

PROJECT AGREEMENT FOR MENINDEE LAKES PROJECT MANAGEMENT

Council of
Australian
Governments

An agreement between
the Commonwealth of Australia and
New South Wales

The outputs of this project will be the detailed planning and scoping required as a precursor for infrastructure works and operational changes at the Menindee Lakes to reduce the evaporative water losses of the system.

Project Agreement for Menindee Lakes Project Management

INTERGOVERNMENTAL AGREEMENT ON FEDERAL FINANCIAL RELATIONS

PRELIMINARIES

1. This Project Agreement (the Agreement) is created subject to the provisions of the Intergovernmental Agreement on Federal Financial Relations (IGA FFR) and should be read in conjunction with that Agreement and its Schedules, which provide information in relation to performance reporting and payment arrangements under the IGA FFR.
2. The Menindee Lakes, on the Darling River in western New South Wales, is a series of shallow lakes that, in a hot, dry and often windy environment, experience significant levels of evaporation. The water savings potential at Menindee Lakes from actions to improve storage efficiency – mainly by reducing evaporative losses and changing management strategies – has been recognised for many years.
3. Following extensive work on water savings options for the lakes, assessment of infrastructure options and a major study of aquifer resources in the region, the Commonwealth and New South Wales have agreed on the scope of infrastructure works and potential changes to the Murray-Darling Basin Agreement contained in Schedule 1 of the *Water Act 2007* (the Murray-Darling Basin Agreement), resulting in potential water savings from a reduction in evaporation losses.
4. To realise the water savings at Menindee Lakes, this Agreement will support New South Wales to undertake the detailed planning and scoping required as a precursor for infrastructure works and operational changes at the Menindee Lakes System (MLS). The planning and scoping will address:
 - (a) environmental, heritage, planning, community and social considerations and requirements;
 - (b) the design and implementation for the infrastructure works and the testing of groundwater resources; and
 - (c) the realisation of the key outcomes from the project in terms of water savings.
5. The Commonwealth may provide a further financial contribution to New South Wales to undertake agreed infrastructure works, pump testing at the Jimargil groundwater resource and the modelling of that resource, and other activities required to achieve water savings at Menindee Lakes, subject to:
 - (a) the successful completion of this Agreement;
 - (b) agreement by other Basin jurisdictions to complementary changes to relevant operating rules under the Murray Darling Basin Agreement; and
 - (c) agreement by both parties to proceed to construction.
6. This Agreement constitutes the entire agreement for the project.

PART 1 – FORMALITIES

Parties to this Agreement

7. This Agreement is between the Commonwealth of Australia (the Commonwealth) and the State of New South Wales (the State).

Term of the Agreement

8. This Agreement will commence as soon as the Parties sign the Agreement and will expire on 31 December 2014 or on completion of the project, including acceptance of final performance reporting and processing of final payments against milestones, unless terminated earlier or extended as agreed in writing by the Parties.

PART 2 – PROJECT OUTPUTS

Outputs

9. The outputs of this Agreement will be the detailed planning and scoping required as a precursor for infrastructure works and operational changes at the MLS, including:
 - (a) a project management team and project governance framework that includes regular project management steering committee meetings on the development and delivery of the outputs of this Agreement;
 - (b) a project plan for the delivery of the Menindee Lakes Project Management outputs specified in this Agreement and in accordance with Schedule A;
 - (c) a plan for stakeholder consultation that will be collaboratively delivered by the State and the Commonwealth;
 - (d) Engagement of staff to provide input to and support a hydrologic modelling review group representing New South Wales, Victoria, South Australia and the Commonwealth (including Murray-Darling Basin Authority), which will
 - (i) review proposed rule changes and hydrologic modelling outcomes based on modelling undertaken by the Murray-Darling Basin Authority; and
 - (ii) subject to availability of Murray-Darling Basin Authority resources, oversee new modelling and water savings projections to be undertaken by the Murray-Darling Basin Authority in support of the project outputs;
 - (e) as preparatory work for determining sustainable extraction levels, a scoping document and project plan for the management of the pump testing at the Jimargil groundwater resource and the modelling of that resource, which must include:
 - (i) tender process and documentation, incorporating appropriate New South Wales Office of Water drilling and testing standards;
 - (ii) contract management;
 - (iii) results reporting;
 - (iv) documentation of all necessary approvals required;

- (v) results of consultation with Geoscience Australia (GA) on alignment of the potential pump testing program with the GA groundwater assessment (GA, Broken Hill Managed Aquifer Recharge Project, 2012); and
 - (vi) an assessment of compliance with Basin Plan groundwater sustainable diversion limits;
- (f) in the context of the Basin Plan and the Murray-Darling Basin Agreement, New South Wales position papers on:
- (i) the preferred character and volume of water savings to be generated from the project; and
 - (ii) the required changes to the operational rules, consistent with hydrological modelling outcomes;
- (g) the following three technical reports:
- (i) Lake Cawndilla Operations Review, including:
 - i. the environmental values of the MLS including Cawndilla Creek in the context of the operation of the Lakes since their construction;
 - ii. the potential future watering requirements for the environmental values within Lake Cawndilla and Cawndilla Creek;
 - iii. the effects of the changed MLS operations on local social and economic values of the Menindee Lakes and the Great Darling Anabranch; and
 - iv. development of operating rules for the environmental filling of Lake Cawndilla, which will work in conjunction with the proposed new MLS operations to protect or restore the environmental values of the Lakes, and including minimising adverse impacts on the Great Darling Anabranch.
 - (ii) A whole of New South Wales Government proposal for the environmental filling of Lake Cawndilla, which will work in conjunction with the proposed new MLS operations to protect or restore the environmental values of the Lakes, and including minimising adverse effects on the Great Darling Anabranch;
 - (iii) Implementation Review, including:
 - i. development of concept designs and site access requirements for the proposed works at Menindee Lakes, suitable for inclusion in future environmental assessment,
 - ii. documentation of site specific conditions or issues that might affect construction;
 - iii. Consideration of Aboriginal Cultural heritage issues;
 - iv. development of concept designs for a “keeping place” for significant cultural heritage artefacts;
 - v. review of implementation costs with respect to site-specific conditions and risks including high river flows and extended construction program;

- vi. documentation of the process and timeframes required to secure all necessary approvals including environmental, planning and heritage; and
- vii. development of a procurement methodology/framework, including public tendering for the design and construction of the agreed infrastructure

PART 3 – ROLES AND RESPONSIBILITIES OF EACH PARTY

Role of the Commonwealth

10. The Commonwealth will be responsible for:
- (a) monitoring and assessing achievement against milestones in the delivery of the project under this Agreement to ensure that outputs are delivered within the agreed timeframe;
 - (b) providing a consequent financial contribution to the State to support the implementation of this Agreement; and
 - (c) participating, at its discretion, as an observer to the project management steering committee established by the State.

Role of the State

11. The State will be responsible for:
- (a) all aspects of delivering on the project outputs and milestones set out in this Agreement;
 - (b) reporting on the delivery of outputs as set out in Part 4 – Project Milestones, Reporting and Payments;
 - (c) establishing a project management steering committee to monitor and provide strategic direction on the project's implementation;
 - (d) a project governance framework that includes regular meetings of the project management steering committee on the development and delivery of the outputs specified in clause 9 of this Agreement; and
 - (e) ensuring that all information produced by the project management team in delivering the outputs specified in clause 9 of this Agreement is provided to the Commonwealth.

Shared roles

12. The Parties:
- (a) agree that the cooperation of other Basin States, specifically South Australia and Victoria, is essential to the success of this project, and that they will therefore work cooperatively to seek the agreement of South Australia and Victoria to the project and consequent changes to the Murray-Darling Basin Agreement (Schedule 1 of the *Water Act 2007*), and to consult with the Murray-Darling Basin Authority as the project develops; and
 - (b) will agree the delivery arrangements for a project to test and model the Jimargil groundwater resource, subject to the successful completion of the scoping document and project plan as specified in clause 9 of this Agreement, and agreement by both parties to proceed with the testing.

13. Both Parties will meet the requirements of Schedule E, Clause 26 of the Intergovernmental Agreement on Federal Financial Relations, by ensuring that prior agreement is reached on the nature and content of any events, announcements, promotional material or publicity relating to activities under this Agreement, and that the roles of both Parties will be acknowledged and recognised appropriately.

PART 4 – PROJECT MILESTONES, REPORTING AND PAYMENTS

14. The following table summarises the milestones for the project, their relationship to the outputs, expected completion dates, relevant reporting dates and expected payments to be made, once a report certifying that milestones have been met is received and accepted.

Table 1: Milestones, reporting and payment summary

Output	Milestones	Date due	Payment \$
A project management team and project governance framework in accordance with clause g(a) of this Agreement.	Establishment of a dedicated project management team; and Acceptance by the Commonwealth of the project governance framework.	22 November 2013	150,000
A project plan for the delivery of the Menindee Lakes Project Management outputs in accordance with clause g(b) of this Agreement; A plan for stakeholder consultation in accordance with clause g(c) of this Agreement. Engagement of staff to provide input to and support a hydrologic modelling review group in accordance with clause g(d) of this Agreement; A scoping document and project plan for the management of the pump testing at the Jimargil groundwater resource and the modelling of that resource in accordance with clause g(e) of this Agreement.	Acceptance by the Commonwealth of the project and stakeholder consultation plans in accordance with in clauses g(b) and g(c); and Engagement of staff to provide input to and support a hydrologic modelling review group in accordance with clause g(d). Acceptance by the Commonwealth of the scoping document and project plan in accordance with clause g(e).	28 February 2014	325,000
New South Wales position papers in accordance with clause g(f) of this Agreement.	Provision by NSW to the Commonwealth of the position papers in accordance with clause g(f).	31 August 2014	100,000

Output	Milestones	Date due	Payment \$
Provision of technical reports in accordance with clause 9(g) of this Agreement	Acceptance by the Commonwealth of the reports in accordance with clause 9(g).	30 November 2014	225,000

Reporting arrangements

15. The State will provide progress reports demonstrating the achievement of each project milestone in accordance with the milestone due dates set out in Table 1. Each progress report is to contain the following information:
 - (a) a description of actual performance of the State in the period to date against the project milestones;
 - (b) details of any matter(s) that have arisen which could adversely impact on the delivery of the output, and how the State proposes to resolve this/these matter(s); and
 - (c) any public and/or stakeholder consultation or promotional activities undertaken in relation to, and media coverage of, the project during the reporting period and any promotional opportunities expected to arise during the next reporting period.
16. The State will also prepare a final Project Report within 90 days of the completion of the project agreed under the Project Agreement. The Project Report will be a stand-alone document that can be used for public information dissemination purposes. The final Project Report will:
 - (a) describe the conduct, benefits and outcomes of the Project;
 - (b) evaluate the Project including assessing the extent to which the project milestones have been achieved and why any aspect was not achieved; and
 - (c) include a discussion of any other matters relating to the project, limited to the minimum necessary for the effective assessment of performance, which the Commonwealth notifies the State should be included in the project report at least 60 days before it is due.

PART 5 – FINANCIAL ARRANGEMENTS

17. The Commonwealth will provide a total financial contribution to the State of up to \$800,000 in respect of this Agreement. All payments are GST exclusive.
18. The Commonwealth's funding contribution will not be reduced where the State secures funding from other activity partners through innovative and collaborative partnerships.
19. The Commonwealth's and the State's estimated financial contribution to the operation of this Agreement, including through National Partnership payments to the State paid in accordance with *Schedule D – Payment Arrangements* of the Intergovernmental Agreement on Federal Financial Relations, are shown in Table 2.

Table 2: Estimated financial contributions

	2013-2014	2014-2015	Total
Estimated total budget	\$475,000	\$325,000	\$ 800,000
Less estimated National Partnership Payments	\$475,000	\$325,000	\$800,000
Balance of non-Commonwealth contributions	0.0	0.0	0.0

20. Having regard to the agreed estimated costs of the project specified in this Agreement, the State will not be required to pay a refund to the Commonwealth if the actual cost of the project is less than the agreed estimated cost of the project. Similarly, the State bears all risk should the costs of a project exceed the agreed estimated costs. The Parties acknowledge that this arrangement provides the maximum incentive for the State to deliver projects cost effectively and efficiently.

PART 6 – GOVERNANCE ARRANGEMENTS

Enforceability of the Agreement

21. The Parties do not intend any of the provisions of this Agreement to be legally enforceable. However, that does not lessen the Parties' commitment to this Agreement.

Variation of the Agreement

22. The Agreement may be amended at any time by agreement in writing by both the Parties.
23. Either Party to the Agreement may terminate their participation in the Agreement at any time by notifying the other Party in writing.

Delegations

24. The Commonwealth Minister may delegate the assessment of performance against milestones and the authorisation of related project payments to senior Commonwealth officials, having regard to the financial and policy risks associated with those payments.

Dispute resolution

25. Either Party may give notice to the other Party of a dispute under this Agreement.
26. Officials of relevant Parties will attempt to resolve any dispute in the first instance.
27. If a dispute cannot be resolved by officials, it may be escalated to the relevant Ministers.
28. If a dispute cannot be resolved by the relevant Ministers, it may be referred by a Party to relevant First Ministers for consideration.

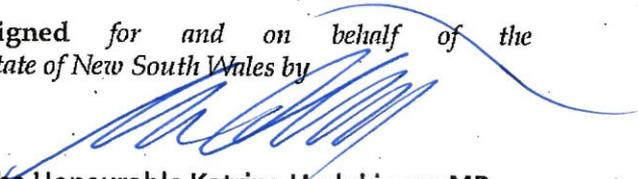
The Parties have confirmed their commitment to this agreement as follows:

Signed for and on behalf of the Commonwealth
of Australia by


Senator the Honourable Simon
Birmingham
Parliamentary Secretary to the Minister for the
Environment

Date: 11 November 2013

Signed for and on behalf of the
State of New South Wales by


The Honourable Katrina Hodgkinson MP
Minister for Primary Industries

Date: 29 October 2013

ITEMS TO BE ADDRESSED BY THE PROJECT PLAN FOR THE DELIVERY OF THE MENINDEE LAKES PROJECT MANAGEMENT

1. The project plan will address the following items:
 - (a) Menindee Lakes water saving project description, objectives and outputs, including:
 - I. aims and objectives, and
 - II. surface water infrastructure to be constructed including:
 - (i) Morton Boolka regulator,
 - (ii) Enlarged Lake Menindee regulator,
 - (iii) Drainage channel for Lake Menindee,
 - (iv) Darling anabranch regulator, and
 - (v) Flood mitigation for Menindee township;
 - III. changes to operational arrangements for the Menindee Lakes Scheme;
 - IV. Broken Hill drought water supply arrangements;
 - V. Evaluation of mitigation measures to reduce any regional third party impacts to the local Menindee area, Lower Darling water users and the Darling Anabranch.
 - VI. water savings, contributions to bridging the gap and Sustainable Diversion Limits adjustments under the Basin Plan;
 - VII. further work to be undertaken including:
 - (i) further modelling by the Murray-Darling Basin Authority (subject to the availability of Murray-Darling Basin Authority resources) of New South Wales' preferred Lake Cawndilla surcharging regime, related changes to the Menindee Lakes operational rules and options for addressing any negative third party impacts,
 - (ii) assessing the potential environmental watering requirements for maintenance of the environmental values of the Menindee Lakes System (including documentation of, and justification for, environmental values in the context of the operation of the Lakes since their construction, future environmental water requirements and social or economic impacts),
 - (iii) assessment of the Lower Darling to identify potential flood runners and 'breakouts' at high flows,
 - (iv) understanding of the interaction between the savings from the project at Menindee Lakes and the potential for further savings from the 198 GL additional flows coming into the Lakes as a result of the Basin Plan, and

- (v) defining the potential for extra savings that might be achieved by increasing the demand on the Menindee Lakes to supply environmental assets on the Murray River or by allowing flexibility in delivering flows to South Australia;
- (b) Strategy to deliver the project management outputs specified in Table 1, Milestones, Reporting and Payment Summary of this Agreement, including:
- I. proposed work, consultancies, and consultation to prepare the reports and papers to be produced;
 - II. proposed outlines and content of the reports and papers to be produced;
 - III. activities to support a hydrologic modelling review group representing New South Wales, Victoria, South Australia and the Commonwealth (including Murray-Darling Basin Authority), to review proposed rule changes and hydrologic modelling outcomes;
 - IV. risk assessment and management plan;
 - V. proposed project governance arrangements including
 - (i) Commonwealth and New South Wales project management steering committee;
 - (ii) project management structure;
 - (iii) list of key personnel and contact details;
 - (iv) reporting arrangements; and
 - VI. milestones and timeline.