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Water Act 2000

Sections 722 and 723(1)

TRANSFER NOTICE - THEODORE CHANNEL SCHEME

Transfer of the businesses, assets and liabilities of SunWater in relation the Theodore Channel Scheme to Theodore Water Pty Ltd

1. Transfer and Transfer Day

I, Anthony Lynham, Minister for Natural Resources, Mines and Energy:

- (a) pursuant to section 722 of the Water Act, declare that the Transfer Day for the Declared Channel Scheme is 30 September 2018; and
- (b) do each of the things (set out in clause 2) with effect on and from the Transfer Day:

2. Things done under section 723(1)

2.1 Transfer of business, asset or liability of SunWater to Irrigation Entity (section 723(1)(a))

- (a) Provide that:
 - (i) the assets set out in Table 1 of the Transfer Schedule; and
 - (ii) the liabilities set out in Table 2 of the Transfer Schedule.are transferred from SunWater to the Irrigation Entity.
- (b) For the avoidance of doubt:
 - (iii) any unknown or contingent liabilities that arose or are in connection with any fact, event or circumstance which occurred or existed prior to the Transfer Day; or
 - (iv) any liabilities other than Scheduled Liabilities the subject of a claim, demand or cause of action however arising, in relation to any fact, event or circumstance which occurred or existed prior to the Transfer Day,

are not transferred to the Irrigation Entity, but the Irrigation Entity will be responsible for any liability to the extent that the liability is caused or contributed to by the Irrigation Entity, on or after the Transfer Day.

2.2 Grant of lease, easement or other interest in land (section 723(1)(c))

Grant to:

- (c) SunWater, the leases, easements and other interests in land set out in Table 3 of the Transfer Schedule;
- (d) the Irrigation Entity, the leases, easements and other interests in land set out in Table 4 of the Transfer Schedule.

2.3 Vary or extinguish a lease, easement or other interest in land (section 723(1)(d))

- (a) Vary the leases, easements and other interests in land held by SunWater set out in Table 5 of the Transfer Schedule in the way set out for the relevant lease, easement or other interest in the "Variation" column in Table 5.
- b) Extinguish the leases, easements and other interests in land held by SunWater set out in Table 6 of the Transfer Schedule.

2.4 Transfer an easement (section 723(1)(e))

Provide that the easements set out in Table 7 of the Transfer Schedule transfer from SunWater to the Irrigation Entity and:

- (a) otherwise than as specified in the Transfer Notice and where the context permits, all references in the listed easement to SunWater are to be taken as references to the Irrigation Entity;
- (b) any amount that becomes payable to or by SunWater or the Irrigation Entity under the easement for the period:
 - (v) prior to the Transfer Day, is payable to or by SunWater; and
 - (vi) on and from the Transfer Day is payable to or by the Irrigation Entity;
- (c) all rights or entitlements under the easement:
 - (vii) prior to the Transfer Day, are held by SunWater; and
 - (viii) on and from the Transfer Day are held by the Irrigation Entity.

2.5 Leases held under the Land Act 1994 (section 723(1)(f))

In relation to:

- (a) the leases listed in Table 8 of the Transfer Schedule, transfer each lease from the entity specified in the "Transferor" column to the entity specified in the "Transferee" column for that lease in Table 8, and
 - (i) otherwise than as specified in the Transfer Notice and where the context permits, all references in the listed lease to SunWater are to be taken as references to the Irrigation Entity;
 - (ii) any amount that becomes payable to or by SunWater or the Irrigation Entity under the lease for the period:

- A. prior to the Transfer Day, is payable to or by SunWater; and
 - B. on and from the Transfer Day is payable to or by the Irrigation Entity;
- (iii) all rights or entitlements under the lease:
- C. prior to the Transfer Day, are held by SunWater; and
 - D. on and from the Transfer Day are held by the Irrigation Entity; and
- (b) the leases listed in Table 9 of the Transfer Schedule, change the purpose of each lease to the purpose specified in the "New Purpose" column for that lease in Table 9;
- (c) the leases listed in Table 10 of the Transfer Schedule, change the condition or conditions imposed on the lease in the way specified in the "Changed Conditions" column for that lease in Table 10;
- (d) the leases listed in Table 11 of the Transfer Schedule, grant a sublease of the lease:
- (i) to the entity specified in the "Sublessee" column of Table 11;
 - (ii) on the terms referred to in the "Sublease Terms" column of Table 11;
- for each lease.

2.6 Reserve under Land Act 1994 (section 723(1)(g))

In relation to:

- (a) the reserves listed in Table 12 of the Transfer Schedule, change the purpose for which each reserve is dedicated to the purpose specified in the "New Purpose" column for that reserve in Table 12;
- (b) the reserves listed in Table 13 of the Transfer Schedule, remove the existing trustee of the reserve and appoint the person listed in the "New Trustee" column of Table 13 as the new trustee, subject to the conditions (if any) specified in the "Conditions" column in Table 13.

2.7 Legal Proceedings (section 723(1)(i))

Provide that the legal proceedings that are currently being, or may be taken by or against SunWater specified in Table 14 of the Transfer Schedule are to be continued or taken by or against the Irrigation Entity.

2.8 Instruments (section 723(1)(j))

Provide that:

- (c) the instruments listed in Table 15 of the Transfer Schedule be issued to the Irrigation Entity;
- (d) the instruments listed in Table 16 of the Transfer Schedule be transferred to the Irrigation Entity and:
 - (i) the Irrigation Entity is deemed to hold or is a party to the instrument;

- (ii) the instrument or a benefit or right provided by an instrument is taken to be granted to or in favour of the Irrigation Entity;
 - (iii) otherwise than as specified in the Transfer Notice and where the context permits, all references in the listed instrument to SunWater are to be taken as references to the Irrigation Entity;
 - (iv) any amount that becomes payable to or by SunWater or the Irrigation Entity under the instrument for the period:
 - A. prior to the Transfer Day, is payable to or by SunWater; and
 - B. on and from the Transfer Day is payable to or by the Irrigation Entity;
 - (v) all rights or entitlements under the instrument:
 - A. prior to the Transfer Day, are held by SunWater; and
 - B. on and from the Transfer Day are held by the Irrigation Entity; and
 - (vi) the instruments are amended in the way set out in the "Amendment" column for the relevant instrument in Table 16;
- (c) the instruments of SunWater listed in Table 17 of the Transfer Schedule are amended in the way set out in the "Amendment" column for the relevant instrument in Table 17.
- (e) the instruments listed in Table 18 of the Transfer Schedule be applied to the entity specified in, and in the way specified in, the "Application" column for that instrument in Table 18.

2.9 Supplemental Matters (section 723(1)(n))

- (a) For this transfer notice, SunWater must treat—
- (ix) the transfer of a Scheduled Asset to the Irrigation Entity as a distribution to owner that is to be considered as a redemption of contributed equity;
 - (x) the transfer of a Scheduled Liability to the Irrigation Entity as a contribution by owner that is to be considered as an increase in contributed equity; and
 - (xi) the value of a Scheduled Asset or Scheduled Liability as being the value of the asset recorded in the accounts of SunWater immediately before the Transfer Day.
- (b) For this transfer notice, the Irrigation Entity must treat:
- (xii) the transfer of a Scheduled Asset from SunWater as a contribution by owner that is to be considered as an increase in contributed equity;
 - (xiii) the transfer of a Scheduled Liability from SunWater as a contribution by owner that is to be considered as a redemption of contributed equity; and
 - (xiv) the value of a Scheduled Asset or Scheduled Liability as being the value of the asset recorded in the accounts of SunWater immediately before the Transfer day.

2.10 **Other documents (section 723(3))**

The Minister is satisfied that it would be inappropriate for the Transfer Schedules to be stated in this Transfer Notice because of the size and content of the schedules.

3. **Interpretation**

3.1 **Definitions**

In this Transfer Notice and in the Transfer Schedules:

Declared Channel Scheme means the Theodore channel scheme.

Employees means the transferable employees for the Declared Channel Scheme, as that term is defined in section 738 of the Water Act.

Irrigation Entity means Theodore Water Pty Ltd ACN 615 708 944.

Minister means the Minister for Natural Resources, Mines and Energy.

Public Records has the meaning given in the Public Records Act.

Public Records Act means the Public Records Act 2002 (Qld).

Records means all records in the custody or control of SunWater relating to, or otherwise in connection with, the Declared Channel Scheme, including the Employees.

Scheduled Asset means an asset transferred in accordance with clause 2.1(a)(i) of this Transfer Notice.

Scheduled Liability means a liability transferred in accordance with clause 2.1(a)(ii) of this Transfer Notice.

State means the State of Queensland as represented by the Department of Natural Resources, Mines and Energy.

SunWater means SunWater Limited ACN 131 034 985.

Transfer Day means the day declared under clause 1(a) of this Transfer Notice.

Transfer Notice means this transfer notice made by the Minister under section 723(1) of the Water Act.

Transfer Schedules means a schedule signed by the Minister and kept available in accordance with section 723(3) at the Department of Natural Resources, Mines and Energy at 1 William Street, Brisbane in the State of Queensland, showing the assets and liabilities of SunWater, and the instruments applying to SunWater, to be transferred, issued or applied to the Irrigation Entity and any annexures and attachments to those schedules.

Water Act means the Water Act 2000 (Qld).

3.2 **Water Act**

Unless the context requires otherwise, words and expression used in this Transfer Notice and in the Transfer Schedules which are not otherwise defined in clause 3.1 have the meaning that those words or expressions have in chapter 4A of the Water Act.

3.3 **Headings**

Headings do not affect the interpretation of this Transfer Notice or the Transfer Schedules.

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