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## **Drainage Use Rules**

**Effective: 1 July 2023 to 30 June 2024**

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## 1. Introduction

- 1.1 This document contains the Drainage Use Rules of the Company, which are referred to, and form part of the Water Delivery Contract (Contract). A Customer's Contract binds them to these Rules.
- 1.2 These Rules should be read in conjunction with, and are subject to:
- (1) the Contract;
  - (2) any relevant Rules;
  - (3) the *Water Act 2007* (Cth) and the water market rules and water charge rules made under it;
  - (4) all other relevant laws, regulations, orders and Licences.
- 1.3 These Rules relate to drainage of irrigation and Stormwater only and do not relate to the management of Flood water. The Company is not the authority responsible for management of Flood water and makes no representation to that effect in these Rules.

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## 2. Definitions and interpretation

2.1 In these Rules:

- (1) **Authorised Discharge Point** means the inlet to the Company's Works which the Company has approved for Drainage as set out in the Rights of Access Certificate;
- (2) **Authorised Drainage Water** means:
  - (a) excess water following irrigation watering that has directly discharged from an Authorised Discharge Point;
  - (b) Stormwater that has directly discharged from an Authorised Discharge Point;
  - (c) Stormwater from urban areas that has directly discharged from a Government Authority's stormwater network,but does not include any water that would cause or threaten Material Harm to the Environment and or contains any Prescribed Matter, and/or cause a Biosecurity impact.
- (3) **Biosecurity impact** has the same meaning as that given by Clause 13 under Division 2 of the *NSW Biosecurity Act 2015*
- (4) **Drainage** means the action or process of draining something and includes surface and subsurface drainage;
- (5) **Drainage Work** has the same meaning as that given under the Act;
- (6) **Effluent** has the same meaning as that given by the POEO, being:
  - (a) waste water from sewage treatment systems (including the treatment works, pumping stations, sewage overflow structures and the reticulation system), or
  - (b) waste water from collection or treatment systems that are ancillary to processing industries involving livestock, agriculture, wood, paper or food, being waste water that is conveyed from the place of generation by means of a pipe, canal or conventional method used in irrigation (but not by means of a tanker or truck), or

- (c) waste water from collection or treatment systems that are ancillary to intensive livestock, aquaculture or mariculture, being waste water that is released by means of a pipe, canal or other conventional method used in irrigation as part of day to day farming operations.
- (7) **Flood** means relatively high stream flow which:
  - (a) overtops the natural or artificial banks in any part of a stream, river, estuary, lake or dam; and or
  - (b) local overland flooding associated with major drainage before entering a watercourse.
- (8) **Material Harm to the Environment** has the same meaning as that given by section 147 of the POEO, stated as follows:
  - (a) harm to the environment is material if:
    - (i) it involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial; or
    - (ii) it results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000 (or other amount as prescribed by the protection of the Environment Operations (General) Regulations 2009 (NSW); and
  - (b) loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment.
- (9) **Overland Flow Water** has the same meaning as that given under the Act;
- (10) **Pesticide** has the same meaning as that given under the *Pesticides Act 1999* (NSW);
- (11) **Prescribed Matter** has the same meaning as that given under Schedule 5 of the *Protection of the Environment Operations (General) Regulation 2009*.
- (12) **POEO** means the *Protection of the Environment Operations Act 1997* (NSW)
- (13) **Stormwater** means natural flow of water from rainfall, including roof runoff, but does not include Flood;
- (14) **Treated Waste Water** means any Waste Water that has been treated in accordance with POEO.
- (15) **Treated Waste Water Discharge Licence** means a licence granted by the Company to a Customer permitting the discharge of Treated Waste Water into the Company's Works.
- 2.2 A term defined in the Contract has the same meaning in these Rules, unless the contrary intention appears.
- 2.3 Clause 1.2 of the Contract (Interpretation) applies to these Rules with the necessary changes.

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### 3. Drainage

- 3.1 A Customer will only be entitled to discharge Drainage into the Company's Works if it satisfies all the following conditions:

- (1) the Customer complies with any reasonable direction of the Company for the purpose of satisfying any Legal Requirement;
- (2) the Drainage is either:
  - (a) Authorised Drainage Water; or
  - (b) Treated Waste Water such that the Customer holds a valid Treated Waste Water Discharge Licence;
- (3) the Drainage will not
  - (a) cause or threaten any Material Harm to the Environment,
  - (b) contain any Prescribed Matter, or
  - (c) cause a Biosecurity impact;
- (4) the Customer ensures that Drainage is only discharged through the Company's Works servicing the Landholding as determined by the Company; and
- (5) the Customer does not take water from the Company's Works except in accordance with these Rules or the Contract.

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#### **4. Installation and removal of Drainage Works**

- 4.1 The Customer must not install, construct, commence operation of, remove, extend, expand, connect, disconnect, cut banks or improve any Drainage Works (whether owned by the Company or the Customer) without the consent of the Company. Consent can be obtained by submitting an application to the Company for approval.
- 4.2 Subject to clause 4.3, a Landholding will only be entitled to one Authorised Discharge Point.
- 4.3 A Landholding may be entitled to more than one Authorised Discharge Point in circumstances where:
  - (1) the Company's Works results in the division of a Landholding into separate portions;
  - (2) two or more separate Landholdings, each with an existing Authorised Discharge Point, become amalgamated; or
  - (3) the Landholding is authorised under clause 4.6 of these Rules to have more than one Authorised Discharge Point; or
  - (4) in any circumstance approved in writing by the Company
- 4.4 Where a Landholding is intended to be subdivided into separate lots, then the Customer must first apply to the Company for any additional Authorised Discharge Point(s). The Company will then consider each application on a case-by-case basis and may impose such reasonable conditions on each separate lot as is necessary to protect the Company's Works.
- 4.5 An Authorised Discharge Point must meet the following criteria:
  - (1) for Landholdings:
    - (a) greater than 60 ha, all drainage inlets are to be 300mm in diameter;
    - (b) smaller than 60 ha, all drainage inlets are to be 225mm in diameter.

- (2) the inlet must be located at the lowest point of the boundary of the Landholding which adjoins the Company's Works.
- 4.6 Except with the prior written consent of the Company, on farm Drainage Works for subsurface drainage are permitted to be installed or to remain on a Landholding only if:
  - (1) the subsurface Drainage Works existed as at 1 July 1989; or
  - (2) all water drained from the subsurface Drainage Works remains on the Landholding.
- 4.7 Despite any other rule, a Customer is not entitled to back-wash water into the Company's Supply Works.

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## **5. Environment**

- 5.1 Unless the Company provides the Customer with prior written notice stating otherwise, the Customer must prevent any water exposed to Pesticide from leaving the relevant Landholding for a period that is greater of:
  - (1) 28 days after the day that the Pesticide was applied to the Landholding; or
  - (2) if the label instructions for that Pesticide state a period of time greater than 28 days, that period of time.
- 5.2 The Customer must notify the Company immediately if Effluent or any Prescribed Matter or matter with a Biosecurity impact has passed in to the Company's Supply Works from the relevant Landholding, including as a result of Overland Flow Water.

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## **6. Monitoring and Investigation**

- 6.1 The Customer must permit the Company to carry out sampling and testing of Drainage discharged by the Customer, as required by and at the direction of the Company from time to time.
- 6.2 In addition to the powers granted under the Act, POEO and its Licences, the Company may collect and analyse additional samples of Drainage discharged by the Customer, or soils from associated drainage lines at any time and without prior notice if:
  - (1) it is in response to a complaint or incident; or
  - (2) routine sampling and analysis previously taken by the Company indicates there is a reasonable likelihood that the Drainage discharged has:
    - (a) caused Water Pollution; or
    - (b) is in breach of any water quality standards imposed by the Company's Licences or other relevant Legal Requirements.
- 6.3 The Customer will be responsible for all Costs incurred by the Company and will indemnify the Company in full in circumstances where the Company has conducted an analysis of Drainage and it is determined by the Company that there is a material breach of these Rules by the Customer.
- 6.4 The Customer must comply with the reasonable directions of the Company, notified by the Company to the Customer, for the purpose of reducing the actual or potential impact of pesticides, nutrients, salt and any other pollutant, Prescribed Matter, matters causing Biosecurity impacts or water condition on receiving waters.

- 6.5 The Customer must provide the Company with all reasonable access to the Customer's Landholding and must provide the Company with reasonable assistance required by the Company for the purposes of the Company determining whether the Customer is complying with these Rules.

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## **7. Breach of Rules**

- 7.1 The customer must notify MI of any actual or potential breach of these rules immediately
- 7.2 In addition to rule 6 of these Rules and the Contract, if a Customer is in breach of these Rules, the Company will take appropriate action to prevent the continuance of the breach and may do any one or more of the following:
- (1) suspend delivery of water (without any obligation to make up any delay or shortfall in delivery) and deny the Customer any services provided by the Company;
  - (2) by giving a notice to the Customer, require the Customer to conduct works such as to prevent the continuance of the breach;
  - (3) by giving notice to the Customer, require the Customer to suspend the discharge of Drainage or any substance into the Company's Works (without any liability for the consequences, including flooding).
  - (4) attend to immediate remediation of the breach at the Customer's expense to prevent any suspected or imminent breach of a Licence; or
  - (5) revoke any prior approval granted to the Customer to discharge under these Rules.
- 7.3 If the Customer fails to comply with a notice under sub-rule 7.1, then the Company may carry out works at the Customer's expense to prevent the continuation of, or any further breach by the Customer. Any such costs incurred under this rule 7 will immediately become a debt due to the Company and payable without set-off or counterclaim.