

BLAKE DAWSON WALDRON

L A W Y E R S

Permanent Water Saving Plan

for

City West Water

Approved by:
TIM HOLDING MP
Minister for Water:

[SIGNED]

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Signed

29 August 2007

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Date

Adopted by City West Water on:

20 September 2007

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Date

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CONTENTS

CONTENTS	i
1. AUTHORISING PROVISION	1
2. PURPOSES	1
3. INTERPRETATION	1
3.1 Definitions	1
3.2 Rules for interpreting this document	4
4. APPLICATION	5
5. EXEMPTION FROM RESTRICTIONS OR PROHIBITIONS	5
5.1 General exemptions	5
5.2 Applications for particular exemptions	5
5.3 General rules about exemptions	6
6. PENALTIES FOR NON-COMPLIANCE	6
7. RESTRICTIONS AND PROHIBITIONS	6
SCHEDULE 1	7

PERMANENT WATER SAVING PLAN

1. AUTHORISING PROVISION

This revised Permanent Water Saving Plan is made under section 78K of the *Water Industry Act 1994*.

2. PURPOSES

The purposes of this Plan are to:

- (a) set out permanent restrictions and prohibitions on the use of water in the area of CWW's licence; and
- (b) specify principles for considering applications for exemption from particular restrictions or prohibitions.

3. INTERPRETATION

3.1 Definitions

The following definitions apply in this Plan:

"**Act**" means the *Water Industry Act 1994*.

"**automatic watering system**" means a watering system capable of being set to turn on and off automatically at pre-determined times, without human intervention.

"**CWW**" means City West Water Limited ABN 70 066 902 467.

"**domestic and stock use**" means use for

- (a) household purposes; or
- (b) watering of animals kept as pets; or
- (c) watering of cattle or other stock; or
- (d) in the case of the curtilage of a house and any outbuilding, watering an area not exceeding 1.2 hectares for fire prevention purposes with water obtained from a spring or soak or water from a dam; or
- (e) irrigation of a kitchen garden,

but does not include use for dairies, piggeries, feed lots, poultry or any other intensive commercial use.

"**dripper**" means a device that drips water at a low rate of flow, directly onto the root zone of plants.

"**existing**" means existing at the time the Plan comes into effect.

"**evapotranspiration device**" means a device capable of:

- (a) determining the evapotranspiration rate on a daily basis, to establish the watering requirements of a garden, lawn or other vegetation; and
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- (b) either operating an automatic watering system, or preventing it from operating, by reference to that level of evapotranspiration.

"existing non-residential property" means a non-residential property that is supplied with potable water by CWW on 1 July 2007.

"fountain" means any indoor or outdoor ornamental fountain:

- (a) with a volume of less than 500 litres and that projects water more than 20 cm above the water outlet; or
- (b) with a volume greater than 500 litres and that emits water for ornamental purposes.

"greywater " means household waste water from bath tubs, showers, laundry troughs and clothes washing machines, but excludes water from kitchens, dishwashing machines and toilets.

"hand-held hose " means a hose that is held by hand when it is used.

"high pressure water cleaning device" means a machine which has a pump to increase the pressure of the water delivered from a trigger nozzle forming part of the device.

"Licensee" means a person holding a water and sewerage licence under the Act, in respect of part of the Melbourne metropolitan area.

"manual watering system" means:

- (a) a watering system which is not an automatic watering system; or
- (b) an automatic watering system, operated other than automatically.

"microspray " means a device that incorporates a nozzle made to emit a fine spray.

"Minister" means the Minister administering Part 3 Division 1B of the Act.

"municipal garden nursery " includes any land primarily used to propagate, grow or display plants of any description to be used to enhance public amenity.

"new non-residential property" means a non-residential property that is first supplied with potable water by CWW at a date after 1 July 2007.

"non-residential property" means a property where potable water supplied by CWW is used for any purpose other than domestic and stock use.

"paved area" includes any courtyard, decking, footpath, driveway or other area, with a concrete, asphalt, brick, tile, bitumen, timber or similar impervious surface.

"public authority" means any body:

- (a) constituted by or under an Act; or
- (b) exercising powers under an Act,

for a public purpose and includes a Council under the *Local Government Act* 1989.

"public garden" includes any garden, lawn, nature strip, plantation, park or reserve (other than a sports ground) managed or controlled by a public authority, but does not include a residential or commercial garden.

"rain sensor" means a device capable of:

- (a) sensing a pre-determined level of rainfall; and
- (b) preventing an automatic watering system from operating by reference to that level of rainfall.

"reclaimed water" means water supplied by CWW that is neither potable water nor recycled water, but is recovered from sources such as stormwater.

"recycled water" means treated sewage or trade waste, supplied by CWW.

"residential or commercial garden" means land used or intended to be used as a garden or lawn, from which produce (including vegetables) is not sold, associated with:

- (a) a dwelling; or
- (b) a commercial or industrial building; or
- (c) a hospital, nursing home or similar institution; or
- (d) a religious facility; or
- (e) a pre-school, school, university, research institute or similar institution; or
- (f) any other not-for-profit organisation,

and includes any adjacent nature strip.

"retail garden nursery" includes any land primarily used to propagate, grow or display plants of any description, or their produce (including vegetables) for the purpose of sale or other distribution for profit, primarily to the public.

"season" means summer, autumn, winter or spring.

"soil moisture sensor" means a device capable of:

- (a) sensing a pre-determined level of moisture in the soil; and
- (b) either operating an automatic water system or preventing it from operating, by reference to that level of moisture.

"sprayer" means a device that incorporates a nozzle made to emit a broad spray

"sprinkler " means a device designed to distribute, disperse, sprinkle or spray water.

"trigger nozzle" means a nozzle controlled by:

- (a) a trigger which must be depressed continuously, or locked in the "on" position, by hand for water to flow; or
- (b) a discrete switch which can be turned off or on by hand, with a single movement.

"vehicle" includes every type of vehicle and any vessel (including the hull, any attachment thereto and any trailer for that vessel) or aircraft.

"WaterMAP" means a water management plan prepared in accordance with guidelines for the preparation of such plans issued by CWW.

"watering system" means every component of a system to distribute water to a garden, lawn or other vegetation, including sprinklers, sprayers, microsprays and drippers.

"weather station" means a device capable of:

- (a) using some or all of temperature, solar radiation, relative humidity, wind or other weather data on a daily basis, to establish the watering requirements of a garden, lawn or other vegetation; and
- (b) either operating an automatic water system or preventing it from operating, by reference to that weather data.

"wholesale garden nursery" includes any land primarily used to propagate, grow or display plants of any description or their produce (including vegetables) for the purpose of sale or other distribution for profit, primarily to retailers, rather than the public.

3.2 Rules for interpreting this document

- (a) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document or agreement, or provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to any document or agreement includes a permitted substitute or permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity and any executor, administrator or successor in law of the person; and
 - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural and vice versa.
- (c) A word which suggests one gender includes the other gender.
- (d) If a word is defined, another part of speech has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept) such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) An interpretation that would promote the conservation of water must be preferred to an interpretation that would not promote such conservation.

4. APPLICATION

This Plan applies to water supplied by CWW in the Melbourne metropolitan area for which CWW is a Licensee.

5. EXEMPTION FROM RESTRICTIONS OR PROHIBITIONS

5.1 General exemptions

- (a) CWW may prepare, adopt and publish general exemptions which specify generally applicable exemptions from restrictions or prohibitions set out in Schedule 1.
- (b) CWW may prepare and publish the general exemptions in co-operation with other Licensees.
- (c) CWW may amend or revoke the general exemptions at any time.
- (d) Without limiting paragraph 5.1(a), the general exemptions may set out:
 - (i) permissible uses of water which are exempted from a restriction or prohibition set out in Schedule 1, without an application being made under sub-clause 5.2; and
 - (ii) the conditions upon which any such exemption is granted.

5.2 Applications for particular exemptions

- (a) A person may apply to CWW for temporary or permanent exemption from a restriction or prohibition imposed by this Plan.
- (b) An application must be in a form approved by CWW.
- (c) CWW may:
 - (i) prepare, adopt and publish; and
 - (ii) amend or revoke at any time,information about applying for exemptions under this sub-clause.
- (d) A person authorised in writing by CWW:
 - (i) must consider an application for exemption; and
 - (ii) subject to this clause:
 - may grant the application in full or in part and subject to such conditions as the person considers appropriate; or
 - may refuse the application; and
 - (iii) may revoke any exemption at any time, by giving written notice to the applicant.
- (e) An exemption ends at any time specified in the exemption.

5.3 General rules about exemptions

A person must not grant an application for exemption in relation to a particular restriction or prohibition unless the person is reasonably satisfied that the proposed exemption:

- (a) is necessary to avoid an inequitable and disproportionately adverse impact upon the livelihood of the applicant, which would be caused by that restriction or prohibition, and is consistent with the conservation policy of the government; or
- (b) is necessary to avoid any adverse effect on public health or safety.

6. PENALTIES FOR NON-COMPLIANCE

6.1 The *Water Industry Act 1994* and *Water Act 1989* make it an offence:

- (a) to contravene a restriction or prohibition on the use of water imposed under this Plan; and
- (b) to waste, misuse or excessively consume water.

6.2 The Acts also impose **substantial penalties** for such offences, which may include Penalty Infringement Notices or one or more of fines, imprisonment and daily penalties.

6.3 The value of each penalty increases each year under the *Monetary Units Act 2004*. The current value of each penalty for contravening a restriction or prohibition is set out on CWW's website www.citywestwater.com.au

6.4 CWW has further power to reduce or restrict the supply to a person who contravenes the *Water Industry Act* or *Water Industry Regulations* in relation to misuse of, or taking water. CWW can also disconnect the service to a property in relation to which a notice of contravention has been issued and not complied with.

7. RESTRICTIONS AND PROHIBITIONS

7.1 The restrictions/prohibitions in Schedule 1 **do not** apply to recycled water supplied by CWW.

7.2 The restrictions/prohibitions in Schedule 1 **do not** apply to watering a residential or commercial garden with greywater.

7.3 The restrictions in Schedule 1 **do not** apply to using rainwater collected by an occupier of land in a rainwater tank from the roof of a building on that land, provided that rainwater within the tank is not augmented in any way by water, supplied by CWW.

SCHEDULE 1

PURPOSE	RESTRICTION
<p>Residential or Commercial Gardens*</p> <p>* This term includes lawns.</p>	<p>(a) An automatic watering system:</p> <p>(i) must not be used, except between 10pm and 10am on any day of the week; and</p> <p>(ii) which is installed on or after 1 September 2005, must not be used, unless it is fitted with either a rain sensor, soil moisture sensor, evapotranspiration device, weather station or equivalent device, as part of the control system.</p> <p>(b) A manual watering system must not be used, except between 8.00pm and 10.00am on any day of the week.</p> <p>(c) No restriction applies to using a hand-held hose fitted with a trigger nozzle, a watering-can or a bucket, at any time.</p>
<p>Public Gardens* and Sports Grounds / Recreational Areas</p> <p>*This term includes lawns</p>	<p>(a) An automatic watering system;</p> <p>(i) must not be used, except between 10 pm and 10 am on any day of the week; and</p> <p>(ii) which is installed on or after 1 September 2005, must not be used, unless it is fitted with either a rain sensor, soil moisture sensor, evapotranspiration device, weather station or equivalent device, as part of the control system.</p> <p>(b) On or after 1 September 2006, no automatic watering system may be used unless it is fitted with a device referred to in paragraph (a)(ii).</p> <p>(c) A manual watering system must not be used, except between 8.00pm and 10.00am on any day of the week.</p> <p>(d) No restriction applies to using a hand-held hose fitted with a trigger nozzle, a watering-can or a bucket, at any time.</p>

PURPOSE	RESTRICTION
Fountains	<ul style="list-style-type: none"> (a) A fountain which does not re-circulate water must not be operated. (b) No restriction applies to topping up a fountain at any time, provided that no more water than is necessary for that purpose is used.
Wholesale, Retail and Municipal Garden Nurseries	No restriction or prohibition applies to watering of plants of any description (including vegetables).
Vehicle Cleaning (All vehicles)	<ul style="list-style-type: none"> (a) A hand held hose must not be used at any time to clean a vehicle unless it is fitted with a trigger nozzle. (b) A hand held hose must not be used to flush a boat motor, unless it is fitted with an appropriate flushing device designed for that purpose. (c) No restriction applies to using a bucket.
Paved Areas - Cleaning	<p>A paved area must not be cleaned with water from a hose unless cleaning is required as a result of:</p> <ul style="list-style-type: none"> (a) an accident, fire, health hazard or other emergency; (b) an identifiable safety hazard that has developed and a hand held hose fitted with a trigger nozzle or a high pressure water cleaning device is used; (c) staining to the surface that has developed, and a hand held hose fitted with a trigger nozzle or a high pressure water cleaning device is used, and then only once per season; (d) construction or renovation work to the surface and a high pressure water cleaning device is used.

PURPOSE	RESTRICTION
Construction Industry	<p>A hose must not be used unless it is:</p> <ul style="list-style-type: none"> (a) fitted with a trigger nozzle; and (b) is in good condition and does not have any significant leak.
Swimming Pools	<p>A pool or spa with a capacity of 2,000 litres or greater must not be filled for the first time unless:</p> <ul style="list-style-type: none"> (a) an application which includes details of measures that have been, or will be, undertaken to provide water savings to offset the volume used in filling, has been lodged with CWW; and (b) the application has been approved by CWW, subject to such conditions as it may impose; and (c) every such condition is complied with.
Non-residential properties and new non-residential properties	<p>Water supplied by CWW must not be used on an existing non-residential property or a new non-residential property (as the case may be) if one of the following circumstances applies:</p> <ul style="list-style-type: none"> (a) CWW gives notice to the occupier of an existing non-residential property that the property received a metered supply of 10 ML or more in the preceding financial year. (b) CWW gives notice to the occupier of a new non-residential property that CWW estimates that the property will receive a metered supply of 10 ML or more in the next financial year. <p>This restriction does not apply if the occupier complies with each of the following steps in relation to a WaterMAP. The occupier must:</p> <ul style="list-style-type: none"> (c) register its intention to prepare a WaterMAP with CWW within 1 month of the date of the notice referred to in (a) or (b); (d) prepare and submit a WaterMAP to CWW within 3 months of registering its intention to prepare a WaterMAP; (e) prepare and submit a report to CWW by each anniversary of the date on which the WaterMAP was first submitted, in relation to: <ul style="list-style-type: none"> • the implementation of the WaterMAP; and • water savings achieved through the implementation of the WaterMAP during the preceding 12 months; and (f) if requested to do so by CWW: <ul style="list-style-type: none"> • review the WaterMAP to identify potential changes to the WaterMAP which may improve future water savings at the property; and

PURPOSE	RESTRICTION
	<ul style="list-style-type: none">• amend the WaterMAP to make any changes identified by that review; and• submit the amended WaterMAP to CWW within 3 months of the date of CWW's original request. <p>CWW may only request the occupier to carry out this reviewing and amending process in respect of the property once in every 12 month period.</p>