

MINISTERIAL NOTICE

Issued pursuant to Section 78 of the Water Act 1989

Issued to:	Barwon Region Water Corporation (Barwon Water)		
Property Address (the Property):	BW asset name	Bore ID	Address
	GW4	64248	Dewing Bridge Road, Gerangamete VIC 3243
	GW2a	64246	Dewing Bridge Road, Gerangamete VIC 3243
	GW6	S56301/01	Dewing Bridge Road, Gerangamete VIC 3243
	GW5	64245	Dewing Bridge Road, Gerangamete VIC 3243
	GW8	S56301/02	Dewing Bridge Road, Gerangamete VIC 3243
	GW3	64247	Dewing Bridge Road, Gerangamete VIC 3243
Property Description:	Gerangamete Groundwater Field		
Licence Number:	BEE032496		
Legal Reference:	<i>Water Act 1989 (Vic) s.78</i>		



Trevor McDevitt (Delegate)
Manager Applications
Groundwater & Rivers

11 / 9 / 2018

Date Notice Issued

Preamble

Who we are: Southern Rural Water (SRW) is a government-owned statutory Corporation, governed by a skill based Board appointed by the Minister for Water as outlined in “Water Corporations and Former Water Authorities” outlined in Column 1 Schedule 1 of the *Water Act 1989* (Vic).

Our purpose: The Groundwater & Rivers Group within SRW services over 8,000 groundwater and river users across southern Victoria in a region stretching from the SA border to the NSW border south of the Dividing Range. This function includes managing licences and ensuring compliance to protect the resource, the environment and other users as outlined in the purposes of the *Water Act 1989* (Vic).

Why we serve Section 78 directions: SRW is acting as a delegate of the Minister for Water. The Minister for Water may, by notice in writing direct the occupier of any works on a waterway or of a bore-

- To operate or alter those works in compliance with the conditions specified in the notice;
- To take measures specified in the notice; being measures that the Minister thinks necessary to protect the environment, including the riverine and riparian environment

What happens if you do not comply: The occupier of works or of a bore must comply with any direction given under section 78. Penalty provisions are described in Section 3 of this notice.

What to do if you need more time: Make a formal request to SRW giving reasons for any extension and providing at least 7 days notice prior to the compliance date.

What are your appeal rights: If you feel you are affected by a decision under the *Water Act 1989* (Vic) an application for review of the decision can be made to the Victorian Civil and Administrative Tribunal (VCAT) within 28 days of receipt of the decision.

Notice structure

1. Background and reasoning

This section outlines background and reasoning that led to the issuing of the s78 notice.

2. Requirements of the notice

Considering the view that has been formed, this section lists the requirements or actions to address the environmental risk(s) or impact(s).

3. Penalty Provisions

Outlines the penalty provisions should there be failure to comply.

1. Background and reasoning

1.1 The Minister for Water, the Hon Lisa Neville wrote to SRW on 7 August 2018 requiring SRW, as a delegate, issue a notice (under Section 78 of the *Water Act 1989* (Vic)) requiring Barwon Water to:

- a) continue no extraction, other than for maintenance and emergency response, and
- b) prepare a plan for the remediation of Boundary Creek, Big Swamp and the surrounding environment impacted by groundwater pumping at Barwon Downs, and
- c) describe the environmental outcomes for the waterways to be achieved by the remediation plan.

1.2 It is acknowledged that:

- a) Barwon Water has operated the Barwon Downs Borefield under groundwater extraction licence BEE032496. Barwon Water has undertaken a monitoring and assessment program over the past six years, with input from a Community Reference Group, to improve the understanding of the impacts of operation of the borefield.
- b) Barwon Water has been working to address confirmed impacts and has commenced the development of a remediation plan for Boundary Creek and Big Swamp with input from community, stakeholders and independent technical experts nominated by the community and stakeholders.

1.3 A report commissioned by Barwon Water titled "*Barwon Downs Hydrogeological Studies 2016-17: Numerical model calibration and historical impacts*" (Jacobs June, 2017) found that: operation of the borefield over the past 30 years is responsible for two thirds of the reduction of groundwater base flow into Boundary Creek; the dry climate experienced during the same period accounts for the remaining one third, and operation of the borefield has increased the frequency and duration of no flow periods in lower reaches of Boundary Creek."

1.4 A further report commissioned by Barwon Water titled "*2016-2017 Technical Works Program Yeodene Swamp Study*" (Jacobs, November 2017) found that the current groundwater licence condition requiring the release of the 2 ML/d of supplementary flow into Boundary Creek has not been effective at offsetting the impacts of operation of the borefield on groundwater base flows in Boundary Creek.

1.5 This led to the swamp drying, acid sulphate soils being generated and the release of acid water downstream of the swamp and impacting the downstream environment.

1.6 On this basis, and considering the observations previously stated, I have formed a view and I am satisfied that a process or activity which is being/or has been carried out at the

property has caused a measurable negative environmental impact on Boundary Creek, Big Swamp and the surrounding environment and legal enforcement of protective works is required under s78(1).

2. Requirements of the notice

Barwon Water must undertake the following requirements.

2.1 Barwon Water must not extract from the works for any purpose other than maintenance or emergency access until this notice is rescinded (as defined by the requirements outlined in section 2.11 of this notice).

For the purpose of this notice, emergency access is defined as circumstances resulting in the need for Barwon Water to declare a water shortage under s33AAA of the Water Act 1989. Under these circumstances Barwon Water should notify SRW of their intention to make this application to the Minister.

2.2 Barwon Water must prepare and implement the 'Boundary Creek, Big Swamp and Surrounding Environment - Remediation and Environmental Protection Plan' (the Plan) in accordance with the requirements set out in this notice.

2.3 For the purposes of this Plan, remediation is deemed to be the controls and actions that could be practicably carried out to achieve improved environmental outcomes for Boundary Creek, Big Swamp and the surrounding environment that has been impacted by groundwater pumping at Barwon Downs.

2.4 By 20 December 2018 Barwon Water must submit a scope of works for approval by SRW. The scope of works should include the identification of the area covered by the Plan, the environmental values to be included, and the necessary environmental assessments and methodology for how it proposes to develop the Plan.

2.5 By 20 December 2019 Barwon Water must submit to SRW the Plan which includes:

- a) A description of the current environmental conditions of Boundary Creek, Big Swamp and the surrounding environment; this will include:
 - Hydrogeological conditions (groundwater levels and quality)
 - Hydrology (Surface water quality and flow monitoring)
 - Ecological assessment
 - LIDAR topographic mapping
 - Results of soil sampling program (Soil chemistry, peat profile, incubation tests)
 - Additional matters arising from the scope contemplated in Item 2.4.

- b) An outline and risk assessment of the processes/activities on the Property which may impact on Boundary Creek, Big Swamp and the surrounding environment (including, but not limited to hydrogeology, hydrology and soil chemistry);
- c) A range of controls and actions that could be practicably carried out to protect and improve the condition of Boundary Creek and Big Swamp and the surrounding environment, including reasonable targets and/or measures of success to be adopted for the purposes of the implementation of the Plan;
- d) A comprehensive risk assessment of proposed controls and actions documented in c);
- e) The controls and actions to be implemented, including reasonable targets and/or measures of success to be adopted for the purposes of the implementation of the Plan;
- f) A monitoring program to check the controls and actions documented in e);
- g) Contingency measures designed to address any issues identified from monitoring results;
- h) A schedule of timeframes by which the controls and actions documented in e) will be carried out; and
- i) A reporting schedule, whereby Barwon Water will provide a minimum of quarterly updates to SRW which report on the progress of the Plan, as well as an Annual Report. The Annual Report must be submitted to SRW and made publicly available by 30 September each year.

2.6 In preparing both the scope of works and the Plan, Barwon Water must:

- a) Identify all appropriate hydrogeological, hydrological and geochemical assessments to support the development of the Plan (during the scope of works process);
- b) Carry out appropriate hydrogeological, hydrological and geochemical assessments to support the assumptions, controls, actions and targets described in the scope of works (during the development of the Plan);
- c) Provide quarterly updates on progress to SRW;
- d) Consult with the Corangamite Catchment Management Authority;
- e) Consult with the SRW appointed Expert Reviewer;
- f) Engage with the local community to seek their ideas and feedback;
- g) Ensure the State Environmental Protection Policy (Victorian Waters) are considered and;
- h) Present each of the points in 2.5 under separate headings (in the Plan).

2.7 Barwon Water must submit the scope of works and the Plan prepared in accordance with this notice to SRW for review by the independent expert or panel of experts (Expert Reviewer) appointed by SRW. SRW will consider the advice provided by the Expert Reviewer in order to:

- a) Confirm any changes to the Plan that are required to be made by Barwon Water;
- b) Confirm and accept the scientific methodology used to prepare the Plan; and
- c) Verify and accept the preferred controls and actions presented in the Plan.

- 2.8 If requested under Section 2.7(a), Barwon Water shall update the Plan and resubmit it under Section 2.7 for review by the Expert Reviewer appointed by SRW. Note that this resubmission process can occur on more than one occasion until it is accepted by SRW under Section 2.9.
- 2.9 Upon acceptance of the Plan by SRW, Barwon Water must finalise the Plan (Including any changes required by SRW) by 1 March 2020 and implement the Plan. Nothing in this clause prevents earlier implementation.
- 2.10 Timelines may be varied by SRW, at our discretion or upon request, in order to achieve compliance with the nominated objectives.
- 2.11 This notice will remain in effect until such time that Barwon Water can demonstrate to the satisfaction of SRW that the Plan has been implemented and the measures and outcomes have been achieved as outlined in section 2.5.
- 2.12 Further to Section 2.11 in order to resume extracting groundwater pursuant to the conditions on Licence Number BEE032496 Barwon Water must:
- a) seek express written permission from SRW; and
 - b) provide sufficient scientific evidence to support the request.

3. Penalty Provisions

- 3.1 Failure to comply with this notice is an offence – 20 penalty units, calculated at the time of the offence.
- 3.2 If you fail to comply with this direction the Minister may arrange to carry out the works and recover costs from the occupier.