

# Heritage Rivers (Further Protection) Act 2006

Act No. 68/2006

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Victoria

No. 68 of 2006

# **Heritage Rivers (Further Protection) Act 2006<sup>†</sup>**

[Assented to 19 September 2006]

**The Parliament of Victoria enacts as follows:**

## **1. Purpose**

The main purpose of this Act is to amend the **Heritage Rivers Act 1992**—

- (a) to prohibit the construction in heritage river areas of new impoundments, barriers and structures that impede the passage of water fauna; and

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(b) to amend the provisions relating to management plans for heritage river areas and natural catchment areas; and

(c) to make other amendments to that Act.

## 2. Commencement

This Act comes into operation on the day after the day on which it receives the Royal Assent.

## 3. Definitions

See:  
Act No.  
36/1992.  
Reprint No. 1  
as at  
8 April 1999  
and  
amending  
Act No.  
60/2005.  
LawToday:  
www.dms.  
dpc.vic.  
gov.au

(1) In section 3(1) of the **Heritage Rivers Act 1992**—

(a) **insert** the following definitions—

"**Catchment Management Authority**"  
means an Authority within the meaning  
of the **Catchment and Land  
Protection Act 1994**;

"**impoundment**" means an impoundment,  
barrier or structure that impedes the  
passage of water fauna;'

(b) in the definition of "Central Plan Office", for "Department of Natural Resources and Environment" **substitute** "Department of Sustainability and Environment";

(c) in paragraph (c) of the definition of "public land", for "Melbourne and Metropolitan Board of Works" **substitute** "Melbourne Water Corporation constituted under the **Melbourne Water Corporation Act 1992**".

(2) Section 3(2) of the **Heritage Rivers Act 1992** is **repealed**.

#### **4. Management plans**

- (1) For section 8(1) of the **Heritage Rivers Act 1992** **substitute—**

"(1) If requested by the Minister, a managing authority of all or part of a heritage river area or natural catchment area or the Catchment Management Authority for the area, must prepare a management plan in relation to the area, or any part of the area, within the time specified by the Minister that includes the matters specified by the Minister.

- (1A) The Minister may request the preparation of a management plan under sub-section (1)—

(a) after consulting the Minister responsible for administering the Act under which the land is controlled or managed or the Catchment Management Authority is established; and

(b) if he or she considers that there is not an existing plan or strategy that adequately addresses the management of the area."

- (2) Section 8(2) of the **Heritage Rivers Act 1992** is **repealed**.

- (3) In section 8(4) of the **Heritage Rivers Act 1992**, after "managing authority" **insert** "or Catchment Management Authority".

- (4) In section 8(5) of the **Heritage Rivers Act 1992**—
- (a) **omit** "or adopted";
  - (b) after "Minister" **insert** ", after consulting the Minister responsible for administering the Act under which the land is controlled or managed or the Catchment Management Authority is established".
- (5) In section 8(6) of the **Heritage Rivers Act 1992**—
- (a) after "managing authority" **insert** "or Catchment Management Authority";
  - (b) after "Minister" **insert** ", after consulting the Minister responsible for administering the Act under which the land is controlled or managed or the Catchment Management Authority is established".
- (6) Section 8(7) of the **Heritage Rivers Act 1992** is **repealed**.
- (7) In section 8(8) of the **Heritage Rivers Act 1992**, after "managing authority" **insert** "or Catchment Management Authority".
- (8) Section 8(9) of the **Heritage Rivers Act 1992** is **repealed**.

**5. New sections 8A, 8B and 8C inserted**

After section 8 of the **Heritage Rivers Act 1992** **insert**—

**"8A. Disallowance of management plan or part of a management plan**

- (1) The power to make, amend or revoke a management plan is subject to disallowance by a House of the Parliament.

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- (2) On or before the 7th sitting day after notice of the making, amendment or revocation of a management plan has been published in the Government Gazette under section 8(8), a copy of the following document must be laid before each House of the Parliament—
- (a) in the case of notice of the making or amendment of a management plan, the plan as made or amended; or
  - (b) in the case of notice of the revocation of a management plan, the notice of revocation of the plan.
- (3) The making, amendment or revocation of a management plan is disallowed in whole or in part if—
- (a) a notice of a resolution to disallow the making, amendment or revocation of the management plan is given in a House of the Parliament on or before the 18th sitting day of that House after the management plan or notice of the revocation, as the case requires, is laid before that House; and
  - (b) the resolution is passed by that House on or before the 12th sitting day of that House after the giving of the notice of the resolution.
- (4) If a House of the Parliament is prorogued or the Legislative Assembly is dissolved, the calculation of sitting days of the House is to be made as if there had been no prorogation or dissolution.

**8B. Effect of disallowance of management plan or part of a management plan**

If the making, amendment or revocation of a management plan, or part of a management plan, is disallowed by a House of the Parliament, the disallowance has the same effect as a revocation of the making, amendment or revocation of the management plan or part.

**8C. Notice of disallowance of management plan or part of a management plan**

If the making, amendment or revocation of a management plan, or part of a management plan, is disallowed, the Clerk of the Parliaments must cause notice of the disallowance to be published in the Government Gazette."

**6. Substitution of section 9**

For section 9 of the **Heritage Rivers Act 1992** substitute—

**"9. Contents of management plans**

A management plan prepared under section 8 in relation to a heritage river area or a natural catchment area must—

- (a) include the matters specified by the Minister under section 8(1); and
- (b) be consistent with this Act and any Land Conservation Council recommendations in respect of which notice has been given under section 10(3) of the **Land Conservation Act 1970**."

**7. Land and water uses which are not permitted in heritage rivers**

For section 10(1) of the **Heritage Rivers Act 1992** substitute—

"(1) An impoundment must not be constructed or extended in a heritage river area."

**8. Land Conservation Council recommendations**

In sections 15(1)(c) and 16(c) of the **Heritage Rivers Act 1992**, for "a Land Conservation Council recommendation referred to" substitute "a Land Conservation Council recommendation, or part of a recommendation, described".

**9. Regulations**

- (1) In section 18(3) of the **Heritage Rivers Act 1992**, for "section 6(2) of the **Subordinate Legislation Act 1962**" substitute "section 23 of the **Subordinate Legislation Act 1994**".
- (2) In section 18(4) of the **Heritage Rivers Act 1992**, for "**Subordinate Legislation Act 1962**" substitute "**Subordinate Legislation Act 1994**".

**10. Transitional provision**

At the end of section 22 of the **Heritage Rivers Act 1992** insert—

"(2) Despite section 10(1), an impoundment that was in existence immediately before the commencement of section 6 of the **Heritage Rivers (Further Protection) Act 2006** may be replaced or maintained."

**11. Amendment of Schedule 3**

In Schedule 3 to the **Heritage Rivers Act 1992**, omit Column 1 of the Table.



**12. Amendment of Schedule 4**

In Schedule 4 to the **Heritage Rivers Act 1992**—

- (a) for the heading to Column 1 of the Table **substitute** "*Heritage River Area*"; and
- (b) in Column 2 of the Table, in the items relating to Yarra River Heritage Area and Lerderderg River Heritage Area **omit** "impoundments, artificial barriers, or structures that impede the passage of in-stream fauna, or".

**13. Amendment of Schedule 5**

In Schedule 5 to the **Heritage Rivers Act 1992**, for the heading to Column 1 of the Table **substitute** "*Natural Catchment Area*".

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**ENDNOTES**

† *Minister's second reading speech—*

*Legislative Assembly: 20 July 2006*

*Legislative Council: 24 August 2006*

The long title for the Bill for this Act was "to amend the **Heritage Rivers Act 1992** to prohibit the construction in heritage river areas of new impoundments, barriers and structures that impede the passage of water fauna, to amend the provisions relating to management plans for heritage river areas and natural catchment areas in that Act and for other purposes."