



A Co-operative venture of the municipalities of:
Cockburn, East Fremantle, Fremantle, Kwinana, Melville & Rockingham

Date: 19 December 2013
Contact: Mick McCarthy (08) 9364 0631
Reference: SWG Submission – Water Reform

Policy Submissions – Water Reform
Policy and Innovation Directorate
Department of Water
Box K822
PERTH WA 6842

Dear Sir

SOUTH WEST GROUP SUBMISSION – WATER REFORM POSITION PAPER

The South West Group welcomes the opportunity to lodge this submission on the Securing Western Australia's Water Future Position Paper – Reforming Water Resource Management (September 2013) and commends the Department of Water in seeking to better secure WA's water resources.

The South West Group, formed in November 1983, is a Voluntary Regional Organisation of Councils (VROC). It comprises the Cities of Cockburn, Fremantle, Kwinana, Melville, and Rockingham, and the Town of East Fremantle. The South West Group is managed by a Board consisting of the Mayors and CEOs of its member local governments.

The South West Group seeks to work with these six local governments and through cooperation with industry, community and the other spheres of government to capture a wide range of opportunities to enhance economic growth as well as supporting a diversity of quality lifestyles whilst servicing and sustaining cohesive, productive communities in an enviable environmental setting.

The comments provided below have been provided in response to the various proposals put forward in the position paper, under section 3 (Changes in detail). The South West Group has also prepared a background paper (refer to attachment), which describes the regional significance of groundwater allocations for member Councils and recommends licence categories to protect local government allocation for community use benefits that promote healthy and active lifestyles.

The responses have been considered by the South West Group Board and draw from feedback provided by the Planning and Infrastructure Committee and Technical Directors Committee, which provide strategic and technical advice on planning matters to the Board.

3.1 IMPROVED LICENCING

3.1.1 Simplified licensing

Proposal: Introduce levels of assessment and assessment criteria for licence and permit applications to vary according to circumstances, risk, other users and the environment.

Response: Proposal supported, recognising that Local Government's use of water (community facilities, irrigation etc) has a wider community benefit and positive contribution toward landscape amenity that needs to be given priority in the criteria.

3.1.2 Licence trading and transfer

Proposal: Simplify the assessment process for low risk transfers, legislate to provide consistency and certainty to water traders and make traded volumes and process publically available.

Response: Proposal supported, however refer to recommended categories identified on Table 4 of the attached South West Group Background Paper to ensure equitable utilisation of water resource for community benefit.

3.1.3 Licence tenure

Proposal: Enable the extension of the term of licences for up to 40 years.

Response: Proposal supported.

3.1.4 Variation to existing water entitlements

Proposal: Provide for legislation to decrease or increase annual volumes in order to match water use with water availability, including variation of volumes on a seasonal basis.

Response: Proposal supported.

3.2 WATER ACCESS ENTITLEMENT FRAMEWORK

3.2.1 Introduction of water access entitlements

Proposal: As part of the proposed statutory water allocation plan, introduce water access entitlements that are able to be perpetual, traded, mortgaged and bequeathed.

Response: Proposal supported, however refer to recommended categories identified on Table 4 of the attached South West Group Background Paper to ensure equitable utilisation of water resource for community benefit

3.2.2 Consumptive pools

Proposal: Introduce consumptive pools to aggregate water available for consumptive use as determined through a modelling and assessment process. Management of the consumptive pool will be through an adaptive management approach based on sharing rules.

Response: Proposal supported, however refer to recommended categories identified on Table 4 of the attached South West Group Background Paper to ensure equitable utilisation of water resource for community benefit.

3.2.3 Water allocations

Proposal: Changes in the availability and volume of water in the consumptive pool will be made periodically and announced, whereby the number of shares would not change but the volume of water volume for each share would change.

Response: Proposal supported, however refer to recommended categories identified on Table 4 of the attached South West Group Background Paper to ensure equitable utilisation of water resource for community benefit. In addition, Local Government will need to be provided with advance notice for changes in allocation due to the requirement to manage community complaints resulting from loss of community facilities water and/or landscape amenity through reduced irrigation of open space.

3.2.4 Accessing the water

Proposal: Establish abstraction arrangements to access water through water resource works approval (similar to current provisions) or a site use approval (permanent or temporary)

Response: Proposal supported as it provides greater flexibility in accessing water for specific purposes under short term arrangements. However refer to recommended categories identified on Table 4 of the attached South West Group Background Paper to ensure equitable utilisation of water resource for community benefit and that temporary licences are not tradeable

3.3 IMPROVED FRAMEWORK

3.3.1 Introduction of statutory allocation limits

Proposal: The Minister will have the power to statutorily define and amend boundaries for a water resource (sub-area boundary and depth for a groundwater resource, and subarea boundaries for a surface water resource) and also be able to statutorily define the allocation limit for that water resource.

Response: Proposal is supported on the basis that the mechanisms for statutory allocation limits will be determined through a consultative process involving Local Government.

3.3.2 Introduction of statutory allocation plans

Proposal: It is proposed that statutory water allocation plans will be developed over a period of time based on priorities related to the level of development of the resource, scale of risks and management complexities. The plans will establish clear water sharing rules, statutory allocation limits and boundaries, but provide operational flexibility within those rules.

Response: Proposal is supported. Although as indicated the Gngangara groundwater area is likely to be one of the first areas to have a statutory allocation plan developed, an indication on when a plan will be developed for the Jandakot groundwater area would be appreciated by the South West Group member Councils.

3.3.3 Measurement including metering

Proposal: To introduce a phased in metering and/or measurement approach in licence conditions for groundwater allocations above 500ML (first priority) and below 500ML (later priority). It is proposed to make a legislative change that requires metering for all water access entitlements as required in the context of a statutory water allocation plan.

Response: *Proposal is supported, noting that groundwater abstraction licences managed by Local Government are generally metered as required under operating strategies.*

3.3.4 Local water advisory groups

Proposal: To establish voluntary local advisory groups to work with the Department of Water to inform and provide advice on water management and allocation issues within a specific locality. Local Government has been identified as a representative group on the proposed water advisory groups.

Response: *Proposal is supported and South West Metropolitan Region local governments should be invited to be represented given their groundwater utilisation.*

3.3.5 Allocation mechanism for the release of unallocated water

Proposal: It is proposed that the new legislation allow for unallocated water to be granted by various mechanisms, including first in first served (FIFS), competitive submission according to certain criteria which may not involve payment for the water, market mechanisms or other suitable means. The method of releasing unallocated water will vary across the state taking into account the resource characteristics, the level of demand, and community and industry requirements. Local advisory groups would play a role in determining suitable mechanisms.

Response: *Proposal generally supported, noting that Local Government should be given first preference for options to access unallocated water given the wider community benefit associated with its use of extracted water. This is particularly relevant to areas subject to increased urban development due to high population growth, as the Local Governments are required to take over new public open space irrigation systems established during subdivisions.*

Preliminary data gathered from the member Councils by the South West Group indicate an annual increase in POS irrigation demand of approximately 2.0 to 2.5 GL over the next 5 – 15 years in the South West Metropolitan Region.

Local governments should be given preference to determine if they have a requirement for unallocated water for POS irrigation purposes prior to offering unallocated water to other users.

3.3.6 Recovering over-allocated resources

Proposal: A process for returning over-allocated systems to the allocation limit needs to be included in the legislation to increase transparency and provide security to water users. The statutory allocation limit will set a cap on the total volume of water entitlements that can be allocated within a water resource.

It is proposed to maintain the existing policy on managing water entitlements (*Management of unused licensed water entitlements 2003*) to vary the entitlement if the

quantity of water that may be taken under the licence has consistently not been taken, taking into account extenuating circumstances or operational strategies (the use-it or lose-it policy). This policy would not apply in the case of water access entitlements.

Response: Proposal is supported in principle, however Local Governments require the flexibility to retain any excess allocation limit to ensure there is adequate water availability during drier conditions and to service new irrigation areas established through the urban development process.

3.3.7 Rick assignment framework and compensation

Proposal: New risk assignment provisions will be included in the legislation specifying that the risk of permanent cuts to the entitlement is borne by the water user rather than the government if the cut is due to climate or natural events alone. If the cuts are not due to climate or natural events alone, the risks could be shared between the government and the water users.

At present, government is liable to pay compensation where entitlements are but permanently, unless the cuts are 'fair and reasonable' in respect of other licence holders in the area. This legal capacity has not been tested. Change is needed to remove the impost on the taxpayer and clarify who bears the risk under certain circumstances.

Response: Proposal supported, noting that the introduction of shared compensation costs for reduced allocation limits between State and Local Government will mean that taxpayers will share the costs either way.

3.4 LINKED POLICY CONSIDERATIONS

3.4.1 Environmental water

Proposal: Provisions on water for the environment are spread across several pieces of legislation. Change is needed to provide transparency and security for environmental water. It is proposed to consolidate existing provisions and make it explicit that provision is to be made for environmental water in water resource management, where appropriate.

The criteria that will be used to determine environmental water provisions will be set out in regulations or statutory water allocation plans.

Response: Proposal supported, noting that consultation is required with licence holders (including local governments) in areas where environmental water provisions are proposed. Refer to recommended conditions for environmental licences identified on Table 4 of the attached South West Group Background Paper to ensure equitable utilisation of water resource for community benefit and no commercial/trading rights.

3.4.2 Water quality

Proposal: Current rules on water quality are spread over several pieces of legislation. It is therefore proposed to consolidate existing provisions and make explicit that water quality requirements are to be taken into account in all applicable decision-making processes.

Response: Proposal supported in principle, however further details are required showing how this proposal will be implemented is required.

3.4.3 Basic water

Proposal: Basic water is for essential purposes including water for stock and the water we need to survive. This applies to every person, irrespective of whether they are a property owner or not. This does not apply for water that is used for commercial purposes

Change is needed to remove the inconsistency between basic water for groundwater and surface water systems and to condition basic water so it reflects domestic and stock needs. Therefore it is proposed to consolidate existing legislation and establish basic water for groundwater and surface water users that will include the conditions under which this provision may be exercised.

Response: Proposal supported.

3.4.4 Protection and management of public drinking water sources

Proposal: Rules for the protection of water in public drinking water source areas are contained in a number of Acts and sources are treated differently depending upon whether they are located inside or outside the metropolitan area. Superior protection is afforded under the metropolitan regime as there is, for example, the capacity to declare 'reservoir protection zones', unlike that in country areas.

Change is needed to uniformly protect water quality in public drinking water source areas in metropolitan and regional areas. It is proposed to consolidate and modernise the existing legislation to provide for a single legislative framework for public drinking water source areas that applies in both metropolitan and regional areas.

Response: Proposal supported.

3.4.5 Protection and management of public water supply

Proposal: Present legislation provides that sustainable management of water resources includes accounting for use and development for domestic purposes. This intent, strengthened to ensure adequate and safe public water supply will be carried into new legislation. Legislation will enable specification of a purpose for allocated water, assigning of a priority for a purpose and for the setting of a performance measure.

Response: Proposal supported.

3.4.6 Managing at state level

Proposal: An area needs to be proclaimed before licences can be issued. The current approach is to proclaim surface water and groundwater areas, which entails a lengthy and cumbersome process, including the need for approval by the Governor. It is suggested to remove the need for proclamations, and substitute this process with something simpler, such as a Ministerial Order.

Response: No comment, as more related to Department of Water core processes.

3.4.7 Compliance and enforcement

Proposal: Enforcement refers to offences and their related penalties. Current offences and penalties are out-dated and not applied uniformly to surface water and groundwater resources. In addition, penalty amounts are not uniform with similar offences throughout the Act, nor are they consistent with other Western Australian legislation including environmental legislation, or water legislation in other jurisdictions.

Change is needed to provide clear rules on offences and connected penalties, and to ensure these are a deterrent to breaching the Act and protecting responsible water users. It is proposed to ensure that all appropriate offences are included in the legislation and penalties are a sufficient deterrent.

Response: Proposal is generally supported, however further consultation is required with Local Government to assess the implications of the proposed enforcement regime and expected penalties to be applied for licence holders and general public.

3.4.8 Drainage

Proposal: Rules for drainage management are contained in a number of Acts and are treated differently depending on whether they are located inside or outside the metropolitan area. Change is needed to uniformly manage drainage in metropolitan and regional areas, and clarify that a broader range of drainage management activities is covered by the legislation.

It is proposed to consolidate and modernise the existing legislation to provide for a single legislative framework for drainage that applies in both metropolitan and regional areas.

Response: Proposal is supported in general, noting that Local Government was represented on the Drainage Reform Group (coordinated by the CSIRO) and consideration needs to be given to the outcomes determined through this work. Local Government manages the majority of drainage in the metropolitan area and therefore needs to be involved as a key stakeholder in developing any legislation.

3.4.9 Injections

Proposal: The current legal framework is based on the taking of water. Innovation and technology provides for mechanisms by which water or fluids can be injected into the ground that may be recovered at a later time – the current legal framework does not accommodate this.

The proposed regulation will provide clarity and security of future take of water to those undertaking injecting activities. It will also encourage injecting activities that may reduce demand on current water supplies.

Response: Proposal supported, however refer to recommended categories identified on Table 4 of the attached South West Group Background Paper to ensure equitable utilisation of water resource for community benefit and no commercial/trading rights for injection water.

3.4.10 Interception by plantations

Proposal: Plantations intercept rainfall and thereby impact on the water resource, other water users and the environment. It is proposed to include consideration of plantations

in the development of statutory water allocation plans or statutory allocation limits, including the contribution to water quality and inclusion of existing plantations as an unregulated user.

Response: No specific comment, however note potential risks for environmental rehabilitation and plantations being potentially constrained by groundwater requirements as outlined in the attached South West Group Background Paper.

I trust that consideration will be given to the feedback provided in this submission and attached background paper.

It is recommended that the Western Australian Local Government Association (WALGA) be specifically consulted and fully briefed regarding any changes impacting on metropolitan or regional Local Governments. WALGA has established the required consultative structures to gain the broader views and consensus amongst the Local Government sector

If you have any queries regarding this correspondence, please contact the Director South West Group (Mick McCarthy) by email director@southwestgroup.com.au, phone on 9364 0631 or mob 0478 325 469.

Yours sincerely



Barry Sammels
Chair South West Group

Attachment: Background Paper on Local Government and Water Resources in the South West Metropolitan Region

ATTACHMENT



A Co-operative venture of the municipalities of:
Cockburn, East Fremantle, Fremantle, Kwinana, Melville & Rockingham

LOCAL GOVERNMENT AND WATER RESOURCES IN THE SOUTH WEST METROPOLITAN REGION

SOUTH WEST GROUP RESPONSE TO POSITION PAPER - SECURING WESTERN AUSTRALIA'S WATER FUTURE

Introduction

Local Governments in the South West Metropolitan Region use significant quantities of water for irrigation of public open space, landscaping and recreation areas and are heavily involved in the issues raised in the Position Paper.

Most of this irrigation water is groundwater sourced from the shallow superficial aquifer with smaller quantities coming from confined aquifers, drainage reuse and scheme water.

Groundwater abstraction takes place in multiple locations throughout the region. For instance the City of Melville reports having 143 bores, 154 water pumps and 179 irrigation systems to water 330 hectares on 183 sites. Every bore in the City of Melville is metered and, along with other South West Metropolitan Region local governments, the use the latest technology to maximise water conservation and water use efficiency is common practice.

Many of the recommendations in the Position Paper should be supported but other recommendations need to be modified to reflect the unique position of local government.

The most significant change is that a category of non-tradeable licence for “Community Purposes” be introduced which would provide for the bulk of local government groundwater abstraction. The justification for this is that the local government use of groundwater is primarily for community benefits and directly supports healthy lifestyles, public amenity and active community participation in recreation.

This position is directly aligned with a key principle of the proposed water reform which states that:

“Effective water resources management will support state development, community wellbeing, our quality of life and the water dependent environment”.

Groundwater Management

Groundwater is managed by the Department of Water across the South West Metropolitan Region. Each groundwater area is subject to a triennial review, which indicate that across the South West Metropolitan Region there is limited availability of groundwater. In 2009 the CSIRO identified the committed groundwater allocations in Table 1.

Table 1: Committed Groundwater Allocations 2009

Groundwater Area	Total of Allocation Limits Kilolitres per year	Total of Committed Allocations Kilolitres per year	Percentage Committed	Comments
Perth	173 030 000	166 712 655	96.0%	Part only in SWMR
Jandakot	25 280 000	21 951 619	87.0%	
Cockburn	44 680 000	36 913 605	83.0%	
Rockingham - Stakehill	23 756 000	16 149 356	68.0%	

Groundwater management areas in the South West Metropolitan Region include:

- Part of the Perth groundwater area
- Cockburn groundwater area (see Figure 1)
- Part of the Jandakot groundwater area
- Rockingham - Stakehill groundwater area (see Figure 2)

Figure 1: Cockburn Groundwater Area



Local Government Groundwater Licenses

The South West Metropolitan Region local governments hold licences for extraction of significant quantities of groundwater from superficial aquifers and the confined Leederville aquifer. Licence details are shown in Table 2.

Table 2: SWMR Local Government Groundwater Licence Allocations

LGA	Groundwater Area	Licence Allocation Kilolitres per year	Aquifer	Licence Expiry Date
Melville	Perth	96 750	Leederville	2.12.15
	Perth	2 202 959	Superficial	2.12.15
LGA Sub Total		2 299 709		
East Fremantle	Perth	7 500	Superficial	28.12.14
	Perth	2 250	Superficial	28.12.14
	Perth	74 250	Superficial	28.12.14
	Perth	7 500	Superficial	28.12.14
LGA Sub Total		84 750		
Fremantle	Perth	129 000	Superficial	20.7.15
	Perth	507 900	Superficial	8.3.15
	Perth	32 325	Leederville	8.3.15
	Perth	39 150	Superficial	8.3.15
LGA Sub Total		708 375		
Cockburn	Cockburn	1 388 178	Superficial	30.6.18
	Cockburn	369 325	Superficial	30.6.18
	Cockburn	55 950	Superficial	20.9.21
	Jandakot	211 650	Superficial	30.6.18
	Jandakot	54 750	Superficial	30.6.18
	Jandakot	23 900	Superficial	30.6.18
	Jandakot	65 250	Superficial	26.8.13
	Jandakot	553 750	Superficial	30.6.18
LGA Sub Total		2 722 753		
Kwinana	Jandakot	15 000	Superficial	21.6.20
	Cockburn	781 075	Superficial	21.6.20
	Jandakot	115 700	Superficial	21.6.20
	Jandakot	23 500	Superficial	27.5.14
	Jandakot	9 500	Superficial	27.5.14
	Cockburn	104 250	Superficial	21.6.20
LGA Sub Total		1 049 025		
Rockingham	Rockingham	2 725 900	Superficial + RS	30.6.14
	Rockingham	410 470	Superficial + RS	31.12.16
	Stakehill	6 900	Leederville	30.6.14
	Stakehill	184 925	Superficial	15.8.23
	Cockburn	79 385	Superficial	30.6.14
	Rockingham	232 475	Superficial + RS	31.12.16
	Stakehill	469 445	Superficial	13.11.22
	Rockingham	313 125	Superficial + RS	30.6.14
	Stakehill	46 950	Leederville	30.6.14
	Rockingham	154 230	Leederville	6.9.23
LGA Sub Total		4 623 805		
SWMR LGA Total		11 488 417		

Note: Superficial + RS is Superficial aquifer plus Rockingham Sands

Table 2 shows that current licences have been issued for up to ten years with the latest expiring in 2023.

Table 3 below shows local government use from selected groundwater areas in the South West Metropolitan Region, indicating an average of 9.0% of the groundwater is allocated to local government for community use.

This is a significant proportion of the groundwater resource that requires protection and should not be able to be traded, given the wider community benefits and positive quality of life contribution associated with this use.

Table 3: Local Government Use of Water from Selected Groundwater Areas

Groundwater Area	Total Allocation Limits Kilolitres per year	Local Government	Local Government Allocation Kilolitres per year	Per Cent of Allocation to Local Government
Jandakot	25 280 000	Cockburn	909 300	3.6%
		Kwinana	163 700	0.6%
		Sub Total	1 073 000	4.2%
Cockburn	44 680 000	Cockburn	1 813 453	4.1%
		Kwinana	885 325	2.0%
		Rockingham	79 385	0.2%
		Sub Total	2 778 163	6.2%
Rockingham - Stakehill	23 756 000	Rockingham	4 544 420	19.1%
Total	93 716 000		8 395 583	9.0%

Figure 2: Rockingham Stakehill Groundwater Area



Categories of Licences

A key principle of the proposed water reform is that “Effective water resources management will support state development, community wellbeing, our quality of life and the water dependent environment”.

The current licence categories related to the consumptive pool do not appropriately reflect the role of local government allocations to ensure that the above key principle is achieved, particularly in relation to community well being and quality of life.

The recommended approach is to have different categories of licences to reflect the different elements of this principle. The recommended categories and their purpose, eligibility and tradable status are contained in Table 4.

Table 4: Recommended Categories of Licences

License Category	Tradeable	Eligible Holder	Purpose
Environmental	No	Government and not for profit organisations	Groundwater used solely for environmental management and remediation
Community	No	Government and not for profit organisations	Development and maintenance of sporting, recreation and landscaping
Commercial	Yes	Unrestricted	Broad commercial activity
Recovery	No	Unrestricted	Recovery of water collected by water harvesting or injection
Injection	No	Unrestricted	Injection without recovery for heat loss, mine dewatering or disposal of saline water into non potable aquifers
Temporary	No	Unrestricted	Dewatering, removal of contamination, public health purposes

Environmental licences would be limited to government agencies, local governments and not for profit organisations undertaking environmental management or remediation. Licences may be temporary or permanent. They would have no commercial value and not be tradeable. They could be transferred between eligible holders. There would be no cost impost on these licences for groundwater management.

Community licences would principally be provided to local governments to establish and maintain parks, recreation areas, sporting facilities and landscaping. They could also be used for environmental management. They would be long term allocations. They would have no commercial value and not be tradeable. They could be transferred between eligible holders. They would make a limited contribution to the cost of groundwater management.

Commercial licences would be tradeable, have commercial value and be able to be used for any productive activity. Local governments may acquire, hold and trade commercial licences. They may be used to establish and maintain parks, recreation areas, sporting facilities and landscaping where developer has acquired the licence as part of subdivision or commercial development activity and transferred the licence to a local government. They may also be acquired under community infrastructure levies. These licences would make the greatest contribution to the cost of groundwater management.

Recovery licences would be provide where an aquifer is being recharged through water harvesting, heat exchange or injection of suitable quality water for recovery. They would not be tradeable.

Temporary licences would be non tradeable, issued for specific purposes such as dewatering, construction activity, managing groundwater contamination and public health purposes.

Statutory Water Allocation Plans

Statutory Water Allocation Plans should recognise the importance of groundwater allocation for community purposes and have a starting point of allocating 10% of the resource for community wellbeing and quality of life. This community allocation would typically be used by local governments to establish and maintain parks, recreation areas, sporting facilities and landscaping. Table 3 shows that in the South West Metropolitan Region between 4 to 20% of aquifer capacity is allocated to local governments for these purposes.

Local Water Advisory Groups

In the South West Metropolitan Region, the entire region area is covered by four groundwater areas. The South West Metropolitan Region local governments are all significant groundwater users, are involved in long term planning and should be given the option to be represented on any local water advisory groups relating to the region.

Plantations

The need to manage large scale plantations to protect groundwater is supported but there is a risk that environmental remediation and establishment of habitat (such as is required for Carnaby's Cockatoos or as biodiversity offsets) may potentially be subject to groundwater management restrictions.

It is not expected that there will be any plantation type plantings in the South West Metropolitan Region other than small scale activity. This could include the planting Eucalypts for reducing light spill and improving visual amenity around Latitude 32. Another example could be that the City of Melville may decide to plant 2 hectares of its Piney Lakes Reserve with *Pinus radiata* for Carnaby's Cockatoos feeding and nesting habitat. This scale and type of activity for these purposes should not be constrained by groundwater requirements.

Plantations should be carefully defined so that small scale tree planting of any type is excluded. A threshold of between 5 to 10 hectares would be sufficient to preclude environmental remediation, development of amenity, creation of buffers, biodiversity offset plantings and establishment of habitat being subject to groundwater restrictions.