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Dear Mr Moran

The South Australian Government welcomes the opportunity to provide input into the review of the *Water Act 2007* (Water Act).

The South Australian Government has been very supportive of the Murray-Darling Basin water reforms and the Water Act. Strongly backed by our community, we fought hard to ensure that the Basin Plan would deliver a healthy River Murray for both productive and environmental use. Central to this outcome is the return of 3,200 gigalitres of water for the environment (or equivalent in terms of environmental outcomes) along with addressing constraints on environmental water delivery.

The successful implementation of the Water Act and the Basin Plan will transform water management in the Murray-Darling Basin and result in better outcomes for the Basin economy, communities and the environment.

It is our considered view that there has not been sufficient progress or reporting to provide a strong evidence base to consider whether changes are required to the Water Act or its operation at this point in time. When the Water Act was originally legislated, it was envisaged that the Basin Plan would come into effect shortly after the Water Act's introduction. Given the Basin Plan's later commencement date, there are still a number of years until its requirements come into full operation. In particular, some of its most significant provisions, namely water resource plan requirements and sustainable diversion limits (SDLs), are not yet in effect.

Based on progress to date, the South Australian Government sees no case for significant change to the Water Act or its operation. The legislative, governance and policy framework is sound and collaborative implementation is proceeding well. All jurisdictions have agreed to the framework through their endorsement of the *Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin*. The framework is supported by Commonwealth Government investment that is fundamental in underpinning implementation and optimising social, economic and environmental outcomes. These important gains should not be compromised through premature change.

The focus of governments' energy and investment must be directed at ensuring successful, ongoing implementation of the Basin Plan and associated reforms. This includes adopting new standards for state water resource plans and implementation of sustainable diversion limits to ensure that the changes made by communities and the benefits of the significant investment made by the Commonwealth and jurisdictions to recover water are not eroded. It also includes continuing to invest and work in partnership in managing water delivery and infrastructure in the River Murray system. The Murray-Darling Basin Agreement and joint program funding arrangements play an essential and complementary role in underpinning the efficient and effective delivery of Murray-Darling Basin reform initiatives.

I acknowledge that implementation of the Water Act and Basin Plan is likely to remain a matter for public debate. However it is important to avoid premature conclusions before there has been time for the Water Act and Basin Plan to be fully implemented and data to be collected on their outcomes.

Our submission, therefore, seeks to highlight critical implementation priorities while making some suggestions for refinement of implementation arrangements to reduce potential regulatory and reporting burdens (Attachment 1).

I understand that representatives of the South Australian Government have met with the Independent Expert Panel to discuss matters raised in this submission. Should the Panel have any further questions, please contact Mr Tim Goodes, Group Executive Director, Strategy and Advice, Department of Environment, Water and Natural Resources on 08 8463 6949.

I thank you again for the opportunity to contribute to this important review.

Yours sincerely



IAN HUNTER MLC

Minister for Water and the River Murray

4/7 / 2014

SOUTH AUSTRALIAN GOVERNMENT SUBMISSION TO THE REVIEW OF THE WATER ACT 2007

1. Introduction

The introduction of the *Water Act 2007* was a significant achievement in the history of water management in Australia. At the time, the legislation received a significant level of support including backing from major stakeholders including a number of irrigation, farming and environmental bodies. The referral of powers by Basin States to the Commonwealth served to further strengthen the Act and facilitate its implementation.

Since its enactment, the Water Act has been the catalyst for a number of significant reform achievements including the development of the Basin Plan, significant progress in addressing over-allocation and returning water to the environment; progress in addressing barriers to trade and enabling more effective water markets; and establishment of a National Water Account among other things. The changes brought about by the Water Act represent a significant step in the way that water is governed and managed across the Basin.

Basin jurisdictions have committed to implement the reforms through referral of powers and endorsement of the *Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin* (IGA). A *Basin Plan Implementation Agreement* has been developed to guide implementation and outline the obligations of the various parties and includes commitment to ensure implementation costs are kept to a minimum. Commonwealth financial support has been provided to Basin states in recognition of costs incurred in implementing the Basin Plan including water resource planning and new reporting requirements.

There are now significant commitments in place to address the potential social and economic impacts of water reform, including over ten billion dollars for water recovery and regional investment. This investment is supporting regional productivity and sustainable food production and enabling communities to adapt whilst also contributing to river health.

Given the early stages of implementation, it is not possible to undertake a full assessment of the operation of the Water Act. However, there are strong indications that the framework established by the Water Act, the Basin Plan and associated funding programs and implementation arrangements will be effective in achieving the objects of the Act.

Overall the South Australian Government considers that no amendments to the Water Act are needed to improve its effectiveness at this stage. However, it is possible to identify critical implementation priorities necessary to achieve the objectives and outcomes sought by the Water Act and the Basin Plan.

These include:

- Achieving water recovery of 3,200 gigalitres (or equivalent) including through progressing efficiency measures to recover 450 gigalitres under the sustainable diversion limit (SDL) adjustment process;
- The development of a scientifically robust method for assessing SDL adjustment supply measures;
- Effective implementation of the SDL adjustment mechanism including through supply and efficiency measures and complementary constraints management measures;
- Timely identification and agreement to invest in priority constraints management measures, including unimplemented policy measures, prior to operation of the SDL adjustment mechanism;
- Retaining the \$1.77 billion Water for the Environment Special Account and actively applying the funds to recover additional water in a socio-economically neutral or beneficial manner, and to address constraints;
- Making good on commitments to implement the environmental watering plan and water quality and salinity management plan including strong multi-jurisdictional coordination of planning and decision making for environmental watering and river operations;
- States maintaining their commitment to transparent, efficient and effective water markets; and
- States delivering accredited state water resource plans by 2019.

At this stage, effective and efficient implementation of the Water Act and Basin Plan provisions is the critical issue. This will require ongoing effort from all governments, continued financial commitment and effective and collaborative implementation arrangements.

While the provisions of the Water Act are appropriate as they currently stand, the submission outlines several areas where the regulatory and reporting burden associated with implementation arrangements could be simplified or reduced.

2. Summary of Recommendations

The South Australian Government recommends:

- no substantive changes to the Water Act as a result of this review;
- that the current legislative, policy and financial frameworks underpinning the implementation of the Water Act and Basin Plan are retained;
- that sufficient time is allowed for full implementation of the Water Act and Basin Plan and data to be collected on outcomes before the next review of the Water Act;

- no change to the mandated ten year review period for the Basin Plan; and that the Water Act should be reviewed again in no later than ten years' time, potentially shortly after the 2022 review of the Basin Plan;
- the Commonwealth Government make a regulation under section 66 of the Water Act to avoid the need for minor, non-material amendments to go through a full accreditation process;
- the Commonwealth Government, subject to the findings of the group that has been established by the National Water Reform Committee to review of water reform reporting burdens, consider whether changes are required to implementation of reporting requirements under the Water Act and the Basin Plan to reduce duplication and inefficiencies;
- the Commonwealth Government ensure that the audit functions of the National Water Commission are promptly transferred to another independent agency with appropriate expertise, skills and resourcing;
- the Commonwealth Government take steps to publish jurisdictional water information data feeds held by the Bureau of Meteorology online to provide improved community access to data and provide opportunities for relevant industries to create derivative information products for economic benefit;
- the Commonwealth Government investigate and implement opportunities to improve sharing and re-use of water use information data and systems between jurisdictions, the Murray-Darling Basin Authority (MDBA) and the Bureau of Meteorology; and
- the Commonwealth Government investigate new opportunities for improving the efficiency and effectiveness of reporting associated with the National Water Account now that funding for the Common Registry Solution (CRS) has been withdrawn.

Submission against Review Terms of Reference

3. The effectiveness of the Act in achieving its objects, as set out in section 3 of the Act

The Water Act provides the legal framework to support the Basin water reforms initiated by the Howard Government through the *National Plan for Water Security*. These reforms sought to address over-allocation and to reform governance and management arrangements to support a sustainable future for the Basin's water dependent industries, communities and natural environment. While good progress has been made since the introduction of the Water Act, the issues which drove its development remain.

The Water Act's constitutional bases define and limit its scope, as well as the scope of any potential amendments proposed as part of this review.

Despite the Commonwealth's initial intent to seek broad referrals of power to support the Act, this did not occur. Instead, the referrals made in 2008 were more limited, focusing on ensuring critical human water needs could be

addressed in the Basin Plan, broadening the application of water charging provisions and combining the MDBA and Murray-Darling Basin Commission into one entity.

As a consequence, the Water Act relies to a significant degree upon Australia's obligations under international agreements, such as the Ramsar Wetland Convention and the Biodiversity Convention, to provide a constitutional basis for many aspects of both the legislation and Basin Plan itself.

This is reflected most clearly in provisions related to the purpose of the Basin Plan and the general basis on which the Basin Plan is to be developed, especially in relation to the establishment and enforcement of environmentally sustainable limits on water that may be taken for consumptive purposes from Basin water resources.

The Water Act is also informed by and seeks to further the National Water Initiative, which aims to improve the efficiency of Australia's water use and provide greater certainty for investment and productivity for all water users. In this respect, the Water Act and Basin Plan seek to optimise economic, social and environmental outcomes and maximise the net economic returns to the Australian community from the use and management of Basin water resources.

Given the early stage of implementation of the Water Act, and its key instrument the Basin Plan, the South Australian Government considers it is not yet possible to undertake a full assessment of the extent to which the Water Act has been effective in achieving its objects. However, progress to date strongly indicates that the Water Act, Basin Plan and the supporting governance, financial and implementation arrangements, provide a sound basis for achieving the Act's objects. Key achievements include:

- an independent, expert based Authority to lead water planning and management across the Basin;
- a Basin Plan with provisions to return 3,200 gigalitres of water for the environment;
- Basin Plan and Murray-Darling Basin Agreement provisions that ensure critical human water needs can be provided in times of low flow or compromised water quality;
- an *Intergovernmental agreement on implementing water reform in the Murray-Darling Basin* (IGA) outlining Basin state and Commonwealth government commitments and funding to support Basin Plan implementation;
- a Constraints Management Strategy with work now underway to implement the strategy and address constraints on effective environmental water delivery;

- a \$1.77 billion legislated fund to support recovery of an additional 450 gigalitres above the 2,750 gigalitre benchmark in the Basin Plan as well as address constraints on environmental water delivery;
- an independent Commonwealth Environmental Water Holder to manage environmental water with over 1,200 gigalitres of water recovered to date;
- the delivery of Basin and state annual environmental watering priorities to guide the use and management of environmental water holdings;
- a *Basin Plan Implementation Agreement* between the Authority and Basin State agencies outlining agreed implementation obligations and a commitment to keep implementation costs to a minimum;
- progress by jurisdictions to achieve consistency with trade rules by 1 July 2014; and
- water charging and water market rules that are facilitating water trade and consistency in water charging.

While these achievements are substantial there is more to be done. The subsequent sections of this submission provide comment on key elements considered necessary to achieve the objects of the Water Act and the management objectives and outcomes of the Basin Plan.

Full implementation of the Basin Plan is fundamental to achieving the Water Act's objects. The South Australian Government considers that there is a clear line of sight between the objects of the Act and the Basin Plan's management objectives and outcomes and its provisions. The Basin Plan aims to deliver a healthy working Murray-Darling Basin which includes both healthy ecosystems and productive communities. Consistent with the requirements of the Water Act (including subclause 21(1)), the Basin Plan has been developed taking into account a wide range of factors including the need to achieve long term, sustainable environmental outcomes, whilst also considering the social and economic impacts of these new arrangements. This has been supported by best available science and socio-economic analysis.

In the past, there has been debate regarding the objects of the Water Act and the need to give 'equal' or 'appropriate' weighting to economic, social and environmental considerations in order to balance these interests against each other. This debate occurred prior to the Basin Plan being adopted and it would be detrimental for this matter to be opened up again. To enable further debate on this issue would undermine the basis of the reforms and the progress made to date, including the Basin Plan, as well as contribute to uncertainty for Basin communities and the undermining of investment confidence.

In developing the Basin Plan, the MDBA undertook a significant amount of work to identify the potential socio-economic impacts from the Plan's implementation, drawing from existing work as well as commissioning 22 specific studies. The studies consistently found that broad scale, long term economic impacts of the Basin Plan are likely to be relatively minor, while

recognising that economic and social impacts on a local level may be more significant.

There are now significant commitments in place to address the potential social and economic impacts of water reform, including over ten billion dollars for water recovery and regional investment. The Commonwealth Government's commitment to bridge the gap will be instrumental in ensuring that individual entitlement holders are not impacted by reductions to consumptive diversion limits implemented by the Basin Plan. Investment in irrigation efficiency is also helping to provide social and economic benefits to individuals and communities. Through the sustainable diversion limit adjustment process, opportunities exist to offset water recovery where projects can be delivered that achieve equivalent environmental outcomes with less water. Facilitation of effective water trade between regions can also assist to mitigate impacts.

In South Australia, industry supported by the Government have taken proactive steps to support complementary economic development and environmental projects. The South Australian River Murray Sustainability programme will recover up to 40 gigalitres of water entitlements for the environment, while also driving business sustainability and innovation. This programme is an example of government and industry working together to benefit the environment, communities and industries.

It must also be acknowledged that implementation of the Water Act and Basin Plan are already providing and will continue to provide significant positive impacts to Basin Plan communities and environments. This includes improving water security for all water users through improving water quality and ecosystem health, facilitating water trade, providing consistent water management frameworks and supporting improved water delivery and irrigation efficiency.

The CSIRO report, *Assessment of the ecological and economic benefits of environmental water in the Murray-Darling Basin* (2012), estimated the additional Basin-wide value of enhanced habitat ecosystem services from recovering 2,800 gigalitres of water for the environment is worth between \$3 billion and \$8 billion (net present value), arising from floodplain vegetation, waterbird breeding, native fish and outcomes at the Coorong, Lower Lakes and Murray Mouth. The Centre for International Economics (*Economic benefits and costs of the proposed Basin Plan* (2011)) found that there is a steady increase in value for benefits to recreation, tourism, salinity, and reduced cost of flooding and dredging as the level of water returned to the environment increases.

In addition to monitoring and evaluation of environmental outcomes, the MDBA is undertaking further work to monitor the observed social and economic impacts associated with implementation of Basin reforms. Once this data is available, it will be possible to make a more informed judgement regarding how well the environmental, social and economic elements of the Water Act objects are being met.

It is considered that there is currently no evidence to suggest changes to the basis or provisions of the Water Act or Basin Plan are required in order to achieve the Act's objects. Implementation of the Basin Plan and associated investment will contribute significantly to delivering on the Water Act's objects. These benefits should be given time to come to fruition.

Recommendation

The South Australian Government recommends:

- no substantial changes to the Water Act as a result of this review; and
- that the current legislative, policy and financial frameworks underpinning the implementation of the Water Act and Basin Plan are retained.

4. The extent to which the management objectives and outcomes of the Basin Plan are being met

The Basin Plan came into effect on 24 November 2012, with the last Basin jurisdiction officially agreeing to the *Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin* in February 2014. The key elements of the Basin Plan will be implemented progressively over a transition period to 1 July 2019 and significant provisions such as water resource plans and new SDLs are not yet in effect. The first reporting under the Basin Plan will only commence in October 2014.

While significant progress is being made, it is too early to effectively assess the extent to which the management objectives and outcomes of the Basin Plan are being met. More time is needed for the provisions of the Basin Plan to be implemented and adequate data to be collected on outcomes before any accurate assessment or review of the provisions can be made.

Recognising this early stage of Basin Plan implementation, the South Australian Government has outlined below (and in subsequent sections) critical implementation priorities that need to be progressed over the next few years to achieve the management objectives and outcomes of the Basin Plan.

Full recovery of environmental water under the Basin Plan and addressing constraints to environmental water delivery are fundamental elements of the Basin Plan. Continued investment by the Commonwealth Government and effort by all Basin States is required to deliver on these requirements, including operation of the Basin Plan SDL adjustment mechanism in 2016.

The best available science shows that the recovery of 3,200 gigalitres of water for the environment, along with addressing delivery constraints, is needed to provide for a healthy riverine system and deliver on the objectives of the Water

Act and Basin Plan. These benefits are seen particularly in South Australia, Victoria and New South Wales, with recovery of 3,200 gigalitres and addressing constraints achieving 17 of 18 (94%) of the MDBA's environmental water requirements, compared to just 11 of 18 (61%) achieved under the baseline 2,750 GL.

SDL adjustment

The SDL adjustment mechanism allows for the recovery of the additional 450 gigalitres of water, above the 2,750 gigalitre benchmark in the Basin Plan, through efficiency measures that have neutral or beneficial socio-economic impacts. It is important that ongoing investment and effort is provided to develop efficiency measure projects to realise all of the objectives of the Basin Plan, and in particular to achieve the environmental outcomes referred to in Schedule 5 of the Plan.

SDL adjustment also allows for water recovery to be offset by supply measures that achieve equivalent environmental outcomes more efficiently. An example of this type of project is a floodplain regulator which allows a greater area of the floodplain to be inundated, achieving equivalent environmental outcomes with comparatively less water. Investment in supply measures will enable less water to be recovered from productive purposes assisting to optimise socio-economic outcomes.

All Basin States are currently developing supply measure projects. Governance arrangements for assessing and agreeing to SDL adjustment projects set out in the IGA enable risks and impacts associated with SDL adjustment projects to be identified and addressed. The MDBA is working with jurisdictions make sure that the design of the method to assess environmental equivalence and make supply measures' adjustments is scientifically robust. These activities will provide confidence in the SDL adjustment process and ensure that the benefits of the Basin Plan are not undermined.

Water for the Environment Special Account

The Water for the Environment Special Account underpins the successful achievement of the Basin Plan objectives and outcomes and this fund must remain intact. Funding under the \$1.77 billion Water for the Environment Special Account starts to become available from 2014-15 onwards to invest in addressing constraints and recovering the additional 450 gigalitres of water.

This funding will not only improve environmental outcomes but also offers opportunities for community benefits. For example, funding available for water recovery measures that are either socio-economically neutral or positive offers the prospect of further investment in business improvement and regional economic development.

Constraints management

Crucial inter-dependencies exist between SDL adjustment and the implementation of measures to address constraints to the effective delivery of environmental water. Agreement by Basin jurisdictions to implement priority policy, operational and physical constraint management measures is required before agreement is sought for SDL adjustment measures.

Constraint management measures will enable improved outcomes from water recovered under the Basin Plan, including through SDL adjustment efficiency measures. Addressing key constraints will also be necessary to facilitate the effective operation of supply measures. For example, if key policy measures affecting environmental water delivery, such as protecting environmental flows from re-regulation, have not been implemented by the time the SDL adjustment mechanism is operated then this will reduce the level of offset that can be achieved through the SDL adjustment process.

As recently reported by the Australian Competition and Consumer Commission in its *2012-13 Water Monitoring Report* (2014), addressing constraints has the potential to greatly enhance water trading and delivery opportunities for environmental water holders. There are also likely to be opportunities for benefits to other water holders and communities. For example, funding for constraints management measures may offer the opportunity to improve resilience to high flow events and natural floods.

There remains considerable work for the MDBA, Commonwealth Government and Basin States to identify and resolve operational and policy constraints to effective water delivery. Timely effort and continued leadership from the MDBA and Commonwealth in prioritising and supporting the implementation of constraints management measures is required. Without this leadership and funding through the Water for the Environment Special Account, the opportunity to address operating and policy constraints that are inhibiting the most effective use of environmental water may be lost.

In summary, continued investment in water recovery, full implementation of the SDL adjustment mechanism to address both supply and efficiency measures, and timely implementation of constraints management measures will be key to achieving Basin Plan management objectives and outcomes. This includes optimising socio-economic and environmental outcomes that can be achieved under the Plan.

5. The extent to which long-term average sustainable diversion limits are being met

The introduction of new SDLs to deliver an environmentally sustainable level of water use are a central feature of the Basin Plan. The SDLs were determined based on scientific analysis, hydrological modelling and analysis of socio-economic impacts by the MDBA over several years. This work took into

account past water recovery actions including The Living Murray Initiative and State programmes.

Long term application of the SDLs will be dependent on accredited state water resource plans that manage the annual allocation, trade and consumptive use of water. Consistent with the Basin Plan objective to provide time for water users and communities to transition to the new arrangements, Basin states have until 1 July 2019 to develop Basin Plan consistent water resource plans. Jurisdictions are currently working through the technical and policy issues associated with implementing new arrangements during this transition period. The State appreciates the efforts of the MDBA to work with jurisdictions on the development and implementation of a transition work program to address issues that are common to all Basin states.

The Commonwealth Government's commitment to 'bridge the gap' to new SDLs through investment in water efficiency measures and water purchase from willing sellers remains the other key element to ensuring SDLs can be met.

The commitment is also a key element in contributing to the socio-economic objectives of the Water Act and Basin Plan. Investment in efficient irrigation infrastructure has been beneficial in assisting water users and communities to adapt to reduced quantities of water while improving business resilience and productivity. Water purchase provides benefits to water sellers including ability to retire debt, supplement farm income or fund on-farm efficiency improvements and may also provide a small on-going economic stimulus benefit to local communities.

In applying its water recovery strategy, opportunities exist for the Commonwealth to consider coordinating its water recovery efforts in the conjunction with land use planning frameworks made by local councils. This would maximise the effectiveness of irrigation infrastructure investment as well as avoid potential negative consequences associated with ad hoc water purchase.

The Commonwealth Government has committed to refining its water recovery strategy by the end of 2016 after the operation of the SDL adjustment mechanism once there is a greater understanding of the remaining water needed to bridge the gap. At this point it will be important for the Commonwealth to consider the impact of their decision to reduce funding for water purchase and prioritise investment in infrastructure on their ability to 'bridge the gap' within the prescribed timeframe and funding constraints. It is well recognised that investment in infrastructure is a more expensive way of returning water to the environment when compared with water purchase and this shift in focus may have implications for the Commonwealth's funding program. It will be important that the Commonwealth's refined approach to water recovery aims to recover water at a steady pace, avoiding the need for a big adjustment just prior to 1 July 2019.

6. The extent to which targets in the Basin Plan are being met

Under the Basin Plan the MDBA is required to review the environmental and water quality and salinity management targets every five years after the Plan's commencement. With the first review due in 2017, it is too early to effectively consider the extent to which targets are being met.

However, management actions are underway to deliver against these targets consistent with the Basin Plan environmental watering plan and water quality and salinity management plan. For example:

- processes have been established to have regard for salinity targets when making decisions on river operations and management of flows;
- annual environmental watering priorities have been identified for 2013-14 and the development of 2014-15 priorities is underway;
- work has commenced to develop a Basin-wide environmental watering strategy by November 2014; and
- monitoring, evaluation and reporting arrangements are being developed with the first Basin Plan reporting to occur in 2014.

There is evidence that delivery and use of the 1,250 gigalitres of environmental water recovered to date is achieving positive water quality and environmental outcomes consistent with these targets.

Since the Commonwealth Environmental Water Holder's (CEWH) establishment, some 3,450 gigalitres of water, in addition to 1,231 gigalitres of other held water owned by state governments, the Living Murray Initiative and private donations, has been delivered to the environment.

Publicly available environmental outcomes reports prepared by the CEWH, the MDBA and state governments show that this water has resulted in improved environmental outcomes, such as improved ecosystem functioning, waterbird breeding responses and increases in fish populations, at a number of sites across the Basin.

For example, in South Australia there have been increases in spawning and recruitment of threatened Southern Bell frogs and key fish species such as Golden Perch, common galaxids and congollis as well as recovery in drought affected ecosystems. Monitoring from 2013 recorded some of the highest numbers of common galaxids and congollis since 2006-07 as a result of improved freshwater flows and connectivity. There have also been signs of recovery of the native aquatic grass crucial to the Coorong ecosystem, noting that full recovery to pre-drought extent has not yet occurred.

The delivery of environmental water, in conjunction with significant volumes of unregulated flows, has assisted in meeting the Basin Plan salinity targets for managing water flows at sites upstream of Lock 1 and improving water

quality in the Lower Lakes following drought. The MDBA has assessed the Basin Plan salt export objective as having been achieved in 2012-13, with an estimated 2.9 million tonnes of salt (averaged over the preceding three years) exported into the Southern Ocean.

While these examples provided early indications of the potential that can be realised with full implementation of the Basin Plan, there is still much more to be done. For example, the lower reaches of the River Murray are still feeling the impacts of drought many years on and salinity targets for managing water flows are still being exceeded at Milang.

Recovery of the full 3,200 gigalitres (or equivalent) under the Basin Plan is needed to effectively meet the Basin Plan targets. Without this, scientific analysis shows that it will be difficult to achieve water quality outcomes, and key floodplain ecosystems and Ramsar sites will remain at risk of continued decline. The Coorong, Lower Lakes and Murray Mouth Ramsar site will also remain at risk from low water levels and high salinities during dry periods.

Ongoing effort to recover water, develop Basin Plan consistent water resource plans and fully implement the Basin Plan environmental watering plan and water quality and salinity management plan will be required to deliver against the Basin Plan targets. It will also be important that the monitoring and evaluation arrangements put in place by the CEWH, MDBA and Basin States can effectively demonstrate ongoing achievement against Basin Plan targets. These are implementation issues rather than issues with the operation of the Water Act.

7. The extent to which water trading is occurring effectively and efficiently

The Basin Plan builds on the National Water Initiative by setting water trading rules and arrangements to increase access to information and improve the operation of the water market including removal of inappropriate restrictions on trade.

Basin Plan trade rules will come into effect on 1 July 2014 and are expected to facilitate early achievement of some of the water trading and water market objectives and outcomes of the Basin Plan. In signing the IGA, jurisdictions reaffirmed their commitment to remove restrictions to trade in water in accordance with Basin Plan requirements.

The South Australian Government views the removal of current ad hoc volumetric restrictions to water trade, such as limits on net trade from irrigation areas and on water purchase for environmental purposes, as a potential significant early achievement of the Plan.

As noted in the National Water Commission report *Australian water markets: trends and drivers 2007-08 to 2012-13* (2014), initiatives to improve the

effectiveness and efficiency of the water market have enabled it to mature over time, in turn facilitating an increasing number of trades to occur. The ACCC's *Water Monitoring Report 2012-13* states that the volume of water allocation trade has steadily increased over recent years and has more than quadrupled since 2007-08.

The development of water trading policies and protocols by the Commonwealth Environmental Water Holder has also increased transparency and accountability regarding their participation in the water market.

While noting these achievements, the South Australian Government recognises that further work is required to improve the consistency of water trading registers across the Basin. This requires effective and interoperable water registers that record water rights and support water accounting. Funding arrangements associated with this work are yet to be resolved following the recent withdrawal of funding for the CRS.

8. The extent to which other key elements of the Basin Plan are being implemented

Overall, good progress has been made in implementing the key elements of the Basin Plan including through the *Basin Plan Implementation Agreement*, the IGA and new inter-jurisdictional governance arrangements including the Basin Plan Implementation Committee and its working groups. Many implementation arrangements are in the early stages of planning including the development of water resource plans, the transition to new SDLs, implementation of the water quality and salinity management plan and development of a Basin-wide environmental watering strategy and state long term environmental watering plans.

It is important that governments continue to actively engage and invest in implementation including by setting clear pathways towards full implementation.

The South Australian Government released its *Murray-Darling Basin Plan South Australian Implementation Strategy* in 2013. The Strategy provides a high level roadmap of the key actions to be undertaken by the South Australian Government to ensure that the Basin Plan is implemented successfully and its objectives are realised. The Strategy is available from the Department of Environment, Water and Natural Resources website: <http://www.environment.sa.gov.au/managing-natural-resources/river-murray/murray-darling-basin-plan>

Water resource plans

At the core of achieving the objectives of the Basin Plan and Water Act is the establishment and enforcement of long term average sustainable diversion limits through state water resource plans. However this is not simply a matter of establishing a limit and enforcing compliance. The management, allocation

and trade of water is complex and there are complicated interactions between different water resources and products that need to be carefully considered.

Section 22(3) of the Water Act sets out the minimum requirements that a water resource plan must cover in order for it to be accredited or adopted under the Water Act. These requirements represent a minimum set of matters that need to be addressed to ensure state water resource plans manage water use and quality consistent with the objects of the Act, including provisions to achieve environmental and water quality objectives and address risks to water resources. The Basin Plan then sets out in detail the specific standards that must be met.

The South Australian Government acknowledges there may be concern about the level of prescription associated with water resource plan accreditation requirements. However, given the fact that the accreditation process has not yet been tested, it is too early to make a judgement on this issue.

The level of regulatory burden associated with the accreditation process will depend largely on the way both the MDBA and Commonwealth Minister choose to implement the provisions. Section 22(4) of Water Act provides opportunities to minimise the level of regulatory burden by applying the accreditation requirements flexibly. This flexible approach is consistent with clause 38 of the National Water Initiative which states:

“The relevant State or Territory will determine...the level of detail required, its duration or frequency of review, and the amount of resources devoted to its preparation based on an assessment of the level of development of water systems, projected future consumptive demand and the risks of not having a detailed plan.”

The balance struck between prescription and flexibility in both the Water Act and the Basin Plan already allows a consistent framework to be applied across the Basin, while accounting for different state and regional circumstances.

The MDBA and jurisdictions have confirmed their agreement to implement this ‘fit for purpose’ approach through the Basin Plan Implementation Agreement, which states that:

“The approach needed to address water resource plan requirements will vary according to the local conditions, levels of development and statutory and other arrangements in the water resource plan area.”

To inform discussions with the MDBA regarding the extent to which the water resource plan accreditation requirements apply, jurisdictions are undertaking an assessment of the current and future risks to the condition and continued availability of the water resources of a water resource plan area. These assessments will provide an objective basis to agree how the water resource plan accreditation requirements will be met.

Notwithstanding this, the South Australian Government has identified a specific opportunity to reduce regulatory burden associated with accreditation of water resource plan amendments. This recommendation is outlined under section 13 of this submission.

The South Australian Government considers that no change is required to the provisions of the Water Act that deal with water resource planning or the basis for development of the Basin Plan.

Indigenous values, uses, outcomes and objectives

Under the Water Act, the Basin Plan must be developed having regard to social, cultural, Indigenous and other public benefit issues. The Basin Plan sets out clear requirements for water resource plans to address indigenous values, uses, outcomes and objectives, as well as requirements for consultation with indigenous groups. The South Australian Government considers this a valuable component of the Basin Plan and believes it creates opportunities to significantly progress indigenous involvement in water planning. In particular, the South Australian Government supports the ability to use different approaches for different groups, depending on the local circumstances, rather than the use of a one-size-fits all definition of cultural flows or indigenous values.

Critical Human Water Needs

A key element of the Basin Plan which assists to support water security are the provisions to ensure critical human water needs can be delivered in the driest of seasons. These provisions complement arrangements under the Murray-Darling Basin Agreement. Fortunately there has been no need to implement these arrangements to date. These provisions should be retained 'as is' given they have not yet been tested.

9. An assessment of the level of Basin-wide consistency in water charging regimes

Water planning and management charges

Consistent with the Water Charge (planning and management) rules information about relevant planning and management charges in the South Australia Murray-Darling Basin are made publicly available. This includes information about the process and basis for setting the charge. South Australian water charges include water levies payable by water entitlement or water management authorisation holders, the Save the River Murray levy and relevant licence, permit, metering and approval fees. A full report on Murray-Darling Basin regulated water charges in South Australia can be located on the Department for Environment, Water and Environment website:

<http://www.environment.sa.gov.au/managing-natural-resources/river-murray/water-charges-and-how-they-are-spent/nrm-water-levy-division-2>

Irrigation Infrastructure operators

South Australia's irrigation trusts (except the Renmark Irrigation Trust) operate under the *Irrigation Act 2009*. The main purpose of this Act is to

provide an overarching framework for the management and operation of shared infrastructure for irrigation or drainage purposes associated with primary production in the State. The Renmark Irrigation Trust continues to operate under the *Renmark Irrigation Trust Act 2009*. Both Acts can be regarded as having similar outcomes and processes. The Acts allow members to apply to transform their irrigation right into a water licence, and allow the trust to devolve its water licence to all trust members.

Individual irrigation trust boards make decisions on rates for water supply and drainage in their districts and recovering capital expenditure. It is the responsibility of each trust to be able to fund the replacement of their assets. A trust can impose water supply or drainage rates to cover the costs of supply of the service, maintenance and to provide for future capital costs connected with the provision of irrigation and drainage systems as well as the trust's other liabilities.

Irrigation trusts have the authority to develop trading rules for their members. Under their relevant Acts, trusts are not able to restrict the permanent trading of water out of their irrigation networks, and are required to facilitate trading both in and out of a network at the request of their members and in accordance with the Water Act.

10. An assessment of the contribution made by those charging regimes to achieving the Basin water charging objectives

The South Australian Government considers that the water market and charge rules established by the Water Act and Basin are assisting to promote the efficient use of, and investment in, water infrastructure, improve consistency and transparency of charging and facilitate the efficient operation of water markets.

The Government acknowledges the concerns that have been expressed by irrigation groups in relation to the water charge rules, particularly in relation to termination fees. It is understood that some irrigation stakeholders are concerned that if a large number of irrigators leave an irrigation district, there could be an adverse impact on the ability of irrigation infrastructure operators to manage their business.

It is noted that according to its latest monitoring report, the ACCC considers that, based on data collected since 2009-10, the impact of irrigators taking up tradeable rights and terminating their right of access on irrigation infrastructure operators and remaining irrigators has been manageable to date. This situation should continue to be monitored.

11. An assessment of the extent to which water is being used in higher value uses

The water market, trading and charge rules are increasing the availability of market information and facilitating the removal of policy and financial barriers to trade. This is in turn facilitating the movement of water to higher value uses and providing water entitlement holders improved flexibility to align their water portfolios with their business needs and manage risks.

As previously reported by the National Water Commission in their report, *Impacts of water trading in the Southern Murray-Darling Basin: An economic, social and environmental assessment* (2010), open water markets and trading are a major contributor to optimising the economic, social and environmental value of water. In particular, trading has given individual irrigators more flexibility in their water use and production decisions, including by helping them to respond to external factors such as drought.

For example, during the Millennium drought, horticulturalists in South Australia were able to ensure the survival of perennial plantings and produce marketable crops through allocation trade. In exchange, upstream entitlement holders who no longer required their allocations were able to receive a financial return.

Water trading can also facilitate economic activity. For example, economic modelling commissioned for the National Water Commission estimated that water trading in the southern Murray-Darling Basin increased Australia's gross domestic product by \$220 million in 2008-09 through reallocations of water used in agriculture. The total production benefits were estimated to be even greater, at more than \$370 million in 2008-09.

12. An assessment of the progress in the implementation of improved water information systems including the National Water Account

Good progress has been made since the inception of the Water Act in relation to data and information sharing, capacity building and automation. In particular, the Monitoring and Extension Fund, provided by the Commonwealth Government, has enabled the extension of monitoring coverage in South Australia.

The Fund has also assisted in the identification, coordination, standardisation, licensing and delivery of data to the Bureau of Meteorology. This has in turn enabled the creation of new, nationally consistent water information data sets and the delivery of a number of beneficial new products, including the National Groundwater Information System, Streamflow Forecasts, Water Storage information and the National Water Account.

The development and implementation of the Water Data Transfer Format (WDTF) has been instrumental in enabling the Bureau to process and

integrate data on a national level. However, this format currently only has limited stakeholder support. In addition, while it is understood that work on Water Data Online is progressing, the data provided by jurisdictions is not currently published.

The South Australian Government strongly supports open sharing of data and information in line with the State's Open Data Declaration. Online publication of jurisdictional data feeds provided in compliance with Water Act regulations, together with greater vendor support for the WDTF format (or, alternatively, publication in other formats), would provide the basis for greater community access to data and provide relevant industries the opportunity to create derivative information products for economic benefit.

Opportunities to share and re-use data between jurisdictions, the MDBA and the Bureau would also assist in avoiding duplication, reducing the reporting burden and facilitating greater consistency and transparency of decision making. While it is understood that the Bureau and the MDBA have agreed to align their requirements as far as possible, unfortunately this agreement has not yet had a measurable impact on the level of reporting required from jurisdictions.

National Water Account

South Australia has been an early and ongoing participant in the development of both the Australian Water Accounting Standards and the National Water Account through the Adelaide sub-account and contribution to the Murray-Darling Basin sub-account.

Since inception of the National Water Account, progress has been made each year in terms of national consistency and definition of ledger items, as well as systems to automate content contribution and re-use data, where possible. Significant progress has also been made in terms of accessibility and usability of the National Water Account content online. There is, however, still a significant amount of manual work involved in the provision of data and the review of draft and final versions of relevant sub-accounts in the National Water Account.

The benefits of the National Water Account for local, regional, state, Basin and national decision making are not yet clear and its relationship with both the Australian Water Resource Assessment and the ABS Water Account would benefit from further clarification.

Significant opportunities for improving and streamlining reporting exist by establishing a greater 'line of sight' from individual water user accounts through to resource, region, Basin and national account levels. The use of consistent boundaries and definitions and the alignment of methodologies and timing would act to greatly improve the efficiency and effectiveness of data collection. This was one of the intended benefits of the CRS and it is now unclear whether and how this aim will now be achieved.

Recommendation

The South Australian Government recommends that the Commonwealth Government:

- take steps to publish jurisdictional water information data feeds held by the Bureau of Meteorology online to provide improved community access to data and provide opportunities for relevant industries to create derivative information products for economic benefit;
- investigate and implement opportunities to improve sharing and re-use of water use information data and systems between jurisdictions, the Murray-Darling Basin Authority and the Bureau of Meteorology; and
- investigate new opportunities for improving the efficiency and effectiveness of reporting associated with the National Water Account, now that funding for the CRS has been withdrawn.

13. Opportunities to reduce or simplify the regulatory and/or reporting burden while maintaining effective standards

While the South Australian Government does not believe there is any strong evidence to support changes to the provisions of the Water Act, there are several areas where the regulatory and reporting burden can be reduced through more efficient Water Act and Basin Plan implementation arrangements.

Water resource plan accreditation

Consistent with the agreed approach in the IGA and Implementation Agreement, it will be important that the MDBA continue to work with the Basin States to ensure the implementation of accreditation requirements and processes are streamlined and fit for purpose and take into account the need to minimise costs

To reduce the regulatory burden associated with the water resource plan accreditation amendment process it is suggested that the Commonwealth consider making a general regulation under section 66 of the Water Act, to avoid the need for minor, non-material amendments to a water resource plan to go through a full accreditation process. In doing so, the Commonwealth should work with Basin States to develop clear criteria to determine the materiality of proposed amendments.

Recommendation

The South Australian Government recommends that the Commonwealth Government make a regulation under section 66 of the Water Act to avoid the need for minor, non-material amendments to water resource plans to go through a full accreditation process.

Monitoring, evaluation and reporting

The introduction of the Water Act and Basin Plan have increased reporting obligations for jurisdictions. There are also new reporting obligations for irrigation infrastructure operators.

Comprehensive monitoring, evaluation and reporting will be fundamental to being able to demonstrate the effectiveness of the Water Act and Basin Plan. However at the same time it will be important to ensure that requirements are fit for purpose, there is no duplication in data and information requirements and that data and information provision is as efficient as possible. This will help to keep the resource impact associated with these requirements to a minimum.

The National Water Reform Committee has established a working group to look at water reform reporting burdens. Jurisdictions have been assisting this group through the provision of information on their current reporting obligations and efforts. The South Australian Government expects the findings of this group to identify areas of duplication as well as opportunities to streamline reporting and data provision. Subject to the findings of this group, it may be necessary to consider changes to the reporting requirements under the Water Act and the Basin Plan.

It is considered that the cessation of funding for the CRS project will be an impediment to the ability of all state's to contribute to the National Water Account and improve water accounting and operation of the water market. Whilst other opportunities for funding the design and implementation of the CRS are currently being explored, failure to resolve this issue will have implications for implementation of Water Act and the Basin Plan. In particular, the CRS is key to being able to improve interoperability of jurisdictional registers, reduce trade service timeframes, facilitate the flow of information to the market and improve reporting performance under Section 71 of the Water Act and the National Water Account.

Recommendation

The South Australian Government recommends that the Commonwealth Government, subject to the findings of the review initiated by the National Water Reform Committee into water reform reporting burdens, consider whether changes are required to implementation of reporting requirements under the Water Act and the Basin Plan to reduce duplication and inefficiencies.

Compliance and enforcement

The South Australian Government notes the range of compliance and enforcement powers available to the MDBA, ACCC and Commonwealth Minister to deal with contraventions of the Water Act, its regulations or water charge or market rules. The Act's provisions allow for various compliance steps including a 'step in' power for development of compliant water resource

plans. The introduction of compliance and enforcement powers, particularly for enforcing sustainable diversion limits, represents a key reform.

At this stage these powers remain untested and there is no evidence to suggest change is required. The South Australian Government expects that the instances where these powers will need to be employed are likely to be rare.

Through the *Basin Plan Implementation Agreement*, Basin jurisdictions and the MDBA have agreed to work collaboratively to develop and implement a Basin Plan compliance and assurance program. The South Australian Government appreciates commitments made by the MDBA in its *Compliance Strategy*, that where an entity is displaying good faith, it will seek to negotiate a return to compliance through an agreed pathway in the first instance.

Overall, the South Australian Government believes the strength and breadth of the compliance tools under the Water Act are appropriate with no need for amendment.

Basin Plan audit

The South Australian Government notes the recent Commonwealth budget decision to close the National Water Commission during 2014-15 and transfer a number of its responsibilities to other agencies. While it is understood that it may take some time to work through how this transition will be managed, the South Australian Government would like to highlight the ongoing importance of the Commission's audit functions in relation to the Basin Plan, National Water Initiative and *National Partnership Agreement on Implementing Water Reform in the Murray-Darling Basin*.

Recognising the complexity of the water reforms and the value of the Commission's audit function, it will be important that these audit functions are transferred to another independent agency with appropriate expertise, skills and resourcing. The approach to establishing independent, expert audit groups under the Murray-Darling Basin Agreement for salinity and water use auditing provide an example of one model that could be considered. Adequate resourcing will be essential to support effective and constructive audits.

The South Australian Government acknowledges that a change of this kind will trigger the need for an amendment to the Water Act, National Water Initiative and *National Partnership Agreement on Implementing Water Reform in the Murray-Darling Basin*.

The National Water Commission had intended to undertake its first full audit of the effectiveness of the implementation of the Basin Plan during 2014, reporting in 2015. It is considered there is merit in undertaking an audit of progress in the near future as this would enable any issues affecting implementation effectiveness to be identified and addressed prior to full compliance in 2019. It is therefore considered desirable for the transfer of the Commission's audit arrangements to be settled sooner rather than later to ensure that this audit can proceed.

Recommendation

The South Australian Government recommends that the Commonwealth Government ensure that the audit functions of the National Water Commission are promptly transferred to another independent agency with appropriate expertise, skills and resourcing.

14. Future review points for the Water Act and Basin Plan

The South Australian Government views the mandated ten year review period for the Basin Plan as appropriate. This will allow time for all of the Basin Plan provisions to come into full effect and for data to be collected to inform an assessment of the Plan's effectiveness.

Likewise, the South Australian Government is of the view that another review of the Water Act should be undertaken in no later than ten years' time (i.e. 2024). Given the breadth of information that is likely to be collected through the review of the Basin Plan, there may be benefits in undertaking the review of the Water Act shortly after the review of the Basin Plan in 2022.

Recommendation

The South Australian Government recommends that:

- sufficient time is allowed for full implementation of the Water Act and Basin Plan and data to be collected on outcomes before the next review of the Act;
- there is no change to the mandated ten year review period for the Basin Plan; and
- the Water Act should be reviewed again in no later than ten years' time, potentially shortly after the 2022 review of the Basin Plan