list-style-type: none"> 1. Reject the application; or 2. Accept the application; or 3. Accept the application with conditions. In either case, SRW shall respond to the applicant in writing including a brief rationale for the decision and where necessary an explanation on any conditions. If applicable, SRW issues a licence and finalises application registration in accordance with relevant processes. |
| 17 | SRW | Notice of Decision SRW prepares a Notice of Decision and provides to relevant agencies. |
| COMPLIANCE | | |
| 18 | SRW | Monitoring compliance of licence conditions is the responsibility of the licencing authority. |

3 Roles and responsibilities

3.1 THE APPLICANT

The onus is on the applicant to provide the evidence that demonstrates the impacts of the proposed development on the environment, the means by which any impacts are to be mitigated, and compliance with the Guidelines. The applicant:

- Is defined in these Guidelines as the owner of the land on which the proposed development is to occur and to whom the licence is granted, or a person/s who has been authorised by the landowner to undertake the development on the owner's behalf
- Completes and forwards all necessary documentation in relation to the proposed development
- Ensures that the legal responsibilities under all relevant acts of Parliament and legislation such as the *Aboriginal Heritage Act 2006*, *Planning and Environment Act 1987*, *Environment Protection and Biodiversity Conservation Act 1999*, *Flora and Fauna Guarantee Act 1988*, *FFGA Amendment 2019* and *Wildlife Act 1975* are complied with.

An applicant may choose to employ an advocate or a consultant to represent their interests and assist in the preparation and progression of their irrigation development proposal.

3.2 NEW IRRIGATION DEVELOPMENT WORKING GROUP (NID-WG)

Interagency cooperation is an integral part and requirement of the irrigation development application review process. The NID-WG provides a forum to collaborate, review and work through complex irrigation development proposals and is integral to a cost efficient and effective process.

The NID-WG:

- Meets on an 'as needs' basis (as advised by the IDC via email) to review applications.
- Provides guidance and advice to the IDC in regard to irrigation development matters
- Provides agency support and advice on the aspects of the Gippsland irrigation development approval process to ensure regional compliance with the *Water Act 1989*
- Assists irrigation developers and participating agencies to adhere to the Gippsland irrigation development approval process as documented in these guidelines
- Provides advice to the Water Corporation in formulating conditions on WUL, works licences and T&UL
- Helps ensure the statutory requirements for each agency within the NID-WG are fully considered and addressed
- Supports reviews of these guidelines with the aim of keeping the document up to date with current legislative requirements and government policies and strategies.

The NID-WG is made up of a number of key government agencies for which there is a core working group comprised of:

- IDC (West Gippsland CMA)
- SRW

- Irrigation Officer (Ag Vic)

At times the NID-WG may need to consult further with the following government agencies:

- CMA Statutory Functions.
- Urban water authorities
- Parks Victoria
- DEECA Water and Catchments and/or Natural Environment
- DEECA Planning & Approvals and/or Land and Built Environment
- Aboriginal Victoria and Registered Aboriginal Party
- EPA
- Local Governments.

These agencies may attend meetings less frequently or on an as needed basis.

3.3 IRRIGATION DEVELOPMENT COORDINATOR (IDC)

The IDC plays a crucial role in the implementation of the guidelines. This includes:

- Providing private landowners and referral authorities with a preliminary assessment of potential environmental issues and offsite impacts of water use and irrigation of the proposed development through the irrigation development process
- Providing a central point of contact for all Gippsland irrigation development related matters for applicants and partner agencies
- Providing advice to partner organisations on whether the guidelines are being adhered to by applicants and partner agencies
- Ensuring applicants are guided through the irrigation development approvals process as per the Guidelines in a timely manner
- Convening and chairing the inter-agency NID-WG meetings in order to ensure that all matters relevant to new irrigation developments are being efficiently and effectively addressed
- Documenting discussion for each NID-WG meeting as minute taker

3.4 WATER CORPORATIONS

The Minister for Water or the Minister's delegates are responsible for the issue of WULs, works licences and T&ULs in accordance with the Victorian *Water Act 1989* and associated Ministerial Determinations. A Water Corporation may not approve the issue of a works licence, WUL and or the T&UL to new developments unless the statutory requirements of the Water Corporations, and other stakeholder organisations, have been documented, evaluated and approved. Agencies and authorities with statutory responsibility have agreed to work with the water corporations in applying these Guidelines.

In issuing relevant licences, the relevant authority must:

- Determine if resource/extraction share/delivery share is available to service the proposed development
- Be satisfied with the standard of the IDP and/or WP accompanying the application
- Assess applications against, and enforce compliance with, the standard water use conditions as outlined in the Ministerial Determinations; the Water Corporations consider in granting a WUL whether or not the proposed use of water is consistent with the Water Use Objectives
- Follow the requirements outlined under the 'Policies for Managing Take and Use Licences' and the 'Ministerial Guidelines for Groundwater Licensing and Protection of High Value Groundwater Dependent Ecosystems' when issuing a T&UL

- Formulate suitable conditions for the works licence or WUL after consultation with the required agencies: The relevant CMA, DEECA, Ag. Vic Irrigation Officer, Parks Victoria and other agencies as required. Suitable conditions will be discussed and specified by the NID-WG meeting. The standard conditions will be included as conditions on all licences. Particular conditions identified during the application process must be included on the licence following NID-WG consideration.

After licences have been issued the authority is responsible for compliance with, and enforcement of, licence conditions. For example, meeting specified buffers, monitoring corrective action thresholds, and implementing corrective action procedures – where they are a condition of the WUL or T&UL.

3.5 DEPARTMENT OF ENERGY, ENVIRONMENT AND CLIMATE ACTION (DEECA)

DEECA Planning & Approvals (P&A) is a referral authority for advising Local Government on native vegetation and Crown Land issues through the planning permit application process. DEECA P&A seeks advice from DEECA Natural Environment Program in assessing impacts on biodiversity including native vegetation removal, and buffers.

DEECA Land and Built Environment (LBE) teams in regions manage licensing and authorise the use of or activities on Crown Land and are responsible for issuing public land manager's consent to allow applicants to apply for a planning permit. They have a role in identifying the appropriate public land manager (PV or DEECA). P&A may coordinate a joint response to proponents on behalf of PV and DEECA as public land managers.

DEECA Planning and Approvals can:

- DEECA LBE assess, and if appropriate, provide public land manager consent to apply for a planning permit and works licences on Public Land as a delegate of the Landowner unless a planning permit application that would be referred to DECCA is associated as above in which case P&A may co-ordinate.
- P&A, in consultation with DEECA Natural Environment Programs, provide advice on the implementation of the Native Vegetation Guidelines including avoid, minimise and offset requirements and any other relevant biodiversity impacts.
- DEECA LBE, and/or P&A, may refuse consent to works on Crown land. DEECA P&A may, or may not, object to planning permits.

3.6 DEECA WATER AND CATCHMENTS GROUP

- Provides high level policy advice to the CMAs and other agencies on the preparation and endorsement of the Guidelines through the Irrigation Development Guidelines Advisory Note
- Provides an oversight role and funding to support implementation of the guidelines to support the West Gippsland CMA in the undertaking of the IDC role
- Provides specialist assistance, advice and guidance on water availability and system-scale constraints
- Is a signatory to the authorisation of a works licence
- Provides advice and interpretation of Ministerial policies and administrative requirements.

3.7 AGRICULTURE VICTORIA (AG VIC)

The Ag Vic Irrigation Officer provides advice to the proponent, Water Corporations and CMAs on the technical aspect of IDPs, including:

- Provides extension support to the proponent including information on best practice irrigation management and advice during development of the IDP
- Reviews independent data and information from applicants. As part of the assessment process the Ag Vic Irrigation Officer may make environmental-based recommendations mainly concerning off site impacts that may threaten downstream water quality or remnant native vegetation
- Provides, where relevant, information on irrigation best management practices.

3.8 CATCHMENT MANAGEMENT AUTHORITIES (CMAS)

The Catchment Management Authority:

- Is the lead agency for ensuring the Guidelines are up to date with current legislation and are consistent with the RCS and the LWMP as well as any other government policy directive
- Is a referral authority for advising agencies, Local Government and individuals on lakes, rivers, wetlands and floodplain issues and matters, particularly as part of the planning permit approval process undertaken by statutory authorities.
- As regional manager of the environmental water reserve, CMAs advocate for the environment.

3.9 LOCAL GOVERNMENT

Issue planning permits in accordance with the Planning and Environment Act 1987 such as applications relating to land development, drainage, flooding, native vegetation, waterways, cultural heritage and earthworks, and:

- Is responsible for the application of the Victorian Planning Provisions locally where each Council has a local planning scheme which includes state planning policy framework and a local planning policy framework, as well as zones and overlays that control the use and development of land.
- Enforces compliance of planning permit conditions.

3.10 PARKS VICTORIA

Parks Victoria:

- Under the *Parks Victoria Act 2018*, Parks Victoria has primary responsibility for the protection, conservation, and enhancement of Parks Victoria managed land
- Is a land manager of Crown Land administered under the *National Parks Act 1975* and the *Crown Land Reserves Act 1978*
- Provides land managers advice to DEECA in its role as a referral authority in dealing with Planning Permit applications, Public Land Manager's Consent and Planning Scheme Amendments in accordance with the *Planning and Environmental Act 1987*
- Is responsible for the issue of Section 27 consent, under the *National Parks Act 1975*
- Operates under *Parks Victoria Act 2018*.

3.11 REGISTERED ABORIGINAL PARTIES AND ABORIGINAL VICTORIA (AV)

Cultural Heritage Management Approvals must be in place before any other approval process can be completed. As discussed in more detail in Section 5.1, this typically takes the form of a cultural heritage management plan (CHMP). A Registered Aboriginal Party (RAP) may elect to approve a CHMP. Where the RAP declines to do so, or where there is no appointed RAP, then the Secretary, Department of Premier & Cabinet (DPC) will assess an application for approval of a CHMP. This work is usually undertaken by the Secretary's Delegate within First Peoples State Relations Group, DPC.

3.12 URBAN WATER AUTHORITIES

Urban Water Authorities are a referral authority for developments located within declared urban water supply catchments. Numerous declared water supply catchments exist across Gippsland. Typically, for developments in urban water supply catchments, the proponent will be required to demonstrate, via the Irrigation and Drainage Management Plan, how the development will protect the yield and quality of water for urban water supply purposes.

SRW may refer applications to the relevant Urban Water Corporation for advice on the potential for an irrigation development to impact upon the yield or quality of water in a potable water catchment, either as a result of the take or use of water.

Urban Water Corporations will be concerned about developments that affect the availability of water resources relied upon for urban supply, such as a transfer of a licence from downstream to upstream of a reservoir or weir, as well as developments that may impact upon water quality in a catchment, such as irrigation activity that results in sediment runoff into streams. Licence conditions, including Irrigation and Drainage Plans, may be able to be developed that mitigate such impacts to acceptable levels, allowing irrigation and urban supply to coexist.

It is recommended that potential irrigators identify whether their proposed development is within an urban potable water supply catchment and/or whether their water extraction activities may impact on urban water supply resources. Urban Water Corporations welcome early approaches from developers either directly or through SRW to discuss potential issues, such as through the processes outlined in this Guideline. Gippsland Water also has guidance on their website showing where urban potable water supply catchments are located.

3.13 ENVIRONMENT PROTECTION AUTHORITY (EPA)

EPA is an independent statutory authority that reports to the Minister for Environment (through DEECA). EPA develops and reviews environmental policies and regulations. This is done with the Department of Energy, Environment and Climate Action (DEECA). In particular:

- A new legal framework came into effect on 1 July 2021. The *Environment Protection Amendment Act 2018* (the Act) is the general environmental duty (GED), which requires Victorians to understand and minimise their risks of harm to human health and the environment, from pollution and waste. EPA will work with industry to help them understand how to fulfil their obligations, by providing guidance, advice and other support. Complying with the GED is about taking reasonable practicable steps and employing good environmental work practices. The GED is defined as:

"A person who is engaging in an activity that may give rise to risks of harm to human health or the environment from pollution or waste must minimise those risks, so far as reasonably

practicable." Where reasonably practicable means putting in controls that are proportionate to the risk. It relates to the chance of harm occurring and potential impacts on the environment. It also relates to what controls are available, their cost, and considers what an industry generally knows about the risk and control options."

- Other relevant duties under the EP Act may include:
 - Duty to Manage Contaminated Land,
 - Duty to Notify of Contaminated Land,
 - Duty to Notify of Pollution Incident,
 - Duty to Take Action to Pollution Incident

4 Information requirements and technical assessments

4.1 PUBLIC LAND MANAGER CONSENT

Privately owned river pumps and associated infrastructure are sometimes located within the Public Conservation and Resource Zone and Public Park and Recreation Zone along the rivers. In order to construct, alter, operate, remove or decommission any works from Victorian water systems, consent from the public land manager is required first and before an application is made for a planning permit or a works licence.

For Gippsland most water courses associated with irrigation are managed through the CMA's Works on Waterways permit.

4.2 WORKS PLAN TO INFORM THE WORKS LICENCE

The purpose of a Works Plan is to protect the aesthetic, archaeological, cultural and conservation values of the riverine and riparian environment and public land areas.

Pumps, pump houses, pipelines, access tracks and associated water diversion works must meet the standards necessary to minimise their impacts on other persons and the environment. This must involve an assessment of local conditions and the appropriate siting, construction, operation, and maintenance of water diversion works.

The works licence for private diverters also employs strategies to minimise impacts on other water users by placing limitations on an extraction share and extraction rates during periods of rationing or other restriction, required to be specified as part of the works plan.

A Works Plan (WP) must clearly describe the type and location of irrigation infrastructure required to be constructed to extract water from the supply point and the intended pathway to deliver it to the farm. A WP must include:

- Siting map of proposed works
- Construction plan
- Decommissioning plan
- Operation plan.

Consideration must be given to what mechanisms will be undertaken to meet the standards necessary and to minimise the impacts on other persons and the environment during construction as well as ongoing operation of the water delivery infrastructure into the future. For further details on the information requirements refer to <https://www.water.vic.gov.au/managing-dams-and-water-emergencies/dams/guidance-notes²>.

4.3 IRRIGATION & DRAINAGE PLAN (IDP)

4.3.1 CONTEXT

² Accessed 12/8/22.

Under the Ministerial Determination (2007) Schedule 1 of the Standard Water Use Conditions an application for a new or varied WUL must be accompanied by an IDP for the area of land being developed or expanded³.

Similarly, Schedule 3 of the Minister's Policies for Managing Take and Use Licences (2014) calls for an IDP to accompany applications for a new or varied T&UL⁴.

The IDP must provide the information necessary to demonstrate how the development meets the necessary standards to minimise the impacts of water use on other persons and the environment (in particular water logging, salinity, sediment and nutrient impacts). The key purpose of an irrigation and drainage plan is to match the way land is irrigated and drainage managed/disposed of, with the characteristics of the land and soil, in order to efficiently meet the objective of minimising harmful side-effects of irrigation.

If the proponent is within areas covered by a Land and Water Management Plan, then, an appropriate overlay from a certified whole farm plan may be accepted as an IDP.

4.3.2 COMPONENTS OF THE IDP

A Map

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

- a) Property boundaries
- b) Areas to be irrigated, the "irrigation footprint"
- 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
- g) Existing and proposed native vegetation, wetlands, waterways, buffer zones and other environmental features.
- h) A range of planning overlays or management zones such as cultural heritage sensitivity areas, floodway overlays, potable water supply catchments, etc.

B Topographical survey

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

C Soil assessment

A soil survey is undertaken to provide information to assist the developer/proponent in the preparation of an efficient irrigation design. This means the irrigation system is capable of applying accurate and uniform irrigation volumes to match the volume of readily available water that can be held in the soil. This helps to maximise productivity whilst minimising the risk of off-site impacts.

³ https://waterregister.vic.gov.au/images/documents/consolidated_standard_water_use_conditions.pdf (Accessed 12/08/22).

⁴ <https://waterregister.vic.gov.au/images/documents/Policies%20for%20Managing%20Take%20and%20Use%20Licenses%20-%20Approved%20by%20Water%20Min%2002.02.2014.pdf> (Accessed 12/08/22).

Information required for the area proposed to be irrigated is provided by a suitably qualified soil surveyor on an overlay of a map of the property and soil data sheets and includes physical and chemical soil characteristics.

An understanding of soil variability in the region from previous soil maps and land capability maps can be used to determine the required intensity of soil sampling. The required information includes:

- Soil layers and depths
- Any impervious layers
- Soil texture
- Hydraulic conductivity (permeability)
- Soil pH
- Salinity/sodicity
- Nutrient availability – nitrogen, phosphorus, potassium.

The soil survey information is to be provided in a written report that includes:

- Clear property identification/identifiers (Crown Allotment etc.)
- Description of topography, hydrogeology and previous land use
- Key aspects of climate
- Soil profile descriptions – soil texture of each layer, depth of each layer, depth of potential rootzone, readily available water, soil colour, mottling, pedality, dispersion index and coarse fragments.
- Factors affecting potential rootzone depth
- Soil/water interactions e.g. drainage, permeability, infiltration
- Readily available water
- Land capability
- Amelioration recommendations.

An overlay of soils grouped in similar irrigation management units is also recommended.

D. Irrigation design

All developments.

The irrigation design should be completed by a suitably qualified irrigation designer to industry standards and provide information on:

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

The general principle in the design is that 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.

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.

Management and monitoring of irrigation.

Performance standards for irrigation management, monitoring and reporting may be required to be included as part of the IDP. These standards provide managers of the irrigation system and regulators with information that allows routine assessment of environmental risk.

In addition, the proponent should supply plans for nutrient monitoring and salinity monitoring, as below.

The proponent is responsible for implementing the monitoring plan and reporting results to the Water Corporations. If these requirements are adequately translated into conditions on the WUL/T&UL a graduated enforcement process is available under the *Water Act 1989 Section 64 AF*. That process can ultimately lead to WUL/T&UL revocation in the event of repeated failure to comply with conditions.

Plan for nutrient monitoring.

A plan for monitoring nutrient balance (nutrients applied versus nutrient exported) and nutrient movement may be required. This should cover nitrogen and phosphorus export via rainfall runoff, irrigation tailwater and subsurface flows. In some cases this may also include farm chemicals, pesticides, herbicides, fungicides, etc.

Plan for salinity monitoring.

A plan for monitoring groundwater levels and quality may be required as part of the IDP.

Shallow groundwater monitoring bores may be required to monitor water tables between the proposed irrigation development and sensitive sites. Normally these will only be required if the sensitive site is downslope of the irrigation area.

Monitoring of shallow groundwater monitoring bores will provide an early indication of groundwater tables and the need for a drainage system to be installed.

F. Arrangements for drainage disposal

Developers are responsible for their own drainage disposal. The IDP must therefore 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, and it must include:

- Details on the volume of water to be collected
- Details of any approved on-site disposal site and/or details of any off-site disposal site
- Details of approvals for any proposed re-use schemes and/or irrigation storages
- Details of sediment and nutrient management structures (eg. sediment traps)
- Location of pumps, discharge or re-use points.

G. Biodiversity protection arrangements

The IDP must identify those parts of the property and adjacent land where the use of water for irrigation poses direct and ongoing risks to wetlands, native vegetation, or the habitat of native animals. Depending on the IDG's assessment of the risks involved, this assessment may need to be done by a suitably qualified person/consultant, for example a Cert V Arborist. Specific requirements would be advised by the relevant Local Government or DEECA.

In the case of wetlands, which in Gippsland often include floodplain depressions and billabongs, irrigation works could be harmful to wetlands in the area by changing inundation frequency, duration, timing, rate of filling, drying and/or extent. These impacts could make the wetland more wet than natural condition, or more dry.

For areas of biodiversity value, the IDP must specify mitigating measures and (if necessary) suitable monitoring parameters, as well as appropriate monitoring equipment and locations for the equipment to be installed. The

IDP 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 water-use 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.

It should be noted that the Planning Policy Framework (PPF) outlines Victoria's policy objectives and strategies relating to the protection and management of native vegetation. This is covered in Section 4.3.5.

4.3.3 MAXIMUM APPLICATION RATES

Schedule 2 of the Standard Water Use Conditions sets out the maximum application rates (in megalitres per hectare per year), which are to be used in conjunction with irrigated areas (in hectares) to determine annual use limits.

For Water Use Licences in declared irrigation districts the maximum application rate is the Annual Use Limit.

The maximum Annual Use Limit for the Macalister Irrigation District is 9ML/ha.

Outside of the Macalister Irrigation District, the maximum application rates for TUL should account for regional considerations, notably variations in evapotranspiration and rainfall and:

- a) All sources of water used on the property (including groundwater and surface water)
- b) Annual crop irrigation requirements (including evapotranspiration and leaching)
- c) Soil hydraulic conductivity
- d) Uniformity of water application / irrigation system efficiency.

However, where the proponent can show that – because of local conditions, special crops, or an individual irrigation and drainage system – the application rate can safely be higher than the relevant one set out here, then the Minister may employ such higher application rate in determining the maximum application rate.

4.3.4 SEASONAL ADJUSTMENT OF ANNUAL USE LIMITS

Schedule 2 of the Standard Water Use Conditions states that:

“Unless the Minister, with the written agreement of the relevant Catchment Management Authority, has declared a seasonal adjustment to an annual use limit or limits to accommodate exceptionally high evapotranspiration, the maximum volume of water that may be applied to the land specified in the licence in any 12-month period from 1 July to 30 June will be the annual use limit.”

The Catchment Management Authority and Southern Rural Water have a seasonal adjustment process to calculate if exceptionally high irrigation demand has been triggered and this is used to declare a temporary increase in annual use limits for that season.

To date this has been applied only to the Macalister Irrigation District, as take and use licences do not have an annual use limit.

4.3.5 VEGETATION PROTECTION AND BUFFERS

General

It should be noted that the Planning Policy Framework (PPF) outlines Victoria's policy objectives and strategies relating to the protection and management of native vegetation. NB: This includes native vegetation any activity that would destroy or modify wetland vegetation (including changing water regime). Specifically, the following clauses give policy context and inform decision making:

- 12.01 Biodiversity
- 12.05 Significant environment and landscapes
- 13.04 Soil degradation
- 13.02 Bushfire
- 14.02 Water
- 15.03 Heritage (includes Aboriginal cultural heritage).

Clause 12.01 Biodiversity provides specific direction regarding the protection and management of biodiversity and native vegetation in Victoria. A key strategy identified in Clause 12.01 is to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

This is achieved through the following three-step approach, in accordance with the Guidelines (DELWP 2017).

1. Avoid the removal, destruction or lopping of native vegetation
1. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided
2. Provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.

Clause 12.01 references the Guidelines (DELWP 2017) and the following key policy documents which planning and responsible authorities must consider as appropriate:

- Protecting Victoria's Environment – Biodiversity 2037 (Department of Energy, Environment and Climate Action, 2017).
- Any applicable biodiversity strategies, including the relevant Regional Catchment Strategy prepared under Part 4 of the Catchment and Land Protection Act 1994.
- Statewide biodiversity information maintained by DEECA.

The requirement for a planning permit to remove native vegetation is detailed in the following two Particular Provisions:

- Clause 52.16 Native vegetation precinct plan
- Clause 52.17 Native vegetation - This clause outlines the requirement for a permit to remove, destroy or lop native vegetation, including dead native vegetation.

In addition to the requirements set out in the Guidelines (DELWP 2017), other legislation may apply when native vegetation is removed, or habitat for state (FFG Act) or nationally (EPBC ACT) listed species is degraded or destroyed.. This could include:

- *Flora and Fauna Guarantee Act 2019*
- *Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)*.

Note: The above information has been sourced directly from the Guidelines for removal, lopping or destruction of native vegetation (DELWP 2017 p4-5) which can be found at:

https://www.environment.vic.gov.au/_data/assets/pdf_file/0021/91146/Guidelines-for-the-removal,-destruction-or-lopping-of-native-vegetation,-2017.pdf

Further information on the regulations can be found in Section 5.4.3. It is noted that the Guidelines (DELWP 2017) may be reviewed and updated during the life of the Irrigation Development Guidelines and therefore proponents and staff are advised to contact DEECA and Council early in the planning stage, to ensure up to date information for your application.

What does this mean for New Irrigation Developments?

A new irrigation development application must consider all of the above biodiversity (and habitat) protection requirements through liaison with the project officer (Ag Vic) and the responsible authorities. For example, the application must demonstrate how the proposed use or development has been sited or designed to ensure the three step approach (e.g. avoid, minimise, offset).

It is the applicant's responsibility to ensure all approval requirements are addressed. For example, the IDP must identify those parts of the property and adjacent land where the use of water for irrigation poses direct and ongoing risks to all native vegetation as defined in the Guidelines (DELWP 2017). Depending on the NID-WG's assessment of the risks involved, this assessment may need to be done by a suitably qualified person/consultant as outlined in the Guidelines (DELWP 2017).

Relevant approvals are required to be included in the package of information presented to the NID-WG and will be considered during the process of endorsement by the NID-WG. Conditions on the WUL/ T&UL (and the planning permit approval) provide the vehicle for compliance for protecting against "direct and ongoing risks" to biodiversity from "the use of water for irrigation". For example, for areas identified as a risk to biodiversity, the IDP must specify mitigating measures and suitable monitoring parameters, including (where applicable) appropriate monitoring equipment and locations for the equipment to be installed. Where the latter is required, the IDP must also specify equipment maintenance standards, data reading, recording, reporting, and auditing requirements, corrective action thresholds, corrective action procedures, and corrective action time limits.

Buffers

When planning a new irrigation development, the plan can demonstrate best practice by incorporating design buffers (vegetated or non-vegetated) as a mitigating measure, for the protection of biodiversity and waterway health. The adoption of buffers reduces potential impacts from:

- Elevated water tables
- Surface runoff quality (e.g. nutrients and suspended solids) into waterways
- Spray drift
- Encroachment and damage caused by operating machinery
- Soil erosion and surface water movement
- Weed invasion.

Buffers must be managed for the benefit of biodiversity in a farming system, which will include various management requirements (e.g., stock management, ecosystem services, species selection). Advice should be sought prior to approval of the new irrigation development where it includes buffers, to ensure long-term management. Responsible / referral authorities may specify conditions in any applicable planning permits.

The buffers are specified in

Table 4-1

Table 4-1: Vegetation requirements for irrigation developments

| ENVIRONMENTAL ASSET/VALUE | REQUIREMENTS (E.G. BUFFERS) |
|---|--|
| Land administered under the National Parks Act 1975 and significant reserves under the Crown Land (Reserves) Act 1978 | Up to 200 m or as advised by Parks Vic |
| Waterways including mapped wetlands and waterways in potable water supply catchments | 30 metres (State Planning Policy Framework Clause 14.02) |
| Any vegetation which meets the definition of native vegetation as per 52.17 | Tree Protection Zone (For example, 12x diameter at breast height at 1.3m) (up to 15 m maximum) which will be determined by the responsible authority on a case by case basis |

4.4 FURTHER INFORMATION

There are a number of resources that can be used to guide delegates and applicants through the renewal, amendment or transfer of a works, or water use licence, including:

- Development Information Packages; (available from IDC)
- Guidance document (DELWP 2017) – Exemptions from requiring panning permit to remove, destroy or lop native vegetation
https://www.environment.vic.gov.au/_data/assets/pdf_file/0018/91251/Exemptions-from-requiring-a-planning-permit-to-remove,-destroy-or-lop-native-vegetation-Guidance.pdf
- Clause 14.02-1S of the VPP (Catchment Planning and Management) and associated policy documents as listed therein. See: https://planningschemes.dpcd.vic.gov.au/schemes/vpps/14_02-1S.pdf
- Clause 14.02-2S of the VPP (Water Quality) and associated policy documents as listed therein. See https://planningschemes.dpcd.vic.gov.au/schemes/vpps/14_02-2S.pdf
- Dam information available from DEECA. See <https://www.water.vic.gov.au/managing-dams-and-water-emergencies/dams/guidance-notes>.

5 Other approvals required for irrigation development

5.1 ABORIGINAL HERITAGE

In accordance with the *Aboriginal Heritage Act 2006* and the *Aboriginal Heritage Regulations 2018*, a water use licence, take and use licence or a works licence cannot be issued until the Aboriginal Heritage requirements have been complied with.

Aboriginal Heritage Act 2006 and the *Aboriginal Heritage Regulations 2018* provides for the protection and management of Victoria's Aboriginal heritage (e.g. Aboriginal places, objects and Aboriginal Ancestral remains etc.) on private land as well as public land. It is an offence under Section 27 of the Act , to harm Aboriginal cultural heritage and under Section 28 to do an act that harms or is likely to harm Aboriginal cultural heritage.

The Aboriginal Heritage Act 2006 and the Aboriginal Heritage Regulations 2018, may require preparation of a cultural heritage management plan (CHMP) before a planning permit, water use licence, take and use licence or a works licence is issued by the relevant authority. This is different to other acts of parliament; however, it is important for proponents to be aware that the proposed development may not proceed without first obtaining all necessary approvals.

A Cultural Heritage Management Plan (CHMP) is a written report prepared by a Heritage Advisor. It includes results of an assessment of the potential impact of a proposed activity on Aboriginal cultural heritage. It outlines measures to be taken before, during and after an activity in order to manage and protect Aboriginal cultural heritage in the activity area. A CHMP is required when a 'high impact activity' is planned in an area of 'cultural heritage sensitivity'. These terms are defined in the Aboriginal Heritage Regulations 2018.

For new irrigation development a CHMP may be triggered by earthworks that are defined as a utility installation. This can include new pipelines or channels.

The *Aboriginal Heritage Regulations 2018* define high impact activities. Irrigation developments will be 'high impact activities' if:

- the works are a linear project that is the construction of a pipeline with a length exceeding 500 metres; or
- the works are a linear project with a length exceeding 100 metres (other than the construction of an overhead power line or a pipeline with a pipe diameter not exceeding 150 millimetres); or
- the works affect an area exceeding 25 square metres

Other statutory authorisations, such as a Cultural Heritage Permit (CHP), may be required where an activity is planned that will or is likely to harm Aboriginal cultural heritage.

Given the primacy of these approvals, after receiving an application, the IDC will request advice from the relevant CMA's cultural adviser about any specific areas, or sensitive overlays, to avoid disturbing.

The following points apply to CHMPs:

- A proponent can use a cultural heritage advisor to undertake due diligence with regard to the need for a CHMP, but this does not provide certainty.

- Where it is unclear whether a CHMP is required a Preliminary Aboriginal Heritage Test (PAHT)⁵ may be undertaken. The PAHT is a voluntary process, which allows for the Secretary, DPC, to certify whether a CHMP is required for the proposed activity.

Areas of cultural heritage sensitivity area defined by the Aboriginal Heritage Regulations 2018 these include:

- registered cultural heritage places or land within 50m of a registered cultural heritage place
- land within 200m of a waterway or a prior waterway
- land within 200m of an ancient lake
- land within 200m of a declared Ramsar wetland
- coastal crown land
- land within 200m of the high water mark of the coastal waters of Victoria
- a park (in the National Parks Act 1975)
- high plains
- Koo Wee Rup Plain

A Registered Aboriginal Party (RAP) may elect to approve a CHMP. Where the RAP declines to do so, or where there is no appointed RAP, then the Secretary, DPC, will assess an application for approval of a CHMP.

Maps of RAP areas are included in Appendix 1 - Figure 9-1 and Figure 9-2

A CHMP is prepared by a heritage advisor who is engaged by the project proponent

A voluntary CHMP can put a worthwhile risk management process in place

Further information is available at:

- *Aboriginal Heritage Act 2006*: <https://w.www.vic.gov.au/aboriginalvictoria/heritage/aboriginal-heritage-act-2006-and-the-aboriginal-heritage-regulations-2018.html>
- *Aboriginal Heritage Regulations 2018*: <https://w.www.vic.gov.au/aboriginalvictoria/heritage/heritage-tools-and-publications/guides-forms-and-practice-notes-for-aboriginal-heritage-management.html>
- First Peoples State Relations <https://www.firstpeoplesrelations.vic.gov.au/>
 - cultural heritage management plans <https://www.firstpeoplesrelations.vic.gov.au/culturalheritagemanagement-plans>
 - cultural heritage permits <https://www.firstpeoplesrelations.vic.gov.au/cultural-heritage-permit>
 - preliminary Aboriginal heritage tests <https://www.firstpeoplesrelations.vic.gov.au/preliminaryaboriginal-heritage-test>
 - protecting Aboriginal heritage <https://www.firstpeoplesrelations.vic.gov.au/protecting-heritageand-enforcing-act>
 - finding a heritage advisor <https://www.firstpeoplesrelations.vic.gov.au/choose-heritage-advisor>
- General enquiries – 1800 762 003
- Information Victoria Call Centre – 1300 366 356

⁵ <https://www.aboriginalvictoria.vic.gov.au/preliminary-aboriginal-heritage-test>.

- Email: Aboriginalaffairs@dpc.vic.gov.au
- Heritage Division, Department of the Environment, Water, Heritage and the Arts
<http://www.environment.gov.au/heritage/about/indigenous/index.html>
- *Aboriginal and Torres Islander Heritage Protection Act 1984*
- Cultural heritage guide for volunteer groups developed by Landcare. This provides a clear explanation of when a CHMP is required: <https://www.landcarevic.org.au/assets/Uploads/Aboriginal-Cultural-Heritage-Guide-Oct-2019-compressed.pdf>

5.2 PUBLIC LAND MANAGER CONSENT

Works within the Public Conservation and Resource Zone and Public Park and Recreation Zone require consent from the public land manager prior to applying for a planning permit.

Further information is available at Siting and Design Guidelines for Water Diversion Works across Crown Land (NRE, 2001).

5.3 LOCAL COUNCIL REQUIREMENTS

Land use and development are controlled by “responsible authorities”, usually local government authorities, under planning schemes. Planning schemes set out policies and requirements for the use, development and protection of land. There is a planning scheme for every municipality in Victoria. Planning schemes throughout Victoria consist of:

- A Planning Policy Framework
- A Municipal Planning Strategy
- Zone and overlay provisions
- Particular provisions
- General provisions
- Definitions.

The Planning Policy Framework covers both broad issues/policies and local issues/policies/direction/vision...The Municipal Planning Strategy provides long-term directions for the Council Area.

The Zone, Overlay and Particular Provision requirements provide the controls over the type of use and development allowed in each zone. This is primarily the information with which new irrigation developers will be concerned.

There may also be local laws that could affect a development; for example, a local law may prohibit the discharge of water on to Council land, such as roadsides.

5.4 PLANNING PERMITS

5.4.1 OVERARCHING REQUIREMENTS

It is not easy to make generalisations about when planning permits are required and when they are not. This will differ between municipalities and will depend on the land in question and the activity proposed. Each Zone, Overlay and Particular Provision will require different information to be submitted with a planning application.

For example, a parcel of land may be zoned Farming, allowing general agricultural pursuits while requiring a permit for more intense uses such as a piggery. The parcel may also be subject to a Salinity Management Overlay that may require a permit for earthworks, and a Rural Floodway Overlay, which may require a permit to construct or carry out any works. The proposed development may also be subject to a particular provision relating to, for example, signage or a local law may apply.

There are requirements in all planning schemes, both in farming zone and flood overlays, regarding earthworks and the impact on flooding and drainage. Eg. earthworks which change the rate of flow or the discharge point of water across a property boundary trigger the need for approval.

They assist landholders in ensuring that the proposed works comply with the relevant sections of the Water Act, 1989. In particular, proposed works must not:

- cause or interfere with a reasonable flow (s 16 & 20);
- affect flood behaviour in areas declared as liable to flooding, or for which flood levels, flood fringe areas or building lines have been declared (s 203 - 210); or
- obstruct or interfere with flows in Declared Drainage Schemes (s 218).

Prospective developers having identified a parcel of land, should in the first instance contact the Local Council or ask the IDC about specific requirements.

The planning approval process can vary in time depending on the complexity of the development and the level of referral required. Local Council may need to refer the application on to another agency, such as DEECA, the relevant CMA, the Water Corporation or VicRoads. In some cases, the agency must be given twenty-eight days to respond, before Local Council can make a decision.

Most new irrigation developments will occur within existing Farming Zones and pump/pipeline infrastructure from some Rivers (with Crown frontages) will occur within the Public Conservation and Resource Zone. The type of activities controlled in Zones will vary depending on the applicable overlays. Overlays contain special planning controls that protect special features of land covered by the overlay. There are a number of types of Planning Scheme Overlays that are likely to affect rural land:

- Environmental significance
- Vegetation protection
- Significant landscape
- Erosion management
- Salinity management
- Floodway
- Land subject to inundation
- Special building
- Bushfire management
- Heritage.

5.4.2 USES AND DEVELOPMENTS WHICH MAY REQUIRE A PLANNING PERMIT

This is a list of examples only and may not be complete. Please contact your relevant Local Council for advice:

- Rice growing or other ponded irrigation
- Cattle Feedlots
- Native Vegetation Removal (including limb lopping and impacts to the Tree Protection Zone (root system) of trees)
- Any works which may alter the hydrology of wetlands which may degrade or destroy wetland vegetation

- Pump and/or pipelines on or across Crown Land
- Earthworks (including laser grading)
- Road crossings or under boring
- Timber production
- Intensive animal husbandry
- Subdivision
- Constructing a building or other construction or carrying out works.

Where the removal of native vegetation is proposed to facilitate an irrigation development, any planning permit issued granting approval to remove native vegetation may be conditioned to require evidence that the requirements of the Water Act 1989 have been met. For example:

“No removal of native vegetation is to occur until evidence of a [Water Use Licence] and/or [a Works Licence] having been issued under the Water Act 1989 in relation to the [proposed irrigation development] and/or [proposed works to construct a pump and pipeline to extract water from a regulated waterway] is provided to the responsible authority and/or [DEECA region].”

5.4.3 LOCAL COUNCIL PLANNING APPROVAL

Application may be approved subject to conditions, or may be refused. If refused, an applicant may appeal the decision to VCAT.

5.4.4 NATIVE VEGETATION REGULATIONS

A planning permit is required to remove, lop or destroy native vegetation under Clause 52.17 of all planning schemes in Victoria (and also can be triggered under an Overlay). This may include any works which alter the hydrology of wetlands which may degrade or destroy wetland vegetation. All applications to remove native vegetation must demonstrate they have followed the three-step approach and also in accordance with the Guidelines for Removal, Destruction or Lopping of Native Vegetation (DEWLP, 2017):

1. Avoid the removal, destruction or lopping of native vegetation
2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided
3. Provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.

The application must demonstrate how the proposed use or development has been sited or designed to avoid and minimise impacts on native vegetation, and that no feasible opportunities exist to further avoid and minimise impacts on native vegetation without undermining the key objectives of the proposal.

Biodiversity offsets compensate for the loss in biodiversity value when native vegetation is removed. An offset is delivered by protecting and managing native vegetation at an offset site. This protection and management improves the security and condition of the native vegetation, resulting in ‘gain’. This gain is used to meet the offset requirements when native vegetation is removed⁶.

There are three types of offsets:

- A species offset (Species Habitat Unit) is required when the removal of native vegetation has a significant impact on habitat for a rare or threatened species

⁶ This information as accessed from https://www.environment.vic.gov.au/__data/assets/pdf_file/0023/329450/Info-sheet-A-quick-comparison-of-first-party-and-third-party-offset-sites.pdf on 21 May 2019

- A general offset (General Habitat Unit) is required when the removal of native vegetation does not have a significant impact on habitat for a rare or threatened species
- Large tree attribute – offsets must include one large tree for every large tree to be removed.

Following approval of a planning permit, required offsets must be secured prior to the removal of any native vegetation. As part of the planning permit application, evidence must be provided that the required offset is available:

- For purchase from a third party
- Will be established as a new third party offset site
- Can be met by a first party offset.

First party offset sites are on land owned by the holder of a permit to remove native vegetation. They are used to meet landowners' own offset requirements.

First party offset sites must have a ten year management plan and must be secured in perpetuity with either:

- An agreement with the Secretary to DEECA under section 69 of the *Conservation, Forests and Lands Act 1987*
- An agreement with a responsible authority under section 173 of the *Planning and Environment Act 1987*
- An agreement with Trust for Nature to register an offset covenant under the *Victorian Conservation Trust Act 1972*.

Prior to progressing first-party offset sites, applicants must receive the written agreement from the statutory body that they will enter into a security agreement.

Third party offsets are established on land not owned by the permit holder. Third party offsets are purchased as a single, once-off transaction through a vegetation broker. Evidence that a third-party offset has been secured is a credit extract allocated to the permit from the Native Vegetation Credit Register. Further information is available at: <https://www.environment.vic.gov.au/native-vegetation/native-vegetation> and https://www.environment.vic.gov.au/_data/assets/pdf_file/0018/90360/Permitted-clearing-of-native-vegetation-Biodiversity-assessment-guidelines.pdf.

5.5 ENVIRONMENTAL PROTECTION AND BIODIVERSITY CONSERVATION

The *Environment Protection and Biodiversity Conservation (EPBC) Act 1999* is the Australian Government's central piece of environmental legislation and is administered by the Commonwealth Government's Department of the Environment and Energy. It provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places defined in the Act as matters of national environmental significance.

Species can be listed because they are threatened and/or migratory species (including species under the 3 Bilateral Agreements and Bonn Convention). For example, any proposal that has potential to impact a Ramsar site must be assessed under EE Act (Vic) and EPBC Ac (Cwlth).

If a proposed project could impact on any matters of national environmental significance, it must be referred to the Commonwealth Government under the EPBC Act. The Significant Impact Guidelines outline a self-assessment process to determine if a referral is required. If a project is referred, the Commonwealth will advise if the project is a Controlled Action requiring assessment against the requirements of the EPBC Act.

It is the applicant's responsibility to ensure their actions will not impact on a matter of national environmental significance and to ensure they have all necessary approvals before taking an action.

Further information is available at:

- Department of the Environment and Energy: 1800 803 772
- *Environment Protection and Biodiversity Conservation Act (EPBC) 1999 and Regulations 2000*
- Significant Impact Guidelines: <http://www.environment.gov.au/epbc/publications/significant-impact-guidelines-11-matters-national-environmental-significance> .

5.6 FLORA AND FAUNA CONSERVATION

The *Flora and Fauna Guarantee Act (FFG) 1988 and FFG Amendment Act 2019* is the key piece of Victorian legislation for the conservation of threatened species and communities and for the management of potentially threatening processes.

A Protected Flora Permit for works on public land must be obtained if the works may affect plants or communities listed in the Protected Flora List (DELWP 2017).

5.7 ENVIRONMENT EFFECTS ACT 1978

If the proposed project could have a significant effect on the environment, it must be referred to the Victorian Minister for Planning for a decision on whether an Environmental Effects Statement is required. The criteria for referral include clearing 10 hectares or more of native vegetation, potential impacts on threatened species, important wetlands (including Ramsar and the Directory of Important Wetlands of Australia), and/or Aboriginal cultural heritage.

Pre-referral consultation with the DEECA Planning & Approvals Referrals Coordinator is encouraged. Further information is also available on the environmental effects referrals website.

The bilateral agreement between Victoria and the Commonwealth Government avoids duplication of assessment processes. Victoria can assess proposals that the Commonwealth has determined as controlled actions under the EPBC Act, and are also likely to have a significant impact on the environment under the Victorian EE Act. The Commonwealth will still make the approval decision under the EPBC Act, following review of the assessment material prepared by the relevant Victorian decision maker and provision of extra information as required. Further information is also available on the environmental effects referrals website.

5.8 WILDLIFE PROTECTION AND CONSERVATION

The purpose of the *Wildlife Act 1975* is to establish procedures in order to promote the protection and conservation of wildlife, the prevention of taxa of wildlife from becoming extinct and the sustainable use of and access to wildlife; and to prohibit and regulate the conduct of persons engaged in activities concerning or related to wildlife. All native wildlife in Victoria is protected under the *Wildlife Act 1975*. For some developments a Wildlife Management Plan may be required, for example:

- Where there is a significant land use change and a sustainable approach is required to manage wildlife populations (non-destructive control methods), for example changes from dryland agriculture to irrigated horticulture.
- Where measures to protect, salvage and translocate native fauna are required during the removal of native vegetation. Wildlife handling, including the capture and translocation of fauna, requires a permit from DEECA, known as a Wildlife Management Authorisation.

5.9 FLOODPLAIN MANAGEMENT AND WORKS ON WATERWAYS

5.9.1 STATUTORY PLANNING RESPONSIBILITIES

CMAs have statutory planning responsibilities under the *Planning and Environment Act 1987*, as well as being the regional caretaker of river health. Activities include statutory planning and flooding referrals, works on waterways permitting, flood and river health awareness, development of and support for flood studies, including support for cost-effective flood mitigation measures and flood warning systems.

These waterway and floodplain statutory actions/responsibilities are underpinned by the Regional Catchment Strategy and underpinning Waterway Strategies.

5.9.2 FLOOD LEVEL ADVICE

Flood advice for a specific property can be obtained from the relevant CMA. Flood advice helps landowners to understand their risks and is useful for:

- People looking to buy or rent a property
- Property owners looking to renovate their house or build an extension
- Developers looking to subdivide a property.

Generally, most works within a defined flood prone area require a planning permit from the local Council. Council will refer these development proposals to the relevant CMA for advice and/or its approval. CMAs encourage landowners/developers to obtain flood level advice early so that any development proposal identifies and mitigates potential risks associated with flooding.

The Victorian Planning Provisions (VPPs) provide the basis for all statutory land use planning controls in Victoria. The main mechanisms of the VPPs with respect to floodplain mapping and control are contained in the following zones and overlays:

- Urban Floodway Zone (UFZ)
- Special Building Overlay (SBO)
- Environmental Significance Overlay (ESO)
- Design and Development Overlay (DDO)
- Floodway Overlay (FO)
- Land Subject to Inundation Overlay (LSIO).

There are specific controls relating to buildings and works proposals contained within the overlay control. There are also extensive guidelines that the responsible authority must consider before deciding on an application. All applications must be referred to the relevant floodplain management authority (CMA), unless in the opinion of the responsible authority the proposal satisfies requirements or conditions previously agreed in writing between the responsible authority and the floodplain management authority.

5.9.3 WORKS ON WATERWAYS

Many work practices in the past have caused major degradation of waterways, including wetlands on public and private land. To protect and rehabilitate rivers and creeks there is a need to ensure that any works undertaken on designated waterways do not adversely affect the health of those waterways. Works and activities within the bed and banks of designated waterways require a permit from the relevant CMA. Works and activities may include:

- Bridges
- Culverts
- Fords
- Service crossings
- Storm water outlets
- Drop structures
- Stream deviations
- Extractions
- Bed and bank stabilisation
- Large woody debris removal
- Vegetation management.

Further information regarding these matters can be obtained from the relevant CMA.

6 References

Allen R.G. (1998) Crop evapotranspiration – Guidelines for Computing crop water requirements, FAO Irrigation and Drainage Paper 56.

ANCOLD (2002) Guidelines on Assessment of the Consequences of Dam Failure.

DELWP (2017) Guidelines for removal, lopping or destruction of native vegetation https://www.environment.vic.gov.au/_data/assets/pdf_file/0021/91146/Guidelines-for-the-removal,-destruction-or-lopping-of-native-vegetation,-2017.pdf

DELWP (2019) Draft Advisory Note- September 2019 Irrigation Development Guidelines- Victoria

DSE (2007) Your Dam Your Responsibility, A Guide to the Managing of Safety of Farm Dams.

DSE (2010) Advisory Note on Irrigation Development Guidelines in Victoria (Version 2.0).

North Central, Goulburn Broken and North East Regional Catchment Strategies.

Loddon Campaspe Irrigation Region, Shepparton Irrigation Region, and North East Land and Water Management Plans.

North Central, Goulburn Broken and North East Waterway and Floodplain Management Strategies.

Minister for Water (2007) Ministerial Determinations.

Victorian Planning Provisions https://planning-schemes.api.delwp.vic.gov.au/schemes/vpps/14_02-001S.pdf?_ga=2.8932214.290041624.1606288748-975258564.1544147380

7 Appendix 1: Legislative framework and Regional Catchment Strategy context

7.1 OVERALL FRAMEWORK

There are two main legislative and administrative pathways associated with WULs:

- The *Victorian Water Act 1989*
- The Regional Catchment Strategy (RCS) developed under the *CaLP Act 1994*.

Outlined in this section are the relevant policies related to irrigation development. However, agency staff and developers also need to be aware that conditions may also be set under:

- *Planning and Environment Act 1987*
- *Aboriginal Heritage Act 2006*
- *Flora and Fauna Guarantee Act 1988 and FFG Amendment Act 2019*
- *Environmental Protection and Biodiversity Conservation Act 1999*
- *Wildlife Act 1975*
- Any other requirements contained in Acts of Parliament and implemented by other authorities or by other states.

It is important that irrigation developers are made aware that there may be additional requirements under these acts when applying for a WUL. The applicant will need to engage with the relevant authorities outside of the irrigation development process in order to ensure all legislative obligations are met. Whilst the issuing of a licence cannot be withheld based on the requirements of other Acts of Parliament, a licence to divert water, if issued, does not override or negate the need for the applicant to meet the requirements under other acts of Parliament. Therefore, it is important for applicants to be aware that the proposed development is unlikely to proceed without first obtaining all necessary approvals.

It is important to note that a decision maker cannot grant a statutory authorisation for an activity which requires a CHMP, until the CHMP is approved (S.52 of the AH Act).

7.2 LINKS TO KEY LEGISLATION

Table 7-1 provides links to the current version of the main pieces of legislation.

Table 7-1: Links to legislation

| ACT | URL |
|--|---|
| <i>The Victorian Water Act 1989</i> | http://classic.austlii.edu.au/au/legis/vic/consol_act/wa198983/ |
| <i>CaLP Act 1994</i> | http://classic.austlii.edu.au/au/legis/vic/consol_act/calpa1994267/ |
| <i>Planning and Environment Act 1987</i> | http://classic.austlii.edu.au/au/legis/vic/consol_act/paea1987254/ |
| <i>Aboriginal Heritage Act 2006</i> | http://classic.austlii.edu.au/au/legis/vic/consol_act/aha2006164/ |
| <i>Flora and Fauna Guarantee Act 1988</i> | http://classic.austlii.edu.au/au/legis/vic/consol_act/fafga1988205/ |
| <i>FFG Amendment Act 2019</i> | http://classic.austlii.edu.au/au/legis/vic/num_act/fafgaa201928o2019331/ |
| <i>Environmental Protection and Biodiversity Conservation Act 1999</i> | https://www.legislation.gov.au/Details/C2019C00275 |
| <i>Wildlife Act 1975</i> | http://classic.austlii.edu.au/au/legis/vic/consol_act/wa197593/ |

Information on water entitlements is also available at the Victorian Water Register at <https://waterregister.vic.gov.au/>.

7.3 VICTORIAN WATER ACT 1989

The Victorian *Water Act 1989* is the legislation governing the way water entitlements are issued and allocated in Victoria. It defines water entitlements and establishes the mechanisms for managing Victoria’s water resources. Table 1 outlines sections of the Victorian *Water Act 1989* relevant to new irrigation development (DSE, 2010).

7.3.1 MINISTERIAL DETERMINATIONS

Water entitlements on the Macalister/Thomson⁷ regulated water systems were unbundled on 1 July 2008 when these systems became declared water systems. In these declared regulated surface water systems water entitlements have three component parts:

- A water share
- An extraction entitlement which is a share of delivery capacity (extraction shares from a waterway for private diverters or delivery shares within pumped districts)
- A WUL (or registration for purposes other than irrigation) to use water on specific land parcels subject to certain conditions. Or a T&UL.

In unregulated water systems, and in groundwater systems these three components are bundled together in the T&UL.

The setting of Water Use Objectives, WUL/T&UL conditions and works licence conditions all occur under the Victorian *Water Act 1989*. The Water Corporation acts as the Minister for Water delegate, and on behalf of the Minister, authorises the use of water through issuing WULs/T&ULs and works licences. In granting a WUL/T&UL or works licence, Water Corporations must assess whether the proposed use of water is consistent with the Ministerial Water Use Objectives and standard water use conditions, and they must follow the policy for managing works licences.

Table 7-2: Sections from the Victorian *Water Act 1989* relevant to new irrigation development

| | SECTION | DESCRIPTION |
|-------------------|-------------|---|
| Water Use Licence | Section 64L | A person requires a WUL under Section 64L to use water on land for irrigation purposes if the water is taken from a declared water system (i.e. an unbundled system such as a declared water system). |
| | Section 64M | In dealing with an application, the relevant Water Corporation is required to consider: <ul style="list-style-type: none"> ▪ Impacts the proposed use may have on other persons or the environment (in particular water logging, salinity and nutrient impacts) ▪ Whether or not the proposed use can meet Standard Water Use Conditions that would apply to the licence, if granted ▪ Any comments received from the CMA, if the application was referred to the CMA and comments received within 30 days of the referral ▪ Any other matters the Minister considers relevant to that Corporation. |

⁷ Declared water systems are: a) Lake Glenmaggie and the Macalister River downstream of Lake Glenmaggie to the confluence of the Thomson River (including the pool formed by, and immediately upstream of, Maffra Weir); and b) Thomson Reservoir and the Thomson River downstream of Thomson Reservoir to the confluence of the Latrobe River (including the pool formed by, and immediately upstream of, Cowwarr Weir); and c) Rainbow Creek; and d) Cowwarr Channel; and e) Macalister Irrigation District.

| | SECTION | DESCRIPTION |
|----------------------|--------------------|--|
| Take and Use Licence | Section 51 | A person requires a licence under Section 51 of the Act to 'take and use' water from a groundwater system, or surface water which is not a declared system (i.e. water system that has not been unbundled). |
| | Sections 53 and 56 | In considering an application for such a licence, and the conditions to be imposed, the Water Corporation is required to consider matters outlined under Section 53 and 56 of the Act, including: <ul style="list-style-type: none"> ▪ Any adverse effect the exercise of rights under the licence is likely to have on in-stream uses of water, on the aquifer or on the flow of water within the waterway (e.g. water availability, permissible consumptive volume, water quality) ▪ The effects on the implementation of the conservation policy of the government, and the need to protect the environment, including the riverine and riparian environment ▪ The purpose for which the water is to be used ▪ Any other matter that the Minister thinks fit. |
| Works Licence | Section 67 | A works licence is required to construct and operate works on a waterway, groundwater bore and certain private dams. A works licence is generally required to pump water from a waterway or aquifer. A works licence can authorise a person to enter onto and install works on Crown Land; but it does not authorise the applicant to lay pipes on freehold land or to remove vegetation. |
| | Section 68 | Section 68 lists the matters to be taken into account in considering an application for a works licence. |

7.3.2 WATER USE OBJECTIVES

The Ministerial Determinations set out five Water Use Objectives that the conditions on WULs/T&ULs must strive to meet if they are to be valid at law. These same objectives inform the Minister's policies for managing T&ULs. The objectives are:

- Managing groundwater infiltration
- Managing disposal of drainage
- Minimising salinity
- Protecting biodiversity
- Minimising cumulative effects of water use.

The standard water use conditions specified for new or varied WULs are:

Managing groundwater infiltration

(a) Water used for the purposes of irrigation on the land specified in the licence must be measured through a meter approved by a water authority unless the water authority has granted an exemption from this requirement in writing.

(b) Unless the Minister, with the written agreement of the relevant Catchment Management Authority, has declared a seasonal adjustment to an annual use limit or limits to accommodate exceptionally high evapotranspiration, the maximum volume of water that may be applied to the land specified in the licence in any 12-month period from 1 July to 30 June will be the annual use limit, calculated from the sum of the maximum application rates as set out in Schedule 2 multiplied by the area to which each of those rates apply.

Note: the annual use limit will be a particular condition recorded as part of the licence but derived from the standard condition set out above.

(c) Ponded irrigation must not be carried out on the land specified in the licence without the addition of particular conditions governing the use of such an irrigation system.

Managing disposal of drainage

(d) Where irrigation results in drainage from the land specified in the licence, water may only be used for irrigation while that drainage water is disposed of in accordance with:

(i) the arrangements specified in the endorsed irrigation and drainage plan, and

(ii) any terms and conditions that apply to a drainage service that is employed.

Minimising salinity

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

(f) Where – (i) the endorsed irrigation and drainage plan shows that all or part of the land being irrigated is within a ‘salinity impact zone’⁸, and (ii) the Minister under section 287A of the Act has given notice in writing requiring the owner to make a payment or payments towards the cost of works or measures to off-set any impact on river salinity – water may only be used for irrigation while the payments are being made as required in the notice.

Protecting biodiversity

(g) Where the endorsed irrigation and drainage plan identifies that the use of water for irrigation poses direct and ongoing risks to wetlands, native vegetation, or the habitat of native animals, water may only be used for irrigation while the licence holder meets the relevant monitoring and correctional requirements specified in the plan with regard to:

(i) installing and maintaining the specified monitoring equipment; and

(ii) following the specified data reading, recording, reporting and auditing requirements; and

(iii) carrying out the specified corrective action procedures, within the specified time, where a specified threshold for these is breached.

Similar conditions apply to new and varied T&ULs; there are some differences, for example, an annual use limit is not always specified; in which case the maximum use is the licensed volume. The definitive source on policies for managing T&ULs and WULs is available at

<https://waterregister.vic.gov.au/water-entitlements/about-entitlements/take-and-use-licences>

<https://waterregister.vic.gov.au/water-entitlements/about-entitlements/water-use-licences>

7.3.3 STANDARD WATER USE CONDITIONS

The Ministerial Determination for Standard Water Use Conditions describes the baseline requirements that address the Water Use Objectives. These requirements need to be met in order for the relevant Water Corporation to grant and issue a WUL as a delegate of the Minister for Water. This determination applies to all WULs granted for use of water from water systems that are declared under Section 6A of the Act, including WULs that are deemed to have been created as a result of declaration of a water system, and WULs granted after a water system has been declared (“new or varied WULs”), as set out in the determination.

There are two types of standard water use conditions depending on whether the WUL existed before 2007 unbundling (and therefore is deemed to be created under Schedule 15 of the *Victorian Water Act 1989*) or has been created (new) or varied post-unbundling. Each of these is discussed below. The main focus for the Guidelines is on new or varied licences.

⁸ This is only relevant to the Mallee Region and is not applicable within the Gippsland.

Licences created under Schedule 15 of the *Victorian Water Act 1989* (pre-unbundling).

WULs that existed at the time the Ministerial Determination for standard water use conditions came into effect, or were created as part of the process of unbundling the water system, are subject to the following standard conditions:

- Managing groundwater infiltration – Metering
- Managing groundwater infiltration – Ponded Irrigation
- Managing groundwater infiltration – Seasonal Adjustment
- Managing disposal of drainage water.

New or varied water use licences (post unbundling).

Under the Ministerial Determination irrigation developments or irrigation expansion activities requiring new or varied WULs are required to meet higher performance levels that are closer to best practice. More stringent standard water-use conditions are therefore applied, including the development of an irrigation drainage plan (IDP) as set out in Schedule 1 of the Ministerial Determination.

A list of conditions is provided in Appendices 5, 6, and 7.

The key purpose of an IDP is to illustrate how the irrigation system design and proposed drainage water disposal takes into consideration the characteristics of the landscape and soil type, and how it minimises harmful side-effects. By encouraging proponents to match crop types to soil suitability, and then designing irrigation systems based around that information, the irrigation development can meet a number of the water use objectives, including minimising recharge to the groundwater.

7.3.4 PARTICULAR WATER USE CONDITIONS

Where a development might require particular conditions to be placed on the WUL, which are not catered for within the standard conditions, the relevant Water Corporation may place “particular conditions” on the licence provided that these conditions meet the Minister’s Water Use Objectives.

Approval agencies may request particular conditions to meet individual requirements specific to a location or circumstance peculiar to a development proposal. This would normally occur in response to a specified environmental risk or risks, having been identified in association with the development, which may require a higher level of management or mitigation activity than allowed for within the standard water use conditions.

7.3.5 POLICIES FOR MANAGING WORKS LICENCES

The procedures and processes to be applied to an application for renewal, amendment or transfer of a works licence are set out in the Policies for Managing Works Licences. These Policies apply to all licences under Section 67 of the *Water Act 1989* that are associated with the authorised take, use, conveyance or storage of water in Victoria. These policies were amended in October 2010 with all related previous policies being revoked.

Key requirements set out in Part two of the policies are:

- The scope of works
- Requirements for issuing of a works licence
- Guidance for assessing applications that include construction and installation of dams and bores.

7.3.6 SECTION 40 – MATTERS TO BE TAKEN INTO ACCOUNT

The Water Act (1989) requires that in considering applications in relation to Take and Use Licences, the Minister (delegated to SRW) must have regard to the matters outlined in section 40. In particular:

- the existing and projected availability of water in the area;
- the permissible consumptive volume, if any, for the area;
- the existing and projected quality of water in the area;
- any adverse effect that the allocation or use of water under the entitlement is likely to have on—
 - existing authorised uses of water; or
 - a waterway or an aquifer; or
 - the drainage regime within the meaning of section 12(1); or
 - the maintenance of the environmental water reserve in accordance with the environmental water reserve objective;
- any water to which the applicant is already entitled;
- the need to protect the environment, including the riverine and riparian environment;
- the conservation policy of the government;
- government policies concerning the preferred allocation or use of water resources;
- any environment reference standard within the meaning of the Environment Protection Act 2017 and any Order made by the Governor in Council under section 156 of the Environment Protection Act 2017 ;
- whether the proposed source of water is within a heritage river area or natural catchment area within the meaning of the Heritage Rivers Act 1992 and whether there is any restriction on the use of the area under that Act;
- if appropriate, the proper management of the waterway and its surrounds or of the aquifer;
- the purposes for which the water is to be used;
- the needs of other potential applicants;

7.4 CATCHMENT AND LAND PROTECTION ACT (CALP) 1994

The *CaLP Act 1994* has an objective of establishing a framework for the integrated and coordinated management of catchments which will maintain and enhance long-term land productivity while also conserving the environment. The Act aims to ensure that the quality of the State's land and water resources and their associated plant and animal life are maintained and enhanced.

The *CaLP Act 1994* provides for the development of RCSs by Catchment Management Authorities which, among other things, must assess the nature, causes, extent and severity of land degradation of the catchments in the region and identify areas for priority action.

Local Planning schemes must have due regard for the RCSs. With regard to WULs, the RCSs relate to the conditions placed on the use of water.

7.4.1 REGIONAL CATCHMENT STRATEGIES

The RCS is the overarching integrated planning framework for land, water and biodiversity in each of the West Gippsland and East Gippsland regions. The RCS sits as an overall framework for the region's sub-strategies and action plans. It was developed in partnership with key regional stakeholders and provides a six-year plan for strategic action to support and focus the ongoing coordinated effort between land, water and biodiversity management agencies within the region.

The RCS sets an aspirational vision for the management of natural, cultural and productive landscapes; long-term (twenty year) objectives for the condition of assets within these landscapes; short-term (six year) strategic actions required to achieve these objectives; and identifies the regional partners responsible for the delivery.

The RCS does not set specific management activities or on-ground targets; these are found within supporting plans that sit under and align to the RCS, such as the Lake Wellington Land and Water Management Plan (LWMP).

7.4.2 LAND AND WATER MANAGEMENT PLAN

The LWMP seeks to protect the region's natural resource assets from the impacts of irrigation to ensure long-term sustainability of the irrigation industry and the community in which it is based. These guidelines align with the LWMP providing the requisite level of technical detail necessary for the approval process and the accounting of impacts.

Each LWMP conforms to the Environmental Protection Act and each continues the case management approach to provide assistance to developers in navigating the various legislative requirements and assist in the implementation of these guidelines. These Guidelines are a companion document to those LWMP that assist the region in meeting the water use objectives set by the Minister under section 64U of the *Water Act 1989*.

7.5 OVERARCHING LEGISLATION

7.5.1 ABORIGINAL HERITAGE ACT 2006 AND THE ABORIGINAL HERITAGE REGULATIONS 2018

Aboriginal Heritage Act 2006 and the *Aboriginal Heritage Regulations 2018* provides for the protection and management of Victoria's Aboriginal heritage (e.g. Aboriginal places, objects and human remains etc.) from irrigation development activities on private land as well as public land. It is essential to start investigations on what the requirements of the Aboriginal Heritage Act 2006 (the Act) might be at the start of the planning phase. Usually a cultural heritage management plan will be required (CHMP).

A decision maker cannot grant a statutory authorisation for an activity which requires a CHMP, until the CHMP is approved (S.52 of the AH Act). More detailed information on the above is covered in 5.1 and the Registered Aboriginal Party boundary areas are available at <https://aboriginalheritagecouncil.vic.gov.au/victorias-current-registered-aboriginal-parties>.

7.5.2 THE NATIONAL PARKS ACT 1975, THE CROWN LAND RESERVES ACT 1978

This requires the public land manager's consent for the development where privately-owned river pumps and associated infrastructure are located within the Public Conservation and Resource Zone and Public Park and Recreation Zone. In order to construct, alter, operate, remove or decommission any works from Victorian water systems, consent from the public land manager is required first and before an application is made for a planning permit or a works licence. Again, this should be an early part of the assessment.

7.5.3 THE FLORA AND FAUNA GUARANTEE ACT (FFG) 1988 & FFG AMENDMENT ACT 2019, ENVIRONMENTAL PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999; WILDLIFE ACT 1975

This is the key piece of Victorian legislation for the conservation of threatened species and communities and for the management of potentially threatening processes. Native vegetation, biodiversity offset requirements, buffer distance requirements all need to be assessed. All native vegetation likely to be impacted should be checked against the Protected Flora List (DEPI, 2014) to determine whether FFG approvals are required. Protected Flora Permits can be obtained from the Department of Energy, Environment and Climate Action's regional office. More detailed information on the above is covered in Chapter 5.

7.5.4 PLANNING AND ENVIRONMENTAL ACT 1987

Land use and development are controlled by “responsible authorities”, usually local government, under planning schemes. Local Councils usually refer the application on to another agency, such as DEECA, the CMA, the Water Corporation or VicRoads. More detailed information on the above is covered in Chapter 5.

7.5.5 ENVIRONMENT EFFECTS ACT 1978

If the proposed project could have a significant effect on the environment, it must be referred to the Victorian Minister for Planning for a decision on whether an Environmental Effects Statement is required. The criteria for referral include clearing 10 hectares or more of native vegetation, potential impacts on threatened species, important wetlands, and/or Aboriginal cultural heritage. Pre-referral consultation with the DEECA Referrals Coordinator is encouraged. Further information is also available on the environmental effects referrals website.



West Gippsland Catchment Management Authority

Traralgon Office
16 Hotham Street
Traralgon VIC 3844

Leongatha Office
Corner Young & Blair Street
Leongatha VIC 3953

PO Box 1374, Traralgon VIC 3844

T: 1300 094 262

E: westgippy@wgcma.vic.gov.au

www.wgcma.vic.gov.au