DEED OF VARIATION

1. First Deed of Variation to the Project Schedule for the South Australian Priority Project SA – 10: Flows for the Future Project

Commonwealth of Australia as represented by the Department of Agriculture ABN 24 113 085 695 (Commonwealth)

The Minister for Environment and Water, a body corporate pursuant to section 7 of the Administrative Arrangements Act 1994 (SA) as represented by the Department for Environment and Water ABN 36 702 093 234 (State)
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2. Details

1. Parties

2. Commonwealth of Australia as represented by the Department of Agriculture and Water Resources ABN 24 113 085 695 of 18 Marcus Clarke Street, Canberra City ACT 2601, Australia (Commonwealth).

1. The Minister for Environment and Water, a body corporate pursuant to section 7 of the Administrative Arrangements Act 1994 (SA) as represented by the Department for Environment and Water ABN 36 702 093 234 of Level 10, 81-95 Waymouth Street, Adelaide SA 5000, Australia (State).

3. Recitals

4. The Commonwealth of Australia and the State (then using the name of the Minister for Water Security for and on behalf of the Crown in right of the State of South Australia acting through the Department of Water, Land and Biodiversity Conservation) are parties to a Water Management Partnership Agreement dated 4 November 2009 (Agreement).

5. In accordance with clauses 5.1.1.b and 16.2.1 of the Agreement, the Commonwealth and the State are parties to the Flows for the Future Project Schedule SA-10 dated 15 February 2017 (Original Project Schedule), thereby incorporating the Project Schedule into the Agreement.

6. This is the first variation to the Original Project Schedule by the Commonwealth and the State.

7. The parties have agreed to amend the terms of the Original Project Schedule (the Project Schedule) in accordance with this deed of variation.
3. **Agreed terms**

1. **Defined terms and interpretation**

**Defined terms**

In this deed, except where the context otherwise requires, defined terms have the same meaning as given to them in the Agreement.

**Interpretation**

In this deed, except where the context otherwise requires:

- the singular includes the plural and vice versa, and a gender includes other genders;
- another grammatical form of a defined word or expression has a corresponding meaning;
- a reference to a clause, paragraph, schedule or attachment is to a clause or paragraph of, or schedule or attachment to, this deed, and a reference to this deed includes any schedule or attachment;
- a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- a reference to AUD, A$, $A, dollar or $ is to Australian currency;
- a reference to time is to the local time in Canberra, Australia;
- a reference to a party is to a party to this deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- headings are for ease of reference only and do not affect interpretation;
- a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- a word or expression defined in the *Corporations Act 2001* (Cth) has the meaning given to it in the *Corporations Act 2001* (Cth);
- the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally; and
- a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this deed or any part of it.
2. **Variation to Agreement**

With effect from the date of this deed, the Agreement is varied by:
Replacing the “Flows for the Future Project Schedule SA-10”, dated 15 February 2017, with the Project Schedule as set out in Attachment A to this deed.

3. **Reason for Variation**

The variation will extend the program for six months from 30 June 2019 to 31 December 2019 and reallocate funding across activity lines to cover the project extension.

4. **Payment acknowledgement**

The parties acknowledge that the amount of $xxxxxxx (GST exclusive) has already been paid to the State as part of the Funds payable under the Agreement.

5. **Continued force and effect of Agreement**

The Agreement continues in full force and effect, as amended by this deed.

6. **Miscellaneous**

6.1 **Counterparts**

This deed may be executed in counterparts. All executed counterparts constitute one document.

6.2 **Governing law and jurisdiction**

This deed is governed by the law of the Australian Capital Territory and each party irrevocably submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

6.3 **Date of effect**

The date of this deed will be on and from the date that the Commonwealth signs the deed.
4. Execution page

Executed as a deed

SIGNED SEALED AND DELIVERED for and on behalf of the Commonwealth of Australia as represented by the Department of Agriculture by a duly authorised representative

__________________________  ____________________________
Name of authorised representative (print)  Name of witness (print)

__________________________
Signature of authorised representative

__________________________
Signature of witness

Date 13 June 2019  Date 13 June 2019

SIGNED SEALED AND DELIVERED for and on behalf of the Minister for Environment and Water, a body corporate pursuant to section 7 of the Administrative Arrangements Act 1994 (SA) as represented by the Department for Environment and Water by a duly authorised representative

__________________________  ____________________________
Name of authorised representative (print)  Name of witness (print)

__________________________
Signature of authorised representative

__________________________
Signature of witness

Date 13 June 2019  Date 13 June 2019
ATTACHMENT A

Attachment A to the First Deed of Variation

Flows for the Future Schedule SA-10 to the South Australian and Commonwealth Water Management Partnership Agreement
Flows for the Future
Schedule SA-10 to the South Australian and Commonwealth Water Management Partnership Agreement
A. Terminology used in this Project Schedule

A.1.1. Except where indicated in Item A.1.2 capitalised terms in this Project Schedule have the same meaning as in clause 18.4 of the Water Management Partnership Agreement between the Commonwealth and the State of South Australia dated 4 November 2009 (the Agreement).

A.1.2. For the purpose of this Priority Project and Project Schedule only, the terms specified in this item have the following meaning:

a. Attachment: means an attachment to this Project Schedule;

b. Business Case: means the Business Case submitted to the Commonwealth, including the amendment to this Business Case made through Supplementary Information and the State’s formal response to the Draft Due Diligence Report submitted to the Commonwealth under clause 5.1.2.c of the Agreement. Where there is a conflict between these documents, the last of these documents submitted to the Commonwealth will prevail to the extent of any inconsistency;

c. Construction Contract: means any contract that the State has with its subcontractors for the construction of Works;

d. Department of Agriculture: means the Commonwealth Department of Agriculture and its predecessor the Department of Agriculture and Water Resources;

e. DEW: means the South Australian Department for Environment and Water;


g. EMLR WRA: Eastern Mount Lofty Ranges Water Resource Area as defined in the Murray Darling Basin Plan;

h. Eligible Participant: a landholder deemed eligible to participate in this Priority Project.

i. Evaluation Period: means the period that expires 12 months after the completion of the project as specified at Item B.1.3;

j. Financial Reporting Template: means the template referred to at Attachment E for the purposes of progress Reporting in accordance with the Annual Workplans and in accordance with Item I.2.1.b;

k. Interest: interest accrued pursuant to clause 6.1.9 of the Agreement and forms part of the Funds;

l. Outcome: means the measurable benefits or other long term changes as per Item B.2 that are sought from undertaking the Priority Project and individual Works;
m. Program Management and Corporate Overheads: means the costs associated with DEW overheads including operating costs, overheads and staffing;

n. Proponent: means a landholder who has entered into a funding deed with the DEW in relation to this Priority Project Works.

o. Priority Project: means Flows for the Future State Priority Project SA-10;

p. Project Milestone: means a milestone for the completion of the Project;

q. Subcontractor: means an organisation which is engaged by the State under a binding agreement to assist with the delivery of the Project Milestones for this Priority Project;

r. Workplan: means a document that states what activities will be undertaken to achieve identified aims and outcomes, as identified in Attachment A. Item B.4.2 outlines the minimum requirements of a Workplan under this Project Schedule;

s. Works: means any part of this Priority Project that comprises construction and installation activities, including the construction and building activities specified in Attachment A to this Project Schedule;

t. Works Locations: means the locations where the Works are to be undertaken including any premises in, or land on, which those Works are to be constructed or installed; and

u. Works Purposes: means use of the Works in a manner consistent with the aims and objectives of the Priority Project.

B. **Priority Project SA-10: Flow for the Future Project**

B.1. **Summary and duration of the Priority Project**

B.1.1. The Commonwealth has agreed to provide a maximum amount of $12,138,102 (excluding GST) of Funding to the State under this Project Schedule for the Flows for the Future Project.

B.1.2. Subject to Item B.1.1 the State is required to provide State Contributions to this Priority Project equal to 10 per cent of the Project Cost for this Priority Project as specified in Item D.

B.1.3. This Priority Project commences on 30 November 2016 and must be completed by 31 December 2019.

B.2. **Aim and Outcomes of this Priority Project**

B.2.1. To restore low flows in the Angas and Bremer catchments to improve the catchment health of the EMLR WRA, through the facilitation of low flows at up to 500 strategically located dams and/or water course diversions in Angas and Bremer catchments in the Eastern Mount Lofty Ranges Water Resource Area (EMLR WRA), with the potential to extend the Works Locations into the Marne Saunders catchments, dependent on approval under Item B.3.4.

B.2.2. The Outcome of the Priority Project is the restoration of low flows to improve catchment health in the EMLR WRA.
B.3. **Priority Project Requirements**

B.3.1. The State agrees that:

a. this Priority Project will be completed in accordance with the parts of the Business Case approved by the Commonwealth Minister, as described in the Due Diligence Report and deliverables as set out in Attachment A;

b. it is responsible for meeting the Project Milestones and timeframes for this Priority Project that are specified in this Project Schedule;

c. it is responsible for ensuring the proper and efficient conduct of this Priority Project, in accordance with this Project Schedule, and also in accordance with the conduct and conditions set out in Attachment A;

d. it will ensure appropriate monitoring, auditing and reporting of expenditure against the project cost to enable the Commonwealth to be informed on the progress and outcomes of this Priority Project;

e. it will comply, and ensure its Eligible Participants, Proponents and subcontractors comply, with all requirements of the *Building Code 2013* as set out in Attachment B to this Project Schedule;

f. it will ensure its Proponents and subcontractors comply, with all requirements of the *Australian Government Building and Construction WHS Accreditation Scheme* as set out in Attachment C to this Project;

g. consistent with clause 14 of the Agreement, the State will seek the agreement of the Commonwealth before the release of any publicity material in relation to this Priority Project;

h. if requested by the Commonwealth, it will facilitate the Commonwealth’s access to the State’s records, contracts and personnel or a Subcontractor’s records to enable the Commonwealth to conduct its own independent audit or review of any aspect of this Priority Project;

i. it will establish a steering committee (comprising both parties’ project sponsors) to regularly communicate progress of the conduct of this Priority Project via regular teleconferences and with meetings at least twice a year, and with information to be provided to the person or persons nominated from time to time by the Commonwealth. Terms of Reference for the steering committee will be agreed by the parties within two months of signing this Project Schedule;

j. it will establish an intergovernmental working group (comprising Project Managers for both parties) to regularly communicate progress of the conduct of this Priority Project via regular teleconferences and at least quarterly meetings with information to be provided to the person or persons nominated from time to time by the Commonwealth. Terms of Reference for the intergovernmental working group will be agreed by the parties within two months of signing this Project Schedule;

k. indemnifies the Australian Government against any environmental or other third party damage caused by project activities within their contracts;
l. provides evidence of warranties protecting the Commonwealth when requested and where required; and
m. there will be no allocation of responsibility to the Commonwealth for any legal contracts or like arrangements.

B.3.2. The State also agrees to ensure that the:

a. Works Locations and the completed Works (as specified in Attachment A) are used for, and are fit to be used for, the purposes of this Priority Project;
b. Works are constructed at the Works Locations specified in this Project Schedule in Attachment A; and
c. Works Locations and the Works, (both during and after their completion) are safeguarded against damage and unauthorised use at all times.

B.3.3. This Priority Project includes the conduct of a trial period (12 months from commencement of the project) in the Angus catchment to determine the best means of delivering the project. After the trial period, the State will review the project delivery mechanism and seek approval from the Commonwealth for any amendments to the delivery mechanism used during the trial period.

B.3.4. The State will have to submit a business case to the Commonwealth for extending the project into the Marne Saunders catchments, and have Commonwealth approval, prior to any Works being undertaken in the Marne Saunders catchments.

B.3.5. If a third party has proprietary or other rights in relation to the Works Location(s), the State agrees prior to commencing any Works on a site to

a. enter into binding written agreements with the third party agreeing to:
   i. the site of work
   ii. the work to be undertaken, and
   iii. access to the site for evaluation/audit.

b. Not to do anything that would give a third party a right to rescind their agreement.

B.3.6. The State agrees to ensure that its subcontractors involved in the performance of the Works take out and maintain insurance that adequately covers the fixed and contingent obligations of those organisations under their Construction Contracts as well as liability for death and injury of persons employed by those organisations. The State agrees to ensure that each Construction Contract contains an undertaking on terms sufficient to ensure the due and proper performance of the Construction Contract and the State agrees to ensure that any such undertaking is enforced as and when necessary to ensure that the Construction Contract is so performed.

B.3.7. The State agrees that the use of any Interest that the State earns on the Funding will be consistent with Clause 6.1.9 of the Agreement.
B.3.8. The Commonwealth and State agree that:

a. this Priority Project will be carried out, and the Works Locations and completed Works will be used, in accordance with all applicable laws and regulations (including, but not limited to, planning, environmental, occupational health and safety, building and regulatory approvals), in particular the *Environmental Protection and Biodiversity Conservation Act 1999 (Cth)* and the *Native Title Act 1993 (Cth)* and *Natural Resources Management Act 2004 (SA)*, and all applicable Australian standards;

b. this Project Schedule may be signed by the parties in two counterparts, in which case, the two counterparts together will be taken to constitute the one Project Schedule;

c. for the purposes of clause 16.1 of the Agreement, a variation to this Project Schedule may be signed for and on behalf of the Commonwealth as specified in clause 16.1.2, with the addition that a variation may be signed for and on behalf of the State by its relevant Minister or an authorised State official;

d. this Priority Project, including all Project Works/Activities, and Program and Corporate Overheads will be managed by the State in accordance with this Project Schedule; and

e. Australian Government Funding will be capped at a maximum of $12,138,102, with any costs overruns the sole responsibility of the State.

B.3.9. The State acknowledges that it, and not the Commonwealth, is responsible for managing and performing this Priority Project and that the Commonwealth has no responsibility for performing any aspect of this Priority Project, other than undertaking its approval role (as specified elsewhere in this schedule), payment of milestones (when milestone criteria satisfactorily meet) and participation in governance groups and meetings as required.

B.4. Annual Workplans

B.4.1. The State is required to prepare Annual Workplans, to be used as the basis for progress reporting outlined in item I.2. for the project period, which together will cover the life of the project.

B.4.2. The Annual Workplans at a minimum must include:

a. a description of how the work is to achieve the Outcomes;

b. outputs for the reporting period that contribute to the achievement of the deliverables;

c. detailed budget for the relevant year that complies with the relevant Activities listed in Attachment A;

d. indicative budget for the out years as per the project Budget lines outlined in Attachment A;

e. financial reporting template that meets the requirements of items I.2.1.b and I.2.1.e based on the template in Attachment E; and
f. an overview that provides certainty that the timing of planned Activities for the
relevant financial year contributes to both Activities achieved to date and for
the out years for the project.

B.4.3. Annual Workplans for the purposes of this Project Schedule must be approved by
the Commonwealth.

B.4.4. The State agrees to provide to the Commonwealth Annual Workplans by 31 March
of each year for the work to be undertaken in the following financial year.

B.4.5. The Commonwealth agrees to consider the Annual Workplans and provide the
State with a response to the Annual Workplans within 20 Business Days of the
receipt of the Annual Workplans.

B.4.6. For the avoidance of doubt, if there is any inconsistency between an Annual
Workplan and this Project Schedule, this Project Schedule prevails to the extent of
the inconsistency.

C. Project Milestones

C.1.1. The Project Milestones for the Priority Project Elements are set out in the
following table:

<table>
<thead>
<tr>
<th>Project Milestone Number</th>
<th>Project Milestone</th>
<th>Date Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Signing of this Project Schedule by the State and Commonwealth</td>
<td>On signing</td>
</tr>
<tr>
<td>2.</td>
<td>Undertake a project planning workshop involving relevant Commonwealth and State officers to inform the development of the 2016-17 Workplan and project implementation plan. Provision of the 2016-17 Workplan, a project implementation plan, and revised project budget and governance, to the satisfaction of the Commonwealth.</td>
<td>30 March 2017</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Completed)</td>
</tr>
<tr>
<td>3.</td>
<td>Provision of Progress Report 1 (covering the period project commencement to 30 June 2017) that contains the information specified in Item I.2 of this Project Schedule demonstrating the completion of deliverables/milestone as per the approved annual Workplan and financial statement for the reporting period; and to the satisfaction of the Commonwealth.</td>
<td>30 September 2017</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Completed)</td>
</tr>
<tr>
<td>4.</td>
<td>Provision of Progress Report 2 (covering the period 1 July 2017-31 December 2017) that contains the information specified in Item I.2 of this Project Schedule demonstrating the completion of deliverables/milestone as per the approved annual Workplan and financial</td>
<td>31 March 2018</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Completed)</td>
</tr>
<tr>
<td>Project Milestone Number</td>
<td>Project Milestone</td>
<td>Date Due</td>
</tr>
<tr>
<td>--------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td></td>
<td>statement for the reporting period; and to the satisfaction of the Commonwealth.</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Provision of Progress Report 3 (covering the period 1 January 2018 to 30 June 2018) that contains the information specified in Item I.2 of this Project Schedule demonstrating the completion of deliverables/milestone as per the approved annual Workplan and financial statement for the reporting period; and to the satisfaction of the Commonwealth.</td>
<td>30 September 2018 (Completed)</td>
</tr>
<tr>
<td>6.</td>
<td>Provision of Progress Report 4 (covering the period 1 July 2018 to 31 December 2018) that contains the information specified in Item I.2 of this Project Schedule demonstrating the completion of deliverables/milestone as per the approved annual Workplan and financial statement for the reporting period; and to the satisfaction of the Commonwealth.</td>
<td>31 March 2019</td>
</tr>
<tr>
<td>7.</td>
<td>Provision of Progress Report 5 (covering the period 1 January 2019 to 30 June 2019) that contains the information specified in Item I.2 of this Project Schedule demonstrating the completion of deliverables/milestone as per the approved annual Workplan and financial statement for the reporting period and which meets the Commonwealth’s satisfaction.</td>
<td>30 September 2019</td>
</tr>
<tr>
<td>8.</td>
<td>Provision of Progress Report 6 (covering the period 1 July 2019 to 31 December 2019) that contains the information specified in Item I.2 of this Project Schedule demonstrating the completion of deliverables/milestone as per the approved annual Workplan and financial statement for the reporting period and which meets the Commonwealth’s satisfaction.</td>
<td>31 January 2020</td>
</tr>
<tr>
<td>9.</td>
<td>Provision of an Evaluation Report that contains the information specified in Item I.5 of this Project Schedule; and to the satisfaction of the Commonwealth.</td>
<td>By the date specified in Item I.5.2.</td>
</tr>
<tr>
<td>10.</td>
<td>Provision of a Final Report that contains the information specified in Item I.3 of this Project Schedule; and to the satisfaction of the Commonwealth.</td>
<td>31 January 2020</td>
</tr>
</tbody>
</table>
D. **Project Cost**

D.1. **Project Cost**

D.1.1. The maximum GST exclusive Project Cost for this Priority Project is $13,486,780 as detailed in the following table.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Funding</th>
<th>State Contribution</th>
<th>Total Project Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

D.2. **Contribution Components of Priority Project**

D.2.1. The maximum GST exclusive Funding and State Contributions to the Project Cost for the Priority Project (as specified in Item D.1) are set out in the following table:

<table>
<thead>
<tr>
<th>Contribution</th>
<th>Maximum Contribution ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commonwealth Funding</td>
<td>$12,138,102</td>
</tr>
<tr>
<td>State Contributions</td>
<td>$1,348,678</td>
</tr>
<tr>
<td>Project Cost as set out in Item D.1.1</td>
<td>$13,486,780</td>
</tr>
</tbody>
</table>

D.3. **State Contributions**

D.3.1. The State agrees to provide the following cash contributions to the total Project Cost for this Priority Project at the following times:

<table>
<thead>
<tr>
<th>GST exclusive amount of State Contribution</th>
<th>Date by which State Contribution is to be provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
<td>Upon execution of this Project Schedule by both parties – Project Milestone 1.</td>
</tr>
<tr>
<td>$</td>
<td>Upon completion of Project Milestone 2.</td>
</tr>
<tr>
<td>$</td>
<td>Upon completion of Project Milestone 3.</td>
</tr>
<tr>
<td>$</td>
<td>Upon completion of Project Milestone 4.</td>
</tr>
<tr>
<td>$</td>
<td>Upon completion of Project Milestone 5.</td>
</tr>
<tr>
<td>$</td>
<td>Upon completion of Project Milestone 6.</td>
</tr>
<tr>
<td>$</td>
<td>Upon completion of Project Milestone 7.</td>
</tr>
<tr>
<td>$</td>
<td>Upon completion of Project Milestone 8.</td>
</tr>
</tbody>
</table>
D.3.2. The State agrees that its State Contributions will not include any financial assistance that the State has received from the Commonwealth for this Priority Project.

D.3.3. In Item D.3.2 ‘financial assistance’ means Commonwealth money received under any Commonwealth program.

D.4. Other Contributions

D.4.1. There are no other contributions for this Priority Project.

D.5. Budget

D.5.1. The State agrees to spend only the Funding and the State Contributions in accordance with Attachments A and as detailed in an approved Annual Workplan under Item B.4.

D.5.2. The Commonwealth is not responsible for the provision of any money or resources in excess of the Funds and the State agrees to bear all costs of completing this Priority Project in accordance with this Project Schedule that exceed the amount of Funding payable by the Commonwealth.

D.5.3. The State acknowledges that the provision of Funding for this Priority Project does not give rise to any Commonwealth obligation to fund any other proposals or expenditure arising from or in relation to the Priority Project.

E. Transfer of Water Entitlements

Reserved.

F. Sharing Actual Water Savings additional to Agreed Water Savings

Reserved.

G. Agreement Material and Existing Material relating to this Priority Project

Reserved.

H. Indemnity

H.1.1. Notwithstanding any other provision of this Project Schedule, the State agrees to indemnify, and keep indemnified, the Commonwealth against any cost, liability, loss or expense incurred by the Commonwealth:

a. in rectifying any environmental damage; or

b. in dealing with any third party (including Commonwealth Personnel) claims against the Commonwealth, which includes without limitation the Commonwealth’s legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used and disbursements paid by the Commonwealth,
arising from any act or omission by the State or its Personnel in connection with the Priority Project specified in this Project Schedule.

H.1.2. The State’s liability to indemnify the Commonwealth under this Item H will be reduced proportionally to the extent that any fault on the Commonwealth’s part contributed to the relevant cost, liability, loss or expense. In this Item H.1.2, ‘fault’ means any reckless, negligent or unlawful act or omission or wilful misconduct.

H.1.3. The right of the Commonwealth to be indemnified in this Item H is in addition to, and not exclusive of, any other right, power or remedy provided to the Commonwealth by law, but the Commonwealth is not entitled to be compensated in excess of the relevant cost, liability, loss or expense.

I. Project Reports

I.1. Priority Project Reports

I.1.1. Further to clause 8 of the Agreement, the State agrees to provide the Commonwealth with all of the Reports specified in Item C at the times specified in Item C.1.1.

I.1.2. The Commonwealth’s approval of each Project Report specified in Item C is required.

I.2. Progress Reports

I.2.1. Each Progress Report must include the following (at a minimum):

a. a description of work undertaken in respect of the Priority Project up to and including the completion of the Project Milestone to which the Report relates that includes:

   i. Priority Project achievements to date, including evidence that each of the Project Milestones, including deliverables, have been met and where relevant is in accordance with agreed outputs as contained in the approved Annual Workplans;

   ii. the outcomes of the Priority Project that have been achieved to date. This includes a discussion of the extent to which the completed Works are being used for the purpose of the Priority Project’s outcomes; and

   iii. an explanation of any difficulties or delays encountered to date in the performance of the Priority Project, including the extent to which the Priority Elements’ expected initial outcomes have not been met.

b. a detailed statement of the State’s receipt and expenditure of the Funds and the State Contributions to date for the Priority Project, in accordance with the Financial Reporting Template in an approved Annual Workplan that meets the requirement of Attachment E and Item B.4 including Interest earned by the State on the Funds or State Contributions;

c. details of all promotional activities undertaken in relation to, and media coverage of, the Priority Project during the period that is the subject of the Report and any expected promotional opportunities, during the next reporting period of the Priority Project;
d. a description of the work that will be undertaken to complete the Priority Project;

e. a statement as to whether the Priority Project is proceeding within the Project Cost and if it is not, an explanation as to why the Project Cost is not being met and the action the State proposes to immediately take to address this; and

f. any other items that are agreed by the State and the Commonwealth to be included in the Progress Reports.

I.3. Final Project Report

I.3.1. The Final Project Report must be a stand-alone document that can be used for public information dissemination purposes regarding this Priority Project.

I.3.2. The Final Project Report for the Priority Project is due within the earliest of:

a. 31 January 2020; or

b. 60 Business Days of the termination of the Agreement or this Project Schedule.

I.3.3. The Final Project Report must contain the following information:

a. a description of the conduct, benefits and outcomes of the Priority Project as a whole;

b. an analysis of this Priority Project, including assessing the extent to which the outcomes of the Priority Project (as specified in Item B.2 of this Project Schedule) have been achieved and explaining why any aspect of the Priority Project was not achieved;

c. high level financial information regarding the State’s receipt and expenditure of the Funds and State Contributions to date, and any interest earned by the State on the Funds, for the entire period of the Priority Project;

d. a summary of all promotional activities undertaken in relation to, and media coverage of, the Priority Project;

e. a discussion of any other matters, relating to the Priority Project, which the Commonwealth notifies the State should be included in this Final Project Report at least 20 Business Days before it is due; and

f. any other information that is agreed by the State and the Commonwealth to be included in the Final Project Report.

I.3.4. The Final Project Report should be accompanied by a separate document that contains a certified income and expenditure statement signed by the Chief Finance Officer, South Australian Department for Environment and Water that clearly identifies:

a. the State’s receipt and expenditure of the Funding for this Priority Project, and confirms the amount of Funding that was expended by the State in accordance with this Project Schedule;

b. the State’s receipt and expenditure of any interest earned by the State on the Funding and State Contributions;
c. the receipt and expenditure of any State Contributions provided by the State for the Priority Project;

d. any cost savings or cost overruns for the Priority Project; and

e. the amount, if any, of Funds paid to the State and the amount of any State Contributions that the State has not spent on this Priority Project in accordance with this Agreement.

I.4. Audited Financial Reports

I.4.1. Audited Financial Reports are to be provided for the Priority Project as specified in Schedule 4 Item C of the Agreement.

I.5. Evaluation Report

I.5.1. An Evaluation Report is to be provided by the State, building on information provided in progress Reports for this Priority Project, that clearly demonstrates:

a. the extent to which the completed Works are being used for the Priority Project outcomes as specified in Item B.2.2 throughout the Evaluation Period;

b. the extent to which the Priority Project has met, exceeded or fallen short of the Priority Project outcomes as specified in Item B.2.2 during the Evaluation Period; and

c. any other items that are agreed by the State and the Commonwealth to be included in the Evaluation Report.

I.5.2. The Evaluation Report is due within 40 Business Days of the expiry of the Evaluation Period or the termination of the Agreement or this Project Schedule.

J. Payment Schedule for Commonwealth Funding for this Priority Project

J.1.1. The maximum GST exclusive amount of Funding for this Priority Project is $12,138,102 payable by the Commonwealth to the State as set out in the following table. The provision of all Funding is subject to the terms of clauses 6 and 17 of the Agreement:

<table>
<thead>
<tr>
<th>Funding Payment Number</th>
<th>Funding instalment (GST exclusive)</th>
<th>Payment Preconditions for Funding instalment*</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>$ xxxxxxxx</td>
<td>Upon execution of this Project Schedule by both parties – Project Milestone 1.</td>
</tr>
<tr>
<td>2</td>
<td>$ xxxxxxxx</td>
<td>Completion of Milestone No 2 to the satisfaction of the Commonwealth.</td>
</tr>
<tr>
<td>3</td>
<td>$ xxxxxxxx</td>
<td>Completion of Milestone No 3 to the satisfaction of the Commonwealth.</td>
</tr>
<tr>
<td>4</td>
<td>$ xxxxxxxx</td>
<td>Completion of Milestone No 4 to the satisfaction of the Commonwealth.</td>
</tr>
<tr>
<td>Milestone</td>
<td>Payment</td>
<td>Description</td>
</tr>
<tr>
<td>-----------</td>
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</tr>
<tr>
<td>5</td>
<td>$ xxxxxx</td>
<td>Completion of Milestone No 5 to the satisfaction of the Commonwealth.</td>
</tr>
<tr>
<td>6</td>
<td>$ xxxxxx</td>
<td>Completion of Milestone No 6 to the satisfaction of the Commonwealth.</td>
</tr>
<tr>
<td>7</td>
<td>$ xxxxxx</td>
<td>Completion of Milestone No 7 to the satisfaction of the Commonwealth.</td>
</tr>
<tr>
<td>8</td>
<td>$ xxxxxx</td>
<td>Completion of Milestone No 8 to the satisfaction of the Commonwealth.</td>
</tr>
<tr>
<td>9</td>
<td>$ xxxxxx</td>
<td>Completion of Milestone No 9 to the satisfaction of the Commonwealth.</td>
</tr>
<tr>
<td>Final</td>
<td>$ xxxxxx</td>
<td>Completion of Milestone 10 to the satisfaction of the Commonwealth.</td>
</tr>
</tbody>
</table>

**Total Commonwealth Funding** $ xxxxxx

* A payment precondition for each funding instalment is that the State provides a tax invoice for the payment of Funds and the Commonwealth acceptance of that invoice.
**Flows for the Future Project**

**Description**

Flows for the Future aims to reinstate more natural flow patterns, through bypassing low flows at up to 500 strategically located dams and/or water course diversions, across the Angas and Bremer catchments in the Eastern Mount Lofty Ranges Water Resource Area (EMLR WRA), with the potential to extend the Works Locations into the Marne Saunders catchments, dependent on approval from the Commonwealth.

**Outcomes**

To restore low flows in the Angas and Bremer catchments to improve the catchment health of the EMLR WRA, through the facilitation of low flows at up to 500 strategically located dams and/or water course diversions in Angas and Bremer catchments.

**Deliverables**

This Priority Project requires the State to:

- implement the Flows for the Future project through bypassing low flows (installation of low-flow bypass devices) at up to 500 strategically located dams and/or water course diversions across the Angas and Bremer catchments.
- develop a Communication Strategy (including communicating landholder Prescribed Water Resource Areas requirements) to increase community awareness and to encourage maximum voluntary participation in the program.
- provide to the Australian Government for approval:
  - a project implementation plan including gateway milestones (that will be reflected in the Workplan);
  - a site prioritisation process;
  - grant guidelines;
  - a monitoring evaluation framework; and
  - a landholder compliance and audit standing operating procedure.
- provide the Australian Government with revised project budget, governance arrangements and risk management plan.
- provide a breakdown of in-kind contributions.

In addition to the above deliverables, during 1 July to 31 December 2019, the State will:

- Complete an updated hydrological model that provides flow outcomes from Phase 1 to 31 December 2019; and
- Conduct Phase 2 Hydrological Modelling.

**Flows for the Future Project Conduct and Conditions**

Conduct:

- when determining the sites in sub-catchment zones to be treated for low flows, ensures that treatments are designed to connect through the system to provide low flows to in-stream habitats, notably to the in-threat WDEs;
• the State agrees to progress and implement the necessary administrative processes to operationalise the regulatory tools (to maximise landholder uptake) for the construction and use of low flow devices;

• ensures, that in the selection of sites, landholders who hold out until compelled to meet their responsibilities through formal compliance activities are ineligible for Australian Government funding under this project;

• ensures that licence conditions for licensed dam owners are amended to ensure that the requirement for low flow conditions, and the need to operate and maintain the low flow devices, are included;

• develop and implements its monitoring evaluation framework to monitor project outcomes, particularly monitoring for macroinvertebrate community condition and resilience, community condition and recruitment for native fish populations and in-channel vegetation change;

• sets up processes to effectively monitor whether or not the low flow devices are being installed and operated as proposed, and ensures compliance with operation and maintenance requirements are being implemented;

Condition:

Should the State wish to expand the project area into the Marne Saunders catchment, a report outlining the justification for the expansion must be submitted to the Australian Government for approval. In the report SA must demonstrate that the requirements under the due diligence assessment criteria are not only still met, but improved by the amendment. This would notably include information on the difference in environmental, economic and social benefit, and information to justify whether or not the proposal is still value for money.

All Activities are to be completed by 31 December 2019.

| Milestones
| Elements | Completion date |
|---|---|---|
| 1 | Completion of Flows for the Future Activities undertaken in accordance with agreed 2016-17 Workplan. | 30 June 2017 |
| 2 | Completion of Flows for the Future Activities undertaken in accordance with agreed 2017-18 Workplan. | 31 December 2017 |
| 3 | Completion of Flows for the Future Activities undertaken in accordance with agreed 2017-18 Workplan. | 30 June 2018 |
| 4 | Completion of Flows for the Future Activities undertaken in accordance with agreed 2018-19 Workplan. | 31 December 2018 |
| 5 | Completion of Flows for the Future Activities undertaken in accordance with agreed 2018-19 Workplan. | 30 June 2019 |
| 6 | Completion of Flows for the Future Activities undertaken in accordance with agreed 2019-20 Workplan. | 31 December 2019 |

| Costs
<table>
<thead>
<tr>
<th>Activity</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL (as per Item D.2.3 of this Project Schedule)</td>
<td>$</td>
</tr>
</tbody>
</table>

| Expected completion date | 31 December 2019 |
1.1. Interpretation

1.1.1. In this Attachment:

- **Commonwealth funded building work** means work in items 1-8 of Schedule 1 of the Building Code.
- **Project Parties** means all Proponents, Eligible Participants, contractors, subcontractors, consultants and employees who perform on-site work in relation to the Priority Project.

1.2. Compliance with the Building Code

1.2.1. Where the Funding relates to Commonwealth funded building work, the State must comply and ensure that the Project Parties comply with the Building Code and the Guidelines.

1.2.2. The State must ensure that:

   a. all requests for application or tender, expressions of interest, submissions and invitations to join 'Common Use Arrangements' in relation to the Priority Project made by it or any of the Project Parties, contain the commitment to apply the Building Code and Guidelines as set out in the model tender documents available at: https://docs.employment.gov.au/documents/building-code-2013-supporting-guidelines-commonwealth-funding-entities
   
   b. all contracts entered into in relation to the Priority Project by it or any of the Project Parties contain the commitment to apply the Building Code and Guidelines as set out in the model contract clauses available at: https://docs.employment.gov.au/documents/building-code-2013-supporting-guidelines-commonwealth-funding-entities

1.2.3. The State must notify the Australian Building and Construction Commissioner (ABC Commissioner) when the tender process for work in relation to the Project is complete and a building contractor or building industry participant has been awarded a contract to undertake Commonwealth funded building work. The notification should include:

   a. the name and contact details of the building contractor or building industry participant; and
   
   b. a description of the work; and
c. the location of the proposed work; and  

d. the cost of the project; and  

e. the proposed project start and completion dates.

1.3. **State must maintain Records and permit access**  

1.3.1. The State must maintain adequate records of compliance by it, and each of the Project Parties, with the Building Code and the Guidelines. The State must permit the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Australian Building and Construction Commission (ABCC), full access to premises and records of the State and the Project Parties to:  

a. inspect any work, material, machinery, appliance, article or facility;  

b. inspect and copy any record relevant to the Priority Project and works governed by this Project Schedule;  

c. interview any person,  

as is necessary to monitor compliance with the Building Code and the Guidelines.  

1.3.2. Additionally, the State undertakes that it and each of the Project Parties will agree to a request from the Commonwealth, including a person occupying a position in the ABCC, to produce a specified document within a specified period, in person, by fax, or by post.  

1.3.3. The Commonwealth, the ABC Commissioner and Minister for Employment may publish or otherwise disclose information in relation to compliance by the State and the Project Parties with the Building Code and the Guidelines. The State must obtain the consent of the Project Parties to the publication or disclosure of information under this clause.  

1.4. **Appointment of sub-contractors**  

1.4.1. While acknowledging that value for money is the core principle underpinning decisions on government procurement, when issuing tenders the State may preference Proponents, contractors, subcontractors and consultants that have a demonstrated commitment to:  

a. adding and/or retaining trainees and apprentices;  

b. increasing the participation of women in all aspects of the industry; or  

c. promoting employment and training opportunities for Indigenous Australians in regions where significant Indigenous populations exist.  

1.4.2. The State must not appoint a Proponent, contractor, subcontractor or consultant in relation to the Priority Project where:  

a. there are reasonable grounds to believe the building contractor or building industry participant is covered by an enterprise agreement that is inconsistent with the Building Code; or  

b. there are reasonable grounds to believe that the building contractor or building industry participant is a party to an agreement of a kind described in subsection 10(1) of the Building Code; or  

c. an exclusion sanction applies to the building contractor or building industry participant; or
d. an adverse decision, direction or order of a court or tribunal has been made in
relation to the building contractor or building industry participant and a
contravention of any of the following in respect of building work:
   i. a designated building law; or
   ii. the *Work Health and Safety Act 2011* or a corresponding WHS law; or
   iii. the *Competition and Consumer Act 2010*; and

there are reasonable grounds to believe that the building contractor or building industry
participant has failed to comply with the decision, direction or order.
1.1 Interpretation

1.1.1 In this Attachment:

the Act means the Building and Construction Industry (Improving Productivity) Act 2016 (Cth).

Builder has the meaning given in section 43(8) of the Act.

Building Work has the meaning given to it in section 6 of the Act.

Regulations means the Fair Work (Building Industry – Accreditation Scheme) Regulation 2016.

Scheme means the Scheme described at section 43 of the Act.

1.2 Scheme requirements

1.2.1 Subject to the exclusions specified in the Regulations, construction projects that utilise funds provided under this Project Schedule are bound by the application of the Scheme.

1.2.2 The State must ensure it complies with item 1.2.3 below for all contracts that it enters into as part of the Priority Project, and all contracts that its subcontractors enter into as part of the Priority Project, where:

a. the head contracts for Building Work are greater than $4 million or more (GST inclusive); and

b. the value of the Commonwealth’s contribution is at least $6 million and represents at least 50 per cent of the total construction project value; or

c. the Commonwealth’s contribution is $10 million or more, irrespective of the proportion of the Commonwealth funding.

1.2.3 For contracts that are subject to the above item 1.2.2, the following conditions must be satisfied:

a. those contracts are notified to the Office of the Federal Safety Commissioner at the earliest possible opportunity; and

b. contain a requirement that the Builder:

   i. is accredited under the Scheme;

   ii. maintains Scheme accreditation for the life of the contract; and

   iii. must comply with all conditions of the Scheme accreditation.
1.2.4 The State agrees to notify the Commonwealth immediately if that Builder has ceased, or is likely to cease, to meet the accreditation requirements in paragraph 1.2.3(b) above.

1.2.5 The State must maintain adequate records of compliance by it, and each of its subcontractors, with the Scheme.
## Statement of Income and Expenditure - For the Period Project Commencement to [reporting date]

<table>
<thead>
<tr>
<th>INCOME</th>
<th>BUDGET</th>
<th>ACTUAL</th>
<th>TOTAL</th>
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</thead>
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<td>Commonwealth Funding</td>
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<tr>
<td>1. Payment on signature</td>
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<td>9. Progress Payment</td>
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<tr>
<td><strong>Sub-total</strong></td>
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<tr>
<td>State Contributions</td>
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<td>9. Progress Payment</td>
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<td><strong>Sub-total</strong></td>
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<td>Interest earned on Commonwealth Funding</td>
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<td>Interest earned on State Contribution</td>
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<td><strong>Sub Total</strong></td>
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<td><strong>TOTAL INCOME</strong></td>
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<td>Expenditure</td>
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<td>ACTUAL</td>
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<td>2016-17</td>
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<td>2018-19</td>
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<td>Program Management and Corporate Overheads</td>
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<td>Activity (eg technical development)</td>
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<tr>
<td>Activity 2 (eg communication/advertising)</td>
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<tr>
<td>Activity (eg construction – ditch digging)</td>
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<tr>
<td>Total Expenditure</td>
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<tr>
<td>Net Surplus/(Deficit)</td>
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</tbody>
</table>

**Certification Statement**

On behalf of the Department for Environment and Water, I hereby certify that all Funding and State contributions were spent in accordance with the Project Schedule SA-10 and the Water Partnership Agreement

**Signature of Project Director:** ..........................................................

**Date:** ........................................