|  |
| --- |
| **ADDITIONAL RULES OF OWNERS CORPORATION** **PLAN NO. PS#****DELIVERY MODEL FOR IRRIGATION AND OTHER PURPOSES** |

ADDITIONAL RULES OF OWNERS CORPORATION PLAN NO. PS#

1. ***MODEL RULES***

The Model Rules do apply.

1. ***DEFINITIONS***
	1. In these Rules unless the context otherwise indicates the following terms and phrases have the following meanings:

“**Act**” means the *Water Act 1989*.

“**Allocation**” means the allocation of water by the **Corporation** in respect to the **Owners Corporation Water,** the **Lot** **Owners** water or the **Occupiers** water following a seasonal determination made under section 64GB of the **Act** or any **allocation** purchased by the Owners Corporation, the **Lot Owner** or the **Occupier**.

“**Child Meter**” means the meter and associated locking mechanisms, the property which directly records the volume of water supplied to a **Lot** **Owner’s** **Lot**.

“**Connections Agreement**” means any agreement made between the **Corporation** and the OwnersCorporation in accordance with the **Act** or any other enabling provision which sets out the manner and the terms and conditions by which the **Corporation** must undertake the function of delivering water to the **Lot Owners** or any alterations or amendments to such agreement as adopted from time to time by the **Corporation**.

“**Conveyance Loss**” means, in respect to a specified period, the difference between the volume of water delivered by the **Corporation** to the Owners Corporation and the total volume of water delivered to the **Lot Owners** by the Owners Corporation.

“**Corporation**” means Goulburn-Murray Rural Water Corporation and its successors.

“**Council**” means a municipal council in whose municipal district land affected by these Rules is situated.

“**Lot Owner Delivery Entitlement**”means the delivery share in the Owners Corporations works set out in part 2 of the schedule opposite each **Lot Owners** name.

“**Lot**” means each of the Lots numbered in item 1 of part 1 of the schedule and comprised in the **Plan**.

“**Lot Owner**” means the owner of a **Lot**.

“**Occupier**” means any person occupying or in possession of a **Lot** and can include a **Lot Owner**.

“**Owners Corporation Water**” means the volume of **Water Share** or **Allocation** (in megalitres) entered from time to time in the **Register** in the name of the Owners Corporation.

“**Parent Meter**” means the meter and associated locking mechanisms, the property of the **Corporation**, which records the total volume of water delivered by the **Corporation** to the Owners Corporation.

“**Private Works**” means the works (including any channel or pipeline) located on a **Lot Owner's Lot** that are required to convey water from either the **Child Meter** or the **Lot** boundary to the **Lot Owner's Lot** and includes any storage tanks or dams necessary to store the water but does not include a **Child Meter.**

“**Plan**” means the Plan of Subdivision described in item 2 of part 1 of the schedule.

“**Register**” means the register required to be kept by the Water Registrar under part 5A of the **Act**.

“**Road Authority**” means **Vic Roads** or the **Council** or both as the case may be.

“**Secretary**” shall mean the secretary from time to time appointment by the Owners Corporation and shall include a reference to any other person appointed by the Owners Corporation to undertake the duties of the secretary.

“**Sells**” includes to transfer or assign.

“**Vic Roads**” means the Roads Corporation trading as “Vic Roads” in accordance with section 80 of the *Transport Integration Act 2010*.

“**Water Entitlement**” in relation to a **Lot Owner** means the volume of water, from time to time, that the **Lot Owner** is entitled to have delivered.

“**Water Season**” means the period from the 15th August to the 15th May in the following year or such other time period as shall be nominated by the **Corporation** as being the time when water is available for irrigation use.

“**Water Share**” includes a high reliability water share and a low reliability water share.

“**Works**” means the water supply system for the subdivision owned by the Owners Corporation situated partly on the common property, within road reserves and easements located on the **Plan** and comprising but not limited to a pump (where appropriate) and distribution mains, pipes, fittings, meters, outlets, dams, channels and other necessary works, plant and equipment.

* 1. The terms “Allocation Bank Account”, "Delivery Share", "Limited Term Transfer", “Serviced Property”, "**Water Share**", “Water Use Licence” and “Water Use Registration” have the same meaning as is given to them by the **Act**.
	2. The arrangement for the supply of water to the Owners Corporation and the **Lot Owners** pursuant to these Rules shall be known by the name described in item 3 of part 1 of the schedule.
	3. In these Rules:-
		1. unless the context otherwise admits terms used in these Rules shall have the same meaning as terms used in the *Subdivision Act; 1988.*
		2. the provisions of the *Interpretation of Legislation Act 1984* shall apply as if these Rules were a subordinate instrument.
	4. The singular includes the plural and vice versa.
	5. A word denoting any gender includes all genders.
	6. A reference to a person includes a reference to a firm, corporation or other corporate body and vice versa.
	7. If a party consists of more than one person these Rules binds them jointly and severally.
1. **USE OF WORKS**

**Use of Works to deliver water**

* 1. Subject to these Rules the OwnersCorporation**,** must, upon a reasonable request by a **Lot Owner** or **Occupier** and subject to any conditions or limitations imposed by the Owner’s Corporation**,** make available the **Works** for the delivery of water to that **Lot Owners Lot.**

**Conditions on use of Works**

* 1. The Owners **Corporation** may impose terms and conditions on a **Lot Owner or Occupier** in respect of:-
		1. the use of the **Works** for the delivery of water;
		2. the time, volume and duration of use of the **Works**;
		3. the construction or maintenance of any **Private Works**;
		4. any directions or requirements of the **Corporation** or the **Road** **Authority**.
		5. the terms and conditions of the **Connections Agreement;** and.
		6. any other matter regulated by or affecting the implementation of these Rules.

**Reduction or restriction of use of Works**

* 1. The OwnersCorporation may refuse or limit the use of the **Works** by any **Lot Owner** or **Occupier** if:-
		1. the **Lot Owner** or **Occupier** will exceed his **Lot** **Owner Delivery Share**.
		2. any **Private Works** are, in the opinion of the Owners **Corporation**, inadequate or not properly constructed or maintained;
		3. the **Child Meter** does not comply with the National Non-Urban Metering Standards as in force from time to time.
		4. the **Lot Owner** or **Occupier** contravenes or is in breach of these Rules or the **Act**;
		5. the **Lot Owner** or **Occupier** refuses or obstructs entry upon the **Lot Owner** or **Occupier’s** **Lot** to the **Corporation**, the Owners Corporation or any person authorised by the Owners Corporation in accordance with these Rules.
		6. the **Lot Owner** refuses or fails to pay any money due to the Owners Corporation pursuant to these Rules or to the **Corporation** pursuant to the **Act**.
		7. the **Corporation** directs the OwnersCorporation in writing not to permit the use of the **Works** in respect to a **Lot Owner**.
1. ***DELIVERY OF WATER***
	1. The **Lot Owners** accept that water will not always be available and delivery is in the absolute discretion of the Owners Corporation.
	2. The Owners Corporation can only deliver water on such days and at such times as water is supplied to it by the **Corporation**.
	3. The delivery of water is only available during the **Water Season** and subject to its availability from the **Corporation**.
	4. The **Lot Owners** acknowledge that the water delivered by the **Corporation** is not potable water and is not suitable for human consumption and neither the OwnersCorporation nor the **Corporation** guarantees the water quality for any specific purpose.
2. ***OBLIGATIONS OF OWNERS CORPORATION, ITS LOT OWNERS AND SECRETARY***

*Licences and agreements*

* 1. The OwnersCorporation must hold:
		1. if required, a licence from the **Corporation** in respect to the construction, use and maintenance of the **Works**;
		2. at all times sufficient **Allocation** to cover the **Conveyance Loss** in accordance with these Rules;
		3. an Allocation Bank Account;
		4. a Water Use Registration if required;
		5. if applicable, a Delivery Share sufficient to cover the **Conveyance Loss** (if any);
		6. if the source of the supply of water is from an unregulated waterway or a bore, a licence under the **Act** to take and use water and a licence to operate works;
		7. if the source of the supply of water is from a regulated waterway, an extraction share and a licence to operate works;
		8. if necessary, an agreement with the **Corporation** for the supply of water;
		9. if required by the **Corporation**, a **Connections Agreement**; and
		10. any other licence, authority or agreement as is reasonably required by the **Corporation** or the **Road Authority** for the purpose of these Rules.

*Water Share and Allocation*

* 1. The Owners Corporation may from time to time:-
		1. purchase **Water Share** or **Allocation** for the purpose of any **Conveyance Loss** in accordance with these Rules.
		2. sell **Allocation** surplus to its requirements;
		3. in accordance with a special resolution of **Lot Owners**, sell any **Water Share** held by the Owners Corporation.
	2. The **Secretary** shall be the contact person for the Owners Corporation in dealing with the **Corporation** and the **Secretary** shall:
		1. if required lodge all orders for water with the **Corporation**;
		2. pay on behalf of the Owners Corporation all monies owing to the **Corporation**;
		3. carry out all other dealings with the **Corporation**; and
		4. manage the **Owners Corporation Water** and determine the **Conveyance Loss**.
	3. A **Lot Owner** or **Occupier** must not:
		1. lodge any order for water with the **Corporation** without the **Secretary's** consent;
		2. interfere with, alter, add to or change any of the **Works**;
		3. take any of the **Water Entitlement** except at or during the time advised by the **Secretary**;
		4. interfere with any **Works** of the **Corporation**; and
		5. interfere with the permitted use by any other **Lot Owner** of their **Water Entitlement**.
1. ***DELIVERY OF WATER***
	1. The Owners Corporation shall maintain the **Works** to enable each **Lot Owner** to obtain a delivery of their **Water Entitlement**.

* 1. The Owners Corporation consents to the **Works** being situated on the common property (if any) and this consent can not be withdrawn other than by a unanimous resolution of the **Lot** **Owners**.
	2. The **Lot Owners** acknowledge that the water system has been designed on the basis that each **Lot Owner** will be responsible for taking the water from the **Child Meter** servicing their **Lot**.
1. ***METERS***
	1. Unless the Owners Corporation otherwise determines, **Child Meters** must comply with the National Non-Urban Metering Standards in force from time to time.
	2. In the event that:
		1. a **Child Meter** malfunctions;
		2. the **Secretary** fails to record the readings of a **Child Meter**; or
		3. in any other case there is no accurate recording of the water supplied to a **Lot Owner**.

### then the **Secretary** must determine the volume of water supplied to each **Lot Owner** in accordance with the **Act**as if the Owners Corporation was the **Corporation**.

### *Note-**see section 142(2) of the* ***Act****.*

1. ***INSURANCE***
	1. The Owners Corporation must take out and put in place all necessary insurance in relation to liability and also to protect the assets of the Owners Corporation as determined by the **Lot Owners** at a general meeting.
2. ***WATER TRADING***
	1. The **Lot Owners** may buy or sell **Water Share, Allocation** and or aLimited Terms Transfer.
	2. The **Lot Owners** acknowledge and agree that for the long term operation of the Owners Corporation each **Lot Owner** is required to retain his **Lot Owner Delivery Entitlement**. To that end a **Lot Owner** will not seek to reduce or increase his **Lot Owner Delivery Entitlement** unless approved by a unanimous resolution of the **Lot Owners**.
	3. Notwithstanding anything else contained in this agreement, if the Owners Corporation or the **Lot Owners** are an infrastructure operator within the meaning of the *Water Act 2007 (Cth),* they must comply with all obligations imposed on an irrigation infrastructure operator by the *Water Act 2007 (Cth)* and, without limiting this clause in particular, in respect to any charges or fees regulated by the *Water Act 2007 (Cth).*

*(Note- see Section 7 of the Commonwealth Act)*

1. ***CHANGES IN OWNERSHIP OR USE OF ANY LOT***
	1. Should a **Lot Owner** at any time dispose of the **Lot Owner’s Lot,** the **Lot Owner** must give notice of the purchaser’s or transferee’s name and address to the **Secretary**. Until such notice is given, the **Lot Owner** shall remain personally liable to perform the conditions covenants and Rules herein contained and to pay the levies, fees or charges agreed to be paid by the **Lot Owner**.
	2. Any costs, fees, charges or expenses incurred by the Owners Corporation (but excluding the personal time cost of any person acting in any honorary capacity, including the chairperson, **Secretary** or committee member of the Owners Corporation) arising out of any action against a **Lot Owner** or **Occupier** for recovery of any sum of money, or any other default or breach of these Rules, the *Owners Corporation Act 2006* or the regulations shall be recoverable from the **Lot Owner** in default or the **Lot Owner** on whose **Lot** the default or breach has occurred.
2. ***COOPERATION OF LOT OWNERS***
	1. Each **Lot Owner** covenants with all other **Lot Owners** that they will execute and sign all such further documents and to do all other necessary things that may be required for the proper working of the delivery of water and the **Works**.
3. ***RIGHT OF ENTRY OF LAND***
	1. Each **Lot Owner** or **Occupier** grants full and free right and authority to the Owners Corporation, its duly authorised representative or to its contractors, officers, employees or agents to enter into or upon their **Lot** to undertake the reading and recording of each **Lot Owner**’s **Child** **Meter** as to the supply of water. No **Lot Owner** or **Occupier** shall make any claim against the Owners Corporation for compensation in respect of any entry by the Owners Corporation or its duly authorised representative upon their **Lot** for the purposes of these Rules.
4. ***FINANCIAL MATTERS***
	1. In each financial year, the Owners Corporation must prepare an estimate of the expenses of administering the Owners Corporation and the delivery of water to each **Lot Owner** and must set an annual charge in respect of each **Lot**. In setting the annual charge the Owners Corporation must include:-
		1. any charges by the **Corporation**, including but not limited to the **Conveyance Loss**;
		2. the cost and expenses of purchasing any **Allocation**, Water Share or a Limited Term Transfer;
		3. the costs and expenses relating to the operation and maintenance of the **Works**, administration expenses (including legal fees), insurance premiums (including Public Liability Insurance) and other necessary and incidental expenses relating to the operation of the Owners Corporation, including any costs of a manager and any costs and expenses incurred by the Owners Corporation;
		4. the costs and expenses of administering the Owners Corporation and the delivery of water to each **Lot**; and
		5. any other costs and expenses that the Owners Corporation considers relevant.
	2. The annual charge shall be fixed in accordance with the criteria (if any) set forth in part 3 of the schedule.
	3. The Owners Corporation may set a capital charge in accordance with the criteria (if any) set forth in part 3 of the schedule.
	4. A general meeting of the Lot Owners may, at any time, direct the Owners Corporation to set a special charge, in accordance with the resolution of the **Lot Owners**.
	5. The Owners Corporation must give notice to each **Lot Owner** of the annual charge, capital charge or special charge payable by that **Lot Owner**.
5. ***OVER USE CHARGE***
	1. Any **Lot Owner** that exceeds their **Lot Owner Delivery Entitlement**, will be liable to pay an overuse charge determined by the Owners Corporation from time to time.
	2. Any **Lot Owner** that exceeds the flow rate approved by the **Secretary** for any particular period will be liable to pay an overuse charge determined by the Owners Corporation from time to time.
6. ***PAYMENT OF LEVIES, FEES OR CHARGES***
	1. Each **Lot Owner** covenants with all other **Lot Owners** to pay any levies, fees or charges fixed by the Owners Corporation, any committee thereof or the **Corporation** by the due date fixed for payment.
	2. Any **Lot Owner** that fails to pay the levies, fees or charges when due will be liable to pay interest determined in accordance with the *Penalty Interest Rate Act 1983*, on the outstanding amounts.
	3. Each **Lot Owner** hereby acknowledges the right of the Owners Corporation to sue them for the amount of any levy, fee or charge made by the Owners Corporation or any committee thereof which remains unpaid thirty (30) days after becoming due and payable. In respect of a **Lot Owner** comprising two or more persons the Owners Corporation may sue all or any of such persons for such unpaid levy, fee or charge.
	4. Each **Lot** **Owner** hereby charges his **Lot** and any **Water Share** owned by him in favour of the Committee for any monies owed by the **Lot** **Owner** to the Owners Corporation.
	5. Each **Lot** **Owner** acknowledges that the Owners Corporation may lodge a caveat against the **Lot** **Owner’s** **Lot** to give notice and protect the Owners Corporation’s rights under these Rules.
7. ***EXECUTION OF DOCUMENTS AND SIGNING CHEQUES***
	1. Each **Lot Owner** hereby appoints the **Secretary** their true and lawful attorney for and on behalf of the Owners Corporation to execute and sign on behalf of the Owners Corporation all documents, contracts and writings of any nature or kind (save and except cheques on the Owner’s Corporation bank account) required to maintain, conduct and administer the Owners Corporation after a meeting of all **Lot Owners** and the passing of a majority resolution that the documents shall be signed. Except in the case of wilful abuse by the **Secretary**, each **Lot Owner** indemnifies the **Secretary** in respect of any document contract writing or anything of whatsoever nature or kind which he may sign do or execute for and on behalf of the Owners Corporation at its request. Cheques on the Owners Corporation bank account shall be signed by any two persons authorised by the Owners Corporation.
8. ***REGULATIONS AND BY-LAWS***
	1. The **Lot Owners** or a majority thereof at a general meeting may from time to time provide further Rules, regulations and by-laws as considered necessary in respect of the election of officers and special committees and for the implementation, management, control and general administration of these Rules.
9. **SPECIAL COMMITTEES**
	1. The Owners Corporation at a general meeting may appoint a committee for a special purpose and grant to such a committee all necessary powers to carry out such duties for which it was formed. Any resolution made by such a committee within its declared purpose shall be a decision or resolution of the Owners Corporation.
10. ***LOT OWNERS BOUND BY RESOLUTIONS AND BY-LAWS***
	1. Each **Lot Owner** or **Occupier** shall be bound by any motions, resolutions, decisions, regulations, by-laws or orders relating to the Owners Corporation as passed by a majority of any of the **Lot Owners** at a general meeting after due notice of any such meeting has been given to each **Lot Owner**.
11. ***VOTING BY PROXY***
	1. If any **Lot Owner** is unable to attend any meeting of the Owners Corporation duly convened they may vote at a general meeting by providing a form of proxy lodged with the **Secretary** prior to the time of the meeting.
12. **RESOLUTIONS BY APPOINTED COMMITTEES**
	1. Each **Lot Owner** shall be bound by any resolutions, ruling, orders, demands, decisions and requests made by any special committee of the Owners Corporation acting within the powers vested in it pursuant to these Rules.
13. ***LOT OWNERS TO SHOW UTMOST GOOD FAITH***
	1. Each **Lot Owner** and **Occupier** will show the utmost good faith towards all other **Lot Owners** in dealings relating to the conduct of the affairs of the Owners Corporation and to the implementation, maintenance and general administration of the Owners Corporation.
14. ***VOTING AT MEETINGS***
	1. Subject to any alteration by any rule, regulation or by-law made by the Owners Corporation each **Lot Owner** shall have one vote at all general meetings of the Owners Corporation provided however that any **Lot Owner** who has not paid any levy, fee or charge made by the Owners Corporation by the due date fixed for payment thereof shall have no vote until such levy, fee or charge is paid. Where a **Lot Owner** comprises two or more persons then one person only may vote on behalf of such **Lot Owner**. The persons comprising such **Lot Owner** shall notify the **Secretary** at any meeting the name of the person who shall vote on their behalf.
15. ***GENERAL PROVISIONS***
	1. A **Lot Owner** or **Occupier** must not use or permit a **Lot** to be used for any purpose which may be illegal or injurious to the reputation of the development or may cause a nuisance or hazard to any other **Lot Owner** or **Occupier** or the families or visitors of any such **Lot Owner** or **Occupier**;
16. ***TERMINATION***
	1. If at any time the Owners Corporation decides to terminate its activities of delivering water then the **Lot Owners** shall pay all necessary fees and charges and the cost of dismantling and disconnecting such **Works** as may be necessary to terminate the delivery of water and winding up the Owners Corporation. The **Lot Owners** shall contribute towards such cost according to their **Lot Owner Delivery Share.**
	2. The Owners Corporation must obtain all relevant licences and consents from the relevant bodies or Authorities including the **Corporation** and **Road** **Authority** to remove or decommission the **Works**.

1. ***CONNECTIONS AGREEMENT***
	1. Where there is a **Connections** **Agreement** the Owners Corporation prior to terminating must fulfil the termination requirements under the **Connections** **Agreement**.

**SCHEDULE**

**PART 1**

ITEM 1 – The Numbers of **Lots** (Cl.2.1)

 **Lot** Numbers # to # (both inclusive)

ITEM 2 – **Plan** of Subdivision Number (Cl.2.1)

ITEM 3 – Name (Cl. 2.3)

**PART 2 (Clause 2.1)**

|  |  |
| --- | --- |
| **LOT OWNER AND LOT NUMBER**  | **LOT OWNER DELIVERY ENTITLEMENT** **(ML/day)** |
|  | **Lot** |  |
|  | **Lot** |  |
|  | **Lot** |  |
|  | **Lot** |  |

**PART 3 (Clause 13)**

Criteria for distributing **Conveyance Loss**.

**[***insert agreed criteria]*

Criteria for assessing **capital charge**

[*insert agreed criteria]*

Criteria for assessing **annual charge**.

*[Insert agreed criteria]*

*Examples –*

1. *a fixed amount;*
2. *an amount fixed according to the volume of water used by each* ***Lot Owner****;*
3. *an amount fixed according to the number of times the* ***Lot Owner*** *has used the* ***Works*** *to supply water to the* ***Lot Owners Lot****;*
4. *any other matter the Owners**Corporation thinks relevant;*
5. *the* ***Conveyance Loss*** *(if any); or*
6. *any combination of amounts referred to in paragraphs 1, 2, 3, 4 or 5.*