



# Victoria Government Gazette

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**SPECIAL**

## ISSUING OF BUILDING PERMITS FOR PRESCRIBED BUILDING WORK IN THE PERIOD 1 APRIL 1996 TO 30 APRIL 1996 96/02

Pursuant to section 188 (1) (c) of the **Building Act 1993** I hereby issue the following Guideline concerning the functions of municipal building surveyors and private building surveyors in respect of section 27 of the **Building Act 1993**. Note that section 188 (7) provides that municipal building surveyors and private building surveyors must have regard to this Guideline in carrying out their functions.

Having regard to:

- (i) the proclamation of section 158 of the **Domestic Building Contracts and Tribunal Act 1995**; and
- (ii) the stated intention of the Government to legislate retrospectively to reinstate the insurance requirements specified under the **House Contracts Guarantee Act 1987** for domestic building work during the month of April 1996

municipal building surveyors and private building surveyors when issuing a building permit for prescribed building work should advise the applicant to lodge an application for registration with the Housing Guarantee Fund Ltd for the work.

**ROBERT MACLELLAN**  
Minister for Planning

## MINISTER'S GUIDELINE March 1996 96/03

Replacing of Guideline Number 95/05

Pursuant to section 188 (1) (c) of the **Building Act 1993** and section 41A of the **Interpretation of Legislation Act 1984**, I hereby revoke Guideline number 94/05, dated 16 June 1994 regarding "Places of Public Entertainment—Conditions of Use". This is in recognition of the amendment of regulation

10.5 of the Building Regulations 1994 made by regulation 44 of the Building (Amendment) Regulations 1995.

This Guideline replaces Guideline number 95/05.

**ROBERT MACLELLAN**  
Minister for Planning

## BUILDING CONTROL COMMISSION—FEE FOR APPOINTING PRESCRIBED BUILDING PRACTITIONER TO ACT AS AN INSPECTOR 96/04

Pursuant to section 188 (1) (b) of the **Building Act 1993** I hereby issue the following Guideline concerning the fee to be charged by the Building Control Commission for the appointment of a prescribed building practitioner to act as an inspector for the purposes of section 44 of the **Domestic Building Contracts and Tribunal Act 1995**. Note that under section 188 (6) the Building Control Commission must have regard to this Guideline in fixing its charges.

	Fee
Appointment of inspector by the Commission to examine whether or not the builder is complying with the plans and specifications set out in the contract.	\$300

**ROBERT MACLELLAN**  
Minister for Planning

## Water Act 1989

Bulk Entitlement (Yallourn Energy Ltd for Loy Yang Power Ltd) Conversion Order 1996

I, Charles Geoffrey Coleman, Minister administering the **Water Act 1989**, make the following Order:

1. CITATION

This Order may be cited as the Bulk Entitlement (Yallourn Energy Ltd for Loy Yang Power Ltd) Conversion Order 1996.

2. EMPOWERING PROVISIONS

This Order is made under sections 43 and 47 of the Water Act 1989.

3. COMMENCEMENT

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

4. DEFINITIONS

In this Order—

“Act” means the Water Act 1989;

“AHD” means the Australian Height Datum

“Authority” means Yallourn Energy Limited (ACN 065 325 224) (a generation company within the meaning of the Electricity Industry Act 1993);

“capacity share” means a water entitlement which is expressed as a percentage share of all or any of the following depending on the context in which the expression is used—

- (a) storage capacity; and
- (b) inflows to the storage; and
- (c) storage and transmission losses; and
- (d) storage release capacity; and
- (e) unregulated flow; and
- (f) water carrier capacity;

“entitlement holder” means a person holding a bulk entitlement under the Act;

“Headworks Storages” means the water supply works of Blue Rock Dam, Lake Narracan and Yallourn Weir;

“Headworks System” means—

- (a) Headworks Storages; and
- (b) the System Waterway;

“Internal Spill” means the redistribution of inflow shares which occurs where an Authority’s share of inflow is in excess of the volume required to fill its share of storage capacity;

“Latrobe Basin Water Accounts” means an annual report, required by the Minister, on compliance by entitlement holders and licensees, respectively, in the Latrobe Basin, with the terms of their bulk entitlements or licences;

“Licence” means any licence granted under Part 4 of the Act;

“other Authority” means an Authority other than the Authority or any other person holding a bulk entitlement granted under Division 1 or 3 of Part 4 of the Act;

“passing flow” means an amount of flow referred to in the Bulk Entitlement (Latrobe—Southern Rural) Conversion Order 1996 which the Storage Operator is obliged to pass at nominated points in the System Waterway;

“pumping station” means the works, jointly managed to supply water from the System Waterway to Loy Yang Power Limited and Mission Energy Limited, located adjacent to the Latrobe River approximately 300 m upstream of Yallourn Weir at co-ordinates 396623E, 268355N.

“regulated release” means any release from Blue Rock Reservoir or Lake Narracan excluding releases made by the Storage Operator to—

- (a) provide passing flows; or
- (b) pass floodwaters; or
- (c) pass flows which cannot be stored; or
- (d) secure the safety of the Headworks Storages under emergency situations;

“reservoir entitlement holders” means all Authorities holding a bulk entitlement in respect of Blue Rock Reservoir at the relevant time;

“Resource Manager” means any person appointed by the Minister to do all or any of the following—

- (a) prepare the Latrobe Basin Water Accounts; and
- (b) monitor whether entitlement holders in the Latrobe Basin comply with the conditions of their bulk entitlements; and
- (c) investigate and mediate disputes between entitlement holders in the Latrobe Basin; and
- (d) investigate and deal with significant unauthorised uses of water in the Latrobe Basin; and
- (e) supervise the qualification of any rights to water made by the Minister during periods of declared water shortage under section 13 of the Act.

“river regulation costs” means those costs attributed to the accounting and operating

arrangements, established under the Bulk Entitlement (Latrobe—Southern Rural) Conversion Order 1996, to manage the sharing of unregulated flow;

“source costs” means the total annual cost to—

- (a) operate, maintain and administer the Headworks System; and
- (b) make releases from the Headworks System (excluding the river regulation costs); and
- (c) meet the financial charges associated with any new or enhancement works undertaken on the Headworks Storages; and
- (d) make an appropriate allowance for depreciation of works associated with the Headworks System, except Lake Narracan and Yallourn Weir, using the deprival value approach or such other depreciation methodology adopted by the Victorian Department of Treasury and Finance to apply to Authorities; and
- (e) manage the catchment for water supply purposes to protect the quality of water diverted to, and stored in, the Headworks System; and
- (f) manage the stream gauging stations necessary to operate the Headworks System; and
- (g) implement the program established under the Bulk Entitlement (Latrobe—Southern Rural) Conversion Order 1996, to manage the environmental effects of the Headworks System;

“Storage Operator” means any person appointed by the Minister to operate the Headworks System, to manage or measure the flow into the headworks system or System Waterway, to keep, and report on, the water accounts of the capacity shares, or to do all or any of them;

“System Waterway” means the Tanjil River between Blue Rock Reservoir and the Latrobe River, and the Latrobe River downstream of its confluence with the Tanjil River, including the pools formed by, and immediately upstream of, the Blue Rock and Narracan Dams and Yallourn Weir;

“unregulated flow” means any flows in the waterway which cannot be attributed to a

regulated release or discharge from the works of an industrial company or other Authority;

“year” means the 12 months next following 1 July.

## 5. CONVERSION TO BULK ENTITLEMENTS

Only that part of the Authority’s entitlement to water from the System Waterway to supply the electricity generation works at Loy Yang is converted to a bulk entitlement on the conditions set out in this Order.

## 6. BULK ENTITLEMENT

6.1 The Authority may take the share of flow from the waterway to meet its requirements up to an annual total of 40 000 ML.

6.2 The total annual amount of regulated releases from the Authority’s share of Blue Rock Reservoir must not exceed 18 330 ML.

6.3 Subject to section 46 of the Act, this bulk entitlement may be transferred—

- (a) temporarily or permanently;
- (b) in whole or in part;
- (c) for any purpose, including an in-stream use of water.

6.4 The Minister may vary the annual maximum amount of diversion or regulated release specified under sub-clauses 6.1 and 6.2 respectively for the purpose of making any transfer of this bulk entitlement authorised under section 46 of the Act .

## 7. SHARE OF CAPACITY

The Authority is entitled to—

- (a) a 16.40% share of the total storage capacity of Blue Rock Reservoir, where the total storage capacity is 208 200 ML at a full supply level of 140.00 metres AHD; and
- (b) a 32.80% share of the total storage capacity of Lake Narracan, where the total storage capacity is 8000 ML at a full supply level of 47.7 metres AHD; and
- (c) all water stored in its share of the storages specified in this sub-clause less a share of losses. Losses are to be assessed as specified in Schedule 1.

## 8. SHARE OF FLOW

8.1 The Authority may—

- (a) after the passing flows requirements have been met, store 16.40% of all the inflow into Blue Rock Reservoir from the catchment up to that amount required to fill its share of storage capacity;
- (b) after the passing flows requirements have been met, store 24.55% of unregulated inflow into Lake Narracan to fill its share of storage capacity;
- (c) store a greater proportion of the inflow where part of that inflow is assessed by the Storage Operator, as specified in Schedule 1, as an internal spill;
- (d) take, via the Pumping Station, up to the joint limit (with Mission Energy Management Australia Pty Ltd) of 226 ML/d—
  - (i) any flow released from Lake Narracan as ordered by the Authority specifically for that purpose; and
  - (ii) 24.55% of the unregulated flow passing Lake Narracan; or
  - (iii) additional unregulated flow passing Lake Narracan subject to the additional flow in excess of the Authority's flow share—
    - (A) not being used by any other Authority holding an entitlement to that additional flow; and
    - (B) being shared with other Authorities holding a share of unregulated flow at this point in proportion to each of the Authorities' shares of unregulated flow.

8.2 The Authority must not take as part of its bulk entitlement or store in Blue Rock Reservoir or Lake Narracan any flow into the storage—

- (a) which is specified as the passing flow by the Storage Operator; or
- (b) which is being transferred by the holder of any other bulk entitlement; or
- (c) any flow into the storage when the Authority's share of the storage is full.

#### 9. RELEASES

9.1 Subject to sub-clause 9.2 the capacity of the outlet works of Blue Rock Reservoir is to be

shared in proportion to inflow shares between the reservoir entitlement holders.

9.2 The Authority, after consultation with any other Authorities holding an inflow share to Blue Rock Reservoir, may, within twelve months of the date of this Order, and then from time to time, propose to the Minister an alternate means to ensure a fair and reasonable means of sharing the capacity of the outlet works of the reservoir.

9.3 The Minister must—

- (a) approve all or any means proposed under sub-clause 9.2 where there is agreement to the proposal by all other Authorities holding an inflow share; or
- (b) where all other Authorities cannot agree, refer the proposal to an independent expert established under sub-clause 19.2 for determination in accordance with clause 19.

#### 10. SUPPLY OF WATER

The Authority and the Storage Operator must endeavour to agree on operational arrangements—

- (a) for the supply of water from the storages mentioned in clause 7; and
- (b) to allow the Storage Operator to borrow storage capacity and/or volume in Lake Narracan for operational purposes.

If the Authority and the Storage Operator have not reached agreement under sub-clause 10.1 within twelve months of the date of this Order either party may give written notice to the other party requiring the matter to be determined in accordance with clause 19.

#### 11. SUPPLY OF WATER FOR EMERGENCY PURPOSES

11.1 The Authority may provide a supply to another Authority from its works during emergency situations, subject to there being an Agreement between the Authorities covering the operating arrangements, metering provisions and cost sharing arrangements covering the emergency supply.

11.2 Any water supplied by the Authority under sub-clause 11.1 is to be credited back to the Authority's entitlement for the purpose of clause 6.

## 12. METERING PROGRAM

12.1 The Authority must install a flow meter on the pipeline offtake from the pumping station to record all water taken by the Authority under this bulk entitlement.

12.2 The Authority must provide the Minister with details of any agreement between the Authority and any other person for measuring water taken or the apportionment of water taken from the pumping station between this bulk entitlement and any other bulk entitlement.

12.3 The Minister may require the Authority to upgrade the metering equipment if, in the Minister's opinion, it is, at any time, no longer reliable or accurate.

12.4 The Authority must, at its cost—

- (a) operate and maintain metering equipment and any associated measurement structures in good condition and ensure that metering equipment is periodically re-calibrated, in accordance with any guidelines issued by the Minister; and
- (b) implement any request by the Minister to upgrade the metering equipment; and
- (c) keep a record of all work undertaken under paragraphs (a) and (b) of sub-clause 12.4.

## 13. REPORTING REQUIREMENTS

13.1 The Minister may require the Authority to report on all or any of the following matters, as provided in this clause:

- (a) the daily amount of water taken by the Authority from the waterway at its pumping station;
- (b) the daily amount of water returned to the System Waterway or tributary streams from the works of the Authority;
- (c) the daily amount of water supplied to another Authority from the works of the Authority under clause 11;
- (d) the annual amount of water taken by the Authority from the waterway at its pumping station;
- (e) the annual amount of water supplied to another Authority from the works of the Authority under clause 11;

- (f) the work undertaken as part of the metering program under sub-clause 12.4;
- (g) any temporary or permanent transfer of all or part of this bulk entitlement;
- (h) any bulk entitlement or licence in respect of the waterway temporarily or permanently transferred to the Authority;
- (i) any amendment to this bulk entitlement;
- (j) any failure by the Authority to comply with any provision of this bulk entitlement;
- (k) any existing or anticipated difficulties experienced by the Authority in complying with this bulk entitlement and any remedial action taken or proposed by the Authority.

13.2 The Minister may require the Authority to report on all or any of the matters set out in sub-clause 13.1—

- (a) in writing or in such electronic form as may be agreed between the Authority and the Minister; and
- (b) within 14 days of receiving the Minister's written request or such longer period as the Minister may determine.

13.3 The Authority must, for the period of the preceding year, report, by 1 August in any year, to the Minister on each of the matters set out in sub-clause 13.1, except paragraphs (a) to (c) of sub-clause 13.1;

13.4 The Resource Manager may require the Authority to report from time to time, on all or any of the matters set out in paragraphs (a) to (k) of sub-clause 13.1.

13.5 Any report under sub-clause 13.4 must be made—

- (a) in such form as may be agreed between the Authority and the person to whom the report is made; and
- (b) unless the Authority and that person agree otherwise—
  - (i) within 24 hours of the Authority receiving a request for a report on any matter set out in paragraphs (a) to (c) of sub-clause 13.1; or
  - (ii) within 14 days of the Authority receiving a request for a report on any

matter set out in paragraphs (d) to (k) of sub-clause 13.1.

#### 14. WATER RESOURCE MANAGEMENT COSTS

14.1 Subject to sub-clause 16.1, the Authority must pay the Resource Manager a fair and reasonable proportion of the costs incurred by the Resource Manager to—

- (a) prepare the Latrobe Basin Water Accounts; and
- (b) monitor whether entitlement holders in the Latrobe Basin comply with the conditions of their bulk entitlements; and
- (d) investigate and mediate disputes between entitlement holders in the Latrobe Basin; and
- (e) investigate and deal with significant unauthorised uses of water in the Latrobe Basin; and
- (f) supervise the qualification of any rights to water made by the Minister during periods of declared water shortage under section 13 of the Act.

14.2 The proportion of the costs referred to in sub-clause 14.1 will be as determined under sub-clause 16.5.

#### 15. STORAGE OPERATOR COSTS

15.1 Subject to sub-clause 16.1 the Authority must pay the Storage Operator an annual source charge which will be determined according to sub-clause 15.2.

15.2 The Authority must pay the Storage Operator—

- (a) a percentage of the annual source charges for Lake Narracan and Yallourn Weir as follows—

$$Cs = \$ [0.3280 \times S \times (1+m)] + [0.2455 \times r \times (1+m)]$$

and

- (b) a percentage of the annual source charge for Blue Rock Reservoir as follows—

$$Cs = \$ 0.1640 \times S \times (1+m)$$

where—

Cs= the annual source charge.

S= the estimated source costs for the year for which charges are prepared.

r= the estimated river regulation costs for the year for which charges are prepared.

m= the business margin set at 10% at the date of the Order. Any variation to this rate is to be mutually agreed as per sub-clause 17(a).

15.3 The annual source charge must be paid by the Authority each year whether or not water has been taken from the storages by the Authority in that year.

#### 16. DUTY TO KEEP ACCOUNTS AND FIX PROPORTIONS

16.1 The Authority is not obliged to make any payment to—

- (a) the Resource Manager under clause 14; or
- (b) the Storage Operator under clause 15—

unless the person to whom the payment is payable chooses to comply with the provisions of this clause relevant to those payments.

16.2 Separate accounts of all costs and payments must be kept—

- (a) by the Resource Manager in respect to clause 14; and
- (b) the Storage Operator in respect to clause 15.

16.3 The Water Authority responsible for the Headworks Storages must consult with the Authority on any proposal to undertake new or enhancement works on a Headworks Storage, providing reasonable detail and the need for those works, prior to undertaking those works.

16.4 The Authority may object to any proposal referred to in sub-clause 16.3 and may give written notice to the other party requiring the matter to be determined by referral to an independent expert in accordance with clause 19.

16.5 The Resource Manager must, by 1 March in any year, provide an estimate, in respect of the ensuing year, of a fair and reasonable proportion of the costs referred to in sub-clause 14.1.

16.6 The Storage Operator must, by 1 March in any year, in conjunction with the Water Authority responsible for the Headworks Storages, provide the Authority with an

estimate of the annual source charge referred to in sub-clause 15.2, for the ensuring year.

16.7 Accounts required to be kept under this clause must be made available for inspection by the Authority upon request.

#### 17. DUTY TO MAKE PAYMENTS

Any amount payable by the Authority under clauses 14 or 15—

- (a) is to be based on the actual expenditure for the period specified in paragraph 17(b), unless otherwise set by mutual agreement between the Authority and the Storage Operator, and include any adjustment from a previous period to reflect the actual cost of the work; and
- (b) unless the Authority and the person to whom the amount is payable agree otherwise—
  - (i) must be paid quarterly in arrears, within 28 days of the Authority receiving an invoice for amounts payable under clause 14; and
  - (ii) must be paid monthly in arrears, within 28 days of the Authority receiving an invoice for amounts payable under clause 15.

#### 18. DATA

18.1 The Minister will use the Minister's best endeavours to ensure that all hydrological and other data required by the Authority to comply with this bulk entitlement are made available to the Authority, free of charge.

18.2 The Authority must make available data collected for the purpose of the metering program and reporting under sub-clauses 12.1 and 13.1 to any person, subject to the person paying any fair and reasonable access fee imposed by the Authority, to cover the costs of making the data available.

#### 19. DISPUTE RESOLUTION

19.1 If any difference or dispute arises between the Authority, the Minister and, with his or her consent, the Resource Manager (the "parties") concerning the interpretation or application of this Order, which is not resolved within 14 days of it arising, any party may give written notice to the others requiring the matter to be determined by an independent expert, if it is not otherwise resolved, within 14 days of that notice.

19.2 The independent expert will be either—

- (a) a person agreed on by the parties to the difference or dispute; or
- (b) if those parties cannot agree, a person nominated by the President of the Institute of Arbitrators Australia.

19.3 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.

19.4 The independent expert must send a copy of the conclusion and its supporting reasons to each party to the difference or dispute.

19.5(a) In any difference or dispute to which the Minister is a party, the independent expert must express the conclusion as a recommendation.

- (b) the Minister must consider any recommendation made under paragraph 19.5(a) before deciding to give a direction under section 307 or to take any other action under the Act in relation to the difference or dispute.

19.6 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.

19.7 The apportionment of the costs of and incidental to every reference, including the costs of the independent expert, shall be at the discretion of the independent expert.

Signed:

Geoff Coleman,  
Minister administering the **Water Act 1989**

Dated:

Schedule 1  
Evaporation Losses and Internal Spills

##### 1. Evaporation Losses

Evaporation losses from—

- (a) Lake Narracan are calculated using the formula  
$$e = A \times E \times 0.01 \times (s1/s)$$
- (b) the Blue Rock Reservoir are calculated using the formula  
$$e = A \times E \times 0.01 \times (s1/s)$$

where

e - evaporation loss in ML

- s - volume of water in ML in either Lake Narracan or Blue Rock Reservoir as appropriate
- A - surface area in hectares corresponding to s
- E - pan evaporation in mm
- s1 - volume of water in ML in the Authority's share of Lake Narracan or Blue Rock Reservoir as appropriate

2. Internal Spills

The amount of internal spill cannot exceed a volume equal to the amount by which the other entitlement holder's storage is below its full share. Any internal spill is to be redistributed in proportion to the inflow shares of those Authorities whose shares of storage capacity are not full.

3. Storage Accounts

The storage accounts maintained by the Storage Operator will be adjusted for—

- (i) the share of inflow apportioned to the Authority;
- (ii) any internal spill;
- (iii) any release directed by the Authority to meet its water supply requirements including any allowances for in-transit losses; and
- (iv) any allowance for the Authority's share of evaporation losses or seepage losses from storage.

*Note:* An explanatory note that accompanies this Order is available from the Water Bureau, Department of Conservation and Natural Resources.

**Water Act 1989**

Bulk Entitlement (Yallourn Energy Ltd for Gippsland and Southern Rural Water Authority) Conversion Order 1996

I, Charles Geoffrey Coleman, Minister administering the **Water Act 1989**, make the following Order:

1. CITATION

This Order may be cited as the Bulk Entitlement (Yallourn Energy Ltd for Gippsland and Southern Rural Water Authority) Conversion Order 1996.

2. EMPOWERING PROVISIONS

This Order is made under sections 43 and 47 of the **Water Act 1989**.

3. COMMENCEMENT

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

4. DEFINITIONS

In this Order—

"Act" means the **Water Act 1989**;

"AHD" means the Australian Height Datum

"Authority" means Yallourn Energy Limited (ACN 065 325 224) (a generation company within the meaning of the **Electricity Industry Act 1993**);

"capacity share" means a water entitlement which is expressed as a percentage share of all or any of the following depending on the context in which the expression is used—

- (a) storage capacity; and
- (b) inflows to the storage; and
- (c) storage and transmission losses; and
- (d) storage release capacity; and
- (e) unregulated flow; and
- (f) water carrier capacity;

"entitlement holder" means a person holding a bulk entitlement under the Act;

"Headworks Storages" means the water supply works of Blue Rock Dam, Lake Narracan and Yallourn Weir;

"Headworks System" means -

- (a) Headworks Storages; and
- (b) the System Waterway;

"Internal Spill" means the redistribution of inflow shares which occurs where an Authority's share of inflow is in excess of the volume required to fill its share of storage capacity;

"Latrobe Basin Water Accounts" means an annual report, required by the Minister, on compliance by entitlement holders and licensees, respectively, in the Latrobe Basin, with the terms of their bulk entitlements or licences;

"Licence" means any licence granted under Part 4 of the Act;

"other Authority" means an Authority other than the Authority or any other person holding a



bulk entitlement granted under Division 1 or 3 of Part 4 of the Act;

“passing flow” means an amount of flow referred to in the Bulk Entitlement (Latrobe—Southern Rural) Conversion Order 1996 which the Storage Operator is obliged to pass at nominated points in the System Waterway;

“pumping station” means the works, jointly managed to supply water from the System Waterway to Loy Yang Power Limited and Mission Energy Management Australia Pty. Ltd., located adjacent to the Latrobe River approximately 300 m upstream of Yallourn Weir at co-ordinates 396623E, 268355N.

“regulated release” means any release from Blue Rock Reservoir or Lake Narracan excluding releases made by the Storage Operator to—

- (a) provide passing flows; or
- (b) pass floodwaters; or
- (c) pass flows which cannot be stored; or
- (d) secure the safety of the Headworks Storages under emergency situations;

“reservoir entitlement holders” means all Authorities holding a bulk entitlement in respect of Blue Rock Reservoir at the relevant time;

“Resource Manager” means any person appointed by the Minister to do all or any of the following—

- (a) prepare the Latrobe Basin Water Accounts; and
- (b) monitor whether entitlement holders in the Latrobe Basin comply with the conditions of their bulk entitlements; and
- (c) investigate and mediate disputes between entitlement holders in the Latrobe Basin; and
- (d) investigate and deal with significant unauthorised uses of water in the Latrobe Basin; and
- (e) supervise the qualification of any rights to water made by the Minister during periods of declared water shortage under section 13 of the Act.

“river regulation costs” means those costs attributed to the accounting and operating arrangements, established under the Bulk Entitlement (Latrobe—Southern Rural) Conversion Order 1996, to manage the sharing of unregulated flow;

“source costs” means the total annual cost to -

- (a) operate, maintain and administer the Headworks System; and
- (b) make releases from the Headworks System (excluding the river regulation costs); and
- (c) meet the financial charges associated with any new or enhancement works undertaken on the Headworks Storages; and
- (d) make an appropriate allowance for depreciation of works associated with the Headworks System, except Lake Narracan and Yallourn Weir, using the deprival value approach, or such other depreciation methodology adopted by the Victorian Department of Treasury and Finance to apply to Authorities; and
- (e) manage the catchment for water supply purposes to protect the quality of water diverted to, and stored in, the Headworks System; and
- (f) manage the stream gauging stations necessary to operate the Headworks System; and
- (g) implement the program established under the Bulk Entitlement (Latrobe—Southern Rural) Conversion Order 1995, to manage the environmental effects of the Headworks System;

“Storage Operator” means any person appointed by the Minister to operate the Headworks System, to manage or measure the flow into the headworks system or System Waterway, to keep, and report on, the water accounts of the capacity shares, or to do all or any of them;

“System Waterway” means the Tanjil River between Blue Rock Reservoir and the Latrobe River, and the Latrobe River downstream of its confluence with the Tanjil River, including the pools formed by, and immediately upstream of, the Blue Rock and Narracan Dams and Yallourn Weir;

“unregulated flow” means any flows in the waterway which cannot be attributed to a regulated release;

“year” means the 12 months next following 1 July.

### 5. CONVERSION TO BULK ENTITLEMENTS

Only that part of the Authority's entitlement to water from the System Waterway to supply the electricity generation works operated by Mission Energy Management Australia Pty. Ltd. is converted to a bulk entitlement on the conditions set out in this Order.

#### 6. BULK ENTITLEMENT

6.1 The Authority may take the share of flow from the waterway to meet its requirements up to an annual total of 20 000 ML.

6.2 The total annual amount of regulated releases from the Authority's share of Blue Rock Reservoir must not exceed 9 170 ML.

6.3 Subject to section 46 of the Act, this bulk entitlement may be transferred—

- (a) temporarily or permanently;
- (b) in whole or in part;
- (c) for any purpose, including an in-stream use of water.

6.4 The Minister may vary the annual maximum amount of diversion or regulated release specified under sub-clauses 6.1 and 6.2 respectively for the purpose of making any transfer of this bulk entitlement authorised under section 46 of the Act .

#### 7. SHARE OF CAPACITY

The Authority is entitled to—

- (a) an 8.20% share of the total storage capacity of Blue Rock Reservoir, where the total storage capacity is 208 200 ML at a full supply level of 140.00 metres AHD; and
- (b) a 16.40% share of the total storage capacity of Lake Narracan, where the total storage capacity is 8000 ML at a full supply level of 47.7 metres AHD; and
- (c) all water stored in its share of the storages specified in this sub-clause less a share of losses. Losses are to be assessed as specified in Schedule 1.

#### 8. SHARE OF FLOW

8.1 The Authority may—

- (a) after the passing flows requirements have been met, store 8.20% of all the inflow into Blue Rock Reservoir from the catchment up to that amount

required to fill its share of storage capacity;

- (b) after the passing flows requirements have been met, store 12.28% of unregulated inflow into Lake Narracan to fill its share of storage capacity;
- (c) store a greater proportion of the inflow where part of that inflow is assessed by the Storage Operator, as specified in Schedule 1, as an internal spill;
- (d) take, via the Pumping Station, up to the joint limit (shared with Loy Yang Power Ltd) of 226 ML/d—
  - (i) any flow released from Lake Narracan as ordered by the Authority specifically for that purpose; and
  - (ii) 12.28% of the unregulated flow passing Lake Narracan; or
  - (iii) additional unregulated flow passing Lake Narracan subject to the additional flow in excess of the Authority's flow share -
    - (A) not being used by any other Authority holding an entitlement to that additional flow; and
    - (B) being shared with other Authorities holding a share of unregulated flow at this point in proportion to each of the Authorities' shares of unregulated flow.

8.2 The Authority must not take as part of its bulk entitlement or store in Blue Rock Reservoir or Lake Narracan any flow into the storage—

- (a) which is specified as the passing flow by the Storage Operator; or
- (b) which is being transferred by the holder of any other bulk entitlement; or
- (c) any flow into the storage when the Authority's share of the storage is full.

#### 9. RELEASES

9.1 Subject to sub-clause 9.2 the capacity of the outlet works of Blue Rock Reservoir is to be shared in proportion to inflow shares between the reservoir entitlement holders.

9.2 The Authority, after consultation with any other Authorities holding an inflow share to Blue Rock Reservoir, may, within twelve

months of the date of this Order, and then from time to time, propose to the Minister an alternate means to ensure a fair and reasonable means of sharing the capacity of the outlet works of the reservoir.

9.3 The Minister must—

- (a) approve all or any means proposed under sub-clause 9.2 where there is agreement to the proposal by all other Authorities holding an inflow share; or
- (b) where all other Authorities cannot agree, refer the proposal to an independent expert established under sub-clause 18.2 for determination in accordance with clause 18.

#### 10. SUPPLY OF WATER

The Authority and the Storage Operator must endeavour to agree on operational arrangements—

- (a) for the supply of water from the storages mentioned in clause 7; and
- (b) to allow the Storage Operator to borrow storage capacity and/or volume in Lake Narracan for operational purposes.

If the Authority and the Storage Operator have not reached agreement under sub-clause 10.1 within twelve months of the date of this Order either party may give written notice to the other party requiring the matter to be determined in accordance with clause 18.

#### 11. METERING PROGRAM

11.1 The Authority must install a flow meter on the pipeline offtake from the pumping station to record all water taken by the Authority under this bulk entitlement.

11.2 The Authority must provide the Minister with details of any agreement between the Authority and any other person for measuring water taken or the apportionment of water taken from the pumping station between this bulk entitlement and any other bulk entitlement.

11.3 The Minister may require the Authority to upgrade the metering equipment if, in the Minister's opinion, it is, at any time, no longer reliable, accurate or operationally appropriate.

11.4 The Authority must, at its cost—

- (a) operate and maintain metering equipment and any associated

measurement structures in good condition and ensure that metering equipment is periodically re-calibrated, in accordance with any guidelines issued by the Minister; and

- (b) implement any request by the Minister to upgrade the metering equipment; and
- (c) keep a record of all work undertaken under paragraphs (a) and (b) of sub-clause 11.4.

#### 12. REPORTING REQUIREMENTS

12.1 The Minister may require the Authority to report on all or any of the following matters, as provided in this clause:

- (a) the daily amount of water designated as taken by the Authority from the waterway at the pumping station;
- (b) the daily amount of water returned to the System Waterway or tributary streams from the works of the Authority;
- (c) the annual amount of water designated as taken by the Authority from the waterway at its pumping station;
- (d) the work undertaken as part of the metering program under sub-clause 11.4;
- (e) any temporary or permanent transfer of all or part of this bulk entitlement;
- (f) any bulk entitlement or licence in respect of the System Waterway temporarily or permanently transferred to the Authority;
- (g) any amendment to this bulk entitlement;
- (h) any failure by the Authority to comply with any provision of this bulk entitlement;
- (i) any existing or anticipated difficulties experienced by the Authority in complying with this bulk entitlement and any remedial action taken or proposed by the Authority.

12.2 The Minister may require the Authority to report on all or any of the matters set out in sub-clause 12.1—

- (a) in writing or in such electronic form as may be agreed between the Authority and the Minister; and
- (b) within 14 days of receiving the Minister's written request or such

longer period as the Minister may determine.

12.3 The Authority must, for the period of the preceding year, report, by 1 August in any year, to the Minister on each of the matters set out in sub-clause 12.1, except paragraphs (a) and (b) of sub-clause 12.1;

12.4 The Resource Manager may require the Authority to report from time to time, on all or any of the matters set out in paragraphs (a) to (i) of sub-clause 12.1.

12.5 Any report under sub-clause 12.4 must be made—

- (a) in such form as may be agreed between the Authority and the person to whom the report is made; and
- (b) unless the Authority and that person agree otherwise—
  - (i) within 24 hours of the Authority receiving a request for a report on any matter set out in paragraphs (a) and (b) of sub-clause 12.1; or
  - (ii) within 14 days of the Authority receiving a request for a report on any matter set out in paragraphs (c) to (i) of sub-clause 12.1.

### 13. WATER RESOURCE MANAGEMENT COSTS

13.1 Subject to sub-clause 15.1, the Authority must pay the Resource Manager a fair and reasonable proportion of the costs incurred by the Resource Manager to—

- (a) prepare the Latrobe Basin Water Accounts; and
- (b) monitor whether entitlement holders in the Latrobe Basin comply with the conditions of their bulk entitlements; and
- (c) investigate and mediate disputes between entitlement holders in the Latrobe Basin; and
- (d) investigate and deal with significant unauthorised uses of water in the Latrobe Basin; and
- (e) supervise the qualification of any rights to water made by the Minister during periods of declared water shortage under section 13 of the Act.

13.2 The proportion of the costs referred to in sub-clause 13.1 will be as determined under sub-clause 15.5.

### 14. STORAGE OPERATOR COSTS

14.1 Subject to sub-clause 15.1 the Authority must pay the Storage Operator an annual source charge which will be determined according to sub-clause 14.2.

14.2 The Authority must pay the Storage Operator—

- (a) a percentage of the annual source charges for Lake Narracan and Yallourn Weir as follows -

$$Cs = \$ [0.1640 \times S \times (1+m)] + [0.1228 \times r \times (1+m)]$$

and

- (b) a percentage of the annual source charge for Blue Rock Reservoir as follows—

$$Cs = \$ 0.0820 \times S \times (1+m)$$

where—

Cs= the annual source charge.

S= the estimated source costs for the year for which charges are prepared.

r= the estimated river regulation costs for the year for which charges are prepared.

m= the business margin set at 10% at the date of the Order. Any variation to this rate is to be mutually agreed as per sub-clause 16(a).

14.3 The annual source charge must be paid by the Authority each year whether or not water has been taken from the storages by the Authority in that year.

### 15. DUTY TO KEEP ACCOUNTS AND FIX PROPORTIONS

15.1 The Authority is not obliged to make any payment to—

- (a) the Resource Manager under clause 13; or
- (b) the Storage Operator under clause 14—

unless the person to whom the payment is payable chooses to comply with the provisions of this clause relevant to those payments.

15.2 Separate accounts of all costs and payments must be kept—

- (a) by the Resource Manager in respect to clause 13; and

(b) the Storage Operator in respect to clause 14.

15.3 The Water Authority responsible for the Headworks Storages must consult with the Authority on any proposal to undertake new or enhancement works on a Headworks Storage, providing reasonable detail and the need for those works, prior to undertaking those works.

15.4 The Authority may object to any proposal referred to in sub-clause 15.3 and may give written notice to the other party requiring the matter to be determined by referral to an independent expert in accordance with clause 18.

15.5 The Resource Manager must, by 1 March in any year, provide an estimate, in respect of the ensuing year, of a fair and reasonable proportion of the costs referred to in sub-clause 13.1.

15.6 The Storage Operator must, by 1 March in any year, in conjunction with the Water Authority responsible for the Headworks Storages, provide the Authority with an estimate of the annual source charge referred to in sub-clause 14.2, for the ensuing year.

15.7 Accounts required to be kept under this clause must be made available for inspection by the Authority upon request.

#### 16. DUTY TO MAKE PAYMENTS

Any amount payable by the Authority under clauses 13 or 14—

- (a) is to be based on the actual expenditure for the period specified in paragraph 16(b), unless otherwise set by mutual agreement between the Authority and the Storage Operator, and include any adjustment from a previous period to reflect the actual cost of the work; and
- (b) unless the Authority and the person to whom the amount is payable agree otherwise—
  - (i) must be paid quarterly in arrears, within 28 days of the Authority receiving an invoice for amounts payable under clause 13; and
  - (ii) must be paid monthly in arrears, within 28 days of the Authority receiving an invoice for amounts payable under clause 14.

#### 17. DATA

17.1 The Minister will use the Minister's best endeavours to ensure that all hydrological and other data required by the Authority to comply with this bulk entitlement are made available to the Authority, free of charge.

17.2 The Authority must make available data collected for the purpose of the metering program and reporting under sub-clauses 11.1 and 12.1 to any person, subject to the person paying any fair and reasonable access fee imposed by the Authority, to cover the costs of making the data available.

#### 18. DISPUTE RESOLUTION

18.1 If any difference or dispute arises between the Authority, the Minister and, with his or her consent, the Resource Manager (the "parties") concerning the interpretation or application of this Order, which is not resolved within 14 days of it arising, any party may give written notice to the others requiring the matter to be determined by an independent expert, if it is not otherwise resolved, within 14 days of that notice.

18.2 The independent expert will be either—

- (a) a person agreed on by the parties to the difference or dispute; or
- (b) if those parties cannot agree, a person nominated by the President of the Institute of Arbitrators Australia.

18.3 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.

18.4 The independent expert must send a copy of the conclusion and its supporting reasons to each party to the difference or dispute.

18.5(a) In any difference or dispute to which the Minister is a party, the independent expert must express the conclusion as a recommendation.

- (b) the Minister must consider any recommendation made under paragraph 18.5(a) before deciding to give a direction under section 307 or to take any other action under the Act in relation to the difference or dispute.

18.6 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.

18.7 The apportionment of the costs of and incidental to every reference, including the costs of the independent expert, shall be at the discretion of the independent expert.

Signed:

Geoff Coleman,

Minister administering the **Water Act 1989**

Dated:

Schedule 1

Evaporation Losses and Internal Spills

1. Evaporation Losses

Evaporation losses from—

(a) Lake Narracan are calculated using the formula

$$e = A \times E \times 0.01 \times (s1/s)$$

(b) the Blue Rock Reservoir are calculated using the formula

$$e = A \times E \times 0.01 \times (s1/s)$$

where

e - evaporation loss in ML  
s - volume of water in ML in either Lake Narracan or Blue Rock Reservoir as appropriate

A - surface area in hectares corresponding to s

E - pan evaporation in mm

s1 - volume of water in ML in the Authority's share of Lake Narracan or Blue Rock Reservoir as appropriate

2. Internal Spills

The amount of internal spill cannot exceed a volume equal to the amount by which the other entitlement holder's storage is below its full share. Any internal spill is to be redistributed in proportion to the inflow shares of those Authorities whose shares of storage capacity are not full.

3. Storage Accounts

The storage accounts maintained by the Storage Operator will be adjusted for—

(i) the share of inflow apportioned to the Authority;

(ii) any internal spill;

(iii) any release directed by the Authority to meet its water supply requirements including any allowances for in-transit losses; and

(iv) any allowance for the Authority's share of evaporation losses or seepage losses from storage.

*Note:* An explanatory note that accompanies this Order is available from the Water Bureau, Department of Conservation and Natural Resources.

**Water Act 1989**

Bulk Entitlement (Yallourn Energy Ltd for SECV) Conversion Order 1996

I, Charles Geoffrey Coleman, Minister administering the Water Act 1989, make the following Order:

1. CITATION

This Order may be cited as the Bulk Entitlement (Yallourn Energy Ltd for SECV) Conversion Order 1996.

2. EMPOWERING PROVISIONS

This Order is made under sections 43 and 47 of the **Water Act 1989**.

3. COMMENCEMENT

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

4. DEFINITIONS

In this Order—

"Act" means the **Water Act 1989**;

"AHD" means the Australian Height Datum

"Authority" means Yallourn Energy Limited (ACN 065 325 224) (a generation company within the meaning of the **Electricity Industry Act 1993**);

"capacity share" means a water entitlement which is expressed as a percentage share of all or any of the following depending on the context in which the expression is used -

- (a) storage capacity; and
- (b) inflows to the storage; and
- (c) storage and transmission losses; and
- (d) storage release capacity; and
- (e) unregulated flow; and
- (f) water carrier capacity;

"entitlement holder" means a person holding a bulk entitlement under the Act;

"Headworks Storages" means the water supply works of Blue Rock Dam, Narracan Dam and Yallourn Weir;

"Headworks System" means—

- (a) Headworks Storages; and
- (b) the System Waterway;

"Internal Spill" means the redistribution of inflow shares which occurs where an Authority's share of inflow is in excess of the volume required to fill its share of storage capacity;

"Latrobe Basin Water Accounts" means an annual report, required by the Minister, on compliance by entitlement holders and licensees, respectively, in the Latrobe Basin, with the terms of their bulk entitlements or licences;

"Licence" means any licence granted under Part 4 of the Act;

"other Authority" means an Authority other than the Authority or any other person holding a bulk entitlement granted under Division 1 or 3 of Part 4 of the Act;

"passing flow" means an amount of flow referred to in the Bulk Entitlement (Latrobe—Southern Rural) Conversion Order 1996 which the Storage Operator is obliged to pass at nominated points in the System Waterway;

"regulated release" means any release from Blue Rock Reservoir or Lake Narracan excluding releases made by the Storage Operator to—

- (a) provide passing flows; or
- (b) pass floodwaters; or
- (c) pass flows which cannot be stored; or
- (d) secure the safety of the Headworks Storages under emergency situations;

"reservoir entitlement holders" means all Authorities holding a bulk entitlement in respect of Blue Rock Reservoir at the relevant time;

"Resource Manager" means any person appointed by the Minister to do all or any of the following—

- (a) prepare the Latrobe Basin Water Accounts; and
- (b) monitor whether entitlement holders in the Latrobe Basin comply with the conditions of their bulk entitlements; and

- (c) investigate and mediate disputes between entitlement holders in the Latrobe Basin; and
- (d) investigate and deal with significant unauthorised uses of water in the Latrobe Basin; and
- (e) supervise the qualification of any rights to water made by the Minister during periods of declared water shortage under section 13 of the Act.

"river regulation costs" means those costs attributed to the accounting and operating arrangements, established under the Bulk Entitlement (Latrobe—Southern Rural) Conversion Order 1996, to manage the sharing of unregulated flow;

"source costs" means the total annual cost to -

- (a) operate, maintain and administer the Headworks System; and
- (b) make releases from the Headworks System (excluding the river regulation costs); and
- (c) meet the financial charges associated with any new or enhancement works undertaken on the Headworks Storages; and
- (d) make an appropriate allowance for depreciation of works associated with the Headworks System, except Lake Narracan and Yallourn Weir, using the deprival value approach, or such other depreciation methodology adopted by the Victorian Department of Treasury and Finance to apply to Authorities; and
- (e) manage the catchment for water supply purposes to protect the quality of water diverted to, and stored in, the Headworks System; and
- (f) manage the stream gauging stations necessary to operate the Headworks System; and
- (g) implement the program established under the Bulk Entitlement (Latrobe - Southern Rural) Conversion Order 1996, to manage the environmental effects of the Headworks System;

"Storage Operator" means any person appointed by the Minister to operate the Headworks System, to manage or measure the flow into the headworks system or System Waterway, or to do all or any of them;

“System Waterway” means the Tanjil River between Blue Rock Reservoir and the Latrobe River, and the Latrobe River downstream of its confluence with the Tanjil River, including the pools formed by, and immediately upstream of, the Blue Rock and Narracan Dams and Yallourn Weir;

“unregulated flow” means any flows in the waterway which cannot be attributed to a regulated release;

“year” means the 12 months next following 1 July.

#### 5. CONVERSION TO BULK ENTITLEMENTS

Only that part of the Authority’s entitlement to water from the System Waterway, to provide for the future electricity generation requirements of the SECV or other purposes determined by the SECV, is converted to a bulk entitlement on the conditions set out in this Order.

#### 6. BULK ENTITLEMENT

6.1 The Authority may take the share of flow from the waterway to meet its requirements up to an annual total of 25 000 ML.

6.2 The total annual amount of regulated releases from the Authority’s share of Blue Rock Reservoir must not exceed 12 000 ML.

6.3 Subject to section 46 of the Act, this bulk entitlement may be transferred—

- (a) temporarily or permanently;
- (b) in whole or in part;
- (c) for any purpose, including an in-stream use of water.

6.4 The Minister may vary the maximum amount of diversion or regulated release specified under sub-clauses 6.1 and 6.2 respectively for the purpose of making any transfer of this bulk entitlement authorised under section 46 of the Act.

#### 7. SHARE OF CAPACITY

The Authority is entitled to—

- (a) a 10.43% share of the total storage capacity of Blue Rock Reservoir, where the total storage capacity is 208 200 ML at a full supply level of 140.00 metres AHD; and
- (b) a 20.86% share of the total storage capacity of Lake Narracan, where the

total storage capacity is 8000 ML at a full supply level of 47.7 metres AHD; and

- (c) all water stored in its share of the storages specified in this sub-clause less a share of losses. Losses are to be assessed as specified in Schedule 1.

#### 8. SHARE OF FLOW

8.1 The Authority may—

- (a) after the passing flows requirements have been met, store 10.43% of all the inflow into Blue Rock Reservoir from the catchment up to that amount required to fill its share of storage capacity;
- (b) after the passing flows requirements have been met, store 15.61% of unregulated inflow into Lake Narracan to fill its share of storage capacity;
- (c) store a greater proportion of the inflow where part of that inflow is assessed by the Storage Operator, as specified in Schedule 1, as an internal spill;

8.2 The Authority must not store as part of its bulk entitlement in Blue Rock Reservoir or Lake Narracan any flow into the storage—

- (a) which is specified as the passing flow by the Storage Operator; or
- (b) which is being transferred by the holder of any other bulk entitlement; or
- (c) any flow into the storage when the Authority’s share of the storage is full.

#### 9. REQUIREMENTS TO TAKE WATER

9.1 If the Authority proposes to take water under this entitlement, it must first—

- (a) propose to the Minister details of the proposed location and the amount of the extraction; and
- (b) propose to the Minister an allowance for any losses and gains if the proposed point of extraction is from a location other than the pool formed by Yallourn Weir; and
- (c) propose to the Minister details of any proposed amendment to the Authority’s metering program approved under subclause 11.3; and
- (d) ascertain and provide the Minister with any operational requirements of the



Resource Manager or the Storage Operator.

9.2 The Minister may—

- (a) approve the Authority's proposal under sub-clause 9.1; or
- (b) require the Authority to amend any aspect of the proposal.

9.3 The Authority must—

- (a) advise the Resource Manager in writing within 14 days of any proposal approved by the Minister under sub-clause 9.2; and
- (b) provide the Resource Manager with such information concerning the proposed diversion as the Resource Manager may, from time to time, require.

#### 10. RELEASES

10.1 Subject to sub-clause 10.2 the capacity of the outlet works of the reservoir is to be shared in proportion to inflow shares between the reservoir entitlement holders.

10.2 The Authority, after consultation with any other Authorities holding an inflow share to Blue Rock Reservoir, may, within twelve months of the date of this Order, and then from time to time, propose to the Minister an alternate means to ensure a fair and reasonable means of sharing the capacity of the outlet works of the reservoir.

10.3 The Minister must—

- (a) approve all or any means proposed under sub-clause 10.2 where there is agreement to the proposal by all other Authorities holding an inflow share; or
- (b) where all other Authorities cannot agree, refer the proposal to an independent expert established under sub-clause 18.2 for determination in accordance with clause 18.

#### 11. SUPPLY OF WATER

11.1 The Authority and the Storage Operator must endeavour to agree on operational arrangements to allow the Storage Operator to borrow storage capacity in Lake Narracan for operational purposes.

11.2 If the Authority and the Storage Operator have not reached agreement under sub-clause 11.1 within twelve months of the date of this Order either party may give written

notice to the other party requiring the matter to be determined in accordance with clause 19.

#### 12. METERING PROGRAM

12.1 The Authority must propose to the Minister a metering program as part of any proposal approved under clause 9 to take water under this bulk entitlement.

12.2 The metering program prepared under sub-clause 12.1 must include details of any agreement between the Authority and any other person for measuring and calculating inflows to storages or water taken.

12.3 The Minister may—

- (a) approve the program proposed under sub-clause 12.1; or
- (b) require the Authority to amend the proposed program; and
- (c) require the Authority—
  - (i) to review the program approved by the Minister if, in the Minister's opinion, it is, at any time, no longer appropriate; and
  - (ii) to propose an amended program to the Minister.

12. The Authority must, at its cost -

- (a) implement the approved metering program; and
- (b) operate and maintain metering equipment and associated measurement structures in good condition and ensure that metering equipment is periodically re-calibrated, in accordance with any guidelines issued by the Minister; and
- (c) keep a record of all work undertaken under paragraph 12.4(b).

#### 13. REPORTING REQUIREMENTS

13.1 The Minister may require the Authority to report on all or any of the following matters, as provided in this clause:

- (a) any water taken under this entitlement approved under sub-clause 9.2;
- (b) the implementation of programs approved under sub-clause 12.3;
- (c) any temporary or permanent transfer of all or part of this bulk entitlement;
- (d) any bulk entitlement or licence in respect of the waterway temporarily or permanently transferred to the Authority;

- (e) any amendment to this bulk entitlement;
- (f) any failure by the Authority to comply with any provision of this bulk entitlement;
- (g) any existing or anticipated difficulties experienced by the Authority in complying with this bulk entitlement and any remedial action taken or proposed by the Authority.

13.2 The Minister may require the Authority to report on all or any of the matters set out in sub-clause 13.1—

- (a) in writing or in such electronic form as may be agreed between the Authority and the Minister; and
- (b) within 14 days of receiving the Minister's written request or such longer period as the Minister may determine.

13.3 The Authority must, for the period of the preceding year, report, by 1 August in any year, to the Minister on each of the matters set out in sub-clause 13.1.

13.4 The Resource Manager may require the Authority to report from time to time, on all or any of the matters set out in sub-clause 13.1.

13.5 Any report under sub-clause 13.4 must be made—

- (a) in such form as may be agreed between the Authority and the person to whom the report is made; and
- (b) unless the Authority and that person agree otherwise, within 14 days of the Authority receiving a request for a report on any matter set out in sub-clause 13.1.

14. WATER RESOURCE MANAGEMENT COSTS

14.1 Subject to sub-clause 16.1, the Authority must pay the Resource Manager a proportion of the costs incurred by the Resource Manager to—

- (a) prepare the Latrobe Basin Water Accounts; and
- (b) monitor whether entitlement holders in the Latrobe Basin comply with the conditions of their bulk entitlements; and

- (c) investigate and mediate disputes between entitlement holders in the Latrobe Basin; and
- (d) investigate and deal with significant unauthorised uses of water in the Latrobe Basin; and
- (e) supervise the qualification of any rights to water made by the Minister during periods of declared water shortage under section 13 of the Act.

14.2 The proportion of the costs referred to in sub-clause 14.1 will be as determined under sub-clause 16.5.

15. STORAGE OPERATOR COSTS

15.1 Subject to sub-clause 16.1 the Authority must pay the Storage Operator an annual source charge which will be determined according to sub-clause 15.2.

15.2 The Authority must pay the Storage Operator—

- (a) a percentage of the annual source charges for Lake Narracan and Yallourn Weir as follows—

$$Cs = \$ [0.2086 \times S \times (1+m)] + [0.1561 \times r \times (1+m)]$$

and

- (b) a percentage of the annual source charge for Blue Rock Reservoir as follows -

$$Cs = \$ 0.1043 \times S \times (1+m)$$

where—

- Cs= the annual source charge.
- S= the estimated source costs for the year for which charges are prepared.
- r= the estimated river regulation costs for the year for which charges are prepared.
- m= the business margin set at 10% at the date of the Order. Any variation to this rate is to be mutually agreed as per sub-clause 17(a).

15.3 The annual source charge must be paid by the Authority each year whether or not water has been taken from the storages by the Authority in that year.

16. DUTY TO KEEP ACCOUNTS AND FIX PROPORTIONS

16.1 The Authority is not obliged to make any payment to—

- (a) the Resource Manager under clause 14; or
- (b) the Storage Operator under clause 15—  
unless the person to whom the payment is payable chooses to comply with the provisions of this clause relevant to those payments.

16.2 Separate accounts of all costs and payments must be kept—

- (a) by the Resource Manager in respect to clause 14; and
- (b) the Storage Operator in respect to clause 15.

16.3 The Water Authority responsible for the Headworks Storages must consult with the Authority on any proposal to undertake new or enhancement works on a Headworks Storage, providing reasonable detail and the need for those works, prior to undertaking those works.

16.4 The Authority may object to any proposal referred to in sub-clause 16.3 and may give written notice to the other party requiring the matter to be determined by referral to an independent expert in accordance with clause 19.

16.5 The Resource Manager must, by 1 March in any year, provide an estimate, in respect of the ensuing year, of a fair and reasonable proportion of the costs referred to in sub-clause 14.1.

16.6 The Storage Operator must, by 1 March in any year, in conjunction with the Water Authority responsible for the Headworks Storages, provide the Authority with an estimate of the annual source charge referred to in sub-clause 15.2, for the ensuing year.

16.7 Accounts required to be kept under this clause must be made available for inspection by the Authority upon request.

#### 17. DUTY TO MAKE PAYMENTS

Any amount payable by the Authority under clauses 14 and 15—

- (a) is to be based on the actual expenditure for the period specified in paragraph 17(b) and include any adjustment from a previous period to reflect the actual cost of the work; and
- (b) unless the Authority and the person to whom the amount is payable agree otherwise—

- (i) must be paid quarterly in arrears, within 28 days of the Authority receiving an invoice for amounts payable under clause 14; and
- (ii) must be paid monthly in arrears, within 28 days of the Authority receiving an invoice for amounts payable under clause 15.

#### 18. DATA

18.1 The Minister will use the Minister's best endeavours to ensure that all hydrological and other data required by the Authority to comply with this bulk entitlement are made available to the Authority, free of charge.

18.2 The Authority must make available data collected for the purpose of the metering program and reporting under sub-clauses 12.1 and 13.1 to any person, subject to the person paying any fair and reasonable access fee imposed by the Authority, to cover the costs of making the data available.

#### 19. DISPUTE RESOLUTION

19.1 If any difference or dispute arises between the Authority, the Minister and, with his or her consent, the Resource Manager (the "parties") concerning the interpretation or application of this Order, which is not resolved within 14 days of it arising, any party may give written notice to the others requiring the matter to be determined by an independent expert, if it is not otherwise resolved, within 14 days of that notice.

19.2 The independent expert will be either—

- (a) a person agreed on by the parties to the difference or dispute; or
- (b) if those parties cannot agree, a person nominated by the President of the Institute of Arbitrators Australia.

19.3 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.

19.4 The independent expert must send a copy of the conclusion and its supporting reasons to each party to the difference or dispute.

19.5(a) In any difference or dispute to which the Minister is a party, the independent

expert must express the conclusion as a recommendation.

- (b) the Minister must consider any recommendation made under paragraph 19.5(a) before deciding to give a direction under section 307 or to take any other action under the Act in relation to the difference or dispute.

19.6 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.

19.7 The apportionment of the costs of and incidental to every reference, including the costs of the independent expert, shall be at the discretion of the independent expert.

Signed:

Geoff Coleman,

Minister administering the **Water Act 1989**

Dated:

Schedule 1

Evaporation Losses and Internal Spills

1. Evaporation Losses

Evaporation losses from—

- (a) Lake Narracan are calculated using the formula

$$e = A \times E \times 0.01 \times (s1/s)$$

- (b) the Blue Rock Reservoir are calculated using the formula

$$e = A \times E \times 0.01 \times (s1/s)$$

where

- e - evaporation loss in ML
- s - volume of water in ML in either Lake Narracan or Blue Rock Reservoir as appropriate
- A - surface area in hectares corresponding to s
- E - pan evaporation in mm
- s1 - volume of water in ML in the Authority's share of Lake Narracan or Blue Rock Reservoir as appropriate

2. Internal Spills

The amount of internal spill cannot exceed a volume equal to the amount by which the other entitlement holder's storage is below its full share. Any internal spill is to be redistributed in proportion to the inflow shares of those Authorities whose shares of storage capacity are not full.

3. Storage Accounts

The storage accounts maintained by the Storage Operator will be adjusted for -

- (i) the share of inflow apportioned to the Authority;
- (ii) any internal spill;
- (iii) any release directed by the Authority to meet its water supply requirements including any allowances for in-transit losses; and
- (iv) any allowances for the Authority's share of evaporation losses or seepage losses from storage.

*Note:* An explanatory note that accompanies this Order is available from the Water Bureau, Department of Conservation and Natural Resources.

**Water Act 1989**

Bulk Entitlement (Latrobe—Southern Rural)  
Conversion Order 1996

I, Charles Geoffrey Coleman, Minister administering the **Water Act 1989**, make the following Order:

1. CITATION

This Order may be cited as the Bulk Entitlement (Latrobe—Southern Rural) Conversion Order 1996.

2. EMPOWERING PROVISIONS

This Order is made under sections 43 and 47 of the —

3. COMMENCEMENT

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

4. DEFINITIONS

In this Order—

"Act" means the **Water Act 1989**;

"AHD" means the Australian Height Datum

"Authority" means the Gippsland and Southern Rural Water Authority;

"capacity share" means a water entitlement which is expressed as a percentage share of all or any of the following depending on the context in which the expression is used—

- (a) storage capacity; and
- (b) inflows to the storage; and
- (c) storage and transmission losses; and

- (d) storage release capacity; and
- (e) unregulated flow; and
- (f) water carrier capacity;

"entitlement holder" means a person holding a bulk entitlement under the Act;

"exchange rate" means the rate, determined by the Minister, at which the security of supply varies inversely to the annual entitlement;

"Headworks Storages" means the water supply works of Blue Rock Dam, Lake Narracan and Yallourn Weir;

"Headworks System" means—

- (a) Headworks Storages; and
- (b) the System Waterway;

"Internal Spill" means the redistribution of inflow shares which occurs where an Authority's share of inflow is in excess of the volume required to fill its share of storage capacity;

"Latrobe Basin Water Accounts" means an annual report, required by the Minister, on compliance by entitlement holders and licensees, respectively, in the Latrobe Basin, with the terms of their bulk entitlements or licences;

"Licence" means any licence granted under Part 4 of the Act;

"modified natural flow" means the sum of the flows of the Tanjil River at Tanjil South (gauging station number 226216) and the unregulated flows above the respective specified passing flow point;

"other Authority" means an Authority other than the Authority or any other person holding a bulk entitlement granted under Division 1 of Part 4 of the Act;

"passing flows" means the flows referred to in clause 11;

"primary entitlement" means an entitlement or commitment referred to in clause 7;

"regulated release" means any release from Blue Rock Reservoir or Lake Narracan excluding releases made by the Storage Operator to—

- (a) provide passing flows; or
- (b) pass floodwaters; or
- (c) pass flows which cannot be stored; or
- (d) secure the safety of the Headworks Storages under emergency situations;

"Resource Manager" means any person appointed by the Minister to do all or any of the following—

- (a) prepare the Latrobe Basin Water Accounts; and
- (b) monitor whether entitlement holders in the Latrobe Basin comply with the conditions of their bulk entitlements; and
- (c) investigate and mediate disputes between entitlement holders in the Latrobe Basin; and
- (d) investigate and deal with significant unauthorised uses of water in the Latrobe Basin; and
- (e) supervise the qualification of any rights to water made by the Minister during periods of declared water shortage under section 13 of the Act.

"river regulation costs" means those costs attributed to the accounting and operating arrangements referred to in sub-clause 13.2

"Rosedale Gauging Station" means the stream gauging station, number 226228, located on the main stream of the Latrobe River at Rosedale;

"security of supply"<sup>1</sup> means the statistical probability of being able to supply a given volume of water in a year;

"source costs" means the total annual cost to—

- (a) operate, maintain and administer the Headworks System; and
- (b) make releases from the Headworks System (excluding the river regulation costs); and
- (c) meet the financial charges associated with any new or enhancement works undertaken on the Headworks Storages; and
- (d) make an appropriate allowance for depreciation of works associated with the Headworks System, except Lake Narracan and Yallourn Weir, using the deprival value approach, or such other depreciation methodology adopted by the Victorian Department of Treasury

<sup>1</sup>See Explanatory Note of Schedule 2 accompanying the Order

and Finance to apply to Authorities; and

- (e) manage the catchment for water supply purposes to protect the quality of water diverted to, and stored in, the Headworks System; and
- (f) manage the stream gauging stations necessary to operate the Headworks System; and
- (g) implement the program established under the Bulk Entitlement (Latrobe - Southern Rural) Conversion Order 1995, to manage the environmental effects of the Headworks System;

“Storage Operator” means any person appointed by the Minister to operate the Headworks System, to manage or measure the flow into the headworks system or System Waterway, to keep, and report on, the water accounts of the capacity shares, or to do all or any of them;

“Swing Bridge (Sale) Gauging Station” means the stream gauging station, number 226027, located on the Latrobe River;

“System Waterway” means the Tanjil River between Blue Rock Reservoir and the Latrobe River, and the Latrobe River downstream of its confluence with the Tanjil River, including the pools formed by, and immediately upstream of, the Blue Rock and Narracan Dams and Yallourn Weir;

“Thoms Bridge Gauging Station” means the stream gauging station, number 226005, located on the Latrobe River;

“unregulated flow” means any flows in the System Waterway which cannot be attributed to a regulated release or a discharge from the works of an industrial company or other Authority;

“year” means the 12 months next following 1 July.

#### 5. CONVERSION TO BULK ENTITLEMENTS

All of the Authority's entitlement to water from the System Waterway is converted to a bulk entitlement on the conditions set out in this Order.

#### 6. BULK ENTITLEMENT

6.1 The Authority may take the share of flow from the System Waterway to meet its

requirements and to supply primary entitlements up to an average annual total of 13 400 ML over any period of two consecutive years.

6.2 Regulated releases from the Authority's share of Blue Rock Reservoir must not exceed an average annual total of 3 600 ML over any period of two consecutive years.

#### 7. OBLIGATIONS TO SUPPLY PRIMARY ENTITLEMENTS

Water taken from the System Waterway under this bulk entitlement must be used to supply the licences, described in Schedule 1, in accordance with the allocation procedures and restriction policies referred to in sub-clause 13.4(b) and Schedule 2.

#### 8. TRANSFER OF ENTITLEMENT/ ADJUSTMENT OF SCHEDULES

8.12 Subject to section 46 of the Act and clause 8.2, this bulk entitlement may be transferred—

- (a) temporarily or permanently;
- (b) in whole or in part;
- (c) for any purpose, including an in-stream use of water.

8.2 The Minister may, from time to time, alter Schedule 1 to reflect—

- (a) any trading between a person holding a licence and another bulk entitlement;
- (b) any new licence allocated under section 51, 52 or 57 of the Act;
- (c) any trading between persons holding licences;
- (d) alterations to the security of any licence included under Schedule 2 in accordance with exchange rates determined by the Minister;

#### 9. SHARE OF CAPACITY

The Authority is entitled to—

- (a) a 2.0% share of the total storage capacity of Blue Rock Reservoir, where the total storage capacity is 208 200 ML at a full supply level of 140.00 metres AHD; and
- (b) a 0% share of the total storage capacity of Lake Narracan, where the total storage capacity is 8000 ML at a full supply level of 47.7 metres AHD.

- (c) all water stored in its share of the storages specified in this sub-clause less a share of losses. Losses are to be assessed as specified in Schedule 3.

#### 10. SHARE OF FLOW

10.1 The Authority may—

- (a) after the passing flows requirements have been met, store 2.0% of all the inflow into Blue Rock Reservoir from the catchment up to that amount required to fill its share of storage capacity;
- (b) store a greater proportion of the inflow where part of that inflow is assessed by the Storage Operator, as specified in Schedule 3, as an internal spill;

10.2 The Authority, after allowing for the passing flows requirements at the Thoms Bridge, Rosedale and Swing Bridge Gauging Stations, specified in clause 11, may allow, subject to sub-clause 13.4, those licence holders referred to in Schedule 1 to take from the System Waterway—

- (a) a 25.15% share of the unregulated flow, as calculated by the Storage Operator, at the point immediately downstream of Lake Narracan; and
- (b) additional unregulated flow above its 25.15% share, at the point immediately downstream of Lake Narracan, subject to the additional flow in excess of the Authority's flow share—
  - (i) not being used by any other Authority holding an entitlement to that additional flow; and
  - (ii) being shared with other Authorities holding a share of unregulated flow at this point in proportion to each of the Authorities' shares of unregulated flow.

10.3 The Authority must not store as part of its bulk entitlement in Blue Rock Reservoir any flow into the storage—

- (a) which is specified as the passing flow by the Storage Operator; or
- (b) which is being transferred by the holder of any other bulk entitlement; or
- (c) when the Authority's share of the storage is full.

#### 11. PASSING FLOW

11.1 The Authority must direct the Storage Operator to provide—

- (a) a minimum passing flow in the Tanjil River immediately below the Blue Rock Dam to maintain the flow at the Tanjil South gauging station as specified in Schedule 4, or the natural flow at this location, whichever is the lesser; and
- (b) a minimum passing flow below Yallourn Weir to maintain flows in the Latrobe River of a minimum average weekly flow of 350 ML/d over any seven day period, at a daily rate of no less than 300 ML/d, at the Thoms Bridge gauging station, or the modified natural flow at this location, whichever is the lesser; and
- (c) to provide, to its best endeavours in the period until 1 July 1999, after which time it must provide, a minimum passing flow below Yallourn Weir to maintain flows in the Latrobe River of a minimum average weekly flow of -
  - (i) 500 ML/d over any seven day period, at a daily rate of no less than 450 ML/d, at the Rosedale gauging station, or the modified natural flow, whichever is the lesser; and
  - (ii) 750 ML/d over any seven day period, at a daily estimated rate of no less than 700 ML/d, at the Swing Bridge (Sale) gauging station, or the modified natural flow, whichever is the lesser.

11.2 The Authority must propose to the Minister within three months of the date of this Order a basis under which the flow referred to in sub-clause 11.1(c)(ii) is to be estimated.

11.3 The Authority, after consultation with other entitlement holders from the System Waterway and the Department of Conservation and Natural Resources, may propose to the Minister a variation to the minimum passing flows as set out in sub-clause 11.1 to either—

- (a) reinstate the flow regime in the System Waterway where this has been adversely affected by the—
  - (i) return flows from other Authorities to the System

- Waterway and its tributary streams being less than those assumed by the Minister at the commencement of this Order; or
- (ii) provision for losses, assessed to be necessary by the Storage Operator, in the release of water from Blue Rock Reservoir or Lake Narracan, being greater than those assumed by the Minister at the commencement of this Order; or
- (b) increase operational flexibility in meeting the minimum average passing flow requirements.
- 11.4 The proposal referred to in sub-clause 11.3(a) must—
- (a) demonstrate that—
- (I) with respect to paragraph 11.3(a)(I)—
- (A) any monthly shortfalls, between the expected return flow contributions, based on recent records, and the assumed return flows, could not be provided from other compensating factors or from borrowing arrangements between the Storage Operator and any other Authority; and
- (B) in the period after 1 July 1999, based on the actual records to that date, the return flow contributions are expected to be significantly different in the long term from the return flows assumed at the commencement date of the Order; and
- (ii) with respect to paragraph 11.3(a)(ii), under operational experience over a period of not less than 1 year, the actual losses are significantly higher than those assumed at the commencement date of the Order; and
- (b) provide an assessment of the effect on the security of supply to other entitlement holders.
- 11.5 The proposal referred to in sub-clause 11.3(b) must demonstrate that, under operational experience over a period of not less than 1 year, the provision of the average passing flow requirements cannot be met without an unreasonable impact on the security of licence holders.
- 11.6 The Minister may—
- (a) approve or not approve a proposal made under sub-clauses 11.2 or 11.3; or
- (b) require the Authority to amend the proposal; and
- (c) require the Authority—
- (i) to review all or part of any proposal approved by the Minister if, in the Minister's opinion, it is, at any time, no longer fair, reasonable or representative; and
- (ii) to propose an amended proposal to the Minister.
- 11.7 The Authority must—
- (a) advise the Resource Manager in writing within 14 days of any proposal approved by the Minister under sub-clause 11.6; and
- (b) provide the Resource Manager with such other information concerning the proposed passing flows as the Resource Manager may, from time to time, require.

## 12. RELEASES

12.1 The Authority must direct the Storage Operator to release water to meet the passing flow requirements in the Tanjil and Latrobe Rivers.

12.2 Subject to sub-clause 12.3 the capacity of the outlet works of Blue Rock Reservoir is to be shared in proportion to inflow shares between the reservoir entitlement holders.

12.3 The Authority, after consultation with any other Authorities holding an inflow share to Blue Rock Reservoir, may, within twelve months of the date of this Order, and then from time to time, propose to the Minister an alternate means to ensure a fair and reasonable means of sharing the capacity of the outlet works of the reservoir.

12.4 The Minister must—

- (a) approve all or any means proposed under sub-clause 12.3 where there is agreement to the proposal by all other Authorities holding an inflow share; or



- (b) where all other Authorities cannot agree, refer the proposal to an independent expert established under sub-clause 22.2 for determination in accordance with clause 22.

### 13. SUPPLY OF WATER

13.1 The Authority will direct the Storage Operator to maintain the water level within the pool formed by Yallourn Weir at a height -

- (a) no less than 40.35 m AHD, unless agreement is reached with any other Authority holding a bulk entitlement to take water from the pool, to vary this arrangement; and
- (b) not exceeding 40.75 m AHD except in the event of extreme flood conditions.

13.2 The Authority and the Storage Operator must endeavour to agree on operational arrangements for the supply of water from the storages mentioned in clause 7.

13.3 If the Authority and the Storage Operator have not reached agreement under sub-clause 13.2 within twelve months of the date of this Order either party may give written notice to the other party requiring the matter to be determined in accordance with clause 22.

13.4 The Authority, after consultation with other Authorities where unregulated flow is shared, must propose to the Minister within three months of the date of this Order -

- (a) the water accounting and operating arrangements which govern the Authority's share of water to supply licence holders from the System Waterway; and
- (b) the allocation procedures and restriction policies to ensure the Authority's usage through diversions by licence holders is in accordance with clause 6 and Schedule 2.

13.5 The proposal referred to in sub-clause 13.4(a) must include the procedures, to be undertaken by the Storage Operator, to translate the daily projected usage by licence holders from the System Waterway to an equivalent volume at the point below Lake Narracan where the unregulated flow is shared, to establish -

- (a) the Authority's use of its inflow share; and
- (b) the unused share of inflow that is available for use by other Authorities.

13.6 The Minister may—

- (a) approve a proposal made under sub-clause 13.4; or
- (b) require the Authority to amend the proposal; and
- (c) require the Authority—
  - (i) to review all or part of any proposal approved by the Minister if, in the Minister's opinion, it is, at any time, no longer fair, reasonable or representative; and
  - (ii) to propose an amended proposal to the Minister.

13.7 The Authority must—

- (a) advise the Resource Manager in writing within 14 days of any proposal approved by the Minister under sub-clause 13.4 and
- (b) provide the Resource Manager with such other information concerning the proposed diversion as the Resource Manager may, from time to time, require.

### 14. ENVIRONMENTAL OBLIGATIONS

14.1 The Authority must propose to the Minister, within 12 months of the date of this Order, a program to manage the environmental effects of the Authority's works to allow water to be taken from the System Waterway, including—

- (a) the effects on the bed and banks of the waterway in the vicinity of the Authority's works; and
- (b) operational practices to remove silt from works; and
- (c) operational practices to manage the water quality in works on the waterway; and
- (d) operational rules to control releases from works to the waterway; and
- (e) operational rules to manage flood flows through works on the waterway.

14.2 The Minister may—

- (a) approve the program proposed under sub-clause 14.1; or
- (b) require the Authority to amend the proposed program; and
- (c) require the Authority -
  - (i) to review the program approved by the Minister if, in the

- Minister's opinion, it is, at any time, no longer appropriate; and
- (ii) to propose an amended program to the Minister.

14.3 The Authority must at its cost -

- (a) implement the approved program; and
- (b) keep a record of—
- (i) all work undertaken under paragraph (a); and
- (ii) separate accounts of all costs and payments for this work.

14.4 The Authority may recover the costs of implementing the approved program from the Storage Operator.

15. METERING PROGRAM

15.1 The Authority must propose to the Minister within 12 months of the date of this Order a metering program to demonstrate compliance with this bulk entitlement with respect to—

- (a) all water taken by the Authority under this bulk entitlement; and
- (b) the flow into each or any of the storages mentioned in clause 9; and
- (c) the passing flows.

15.2 The metering program prepared under sub-clause 15.1 must include details of any agreement between the Authority and any other person for measuring and calculating instream flows or water taken.

15.3 The Minister may—

- (a) approve the program proposed under sub-clause 15.1; or
- (b) require the Authority to amend the proposed program; and
- (c) require the Authority—
- (i) to review the program approved by the Minister if, in the Minister's opinion, it is, at any time, no longer appropriate; and
- (ii) to propose an amended program to the Minister.

15.4 The Authority must, at its cost—

- (a) implement the approved metering program; and
- (b) operate and maintain metering equipment and associated measurement structures in good condition and ensure that metering equipment is periodically re-calibrated,

in accordance with any guidelines issued by the Minister; and

- (c) keep a record of all work undertaken under paragraph (b).

16. REPORTING REQUIREMENTS

16.1 The Authority may be required to report on all or any of the following matters, as provided in this clause:

- (a) the daily flow passing Blue Rock Reservoir, Lake Narracan and Yallourn Weir;
- (b) the daily flow passing the Tanjil South, Thoms Bridge and Rosedale gauging stations and the estimated daily flow passing the Swing Bridge (Sale) gauging station;
- (c) the estimated daily amount of water taken by Licence holders, listed under Schedule 1, from the System Waterway—
- (i) upstream of Yallourn Weir; and
- (ii) downstream of Yallourn Weir;
- (d) the daily flow into Blue Rock Reservoir and Lake Narracan;
- (e) the amount of water in Blue Rock Reservoir and Lake Narracan;
- (f) the amount of water in the Authority's share of Blue Rock Reservoir;
- (g) the annual amount of water taken by Licence holders, listed under Schedule 1, from the System Waterway—
- (i) upstream of Yallourn Weir; and
- (ii) downstream of Yallourn Weir;
- (h) the amount of annual losses debited to the Authority's share of Blue Rock Reservoir;
- (i) the annual amount of any internal spill of water from, or to, the Authority's share of storage in Blue Rock Reservoir;
- (j) any periods of rationing and the degree of rationing of Licence holders listed under Schedule 1;
- (k) the operational performance in meeting the specified passing flow requirements in the period to 1 July, 1999, and any actions taken to overcome failures to meet the passing flow targets;

- (l) the implementation of programs approved under sub-clauses 14.2 and 15.3;
  - (m) any temporary or permanent transfer of all or part of this bulk entitlement;
  - (n) any bulk entitlement or licence in respect of the System Waterway temporarily or permanently transferred to the Authority;
  - (o) any amendment to this bulk entitlement;
  - (p) the annual amount supplied to any group of Licence holders specified by the Minister;
  - (q) any failure by the Authority to comply with any provision of this bulk entitlement;
  - (r) any existing or anticipated difficulties experienced by the Authority in complying with this bulk entitlement and any remedial action taken or proposed by the Authority.
- 16.2 The Minister may require the Authority to report on all or any of the matters set out in sub-clause 16.1—
- (a) in writing or in such electronic form as may be agreed between the Authority and the Minister; and
  - (b) within 14 days of receiving the Minister's written request or such longer period as the Minister may determine.
- 16.3 The Authority must, for the period of the preceding year, report in its Annual Report on each of the matters set out in sub-clause 16.1, except—
- (a) paragraphs 16.1(a), (b), (c) and (d) of sub-clause 16.1; and
  - (b) with the approval of the Minister, any particular failure referred to in paragraph (q) of sub-clause 16.1.
- 16.4 The Resource Manager may require the Authority to report from time to time, on all or any of the matters set out in paragraphs (a) to (r) of sub-clause 16.1.
- 16.5 Any report under sub-clause 16.4 must be made—
- (a) in such form as may be agreed between the Authority and the person to whom the report is made; and
  - (b) unless the Authority and that person agree otherwise—

- (i) within 24 hours of the Authority receiving a request for a report on any matter set out in paragraph (a) to (e) of sub-clause 16.1; or
- (ii) within 14 days of the Authority receiving a request for a report on any matter set out in paragraph (f) to (r) of sub-clause 16.1.

#### 17. WATER RESOURCE MANAGEMENT COSTS

17.1 Subject to sub-clause 19.1, the Authority must pay the Resource Manager a proportion of the costs incurred by the Resource Manager to—

- (a) prepare the Latrobe Basin Water Accounts; and
- (b) monitor whether entitlement holders in the Latrobe Basin comply with the conditions of their bulk entitlements; and
- (d) investigate and mediate disputes between entitlement holders in the Latrobe Basin; and
- (e) investigate and deal with significant unauthorised uses of water in the Latrobe Basin; and
- (f) supervise the qualification of any rights to water made by the Minister during periods of declared water shortage under section 13 of the Act.

17.2 The proportion of the costs referred to in sub-clause 17.1 will be as determined under sub-clause 19.3.

#### 18. STORAGE OPERATOR COSTS

18.1 Subject to sub-clause 19.1 the Authority must pay the Storage Operator an annual source charge which will be determined according to sub-clause 18.2.

18.2 The Authority must pay the Storage Operator—

- (a) a percentage of the annual source charges for Lake Narracan and Yallourn Weir as follows—
$$Cs = \$ [ 0.2515 \times r \times (1+m) ]$$
- (b) a percentage of the annual source charge for Blue Rock Reservoir as follows -
$$Cs = \$ 0.02 \times S \times (1+m)$$

where—

Cs= the annual source charge.

S= the estimated source costs for the year for which charges are prepared.

r= the river regulation costs for the year for which charges are prepared.

m= the business margin set at 10% at the date of the Order. Any variation to this rate is to be mutually agreed as per sub-clause 20(a).

18.3 The charge referred to in sub-clause 18.2 must be paid by the Authority every year regardless of the amount of water diverted from the System Waterway by Licence holders.

#### 19. DUTY TO KEEP ACCOUNTS AND FIX PROPORTIONS

19.1 The Authority is not obliged to make any payment to—

- (a) the Resource Manager under clause 17; or
- (b) the Storage Operator under clause 18—

unless the person to whom the payment is payable chooses to comply with the provisions of this clause relevant to those payments.

19.2 Separate accounts of all costs and payments must be kept—

- (a) by the Resource Manager in respect to clause 17; and
- (b) the Storage Operator under clause 18.

19.3 The Resource Manager must, by 1 March in any year, provide an estimate, in respect of the ensuing year, of a fair and reasonable proportion of the costs referred to in sub-clause 17.1.

19.4 The Storage Operator must, by 1 March in any year, in conjunction with the Water Authority responsible for the Headworks Storages, provide the Authority with an estimate of the annual source charge referred to in sub-clause 18.2, for the ensuing year.

19.5 Accounts required to be kept under this clause must be made available for inspection by the Authority upon request.

#### 20. DUTY TO MAKE PAYMENTS

Any amount payable by the Authority under clause 17 and 18—

- (a) is to be based on the actual expenditure for the period specified in paragraph (b) and include any adjustment from a previous period to reflect the actual cost of the work; and
- (b) unless the Authority and the person to whom the amount is payable agree otherwise—
  - (i) must be paid quarterly in arrears, within 28 days of the Authority receiving an invoice for amounts payable under clause 17; and
  - (ii) must be paid monthly in arrears, within 28 days of the Authority receiving an invoice for amounts payable under clause 18.

#### 21. DATA

21.1 The Minister will use the Minister's best endeavours to ensure that all hydrological and other data required by the Authority to comply with this bulk entitlement are made available to the Authority, free of charge.

21.2 The Authority must make available data collected for the purpose of the metering program and reporting under sub-clauses 15.1 and 16.1 to any person, subject to the person paying any fair and reasonable access fee imposed by the Authority, to cover the costs of making the data available.

#### 22. DISPUTE RESOLUTION

22.1 If any difference or dispute arises between the Authority, the Minister and, with their consent, the Resource Manager, the Storage Operator and the Water Authority responsible for Headworks Storages (the "parties") concerning the interpretation or application of this Order, which is not resolved within 14 days of it arising, any party may give written notice to the others requiring the matter to be determined by an independent expert, if it is not otherwise resolved, within 14 days of that notice.

22.2 The independent expert will be either—

- (a) a person agreed on by the parties to the difference or dispute; or
- (b) if those parties cannot agree, a person nominated by the Minister

22.3 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.

22.4 The independent expert must send a copy of the conclusion and its supporting reasons to each party to the difference or dispute.

22.5(a) In any difference or dispute to which the Minister is a party, the independent expert must express the conclusion as a recommendation.

(b) the Minister must consider any recommendation made under paragraph 22.5(a) before deciding to give a direction under section 307 or to take any other action under the Act in relation to the difference or dispute.

22.6 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.

22.7 The apportionment of the costs of and incidental to every reference, including the costs of the independent expert, shall be at the discretion of the independent expert.

Signed:

Geoff Coleman,  
Minister administering the **Water Act 1989**

Dated:

#### Schedule 1

##### Licences Identified as Primary Entitlements

The following entitlements, as established under Licence are to be supplied, or are to be available for supply subject to the supply arrangements approved under sub-clause 13.4:

1. 683 ML of licensed diversions issued to take and use water from the System Waterway upstream of Yallourn Weir.

2. 10456 ML of licensed diversions issued to take and use water from the System Waterway downstream of Yallourn Weir.

#### Schedule 2

##### Security of Primary Entitlements set out in Schedule 1

1. Except as set out in this clause, the Authority must supply the licence entitlements with 97% security.

2. The Minister may, by reference to an appropriate computer model, modify the level

of security set out in clause 1, where the Minister is satisfied that either—

(a) hydrological conditions have changed since May 1995; or

(b) the estimate of security of supply, based on the water allocation and operating rules applying at the date of this Order has improved.

3. Where the Authority is unable to supply the full primary entitlements listed in Schedule 1, the Authority must allocate the available water pro-rata between primary entitlements.

#### Schedule 3

##### Evaporation Losses and Internal Spills

###### 1. Evaporation Losses

Evaporation losses from—

(a) Lake Narracan are calculated using the formula

$$e = A \times E \times 0.01 \times (s1/s)$$

(b) the Blue Rock Reservoir are calculated using the formula

$$e = A \times E \times 0.01 \times (s1/s)$$

where

e - evaporation loss in ML

s - volume of water in either Lake Narracan or Blue Rock Reservoir as appropriate

A - surface area in hectares corresponding to s

E - pan evaporation in mm

s1 - volume of water in the Authority's share of Lake Narracan or Blue Rock Reservoir as appropriate

###### 2. Internal Spills

The amount of internal spill cannot exceed a volume equal to the amount by which the other entitlement holder's storage is below its full share. Any internal spill is to be redistributed in proportion to the inflow shares of those Authorities whose shares of storage capacity are not full.

###### 3. Storage Accounts

The storage accounts maintained by the Storage Operator will be adjusted for—

(i) the share of inflow apportioned to the Authority;

(ii) any internal spill;

(iii) any release directed by the Authority to meet its water supply

- requirements including any allowances for in-transit losses; and
- (iv) any allowance for the Authority's share of evaporation losses or seepage losses from storage.

Schedule 4  
Passing Flows for the Tanjil River at Tanjil South

Month	Minimum Passing Flow ML/d
January	90
February	90
March	90
April	90
May	100
June	100
July	100
August	150
September	150
October	150
November	150
December	100

*Note:* An explanatory note that accompanies this Order is available from the Water Bureau, Department of Conservation and Natural Resources.

**Water Act 1989**

Bulk Entitlement (Yallourn Energy Ltd)  
Conversion Order 1996

I, Charles Geoffrey Coleman, Minister administering the **Water Act 1989**, make the following Order:

1. CITATION

This Order may be cited as the Bulk Entitlement (Yallourn Energy Ltd) Conversion Order 1996.

2. EMPOWERING PROVISIONS

This Order is made under sections 43 and 47 of the **Water Act 1989**.

3. COMMENCEMENT

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

4. DEFINITIONS

In this Order—

“Act” means the **Water Act 1989**;

“AHD” means the Australian Height Datum

“Authority” means Yallourn Energy Limited (ACN 065 325 224) (a generation company within the meaning of the Electricity Industry Act 1993);

“capacity share” means a water entitlement which is expressed as a percentage share of all or any of the following depending on the context in which the expression is used -

- storage capacity; and
- inflows to the storage; and
- storage and transmission losses; and
- storage release capacity; and
- unregulated flow; and
- water carrier capacity;

“entitlement holder” means a person holding a bulk entitlement under the Act;

“Headworks Storages” means the water supply works of Blue Rock Dam, Lake Narracan and Yallourn Weir;

“Headworks System” means—

- Headworks Storages; and
- the System Waterway;

“Internal Spill” means the redistribution of inflow shares which occurs where an Authority's share of inflow is in excess of the volume required to fill its share of storage capacity;

“Latrobe Basin Water Accounts” means an annual report, required by the Minister, on compliance by entitlement holders and licensees, respectively, in the Latrobe Basin, with the terms of their bulk entitlements or licences;

“Licence” means any licence granted under Part 4 of the Act;

“other Authority” means an Authority other than the Authority or any other person holding a bulk entitlement granted under Division 1 or 3 of Part 4 of the Act;

“passing flow” means an amount of flow referred to in the Bulk Entitlement (Latrobe—Southern Rural) Conversion Order 1996 which the Storage Operator is obliged to pass at nominated points in the System Waterway;

“pumping station” means the works, located adjacent to the Latrobe River approximately 1.5 km upstream of Yallourn Weir at co-ordinates

395540E, 267926N, to take water from the System Waterway.

“regulated release” means any release from Blue Rock Reservoir or Lake Narracan excluding releases made by the Storage Operator to—

- (a) provide passing flows; or
- (b) pass floodwaters; or
- (c) pass flows which cannot be stored; or
- (d) secure the safety of the Headworks Storages under emergency situations;

“reservoir entitlement holders” means all Authorities holding a bulk entitlement in respect of Blue Rock Reservoir at the relevant time;

“Resource Manager” means any person appointed by the Minister to do all or any of the following—

- (a) prepare the Latrobe Basin Water Accounts; and
- (b) monitor whether entitlement holders in the Latrobe Basin comply with the conditions of their bulk entitlements; and
- (c) investigate and mediate disputes between entitlement holders in the Latrobe Basin; and
- (d) investigate and deal with significant unauthorised uses of water in the Latrobe Basin; and
- (e) supervise the qualification of any rights to water made by the Minister during periods of declared water shortage under section 13 of the Act;

“river regulation costs” means those costs attributed to the accounting and operating arrangements, established under the Bulk Entitlement (Latrobe—Southern Rural) Conversion Order 1996, to manage the sharing of unregulated flow;

“source costs” means the total annual cost to—

- (a) operate, maintain and administer the Headworks System; and
- (b) make releases from the Headworks System (excluding the river regulation costs); and
- (c) meet the financial charges associated with any new or enhancement works undertaken on the Headworks Storages; and

(d) make an appropriate allowance for depreciation of works associated with the Headworks System, except Lake Narracan and Yallourn Weir, using the deprival value approach, or such other depreciation methodology adopted by the Victorian Department of Treasury and Finance to apply to Authorities; and

(e) manage the catchment for water supply purposes to protect the quality of water diverted to, and stored in, the Headworks System; and

(f) manage the stream gauging stations necessary to operate the Headworks System; and

(g) implement the program established under the Bulk Entitlement (Latrobe - Southern Rural) Conversion Order 1996, to manage the environmental effects of the Headworks System;

“Storage Operator” means any person appointed by the Minister to operate the Headworks System, to manage or measure the flow into the headworks system or System Waterway, to keep, and report on, the water accounts of the capacity shares, or to do all or any of them;

“System Waterway” means the Tanjil River between Blue Rock Reservoir and the Latrobe River, and the Latrobe River downstream of its confluence with the Tanjil River to Lake Wellington, including the pools formed by, and immediately upstream of, the Blue Rock and Narracan Dams and Yallourn Weir;

“unregulated flow” means any flows in the waterway which cannot be attributed to a regulated release or discharge from the works of an industrial company or other Authority;

“year” means the 12 months next following 1 July.

## 5. CONVERSION TO BULK ENTITLEMENTS

Only that part of the Authority’s entitlement to water from the System Waterway to supply the electricity generation works of the Authority is converted to a bulk entitlement on the conditions set out in this Order.

## 6. BULK ENTITLEMENT

6.1 The Authority may take the share of flow from the System Waterway to meet its requirements up to an annual total of 36 500 ML.

6.2 The total annual amount of regulated releases from the Authority's share of Blue Rock Reservoir must not exceed 16 730 ML.

6.3 Subject to section 46 of the Act, this bulk entitlement may be transferred—

- (a) temporarily or permanently;
- (b) in whole or in part;
- (c) for any purpose, including an in-stream use of water.

6.4 The Minister may vary the annual maximum amount of diversion or regulated release specified under sub-clauses 6.1 and 6.2 respectively for the purpose of making any transfer of this bulk entitlement authorised under section 46 of the Act.

## 7. SHARE OF CAPACITY

The Authority is entitled to—

- (a) a 14.97% share of the total storage capacity of Blue Rock Reservoir, where the total storage capacity is 208 200 ML at a full supply level of 140.00 metres AHD; and
- (b) a 29.94% share of the total storage capacity of Lake Narracan, where the total storage capacity is 8000 ML at a full supply level of 47.7 metres AHD; and
- (c) all water stored in its share of the storages specified in this sub-clause less a share of losses. Losses are to be assessed as specified in Schedule 1.

## 8. SHARE OF FLOW

8.1 The Authority may—

- (a) after the passing flows requirements have been met, store 14.97% of all the inflow into Blue Rock Reservoir from the catchment up to that amount required to fill its share of storage capacity;
- (b) after the passing flows requirements have been met, store 22.41% of unregulated inflow into Lake Narracan to fill its share of storage capacity;
- (c) store a greater proportion of the inflow where part of that inflow is assessed by

the Storage Operator, as specified in Schedule 1, as an internal spill;

- (d) take, via the pumping station to the generation works of the Authority, up to a limit of 140 ML/d—

- (i) any flow released from Lake Narracan as ordered by the Authority for that purpose; and

- (ii) 22.41% of the unregulated flow passing Lake Narracan, as calculated by the Storage Operator; or

- (iii) additional unregulated flow passing Lake Narracan subject to the additional flow in excess of the Authority's flow share—

- (A) not being used by any other Authority holding an entitlement to that additional flow; and

- (B) being shared with other Authorities holding a share of unregulated flow at this point in proportion to each of the Authorities' shares of unregulated flow.

8.2 The Authority may take water under this entitlement for the permanent or temporary supply of water to the generation works of the Authority, at the site of any other of the Authority's diversion works, other than the pumping station.

8.3 Any accounting of water taken at a location other than the pumping station must make allowance for any losses or gains of water to be incurred between the pumping station and the point where water is to be taken.

8.4 The Authority must not take as part of its bulk entitlement or store in Blue Rock Reservoir or Lake Narracan any flow into the storage—

- (a) which is specified as the passing flow by the Storage Operator; or
- (b) which is being transferred by the holder of any other bulk entitlement; or
- (c) any flow into the storage when the Authority's share of the storage is full.

## 9. RELEASES

9.1 Subject to sub-clause 9.2 the capacity of the outlet works of Blue Rock Reservoir is to be



shared in proportion to inflow shares between the reservoir entitlement holders.

9.2 The Authority, after consultation with any other Authorities holding an inflow share to Blue Rock Reservoir, may, within twelve months of the date of this Order, and then from time to time, propose to the Minister an alternate means to ensure a fair and reasonable means of sharing the capacity of the outlet works of the reservoir.

9.3 The Minister must—

- (a) approve all or any means proposed under sub-clause 9.2 where there is agreement to the proposal by all other Authorities holding an inflow share; or
- (b) where all other Authorities cannot agree, refer the proposal to an independent expert established under sub-clause 9.2 for determination in accordance with clause 19.

#### 10. SUPPLY OF WATER

The Authority and the Storage Operator must endeavour to agree on operational arrangements—

- (a) for the supply of water from the storages mentioned in clause 7; and
- (b) to allow the Storage Operator to borrow storage capacity and/or volume in Lake Narracan for operational purposes.

If the Authority and the Storage Operator have not reached agreement under sub-clause 10.1 within twelve months of the date of this Order either party may give written notice to the other party requiring the matter to be determined in accordance with clause 19.

#### 11. SUPPLY OF WATER FOR EMERGENCY PURPOSES

11.1 The Authority may receive a supply from the works of another Authority during emergency situations, subject to there being an Agreement between the Authorities covering the operating arrangements, metering provisions and cost sharing arrangements covering the emergency supply.

11.2 Any water received by the Authority under sub-clause 11.1 is to be deemed to be part of the Authority's entitlement for the purpose of clause 6.

#### 12. METERING PROGRAM

12.1 The Authority must install a flow meter on the pipeline offtake from the pumping station to record all water taken by the Authority under this bulk entitlement.

12.2 The Authority must provide an estimate of all water taken from any other of the Authority's diversion works, other than the pumping station.

12.3 The Authority must provide the Minister with details of any agreement between the Authority and any other person for measuring water taken or the apportionment of water taken from the pumping station, or any other of the Authority's diversion works, between this bulk entitlement and any other bulk entitlement.

12.4 The Minister may require the Authority to either upgrade, or install new metering equipment if, in the Minister's opinion, the measurement or estimate of water taken is, at any time, no longer reliable, accurate or operationally appropriate.

12.5 The Authority must, at its cost—

- (a) operate and maintain metering equipment and any associated measurement structures in good condition and ensure that metering equipment is periodically re-calibrated, in accordance with any guidelines issued by the Minister; and
- (b) implement any request by the Minister to upgrade the metering equipment or install new metering equipment; and
- (c) keep a record of all work undertaken under paragraphs (a) and (b) of sub-clause 12.5.

#### 13. REPORTING REQUIREMENTS

13.1 The Minister may require the Authority to report on all or any of the following matters, as provided in this clause:

- (a) the daily amount of water taken by the Authority from the waterway at its pumping station and at any other of the Authority's diversion works;
- (b) the daily amount of water taken by the Authority from the works of another Authority under clause 11;
- (c) the daily amount of water returned to the System Waterway or tributary

- streams from the works of the Authority;
- (d) the annual amount of water taken by the Authority from the waterway at its pumping station and at any other of the Authority's diversion works;
  - (e) the annual amount of water taken by the Authority from the works of another Authority under clause 11;
  - (f) the work undertaken as part of the metering program under sub-clause 12.5;
  - (g) any temporary or permanent transfer of all or part of this bulk entitlement;
  - (h) any bulk entitlement or licence in respect of the System Waterway temporarily or permanently transferred to the Authority;
  - (i) any amendment to this bulk entitlement;
  - (j) any failure by the Authority to comply with any provision of this bulk entitlement; and
  - (k) any existing or anticipated difficulties experienced by the Authority in complying with this bulk entitlement and any remedial action taken or proposed by the Authority.
- 13.2 The Minister may require the Authority to report on all or any of the matters set out in sub-clause 13.1—
- (a) in writing or in such electronic form as may be agreed between the Authority and the Minister; and
  - (b) within 14 days of receiving the Minister's written request or such longer period as the Minister may determine.
- 13.3 The Authority must, for the period of the preceding year, report, by 1 August in any year, to the Minister on each of the matters set out in sub-clause 13.1, except paragraphs (a) to (c) of sub-clause 13.1;
- 13.4 The Resource Manager may require the Authority to report from time to time, on all or any of the matters set out in paragraphs (a) to (k) of sub-clause 13.1.
- 13.5 Any report under sub-clause 13.4 must be made—
- (a) in such form as may be agreed between the Authority and the person to whom the report is made; and

- (b) unless the Authority and that person agree otherwise—
  - (i) within 24 hours of the Authority receiving a request for a report on any matter set out in paragraphs (a) to (c) of sub-clause 13.1; or
  - (ii) within 14 days of the Authority receiving a request for a report on any matter set out in paragraphs (d) to (k) of sub-clause 13.1.

#### 14. WATER RESOURCE MANAGEMENT COSTS

14.1 Subject to sub-clause 16.1, the Authority must pay the Resource Manager a fair and reasonable proportion of the costs incurred by the Resource Manager to—

- (a) prepare the Latrobe Basin Water Accounts; and
- (b) monitor whether entitlement holders in the Latrobe Basin comply with the conditions of their bulk entitlements; and
- (d) investigate and mediate disputes between entitlement holders in the Latrobe Basin; and
- (e) investigate and deal with significant unauthorised uses of water in the Latrobe Basin; and
- (f) supervise the qualification of any rights to water made by the Minister during periods of declared water shortage under section 13 of the Act.

14.2 The proportion of the costs referred to in sub-clause 14.1 will be as determined under sub-clause 16.5.

#### 15. STORAGE OPERATOR COSTS

15.1 Subject to sub-clause 16.1 the Authority must pay the Storage Operator an annual source charge which will be determined according to sub-clause 15.2.

15.2 The Authority must pay the Storage Operator—

- (a) a percentage of the annual source charges for Lake Narracan and Yallourn Weir as follows—
- $$Cs = \$ [0.2994 \times S \times (1+m)] + [0.2241 \times r \times (1+m)]$$
- and

(b) a percentage of the annual source charge for Blue Rock Reservoir as follows—

$$Cs = \$ 0.1497 \times S \times (1+m)$$

where—

Cs= the annual source charge.

S= the source costs for the year for which charges are prepared.

r= the river regulation costs for the year for which charges are prepared.

m= the business margin set at 10% at the date of the Order. Any variation to this rate is to be mutually agreed as per sub-clause 17(a).

15.3 The annual source charge must be paid by the Authority each year whether or not water has been taken from the storages by the Authority in that year.

#### 16. DUTY TO KEEP ACCOUNTS AND FIX PROPORTIONS

16.1 The Authority is not obliged to make any payment to—

- (a) the Resource Manager under clause 14; or
- (b) the Storage Operator under clause 15—

unless the person to whom the payment is payable chooses to comply with the provisions of this clause relevant to those payments.

16.2 Separate accounts of all costs and payments must be kept—

- (a) by the Resource Manager in respect to clause 14; and
- (b) the Storage Operator in respect to clause 15.

16.3 The Water Authority responsible for the Headworks Storages must consult with the Authority on any proposal to undertake new or enhancement works on a Headworks Storage, providing reasonable detail and the need for those works, prior to undertaking those works.

16.4 The Authority may object to any proposal referred to in sub-clause 16.3 and may give written notice to the other party requiring the matter to be determined by referral to an independent expert in accordance with clause 19.

16.5 The Resource Manager must, by 1 March in any year, provide an estimate, in respect of the ensuing year, of a fair and reasonable proportion of the costs referred to in sub-clause 14.1.

16.6 The Storage Operator must, by 1 March in any year, in conjunction with the Water Authority responsible for the Headworks Storages, provide the Authority with an estimate of the annual source charge referred to in sub-clause 15.2, for the ensuing year.

16.7 Accounts required to be kept under this clause must be made available for inspection by the Authority upon request.

#### 17. DUTY TO MAKE PAYMENTS

Any amount payable by the Authority under clauses 14 or 15—

- (a) is to be based on the actual expenditure for the period specified in paragraph 17(b), unless otherwise set by mutual agreement between the Authority and the Storage Operator, and include any adjustment from a previous period to reflect the actual cost of the work; and
- (b) unless the Authority and the person to whom the amount is payable agree otherwise—
  - (i) must be paid quarterly in arrears, within 28 days of the Authority receiving an invoice for amounts payable under clause 14; and
  - (ii) must be paid monthly in arrears, within 28 days of the Authority receiving an invoice for amounts payable under clause 15.

#### 18. DATA

18.1 The Minister will use the Minister's best endeavours to ensure that all hydrological and other data required by the Authority to comply with this bulk entitlement are made available to the Authority, free of charge.

18.2 The Authority must make available data collected for the purpose of the metering program and reporting under sub-clauses 12.1 and 13.1 to any person, subject to the person paying any fair and reasonable access fee imposed by the Authority, to cover the costs of making the data available.

19. DISPUTE RESOLUTION

19.1 If any difference or dispute arises between the Authority, the Minister and, with their consent, the Resource Manager, the Storage Operator and the Water Authority responsible for Headworks Storages (the "parties") concerning the interpretation or application of this Order, which is not resolved within 14 days of it arising, any party may give written notice to the others requiring the matter to be determined by an independent expert, if it is not otherwise resolved, within 14 days of that notice.

19.2 The independent expert will be either—

- (a) a person agreed on by the parties to the difference or dispute; or
- (b) if those parties cannot agree, a person nominated by the President of the Institute of Arbitrators Australia.

19.3 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.

19.4 The independent expert must send a copy of the conclusion and its supporting reasons to each party to the difference or dispute.

19.5(a) In any difference or dispute to which the Minister is a party, the independent expert must express the conclusion as a recommendation.

- (b) the Minister must consider any recommendation made under paragraph 19.5(a) before deciding to give a direction under section 307 or to take any other action under the Act in relation to the difference or dispute.

19.6 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.

19.7 The apportionment of the costs of and incidental to every reference, including the costs of the independent expert, shall be at the discretion of the independent expert.

Signed:

Geoff Coleman,

Minister administering the Water Act 1989

Dated:

Schedule 1

Evaporation Losses and Internal Spills

1. Evaporation Losses

Evaporation losses from—

- (a) Lake Narracan are calculated using the formula  
 $e = A \times E \times 0.01 \times (s1/s)$
- (b) the Blue Rock Reservoir are calculated using the formula  
 $e = A \times E \times 0.01 \times (s1/s)$

where

- e - evaporation loss in ML
- s - volume of water in ML in either Lake Narracan or Blue Rock Reservoir as appropriate
- A - surface area in hectares corresponding to s
- E - pan evaporation in mm
- s1 - volume of water in ML in the Authority's share of Lake Narracan or Blue Rock Reservoir as appropriate

2 Internal Spills

The amount of internal spill cannot exceed a volume equal to the amount by which the other entitlement holder's storage is below its full share. Any internal spill is to be redistributed in proportion to the inflow shares of those Authorities whose shares of storage capacity are not full.

3. Storage Accounts

The storage accounts maintained by the Storage Operator will be adjusted for—

- (i) the share of inflow apportioned to the Authority;
- (ii) any internal spill;
- (iii) any release directed by the Authority to meet its water supply requirements including any allowances for in-transit losses; and
- (iv) any allowance for the Authority's share of evaporation losses or seepage losses from storage.

*Note:* An explanatory note that accompanies this Order is available from the Water Bureau, Department of Conservation and Natural Resources.







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