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Water Act 1989

WERRIBEE RIVER ENVIRONMENTAL ENTITLEMENT 2011

I, Peter Walsh, Minister for Water, as Minister administering the **Water Act 1989**, make the following Instrument –

PART 1 – INTRODUCTORY

CITATION

1. This Instrument may be cited as the Werribee River Environmental Entitlement 2011.

EMPOWERING PROVISIONS

2. This Instrument is made under section 48B of the **Water Act 1989**.

PURPOSE

3. The purpose of this Instrument is to establish an environmental entitlement to allocate to the environment Minister a share of inflows to Lake Merrimu and Melton Reservoir in the Werribee Basin.

COMMENCEMENT

4. This Instrument comes into operation on the day it is published in the Government Gazette.

DEFINITIONS

5. In this Instrument –
 - ‘**Act**’ means the **Water Act 1989**;
 - ‘**Department**’ means the Department supporting the Minister administering the Act;
 - ‘**entitlement holder**’ means a person holding a bulk entitlement or environmental entitlement, in the Werribee Basin, granted under Part 4 of the Act;
 - ‘**environment Minister**’ has the same meaning as in section 3(1) of the Act;
 - ‘**environment Minister’s share**’ the volume of the water stored in Lake Merrimu and Melton Reservoir that the environment Minister is entitled to;
 - ‘**incremental costs**’ means the additional cost burden incurred by the Storage Manager or Resource Manager to perform services for the purposes of this entitlement that are above their normal business in relation to the management of the Werribee Basin on behalf of other entitlement holders;
 - ‘**inflow into Lake Merrimu**’ means the inflow into Lake Merrimu from –
 - (a) Pyrites Creek (Comaidai Creek); and
 - (b) the Lerderderg and Goodmans Creek diversion weirs –after the relevant passing flows specified in the Bulk Entitlement (Werribee System — Irrigation) Conversion Order 1997 have been provided;
 - ‘**licence**’ means any licence granted under Part 4 of the Act;
 - ‘**Melton Target**’ means the target volume of water held in Melton Reservoir for the month, as specified in Schedule 6 of Bulk Entitlement (Werribee System – Irrigation) Conversion Order 1997;
 - ‘**Melton Target passing flow**’ means the volume of water released from Melton Reservoir in accordance with paragraph 12.1(c)(i) of Bulk Entitlement (Werribee System – Irrigation) Conversion Order 1997;
 - ‘**Minister**’ means the Minister administering the Act, and in relation to a provision, includes any person authorised by the Minister to act on the Minister’s behalf in relation to that provision, or to whom the Minister has delegated the relevant power, discretion, function, authority or duty under section 306 of the Act;
 - ‘**other entitlement holders**’ means all persons holding a bulk entitlement or an environmental entitlement in respect of Werribee Basin at the relevant time;

SPECIAL

‘Resource Manager’ means any person appointed by the Minister to do all or any of the following –

- (a) prepare the Werribee Basin Water Accounts;
- (b) monitor whether entitlement holders in the Werribee Basin comply with the conditions of their entitlements;
- (c) investigate and mediate disputes between entitlement holders in the Werribee Basin;
- (d) investigate and deal with significant unauthorised use of water in the Werribee Basin;
- (e) supervise the qualification of any rights to water made by the Minister during periods of declared water shortage under section 33AAA of the Act;

‘Southern Rural Water’ means Gippsland and Southern Rural Water Authority trading as Southern Rural Water;

‘spill’ means the spillage of water that is deemed to occur when the volume of water in a water storage exceeds –

- (a) the full supply level of the storage, as specified by the Storage Manager; or
- (b) the level deemed full by the Storage Manager for operational purposes, such as for flood management or dam safety requirements;

‘Storage Manager’ means any person appointed by the Minister under section 122ZK of the Act to be storage manager for the Werribee headworks system;

‘waterway’ means the Werribee River and its tributaries in the Werribee Basin upstream of Port Phillip Bay including pools formed by and immediately upstream of Southern Rural Water’s reservoirs and weirs;

‘Werribee Basin’ means the area of land designated as Basin Number 31 in the South-East Coast Division of the Australian Water Resources Council’s Australian Continental Drainage Divisions;

‘Werribee Basin Water Accounts’ means an annual report, required by the Minister, on compliance by entitlement holders and licensees in the Werribee Basin with the terms of their entitlements;

‘Werribee headworks system’ means the Pykes Creek Reservoir, Melton Reservoir, Lake Merrimu and the associated weirs, tunnels, transfer conduits and other water supply works owned by Southern Rural Water;

‘Werribee headworks cost’ means all costs associated with the construction, maintenance, operation and replacement of the Werribee headworks system;

‘year’ means the period between 1 July and 30 June inclusive.

PART 2 – ENTITLEMENT TO WATER

ALLOCATION OF AN ENVIRONMENTAL ENTITLEMENT

6. The environment Minister is entitled to a share of the flow in the waterway in accordance with clause 7 of this Instrument.

SHARE OF FLOW

7. The environment Minister is entitled to take –
 - (a) 10 per cent of the inflow into Lake Merrimu after a volume has been set aside to meet the passing flow requirements, until such time as Lake Merrimu spills; and
 - (b) between May to August (inclusive) when Melton Reservoir is above the Melton Target, the lesser of 15 ML/day and the natural flow at Melton Reservoir less the Melton Target passing flow, until such time as Melton Reservoir spills.
8. The environment Minister is not entitled to any flow in the waterway that is being transferred by any other entitlement holder.

SHARE OF STORAGE CAPACITY

9. The environment Minister is entitled to store the share of flow specified in clause 7 in any of the other entitlement holders' shares of storage capacity in Lake Merrimu and Melton Reservoir not being used by the other entitlement holders.
10. At the date of commencement of this Instrument –
 - (a) the volume of water stored for the purposes of this entitlement in Lake Merrimu is deemed to be half of the unallocated water in Lake Merrimu; and
 - (b) the volume of water stored for the purposes of this entitlement in Melton Reservoir pursuant to paragraph 7(b) is deemed to be 0 ML.

PART 3 – OPERATION AND MANAGEMENT CONDITIONS**OPERATING ARRANGEMENTS**

11. Within twelve months of the commencement of this Instrument, the environment Minister, jointly with the other relevant entitlement holders and the Storage Manager ('the parties'), must endeavour to agree on operating arrangements for the water stored and released under this entitlement.
12. The operating arrangements under clause 11 must be consistent with the following principles –
 - (a) water released under this entitlement must not be used to achieve compliance with passing flow obligations;
 - (b) the environment Minister is entitled to a share in the capacity of the Lake Merrimu outlet works at least equivalent to the environment Minister's share of inflows to Lake Merrimu, but may vary his/her share of outlet capacity by agreement with the Storage Manager; and
 - (c) the environment Minister is entitled to access unused capacity in the outlet works for Lake Merrimu and Melton Reservoir.
13. If the parties cannot reach an agreement under clause 11, either party may give written notice to the other party requiring the matter to be determined in accordance with Part 4 of this Instrument.
14. The parties, jointly, may vary the operating arrangements from time to time.

ENVIRONMENTAL OPERATING STRATEGY

15. The environment Minister must prepare an Environmental Operating Strategy for the supply of water under this entitlement within twelve months of the commencement of this instrument.
16. The Environmental Operating Strategy must –
 - (a) provide for the manner in which an Annual Watering Plan is to be developed;
 - (b) be consistent with the Environmental Water Reserve Objectives described in section 4B of the Act; and
 - (c) have regard to environmental, social and economic benefits and costs.
17. The environment Minister must review and update the Environmental Operating Strategy established under clause 15 at least every five years in consultation with the Department.
18. The environment Minister must supply the Department, the Storage Manager and the relevant entitlement holders with the most up to date version of the Environmental Operating Strategy.

ANNUAL WATERING PLAN

19. The environment Minister must develop an Annual Watering Plan in accordance with the Environmental Operating Strategy. The Annual Watering Plan must be reviewed and updated annually.

20. The environment Minister must supply the Department, the Storage Manager and the entitlement holders with the most up to date version of the Annual Watering Plan.
21. The environment Minister must direct releases of water only if it is consistent with the Annual Watering Plan.

STORAGE MANAGEMENT COSTS

22. Subject to clause 23, the environment Minister is not required to make any payment for Werribee headworks costs.
23. The environment Minister must pay the Storage Manager the reasonable incremental costs incurred by the Storage Manager, to:
 - (a) release water;
 - (b) collect and manage data;
 - (c) meter; and
 - (d) perform any other services agreed to by the environment Minister and the Storage Manager.
24. Within six months of the commencement of this Instrument, the environment Minister, jointly with the other entitlement holders and the Storage Manager, must endeavour to agree on the cost-sharing arrangements.
25. In determining cost sharing arrangements in relation to clause 23, the parties must have regard to whether the services are performed in relation to this entitlement and would provide a benefit to the environmental water reserve of the Werribee Basin.
26. If the parties cannot reach an agreement, either party may give written notice to the other party requiring the matter to be determined in accordance with Part 4 of this Instrument.
27. The parties may vary the cost-sharing arrangements from time to time by agreement.

WATER RESOURCE MANAGEMENT COSTS

28. The environment Minister must pay the Resource Manager the reasonable incremental costs incurred by the Resource Manager to:
 - (a) prepare the Werribee Basin Water Accounts;
 - (b) monitor whether entitlement holders in the Werribee Basin comply with the conditions of their entitlements;
 - (c) investigate and mediate disputes between entitlement holders in the Werribee Basin;
 - (d) investigate and deal with significant unauthorised use of water in the Werribee Basin; and
 - (e) supervise the qualification of any rights to water made by the Minister during periods of declared water shortage under section 33AAA of the Act where the environmental water reserve is a beneficiary.
29. Within six months of the commencement of this Instrument, the environment Minister, jointly with the other entitlement holders and the Resource Manager, must endeavour to agree on the cost-sharing arrangements.
30. In determining cost sharing arrangements in relation to clause 28, the parties must have regard to whether the services are performed in relation to this entitlement and would provide a benefit to the environmental water reserve of the Werribee Basin.
31. If the parties cannot reach an agreement, either party may give written notice to the other party requiring the matter to be determined in accordance with Part 4 of this Instrument.
32. The parties may vary the cost-sharing arrangements from time to time by agreement.

METERING PROGRAM

33. The environment Minister must propose to the Minister within 12 months of the date of this Instrument a metering program to determine the amount of water taken under this entitlement.
34. The Minister may –
- (a) approve the program proposed under clause 33; or
 - (b) require the environment Minister to amend the proposed program; and
 - (c) require the environment Minister to –
 - i. review the program approved by the Minister if, in the Minister's opinion, it is, at any time, no longer appropriate; and
 - ii. propose an amended program to the Minister.
35. Subject to clause 23, the environment Minister is not required to pay the cost to:
- (a) implement and maintain the approved metering program; and
 - (b) operate and maintain metering equipment in good condition and periodically re-calibrate the metering equipment –
- where the metering is already undertaken by the Storage Manager for the purposes of normal headworks operation.

REPORTING REQUIREMENTS

36. The Minister may require the environment Minister to report on all or any of –
- (a) the daily inflow taken by the environment Minister under this entitlement;
 - (b) the daily passing flow below Lake Merrimu;
 - (c) the daily amount of water released from storage under this entitlement;
 - (d) the amount of water held in storage under this entitlement;
 - (e) the annual inflow taken by the environment Minister under this entitlement;
 - (f) the annual amount of water released from storage under this entitlement;
 - (g) the annual amount of losses from storage debited to the environment Minister under this entitlement;
 - (h) any bulk entitlement, licence or water share transferred to the environment Minister;
 - (i) any amendment to this Instrument;
 - (j) any new environmental entitlement allocated to the environment Minister;
 - (k) the extent to which actual environmental flows have met the recommended Annual Water Plan prepared under clause 19;
 - (l) any failure by the environment Minister to comply with any provision of this Instrument; and
 - (m) any existing or anticipated difficulties experienced by the environment Minister in complying with this Instrument and any remedial action taken or proposed.
37. The Minister may require the environment Minister to report on all or any of the matters set out in clause 36 –
- (a) in writing, or in such electronic form as may be agreed between the environment Minister and the Minister; and
 - (b) within 14 days of receiving the Minister's written request or such longer period as the Minister may determine.

DATA

38. The Minister will endeavour to ensure that all hydrological and other data required by the environment Minister to comply with this entitlement are made available to the environment Minister.

39. The environment Minister must make available to any person data collected by or on behalf of the environment Minister for the purpose of clause 38 subject to the person paying any fair and reasonable access fee imposed by the environment Minister to cover the costs of making the data available to that person.

PART 4 – DISPUTATION RESOLUTION

DISPUTE RESOLUTION

40. If a difference or dispute arises between the environment Minister, the Storage Manager and the Resource Manager, or any of them, concerning the interpretation or application of this Instrument, a party may give written notice to another party requiring the matter to be determined by an independent expert.
41. If a difference or dispute arises between the environment Minister and an authority, concerning the interpretation or application of this Instrument, the environment Minister may give written notice to the authority requiring the matter to be determined by an independent expert.
42. If a difference or dispute arises between the environment Minister and an authority, concerning the interpretation or application of this Instrument, and the authority gives written notice to the environment Minister requiring the matter to be determined by an independent expert, the environment Minister must comply with the notice.
43. The notice requiring that the matter be determined by independent expert may only be given 14 days after the matter has arisen. The independent expert may only commence to determine the matter a further 14 days after the giving of that notice.
44. The independent expert will be either –
- (a) a person agreed to by the parties to the difference or dispute; or
 - (b) if the parties cannot agree, a person nominated by the President of the Institute of Arbitrators and Mediators, Australia.
45. The independent expert must reach a conclusion on the matter within 30 days of it being referred, but has power to extend the period for reaching a conclusion on the matter by a further 30 days.
46. The independent expert must send a copy of the conclusion and its supporting reasons to each party to the difference or dispute.
47. In any difference or dispute to which the Minister is a party –
- (a) the independent expert must express the conclusion as a recommendation; and
 - (b) the Minister must consider any recommendation made under paragraph (a) before deciding whether there are grounds for giving a direction pursuant to section 48J(2) of the Act.
48. In any difference or dispute to which the Minister is not a party, any conclusion by an independent expert is final and binding on the parties.
49. The environment Minister may request the Minister to determine the apportionment of the costs of and incidental to every reference, including the costs of the independent expert.

Dated 25 May 2011

Responsible Minister
PETER WALSH MLA
Minister for Water

Water Act 1989**BULK ENTITLEMENT (WERRIBEE SYSTEM – IRRIGATION)
CONVERSION AMENDMENT ORDER 2011**

I, Peter Walsh, as Minister administering the **Water Act 1989**, make the following Order –

Title

1. This Order is called the Bulk Entitlement (Werribee System – Irrigation) Conversion Amendment Order 2011.

Preliminary

2. The Bulk Entitlement (Werribee System – Irrigation) Conversion Order 1997 (the ‘Bulk Entitlement Order’) was made by the Minister on 26 August 1997 to convert Southern Rural Water’s existing rights to water in the Werribee system to a defined bulk water entitlement. It was gazetted on 4 September 1997, with subsequent amendments made in 2004, 2005 and 2008.

Purpose

3. The purpose of this Order is to amend the Bulk Entitlement Order so it is consistent with the other entitlements in the Werribee System. The amendments provide greater flexibility in the operation of the Werribee water supply system. The amendments are primarily to accommodate new water-sharing arrangements for Lake Merrimu, including the allocation of the Werribee River Environmental Entitlement 2011.

Authorising provisions

4. This Order is made in accordance with section 44 of the **Water Act 1989**.

Commencement

5. This Order comes into operation on the day it is published in the Government Gazette.

Definitions

6. In this Order a reference to the Bulk Entitlement Order is a reference to Bulk Entitlement (Werribee System – Irrigation) Conversion Order 1997 (as amended).

Amendments to definitions in clause 4

7. In clause 4 of the Bulk Entitlement Order insert the following definitions –
 - (a) ‘**environment Minister**’ has the same meaning as in section 3(1) of the Act;’;
 - (b) ‘**person entitled to water**’ means any person entitled to water under the Act, including under sections 8, 8A, 9 and 51;’;
 - (c) ‘**Storage Manager**’ means any person appointed by the Minister under section 122ZK of the Act to be storage manager for the headworks system;’;
 - (d) ‘**Upper Werribee diversion weir**’ means the weir on the waterway, two kilometres East of Ballan Township, from which the Authority takes water under this Order;’;
 - (e) ‘**Werribee diversion weir**’ means the weir on the waterway, one kilometre north of the junction of Heaths Road and Shaws Road in Werribee, from which the Authority takes water under this Order;’.
8. In clause 4 of the Bulk Entitlement Order –
 - (a) the definition of ‘Storage Operator’ is deleted; and
 - (b) the definition of ‘other Authority’ is deleted; and
 - (c) for the definition of ‘entitlement holder’, substitute –
‘**entitlement holder**’ means a person holding a bulk entitlement or an environmental entitlement in the Werribee Basin, granted under Part 4 of the Act;’

- (d) for the definition of ‘flood target level’, substitute –
 ‘**flood target level**’ means the level a reservoir should be filled to, or drawn down to, in order to provide space for storage of floodwaters in accordance with the operating arrangements;’; and
- (e) for the definition of ‘internal spill’, substitute –
 ‘**internal spill**’ means an amount of water which is transferred in the water accounts between entitlement holders holding a capacity share of a storage as specified in the operating arrangements;’; and
- (f) for the definition of ‘headworks system’, substitute –
 ‘**headworks system**’ means –
 - (a) the water supply works of the reservoirs, weirs and tunnels described in Table 1 of Schedule 2; and
 - (b) the system waterway;’.

Changing Storage Operator to Storage Manager

- 9. Wherever the text ‘Storage Operator’ occurs in the Bulk Entitlement Order, substitute the text ‘Storage Manager’.

Recognising environmental entitlements

- 10. Wherever the text ‘bulk entitlement holder’ occurs in the Bulk Entitlement Order, substitute the text ‘entitlement holder’.
- 11. Wherever the text ‘other Authority’ occurs in the Bulk Entitlement Order substitute the text ‘other entitlement holder’.
- 12. Wherever the text ‘other bulk entitlement’ occurs in the Bulk Entitlement Order substitute the text ‘other bulk entitlement or environmental entitlement’.

Amendments to clause 8

- 10. For sub-clause 8.1 of the Bulk Entitlement Order, substitute –
 ‘8.1 The Minister may, from time to time, alter Schedule 1 to reflect any trading between persons holding primary entitlements.’
- 11. For sub-clause 8.2 of the Bulk Entitlement Order, substitute –
 ‘8.2 The Authority may apply to the Minister to amend any part of Schedules 3 or 6.’

Amendments to clause 9

- 12. For sub-clause 9.1 of the Bulk Entitlement Order, substitute –
 ‘9.1 The Authority is entitled to –
 - (a) all of the storage capacity of Pykes Creek Reservoir; and
 - (b) all of the storage capacity of Melton Reservoir; and
 - (c) a 20% share of the storage capacity of Lake Merrimu; and
 - (d) all water stored in its share of Lake Merrimu, subject to any adjustments to that share made by the Storage Manager in accordance with the operating arrangements.’.
- 13. Sub-clauses 9.3 and 9.4 of the Bulk Entitlement Order are deleted.

Amendments to clause 10

- 14. In sub-clause 10.1 of the Bulk Entitlement Order, paragraphs (d), (e), (f), (g) and (h) are deleted.
- 15. In sub-clause 10.1, after paragraph (c), in the Bulk Entitlement Order insert –
 ‘(d) 10% of the inflow into Lake Merrimu including –
 - (i) water diverted from the Lerderderg and Goodmans Creek diversion weirs; and
 - (ii) inflow from Pyrites Creek; and

- (e) internal spills from other entitlement holders' shares of water stored in Lake Merrimu; and
- (f) into its share of storage capacity in Lake Merrimu, the Authority's share of flow specified in paragraphs (d) and (e); and
- (g) all inflow into Melton Reservoir, except inflow that the environment Minister is entitled to take under the Werribee River Environmental Entitlement 2011; and
- (h) all inflow to the Werribee diversion weir, via the Werribee Main Channel, up to a maximum of 240 ML/day; and
- (i) all water flowing in the system waterway.'

Amendment to clause 11

16. For clause 11 of the Bulk Entitlement Order, substitute –

'11 OPERATING ARRANGEMENTS

- 11.1 The Authority, jointly with the other relevant entitlement holders and the Storage Manager ('the specified parties'), must endeavour to agree on operating arrangements for the headworks system within twelve months after the Werribee River Environmental Entitlement 2011 is published in the Government Gazette.
- 11.2 If the specified parties cannot reach an agreement under clause 11.1, either party may give written notice to the other party requiring the matter to be determined in accordance with clause 24.
- 11.3 The specified parties, jointly and in agreement, may vary the operating arrangements from time to time.'

Amendments to clause 12

17. For paragraph 12.1(c) of the Bulk Entitlement Order, substitute –

- '(c) a minimum passing flow in the Werribee River below Melton Reservoir during the period from May to August (inclusive) of –
- (i) the lesser of 9 ML/day and the natural flow at this location, if the level of Melton Reservoir is above the target for that month as specified in Schedule 6; or
 - (ii) the lesser of 15 ML/day averaged over any 7 day period and the natural flow at this location averaged over the same period, if the level of Melton Reservoir is at or below the target for that month as specified in Schedule 6.'

18. Paragraph 12.2(e)(iii) of the Bulk Entitlement Order is deleted.

19. For sub-clause 12.3 of the Bulk Entitlement Order, substitute –

'12.3 The method for calculating the daily natural flows specified in sub-clause 12.2 is specified in the operating arrangements.'

20. For sub-clauses 12.4 and 12.5 of the Bulk Entitlement Order, substitute –

'12.4 Subject to sub-clause 12.5, the Authority may direct the Storage Manager to defer the passing flow specified in paragraph (a), (b) or (c) of sub-clause 12.1, for a period of no more than 2 months, to allow for works associated with the relevant storage outlet.

12.5 Before directing the Storage Manager to defer any passing flows, the Authority must –

- (a) agree with the holder of the Werribee River Environmental Entitlement 2011 arrangements to minimize and mitigate any impact on environmental flows from the Authority deferring passing flows; and

- (b) take all reasonable steps to –
 - i. notify of the Authority’s intentions; and
 - ii. at the Authority’s own cost, implement measures to provide an adequate supply of water –to all persons entitled to water who foreseeably could suffer loss by the Authority deferring passing flows.’
- 21. ‘Insert sub-clause 12.6 –
‘12.6 Any agreement reached under paragraph 12.5(a) may include –
 - (a) arrangements for the later release, as environmental flows, of the water retained in storage, and
 - (b) allowance for any losses from the water retained in storage, such as by spills and evaporation.’

Amendment to clause 13

- 22. For paragraph 13(a) in the Bulk Entitlement Order, substitute –
‘(a) releases are necessary to –
 - (i) implement flood operating rules; or
 - (ii) repair or maintain part of the headworks system; or
 - (iii) supply dilution flows to overcome serious water quality concerns; or’.

Amendment to clause 17

- 23. In sub-clause 17.3 of the Bulk Entitlement Order, after paragraph (e) insert –
‘(f) update the metering program to take account of any relevant amendments to this Order.’

Amendments to clause 18

- 24. In sub-clause 18.1 of the Bulk Entitlement Order, paragraphs (c), (e), (j), (o), and (q) are deleted.
- 25. For paragraph 18.1(n) of the Bulk Entitlement Order, substitute –
‘(n) Any period of restriction and the degree of restriction to primary entitlement holders listed in Schedule 1;’.

Substitution in clause 20

- 26. For sub-clause 20.2 of the Bulk Entitlement Order, substitute –
‘20.2 The amount of the Authority’s share of source costs under sub-clause 20.1 is dependent on any price determination made by the Essential Services Commission in accordance with Part 1A of the **Water Industry Act 1994**, subject to any existing agreement between the Authority and the Storage Manager, including an option to extend that agreement.’.

Substitutions in clause 24

- 27. For paragraph 24.2(b) of the Bulk Entitlement Order, substitute –
‘(b) if the parties cannot agree, a person nominated by the President of the Institute of Arbitrators and Mediators, Australia.’.
- 28. For clause 24.5 of the Bulk Entitlement Order, substitute –
‘24.5 In any difference or dispute to which the Minister is a party –
 - (a) the independent expert must express the conclusion as a recommendation; and
 - (b) the Minister must consider any recommendation made under paragraph (a) before deciding whether there are grounds for giving a direction under section 307 of the Act.’.
- 29. Sub-clause 24.8 of the Bulk Entitlement Order is deleted.

Amendments to Schedules

30. After Schedule 1, insert –

**‘Schedule 2
HEADWORKS SYSTEM**

Table 1 – Headworks system

Reservoirs	Capacity (ML)	Full supply level to Australian Height Datum (metres)
Pykes Creek Reservoir	22 119	396.57
Lake Merrimu	32 516	174.10
Melton Reservoir	14 364	82.56
Weirs		
Upper Werribee diversion weir	N/A	N/A
Lerderderg diversion weir	N/A	N/A
Goodman diversion weir	N/A	N/A
Tunnels	Capacity (ML/day)	
Werribee River to Myers Creek tunnel	310	
Lerderderg River to Goodman Creek tunnel	1000	N/A
Goodman Creek to Lake Merrimu tunnel	900	N/A

Note: N/A means not applicable⁷

31. Schedules 4 and 5 of the Bulk Entitlement Order are deleted.
32. In Schedule 6 of the Bulk Entitlement Order, below the table insert –
‘Any volume of water stored in Melton Reservoir by the holder of the Werribee River Environmental Entitlement 2011 does not count towards the calculation of volume in storage for the purpose of determining whether Melton Reservoir is above the Melton Target.’
33. In Schedule 7 of the Bulk Entitlement Order, clause 2 is deleted.

Dated 25 May 2011

Responsible Minister
PETER WALSH MLA
Minister for Water

Water Act 1989WERRIBEE BASIN PERMISSIBLE CONSUMPTIVE VOLUME SURFACE
WATER ORDER 2011

I, Peter Walsh, as Minister administering the **Water Act 1989**, make the following Order –

Title

1. This Order is called the Werribee Basin Permissible Consumptive Volume Surface Water Order 2011.

Authorising provisions

2. This Order is made under section 27 of the **Interpretation of Legislation Act 1984** and section 22A of the **Water Act 1989**.

Commencement

3. This Order comes into operation on the day it is published in the Government Gazette.

Purpose

4. The purpose of this Order is to amend the Permissible Consumptive Volume Surface Water Order 2010 by deleting the permissible consumptive volume for the Werribee River Basin from that Order, and to declare a new permissible consumptive volume for the Werribee River Basin.

Definitions

5. In this Order.
 - ‘Act’ means the **Water Act 1989**;
 - ‘conservation licence’ means a licence under section 130 or 138 of the **Land Act 1958** over a Crown frontage which does not permit grazing for more than one month in any year;
 - ‘stormwater works’ means –
 - i. a channel, drain or pipe or associated works, including box culverts, that collects or conveys stormwater runoff from an urban area or development and that is owned or operated by a water corporation for the purpose of carrying out its functions under the Act; or
 - ii. a retarding basin or wetland that holds or treats stormwater runoff from an urban area or development and that is constructed or operated by a water corporation for the purpose of carrying out its functions under the Act; or
 - iii. in the case of Melbourne Water Corporation, works listed in Melbourne Water Corporation’s asset register and used for the purpose of carrying out its regional drainage functions under Part 10 of the Act;
 - ‘water season’ means any period of 12 calendar months beginning on 1 July in any year and ending on 30 June in the following year;
 - ‘Werribee River Basin’ means the area of land designated as Basin Number 31 in the South-East Coast Division of the Australian Water Resources Council’s Australian Continental Drainage Divisions, as defined by the digital data set of River Basins set by the former Australian Water Resource Council, held by Geoscience Australia (National Mapping Agency) dated 30 June 1997, and as reproduced in the Victorian Water Accounts 2008/09 (Victorian Government Department of Sustainability and Environment, Melbourne).

Amendment to the Permissible Consumptive Volume Surface Water Order 2010

6. The Permissible Consumptive Volume Surface Water Order 2010 dated 27 July 2010 and published in the Government Gazette on 5 August 2010 is amended by deleting from the Table in the Order the following:

Werribee 231 28,552

Permissible consumptive volume

7. I declare that the total volume of surface water that may be taken in the Werribee River Basin under the Act or any other Act, during a water season, must not exceed the greater of the following:
- (a) 43,249 ML; or
 - (b) 43,249 ML plus the volume that may be taken under any licence issued or amended or to be issued or amended under section 51 of the Act in that area –
 - (i) to take and use water from stormwater works; and
 - (ii) to take and use water for the purposes of dairy shed cleaning; and
 - (iii) to take and use water from a waterway for the purposes of watering stock where the applicant or licensee –
 - (I) holds a conservation licence over Crown frontage along the waterway and the Crown frontage has been fenced off since 7 September 2004; or
 - (II) held a licence under the **Land Act 1958** allowing grazing over Crown frontage along the waterway that was either cancelled to implement a recommendation of the Victorian Environment Assessment Council or surrendered as part of an arrangement for the Crown frontage to be managed by a Committee of Management.

Further amendment to the Permissible Consumptive Volume Surface Water Order 2010

8. The Permissible Consumptive Volume Surface Water Order 2010 dated 27 July 2010 and published in the Government Gazette on 5 August 2010 is amended by inserting the Table in the Order the following:

Werribee	231	43,249 ML
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Dated 25 May 2011

Responsible Minister
PETER WALSH MLA
Minister for Water

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