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Our Ref: M705431

2 November 2020

SCAGI
Attention: Mr Daniel Steiner
PO Box 25
BICHENO TAS 7215

Dear Mr Steiner

**NOTICE OF DECISION - APPLICATION FOR A NEW WATER LICENCE -
ANDREW JOHN NUGENT**

I wish to inform you that on 2 November 2020 I, under delegated authority from the Minister for Primary Industries and Water, made a decision on the application by Andrew John Nugent for a new water licence for **204 ML from Doctors Creek between 1 May and 30 November**.

Having considered the information provided by the applicant and the issues raised in your representation a decision was made under Part 6 of the *Water Management Act 1999* (the Act) to approve the application. Accordingly, a Water Licence has been issued, subject to conditions, a copy of which is enclosed for your information.

In making this decision it was noted that the application fits within the Surface Water Allocation Decision Framework for a winter allocation, a copy of which has been attached. The framework sets hydrological reliability parameters that protect water flows for the riverine environmental values and rights of other water users; importantly this ensures that only when applications fit within these parameters that it can be allocated. Therefore the application is considered to not reasonably be expected to lead to material environmental harm or serious environmental harm nor is it considered to have any significant adverse impact on other persons taking water or any commercial operations as is required by the objectives of the *Water Management Act 1999*.

Please note that under the Surface Allocation Decision Framework, only the water available at a surety 5 and 6 level can be allocated. The remaining water in the river is preserved for the environmental water requirements (surety 2) and the needs of Part 5 right users such as yourself (surety 1).

Specific conditions have been added to this allocation that relate to sharing flows in the winter take period, which protects environmental values and stock and domestic rights. It should be noted that this allocation does not allow water to be taken during summer months and all summer flows must pass downstream. Furthermore, all water licence holders in the state have conditions that require the quantity of water taken to be recorded.

Please note that in periods of low flow during winter, the allocations can also be placed on restrictions that prevent the taking water to protect higher surety right holders such as environmental water requirements and stock and domestic users.

In regard to determining the available water for allocation, the Water Assessment Tool is used by the Department when preparing and assessing any water licence application. The tool uses gridded rainfall data and predicted future climate scenarios, along with modelled daily yield data, current allocations, and geographical data to determine the estimated yield for a given period of time and establishes the amount can be potentially allocated.

The modelled data used in the WAT is based on a cdry scenario which represents a future dry climate scenario. Therefore, the available water estimated by the WAT is a conservative estimate of available water allowing for a potentially dry climate in the future.

Concerns were raised regarding the rainfall estimates utilised being too high and potentially elevating yields for the winter period. The annual rainfall is used in determining a scale factor to adjust the available volumes to the offtake point. The use of this rainfall value in this manner has no influence on the original model outputs other than simply proportioning the yield to the offtake location. This scale factor is usually less than 1. The values provided by the representors from regional BoM sites provide similar annual average rainfall values to the value used in this assessment.

The hydrological model estimates the median winter yield for the area contributing to Templestowe Lagoon to be 1230 ML. This application total volume from Doctor's Creek and an unnamed tributary of Doctor's Creek, represents ~17% of the winter median yield/inflow volume to the Lagoon. Note this allocation has no impact on summer inflows to the lagoon.

Considering how the water will be utilised, it is proposed that the allocation will be taken into an instream dam on an Unnamed Tributary of Doctors Creek, with water pumped from Doctors Creek. During the winter take period, only 50% of the flow in Doctors Creek flow can be taken at any time from the pump offtake into a future dam. There is also a constraint on the pump capacity which limits the daily take to a maximum of 20 ML per day.

There is no requirement that a dam application needs to be submitted at the same time as a water licence application is submitted. Water may be applied for and secured prior to a dam application being pursued. The Department has not received an application for dam works at this time.

All water pumped into the future proposed dam will be required to be metered and records sent to the Department to monitor usage. If at any stage there are any issues with flows, please contact the Water Operations Branch on 1800 368 550 or email Water.Operations@dpiwwe.tas.gov.au.

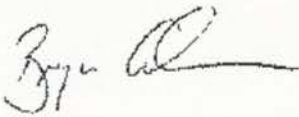
The use of agricultural chemicals is regulated under the Agricultural and Veterinary Chemicals (Control of Use) Act 1995 and therefore is not directly regulated by our section. For any concerns in this area, it is recommended to contact the Registrar of Chemical Products on 6777 2133 who undertake surveillance and compliance in these matters. Nutrient runoff due to fertiliser overuse is regulated by the Environmental Protection Agency and concerns regarding water quality issues should be forwarded to the EPA Director on 1800 005 171 or email incidentresponse@epa.tas.gov.au.

Section 271(2) of the Act requires me to advise you of the decision and the rights to appeal. Under Part 14 of the Act you have a right of review against the decision, made under delegation, to endorse a water allocation on a water licence. To exercise this right you must apply in writing, to the Minister requesting a review of the decision. The Act requires that this application is to be in writing within fourteen (14) days after the service of a notice under Section 271(2); and is to specify the reasons for the application.

In addition to your right to request a review of the decision under Part 14 Division 1 of the *Water Management Act 1999* as detailed above, I wish to advise you that you may also, under Part 14, Division 2 of the Act, appeal the decision to approve the water licence and allocation to the Resource Management and Planning Appeals Tribunal. To exercise this right you must apply in writing, to the Resource Management and Planning Appeals Tribunal. The Act requires that this application is to be received within fourteen (14) days after the service of this notice.

Should you wish to discuss this matter further please do not hesitate to contact Bill Shackcloth on (03) 6165 3001 or Bill.Shackcloth@dpipwe.tas.gov.au

Yours faithfully



Bryce Graham
Manager, Water Management and Assessment Branch

Enclosed:

Copy of Water Licence 500844
Copy of 'Surface Water Allocation Decision Framework'

Water Management Act 1999

(Pursuant to Part 6)

WATER LICENCE

ANDREW JOHN NUGENT
PO BOX 163
WOODSIDE SA 5244

Licence No. 500844
Expiry Date 30 November 2060
Client ID 27820
File No. 292321

Licence Holder ANDREW JOHN NUGENT

This licence authorises the taking of water in accordance with the following, subject to the conditions specified herein. Notwithstanding the expiry date shown above, this licence is subject to the payment of annual fees under the Water Management Regulations, and is not valid until the Department has received payment of these fees. The fees are due on 30 November each year.

All allocations are in megalitres or ML (1 ML = 1 million litres)

Allocation 18061

Period Amount (ML)	Surety Level	Start Date	End Date	Purpose
6.000	5	1 May	30 Nov	Irrigation
Water Resource				Offtake Easting (GDA94)
U/N TRIBUTARY OF DOCTORS CREEK				606245
				Offtake Northing (GDA94)
				5378906

Water Restriction Management: Maximum Daily Take (ML/Day): 0.500

Note: This Maximum Daily Take is only applicable when water restrictions are imposed. The restriction Notice may refer to this Maximum Daily Take and may specify what percentage of this volume can be taken per day.

Allocation Conditions

1. The licence holder must maintain records that demonstrate the quantity of water taken. When directed by the Minister, the licence holder must provide the Minister with the records in the manner specified by the Minister.
2. At least fifty (50) percent of the instantaneous stream flow at the offtake point must be passed downstream.

Relevant Water Management Plans

No management plans apply

Allocation 18062

Period Amount (ML)	Surety Level	Start Date	End Date	Purpose
2.000	6	1 May	30 Nov	Irrigation
Water Resource				Offtake Easting (GDA94)
U/N TRIBUTARY OF DOCTORS CREEK				606245
				Offtake Northing (GDA94)
				5378906

Water Restriction Management: Maximum Daily Take (ML/Day): 0.500

Note: This Maximum Daily Take is only applicable when water restrictions are imposed. The restriction Notice may refer to this Maximum Daily Take and may specify what percentage of this volume can be taken per day.

Allocation Conditions

1. The licence holder must maintain records that demonstrate the quantity of water taken. When directed by the Minister, the licence holder must provide the Minister with the records in the manner specified by the Minister.
2. At least fifty (50) percent of the instantaneous stream flow at the offtake point must be passed downstream.

Relevant Water Management Plans

No management plans apply

Water Management Act 1999
(Pursuant to Part 6)

WATER LICENCE

Allocation 18063				
Period Amount (ML)	Surety Level	Start Date	End Date	Purpose
136.000	5	1 May	30 Nov	Irrigation
Water Resource			Offtake Easting (GDA94)	Offtake Northing (GDA94)
DOCTORS CREEK			605783	5378000
Water Restriction Management: Maximum Daily Take (ML/Day):		1.000		
<p>Note: This Maximum Daily Take is only applicable when water restrictions are imposed. The restriction Notice may refer to this Maximum Daily Take and may specify what percentage of this volume can be taken per day.</p>				
<p>Allocation Conditions</p> <ol style="list-style-type: none"> Any water taken under this allocation must be measured and recorded by a water meter (an instrument that measures and records a flow or level of water and includes any ancillary device attached to or incorporated in the instrument). The water meter's specification, installation, validation and maintenance must comply with the relevant Department approved non-urban water meter standard. The licence holder must maintain records that demonstrate the quantity of water taken. When directed by the Minister, the licence holder must provide the Minister with the records in the manner specified by the Minister. At least fifty (50) percent of the instantaneous stream flow at the offtake point must be passed downstream. A maximum extraction rate of 20ML/day is applied to taking water under this Allocation. This allocation may be reduced or cancelled, within five years from the date of issue, unless it can be demonstrated that the water has been utilised consistent with the objectives of the Water Management Act 1999. This time period may be extended with approval from the Manager, Water Management and Assessment Branch 				
<p>Relevant Water Management Plans</p> <p>No management plans apply</p>				

Allocation 18064				
Period Amount (ML)	Surety Level	Start Date	End Date	Purpose
68.000	6	1 May	30 Nov	Irrigation
Water Resource			Offtake Easting (GDA94)	Offtake Northing (GDA94)
DOCTORS CREEK			605783	5378000
Water Restriction Management: Maximum Daily Take (ML/Day):		1.000		
<p>Note: This Maximum Daily Take is only applicable when water restrictions are imposed. The restriction Notice may refer to this Maximum Daily Take and may specify what percentage of this volume can be taken per day.</p>				
<p>Allocation Conditions</p> <ol style="list-style-type: none"> Any water taken under this allocation must be measured and recorded by a water meter (an instrument that measures and records a flow or level of water and includes any ancillary device attached to or incorporated in the instrument). The water meter's specification, installation, validation and maintenance must comply with the relevant Department approved non-urban water meter standard. The licence holder must maintain records that demonstrate the quantity of water taken. When directed by the Minister, the licence holder must provide the Minister with the records in the manner specified by the Minister. At least fifty (50) percent of the instantaneous stream flow at the offtake point must be passed downstream. A maximum extraction rate of 20ML/day is applied to taking water under this Allocation. This allocation may be reduced or cancelled, within five years from the date of issue, unless it can be demonstrated that the water has been utilised consistent with the objectives of the Water Management Act 1999. This time period may be extended with approval from the Manager, Water Management and Assessment Branch 				
<p>Relevant Water Management Plans</p> <p>No management plans apply</p>				

General Licence Conditions

The Minister may vary the conditions of this licence at one (1) yearly intervals from the date of issue.

Surface Water Allocation Decision Framework (Amended 2020)

Background

When making a decision under the *Water Management Act 1999 (the Act)* that is based wholly or partly on an assessment of the quantity of water available or the period or periods during which water is available from a water resource, the Minister must take into account:

- (a) the needs of the major ecosystems that depend on that water resource for water; and
- (b) any effect that the decision may have on the commercial operations of major users of water from that water resource.

The Surface Water Allocation Decision Framework (the Framework; Table I) sets out volumetric, spatial and temporal parameters for surface water allocation in Tasmania. Subject to the application of appropriate conditions, an allocation that is consistent with the Framework can generally be considered to be an allocation that:

- (a) is consistent with the Objectives of the Act and any relevant water management plan; and
- (b) could not reasonably be expected to lead to material environmental harm or serious environmental harm; and
- (c) will not have a significant adverse impact on other persons taking water from the relevant water resource or on the commercial operations of a major user of water from that water resource.

Approval of an application for a water licence or variation to a water licence under the Framework is therefore consistent with the requirements for the Minister's approval under section 63 of the Act.

Determination of Applications

Where an application for a water licence or variation to a water licence fits within the criteria set out in the Framework, the application will generally be approved under delegated authority subject to operational considerations. It may be necessary to obtain additional information in order to make a determination with respect to operational conditions. Attachment C sets out matters to be taken into consideration when assessing an application. In most cases, it is expected that standard conditions (Attachment A) will apply.

Under some circumstances, the operational aspects of a proposal may dictate that, in addition to standard conditions, specific conditions are necessary to avoid adverse impacts on the environment and other users of the water resource.

Where an application for a water licence or variation to a water licence does not fit within the criteria set out in the Framework, the application will generally be refused unless it can otherwise be shown to meet the statutory requirements of the Act, particularly in regard to consistency with the objectives of the Act. Approval in such an instance would, however, have to be provided by an officer holding delegated authority at a senior level or the Minister.

Table 1 Surface Water Allocation Decision Framework

Surety Level	Notional reliability	Allocation Limit	Period (See Note 1)
1	Available whenever water is there.	The amount of water that can be taken by a person under section 48(2) of the Act is regulated under section 4 of <i>Water Management Regulations 2019</i> . (Note: generally not licensed)	
5	The full volume of allocation is likely to be available in at least 8 out of 10 years	The volume of water available at 80% reliability at the local, sub-catchment and catchment scale* *less the Environmental Water Requirement	1 December to 30 April inclusive (See Note 2) OR 1 May to 30 November inclusive
6	The full volume of allocation is likely to be available between 5 and 8 years out of ten	A 20% share of the volume of water available between 50% and 80% reliability at the local, sub-catchment and catchment scale	1 May to 30 November inclusive (Note: no summer allocation)
7	The full volume of allocation is likely to be available less than 5 out of 10 years	Any Surety Level 7 allocation is to be included within the volume of water available at Surety Level 5 and 6 at the subcatchment and catchment scales (See Note 3)	1 May to 30 November inclusive (Note: no summer allocation)
8	Flood take allocations	These are volumetric allocations that can only be taken when a high flow threshold is reached or exceeded	1 January to 31 December, whenever the access thresholds are met or exceeded

All allocation limits are determined using the **Tasmanian Sustainable Yields** future dry scenario climate data.

Note No. 1: This Framework sets out notional take periods that will generally be applied. Take periods other than those in this Framework may exist in some catchments where an alternative period is considered to be more practicable. However, each allocation within the same catchment should be based on consistent take periods.

Note No. 2: When calculating the volume of water available for allocation at Surety Level 5 during summer (1 December - 30 April), all existing allocations at any surety level must be deducted from the allocation limit.

Note No. 3: Surety Level 7 water is allocated only where Surety Level 5 or 6 water is available at the sub-catchment and catchment, but not at the off-take.

Note No. 4: Where the requirements of a Water Management Plan and this Framework conflict, the Water Management Plan's requirements prevail.

Note No. 5: In addition to this framework, conditions of a water allocation and Restriction Protocols will manage access to water on a daily basis.

Note No. 6: Standard conditions (Attachment A) are to be applied to all water allocations.

Note No. 7: Where any of the circumstances set out in Attachment B are encountered, an application must be referred to the Manager, Water Management and Assessment Branch for advice and assessment.

Note No. 8: This framework applies to both consumptive and non-consumptive water allocations.

Attachment A – Standard Water Licence Conditions

Surety Level	Condition No.	Condition ¹	Applicable
1	1	The licence holder must maintain records that demonstrate the quantity of water taken. When directed by the Minister, the licence holder must provide the Minister with the records in the form specified by the Minister.	all allocations
5 and 6	1	The licence holder must maintain records that demonstrate the quantity of water taken. When directed by the Minister, the licence holder must provide the Minister with the records in the form specified by the Minister.	all allocations
5 and 6	2	Whenever the licence holder is taking water under this allocation, at least fifty (50) percent of the instantaneous stream flow at the offtake point must be passed downstream.	all allocations
5 and 6	3	When condition 2 cannot be met, due to stream flows exceeding the maximum capacity of the outlet structure, the licence holder must keep the outlet structure fully open until such time as condition 2 can be met.	in stream dam allocations
7	1	The licence holder must maintain records that demonstrate the quantity of water taken. When directed by the Minister, the licence holder must provide the Minister with the records in the form specified by the Minister.	all allocations
7	2	The licence holder may only take water under this allocation when flows at the offtake point exceed the threshold flow of XXML/day ² .	all allocations
7	3	Whenever the licence holder is taking water under this allocation, at least fifty (50) percent of the instantaneous stream flow above the threshold flow, at the offtake point, must be passed downstream.	all allocations
7	4	When condition 3 cannot be met, due to stream flows exceeding the maximum capacity of the outlet structure, the licence holder must keep the outlet structure fully open until such time as condition 3 can be met.	in stream dam allocations
8	1	The licence holder must maintain records that demonstrate the quantity of water taken. When directed by the Minister, the licence holder must provide the Minister with the records in the form specified by the Minister.	all allocations
8	2	The licence holder may only take water under this allocation when notification to do so has been provided by an Authorised Officer.	all allocations
N/A	As required	This allocation must only be taken into the proposed dam identified in "name of document". If these proposed dam works are not completed and operational within two years from the date of approval of this water allocation, then this water allocation may be cancelled or reduced. This time period may be extended with approval from the Minister ³	Allocations associated with a proposed development
N/A	As required	This allocation must only be taken into the proposed dam "Dam ID XXXXXXXXXXXX". If the proposed dam works are not completed and operational within two years from the date of approval of this water allocation, then this water allocation may be cancelled or reduced. This time period may be extended with approval from the Minister. ³	Allocations associated with an application for a dam works permit
N/A	As required	This allocation may be reduced or cancelled, within two years from the date of approval, unless the licence holder can demonstrate that the water has been utilised consistent with the objectives of the Act. This time period may be extended with approval from the Minister. ³	Allocations that may be considered to be inconsistent with the objectives of the Act

¹ Additional non-standard conditions may be applied to a Water Allocation if the Minister deems it necessary.

² The Surety Level 7, condition 2 threshold flow will be based on a bank-full flow as determined by a consultant's report and verified by the Water Management and Assessment Branch.

³ This condition will be removed upon expiry of the term of the condition or when the advised by the licensee that the works have been completed or when the licensee has demonstrated that they have addressed the condition.

Attachment B – Circumstances for Referral to the Manager, Water Management and Assessment Branch

- 1) Granting the proposed allocation may be inconsistent with the objectives of this Act.
- 2) The design or operational aspects of the proposal have potential to impact on the environment or downstream users of the water resource. Examples include the following.
 - (a) The impoundment, diversion or release of water may lead to material environmental harm⁴ or serious environmental harm⁵.
 - (b) A proposal involving water transfer from one water resource to another, where connectivity does not already exist.
 - (c) A proposal involving water transfer upstream.
 - (d) A proposed allocation linked to an in-stream storage with a capacity in excess of its allocation(s).
 - (e) A proposed allocation exceeds 1000 ML.
 - (f) A proposed allocation where the rate of extraction may significantly impact on hydrology. This may occur, for example, in flashy rivers or where a very high rate of extraction is proposed.
 - (g) A proposed allocation where the use of water may lead to material environmental harm or serious environmental harm. Under section 58 of the Act, the Minister may determine that a water allocation of a licence may be used only in accordance with conditions for the avoidance, minimisation or management of associated environmental risks. *Environmental risk* means a material risk that a water allocation may, in respect of any water resource or land, cause –
 - a rise in underground water levels; or
 - soil waterlogging; or
 - increased salination; or
 - increased soil erosion; or
 - the destabilisation of the bank or bed of a watercourse; or
 - the degradation of a riverine or estuarine environment; or
 - a deterioration of water quality.
- 3) Applications for an allocation from a water resource where the total sum of allocations will exceed 70% of the total volume of water available, during the relevant take period, for allocation at Surety Level 5 and 6 at the subcatchment or catchment level.
- 4) Any circumstance where the Minister's delegate considers that the proposed allocation may result in an adverse impact on the environment and/or downstream users of the water resource
- 5) All proposed allocations at Surety Level 7.
- 6) All applications for summer water allocations.

⁴ As described in section 5 of the *Environmental Management and Pollution Control Act 1994*

⁵ As described in section 5 of the *Environmental Management and Pollution Control Act 1994*

Attachment C – Matters to be taken into consideration when assessing an application for a variation of a water licence or a new water allocation.

For Circumstance 1 in Attachment B:

In situations where the Minister is concerned that the granting of an allocation may have an adverse impact upon the economic development of the resource or may be unfair or inefficient then a Notice for additional information may be issued.

The Minister has the power under S.86 of the Act to direct the applicant to undertake an assessment of the effect of allocating the water. This assessment may require a statement of how the water is intended to be used so as to meet the relevant objectives of the Act.

Such an assessment may include supporting information in the form of a Farm Water Access Plan that identifies the area of the land on which the allocation will be applied and how any potential risks that may arise from the application of this water will be managed or a Business Plan that sets out how the water will be used (being mindful to address the objectives of the Act), any proposed dam developments, any irrigation scheme developments, any mini hydro scheme developments (noting that this component may be entirely non-consumptive water), and related timeframes for these developments becoming operational.

For Circumstances 2, 3 & 4 in Attachment B:

- (a) Water Management and Assessment Branch (WMAB) will undertake a desk-top analysis to determine whether the proposal could reasonably be expected to lead to material environmental harm or serious environmental harm or have a significant adverse impact on other persons taking water from the relevant water resource or on the commercial operations of a major user of water from that water resource. WMAB will provide a recommendation to either:
- approve the application subject to appropriate conditions to avoid and/or mitigate potential adverse impacts on the environment or downstream users; or
 - refuse the application if the proposal could reasonably be expected to lead to material environmental harm or serious environmental harm or have a significant adverse impact on other persons taking water from the relevant water resource or on the commercial operations of a major user of water from that water resource.
- (b) Where the information provided with the application is insufficient to enable a recommendation for approval or refusal under S. 64 or S. 65, S. 73 or S. 74 of the Act, WMAB will recommend to the Minister's delegate that they should, by notice under S. 86 of the Act, require that the applicant provide particular information required to enable a recommendation. As part of the recommendation, full details of the specific information requirements are to be included. Once the applicant has provided that particular information, WMAB will recommence its assessment.

For Circumstance 4 in Attachment B:

- (a) WMAB to verify Water Assessment Tool outputs.
- (b) Where the proposed allocation is in a catchment where there is capacity (i.e. bores) for groundwater abstraction, and where it has also been identified that there is a high level of connectivity between

surface water and groundwater, then WMAB is also to consider connectivity of surface water and groundwater resources and whether the level of groundwater abstraction may adversely impact the availability of additional surface water.

- (c) The findings from the above assessment will be reported to both the Water Management and Assessment Branch and Water Policy and Planning Branch.

For Circumstance 5 in Attachment B:

- (a) In addition to the WMAB's desk-top analysis process outlined above, the applicant is to provide a suitably qualified consultant's hydrology report⁶ for a bank full flow, including:
- a channel profile;
 - photos of the proposed offtake location; and
 - a flow rate estimate at bank full flow, and a description of the methodology utilised in that estimate.
- (b) WMAB will assess the information provided in the consultant's report and, if recommending approval, also recommend a threshold flow for taking Surety Level 7 water.

⁶ The intention is that, after suitable supporting evidence is obtained through consultant's reports, the Department will adopt a threshold flow based on 2 default trigger thresholds, a 2.5 percentile flow threshold for sites with catchment area <100 km², and a 5 percentile threshold for sites with catchment area >100 km².