

VARIATION

VARIATION NUMBER 2 TO PROJECT SCHEDULE 6
OF THE WATER MANAGEMENT PARTNERSHIP AGREEMENT
BETWEEN THE COMMONWEALTH AND NEW SOUTH WALES
FOR THE NSW METERING PROJECT

VARIATION

PARTIES

This Variation No. 2 is made between:

The **Commonwealth of Australia (Commonwealth)** is represented by the Department of Agriculture and Water Resources ABN 24 113 085695.

(The Commonwealth was previously represented by the Department of the Environment (formerly known as the Department of Sustainability, Environment, Water, Population and Communities or DSEWPaC, ABN 34 190 894983).

On 21 September 2015 Administrative Arrangements Orders moved water policy and resources matters to the Department of Agriculture and Water Resources from the Department of the Environment.)

AND

The **State of New South Wales (State)** represented by the New South Wales Department of Primary Industries – Water (formerly known as the NSW Office of Water, NOW), ABN 72 189 919 072

(together, the **Parties**)

CONTEXT

This Variation No 2. is made in the following context:

- A. The Commonwealth and the State, entered into a Water Management Partnership Agreement (the **Agreement**) on 11 January 2010.
- B. In accordance with clauses 5.1.1.b and 16.2.1 of the Agreement, the Parties signed a project schedule (the **Original Project Schedule**) for the New South Wales Metering Project (the **Priority Project**) on 4 June 2012.
- C. Under clause 16 of the Agreement, a Project Schedule may be varied by the written and signed agreement of the Parties.
- D. In accordance with clause 16 of the Agreement, the Parties varied the Project Schedule as follows:
 - a) **Variation No. 1 (16 December 2014)** to reflect the change in project scope and delays in project implementation
 - b) **Variation No. 2** to re-order deliverables between milestones to ensure correct sequence of co-dependent activities

1. Interpretation

1.1. Definitions

1.1.1. Unless the contrary intention appears a term in bold type has the meaning shown opposite it:

- | | |
|-------------------------|--|
| Agreement | has the meaning given in Recital A. |
| Project Schedule | has the meaning given in Recital B. |
| Variation Date | means the date on which this Variation No. 2 is signed by the last Party to do so. |

1.2. Interpretation

1.2.1. Clause 18.5 of the Agreement applies to this Variation No. 2 as though all references in that clause to the "Agreement" were instead references to this "Variation".

2. Variation of the Project Schedule

2.1.1. With effect from the Variation Date, the Project Schedule is varied by:

- a. inserting all clauses and words that are underlined; and
- b. deleting all clauses and words that are crossed through,

in the copy of the Project Schedule which forms the **Annexure 1** to this Variation No. 2.

2.1.2. Subject only to the amendments contained in this Variation No. 2, the Parties confirm all other provisions of the Project Schedule and the Agreement.

3. Effect of Variation

3.1.1. The Parties agree that **Annexure 2** to this Variation No. 2 shows a clean version of the Project Schedule after it is varied in accordance with clause 2 of this Variation No. 1.

4. Costs

4.1.1. The Parties shall each bear their own costs and expenses (including legal costs) arising out of and incidental to the negotiation, preparation and signing of this Variation No. 2.

5. Payment Acknowledgement

5.1.1. The Parties acknowledge that the amount of [REDACTED] has already been paid by the Commonwealth to the State as part of the Funds payable under the Project Schedule.

6. Counterparts

6.1.1. This Variation No. 2 may be signed by the Parties in two counterparts, in which case the two counterparts together will be taken to constitute the one Variation No. 2.

Signatures

SIGNED for and on behalf of the
**COMMONWEALTH OF
AUSTRALIA** represented by the
Department of Agriculture and
Water Resources by

^Name of signatory^

Signature and date

In the presence of:

^Name of witness^

Signature of witness and date

SIGNED for and on behalf of the
STATE OF NEW SOUTH WALES
by the NSW Department of Primary
Industries - Water

^Name of signatory^

Signature and date

In the presence of:

^Name of witness^

Signature of witness and date

PROJECT SCHEDULE

COMMONWEALTH OF AUSTRALIA REPRESENTED BY
THE DEPARTMENT OF THE AGRICULTURE AND WATER
RESOURCES

WATER FOR THE FUTURE

NEW SOUTH WALES STATE PRIORITY PROJECT

**NSW METERING PROJECT-SOUTHERN-CONNECTED NSW
CATCHMENTS**

VARIATION NUMBER 2 TO PROJECT SCHEDULE 6 OF THE
WATER MANAGEMENT PARTNERSHIP AGREEMENT BETWEEN
THE COMMONWEALTH
AND NEW SOUTH WALES

PROJECT SCHEDULE 6 – NSW METERING PROJECT

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 New South Wales dated 11 January 2010 (the Agreement).
- A.1.2. For the purpose of this Project Schedule only, the terms specified in this item have the following meaning:
- a. Activity: means an activity that the State is required to undertake, or ensure is undertaken, to complete the Priority Project and includes anything that is reasonably incidental to the completion of that activity.
 - b. Agreed Water Savings: has the meaning given in clause 18.4 and in this Project Schedule means the [REDACTED] that will be saved from regulated river and groundwater sources as a result of this Priority Project as specified in Item E.1 of the Project Schedule. The Agreed Water Savings are separate from the Additional Water Savings, the Unregulated Water Savings and the State Contributions.
 - c. Additional Water Savings: means the Water Savings from regulated river and groundwater sources that is saved as a result of this Priority Project that exceeds the Agreed Water Savings for this Priority Project as measured and verified via the Verification Process. The Additional Water Savings are separate from the Agreed Water Savings, the Unregulated Water Savings and the State Contributions.
 - d. Business Case Information Requirements: means the criteria set out in Schedule E of the IGA.
 - e. DAWR: means the Commonwealth Department of Agriculture and Water Resources (formerly The Department of the Environment or DotE which was previously known as the Department of Environment, Water, Heritage and the Arts or DEWHA; and the Department of Sustainability, Environment, Water, Population and Communities or DSEWPaC) ABN 24 113 085 695 or other department or agency that has from time to time responsibility for this Agreement, and includes its Personnel and successors.
 - f. Grant: means the permanent grant of Water Entitlement by the State to the Commonwealth under section 63A of the WM Act. For the purposes of this Project Schedule, a reference to the term "Transfer" in a clause of this Agreement includes a reference to a "Grant" as defined in this Project Schedule.
 - g. ML: means megalitre, which is 1,000,000 litres.
 - h. Murrumbidgee Regulated Metering Project: means a project delivering new meters within the Murrumbidgee region of NSW funded by Water for Rivers and is not part of this Project Schedule.

- i. Nominal Meter Capacity: is the capacity of each installed meter assuming a typical design flow of approximately 3.25 metres per second +/- 0.3 m/s (for closed conduit meters) and 0.6 metres per second +/- 0.1 m/s (for open channel meters), or an alternative meter capacity based on field observations.
- j. DPI Water: means the New South Wales Department of Primary Industries – Water (formerly known as the NSW Office of Water or NOW) , which is an business unit of the NSW Department of Industry, Skills and Regional Development (ABN 72 189 919 072) representing the Crown in right of the State of New South Wales, and includes its Personnel and successors.
- k. [REDACTED]
- l. Pilot Project: means the Pilot Metering Project which is a separate project delivering new meters within the upper Murray region of NSW and is not part of this Project Schedule. Separately to this Pilot Project, DPI Water carried out water efficiency works in the surface water systems of the Murrumbidgee catchment in parallel with this Pilot Project.
- m. Progress Report: means a report received at the intervals specified in the Milestone in Item C.1.1 and as specified in Item I.2;
- n. Project Control Group: means a group comprising representatives from the State and any agreed independent members who will monitor the progress of this Priority Project, including against this Project Schedule. The Commonwealth will be represented in an observing capacity at the meetings of the Project Control Group and will be entitled to receive all Project Control Group documentation, including its agendas and minutes.
- o. Southern Section: means the part of this Priority Project that involves installation of meters in the small, medium and large channel sizes (as set out in the State's business case referred to in Item B.1.3) predominately in closed conduit systems of the Murray, Murrumbidgee and Lower Darling catchments in the southern part of NSW.
- p. Start-Up Amount: means the [REDACTED] and [REDACTED] [REDACTED] provided by the Commonwealth to the State under the funding deed of 28 April 2009, for the State to undertake preparatory activities related to the Pilot Metering Project and to develop the business case for this Priority Project, respectively. The Start-Up Amount does not, however, form part of the Funding governed by this Project Schedule.
- q. State Contributions: means the Water Entitlements that the State is required to Grant to the Commonwealth under this Priority Project [REDACTED] [REDACTED] The State Contributions are separate from the Agreed Water Savings, the Additional Water Savings and the Unregulated Water Savings. The State Contributions are in lieu of a [REDACTED] cash contribution to the cost of the Priority Project and are to equal [REDACTED] of the sum of the Funding for this Priority Project and the Start-Up Amount.

- r. Water NSW is the new corporate name of the New South Wales State Water Corporation (SWC). Water NSW is taken for all purposes to be a continuation of, and the same legal entity as, State Water Corporation
- s. Types of Water Savings: means the Agreed Water Savings, any Additional Water Savings, any Unregulated Water Savings and the State Contributions.
- t. Unregulated Water Savings: means the amount of water savings achieved by this Priority Project in unregulated water sources as measured and verified via the Verification Process but does not include the Agreed Water Savings, the Additional Water Savings or the State Contributions.
- u. Verification Process: means the processes that will be performed by a consultant engaged by the State to determine any:
 - i. Additional Water Savings; and
 - ii. Unregulated Water Savings.
- v. WM Act: means the *Water Management Act 2000 (NSW)*.

B. Priority Project

B.1. Summary and duration of the Priority Project

- B.1.1. In the IGA, the Commonwealth agreed in-principle to provide funding of up to \$1.358 billion for New South Wales' proposed projects, subject to Due Diligence of each such project and compliance with the Commonwealth's Business Case Information Requirements and this Agreement.
- B.1.2. In the IGA, the Commonwealth agreed in-principle to provide funding of up to \$221 million for a Metering Priority Project, subject to the Priority Project satisfying the Commonwealth's Due Diligence Assessment.
- B.1.3. The State submitted a business case to DAWR for a proposed NSW Metering Priority Project (Proposed Project) on 11 June 2010.
- B.1.4. The Commonwealth's Due Diligence of the Proposed Project against the Business Case Information Requirements was completed in April 2011. The Proposed Project was approved for funding of up to \$196,760,000 (excluding GST and the Start-Up Amount) by the Commonwealth Minister for Sustainability, Water, Environment, Population and Communities on 2 May 2011, subject to conditions. These conditions were revised and agreed by the State on 7 November 2011. The conditions of the final Due Diligence are now reflected in this Project Schedule.
- B.1.5. A Project Schedule was signed on 4 June 2012 for the Metering Project covering both the northern and southern valleys of the NSW Murray-Darling Basin, for Australian Government funding of up to \$196,760,000. This Project Schedule was subsequently varied to cover only the metering works in the Murray, Murrumbidgee and Lower Darling catchments of the southern-connected NSW Murray-Darling Basin. The total value of the southern-connected Metering Project is \$31,500,000.

- B.1.6. Any metering works to be agreed for the northern valleys of the NSW Murray-Darling Basin (other than the Murray, Murrumbidgee and Lower Darling) is covered in a separate project schedule.
- B.1.7. This Priority Project will involve installing meters at unregulated, regulated and groundwater extraction points in the Murray, Murrumbidgee and Lower Darling catchments of the southern-connected NSW Murray-Darling Basin to ensure coverage in accord with NSW metering policy targeting 95 per cent of the total volume of licensed extractions. Efficiency gains will arise from replacing currently inaccurate meters, supplemented with a new telemetry-based system to provide for real-time and accurate reporting.
- B.1.8. Project Milestones for this Priority Project are identified in Item C of this Project Schedule.
- B.1.9. Both Parties acknowledge that the Commonwealth has previously agreed to provide the State with up to \$22,395,000 (excluding GST) to deliver this separate Pilot Project in the upper Murray catchment of the NSW Murray-Darling Basin.
- B.1.10. This Priority Project commences on the date this Project Schedule is signed and must be completed by 30 June 2017, unless otherwise agreed in writing by the parties.

B.2. Aim of Project Activities

- B.2.1. The purpose of this Priority Project is to install accurate water meters in the Murray, Murrumbidgee and Lower Darling catchments of the southern-connected part of the NSW Murray-Darling Basin in accord with NSW metering policy targeting 95 per cent of the total volume of licensed water extractions on active off-takes in regulated rivers, unregulated rivers and groundwater sources, excluding those extractions which are or will be metered under the Pilot Project and the Murrumbidgee Regulated Metering Project. The water meters must comply with the National Framework for Non-urban Water Metering (including compliance with pattern approval requirements of the National Measurement Institute as approved by the Council of Australian Governments on 7 December 2009, (Australian Standard AS4747) and NSW Interim Water Metering Standards (closed conduit and open channel).
- B.2.2. This Priority Project will assist the State to meet its commitments to the IGA and meet Reform Requirements. The Priority Project will result in Agreed Water Savings that will be shared between the State and the Commonwealth, as well as the introduction of real-time telemetry for the majority of licensed water extraction in the southern-connected Basin.

B.3. Priority Project Requirements

- B.3.1. The State agrees that:
- a. the State will appoint a contractor or contractors to install water meters throughout the New South Wales Murray-Darling Basin, with ownership of the new meters being retained by the State and Water NSW;
 - b. the meters will be connected to a telemetry system that will provide real-time information on water extraction throughout the Basin;

- c. the area covered in the Priority Project contains regulated and unregulated rivers, and groundwater sources, and includes the Lower Darling, Murray downstream and Murrumbidgee (unregulated and groundwater only) valleys;
- d. the State will Grant Water Entitlements to the Commonwealth [REDACTED]
- e. the State will engage a consultant to determine the volume of Additional Water Savings, develop a methodology for the verification of Unregulated Water Savings and determine the volume of Unregulated Water Savings;
- f. the Grant of Water Entitlements to the Commonwealth will not adversely affect the rights of any other holders of Water Entitlements;
- g. the State will be responsible for ensuring the proper and efficient conduct and management of this Priority Project in accordance with this Project Schedule and it will carry out each Activity, including the installation of meters, in accordance with all applicable laws (including, but not limited to, all required planning, environmental, development, building, occupational health and safety and regulatory approvals and all applicable Australian standards);
- h. the State will comply, and ensure that its Proponents and their subcontractors comply, with all applicable requirements of the *Building Code 2013* as set out in Attachment 1 to this Project Schedule;
- i. the State will ensure that its Proponents and subcontractors comply, with all applicable requirements of the *Australian Government Building and Construction OHS Accreditation Scheme* as set out in Attachment 2 to this Project Schedule;
- j. if requested, the State will provide the Commonwealth with access to the State's records and Personnel to enable the Commonwealth to conduct its own independent audit or review of any aspect of this Priority Project;
- k. the State is responsible for meeting the Project Milestones specified in Item C of this Project Schedule;
- l. the State will ensure there is appropriate monitoring, auditing and reporting of Priority Project expenditure against the Project Cost (including the budgets referred to in Item B.3.9) and achievement of the Types of Water Savings and Grant of Water Entitlements to the Commonwealth to enable the Commonwealth to be suitably informed on the progress and outcomes of this Priority Project;
- m. the State will convene a Project Control Group to monitor the progress of this Priority Project;
- n. the State will ensure that the Project Control Group meets on a regular basis and that all relevant meeting documentation, where possible, is circulated to all members at least five working days in advance; and
- o. in the eventuality that the State considers that the scope of work should change, the State may propose a variation to this Project Schedule consistent with clause 16 of the Agreement but no such change is effective until agreed by the parties in accordance with clause 16.

- B.3.2. Some payments of Funds by the Commonwealth to the State are dependent on the State Granting Water Entitlements to the Commonwealth [REDACTED]
- B.3.3. The process for preparing for and effecting a Grant of Water Entitlements by the State to the Commonwealth as part of a Project Milestone in Item C is as follows:
- a. at the end of each two-month period from 1 July each year, DPI Water and Water NSW will review meter validation and commissioning to identify Water Entitlements to be granted to DAWR, and commence the water entitlement transfer process within a further two months;
 - b. prior to Water Entitlements being granted to the Commonwealth, the State will provide to DAWR all relevant details about the Water Entitlements that the State intends to Grant to the Commonwealth as part of that Project Milestone (including in respect of both the Commonwealth's Proportion of Agreed Water Savings and State Contributions). Such details to include but not be limited to the volume, security, source of, and any proposed conditions on, the Water Entitlements;
 - c. DAWR will review the Water Entitlements details provided by the State and undertake any necessary checks to confirm that those details accord with the requirements of this Project Schedule; and
 - d. once DAWR advises the State that it agrees that the Water Entitlements details provided by the State accord with the requirements of this Project Schedule, the State may Grant the Water Entitlements to the Commonwealth [REDACTED]
- B.3.4. The State acknowledges that DAWR is not required to perform any aspect of this Priority Project.
- B.3.5. In undertaking this Priority Project, the State will comply with the requirements, where relevant, of the *Environment Protection and Biodiversity Conservation Act 1999*.
- B.3.6. In delivering the Priority Project, the State agrees to the following conditions of Funding:
- a. Consistent with clause 14 of the Agreement, the State agrees that it will seek the agreement of DAWR before the release of any publicity material by the State in relation to the Priority Project. DAWR will provide its agreement on the release of such publicity material within 10 Business Days, excluding any which require approval by the Commonwealth Minister;
 - b. The State is responsible for ensuring that the Funding is spent for the purposes of the Priority Project in accordance with the Project Budget and in accordance with this Project Schedule;
 - c. Commonwealth Funding provided under this Priority Project can be spent on legal advice regarding the implementation of this Priority Project but must not be spent on legal advice:
 - i. regarding the development of the Project Schedule;

- ii. for any dispute or action against or involving the Commonwealth except where that dispute or action involves the Commonwealth, the State and a third party to the extent that DAWR, at its sole discretion, gives its prior written consent to the State using the Funds for that purpose; or
- iii. in relation to any dispute or action against or involving the State except to the extent that DAWR, at its sole discretion, gives its prior written consent to the State using the Funds for that purpose.

- B.3.7. The use of any interest that the State earns on the Commonwealth Funds will be consistent with clause 6.1.9 of the Agreement. The prior approval of the Commonwealth will be obtained for the use of any interest on the Priority Project.
- B.3.8. The State will ensure alignment between the Priority Project and the water reform requirements outlined in Clauses 64 to 69 of the National Water Initiative as specified in the Due Diligence outcomes.
- B.3.9. The State will develop a project plan for the Priority Project and detailed annual budgets for each financial year before Project Milestone 5 can be paid. The budgets must be consistent with this Project Schedule, including the Project Cost.

C. Project Milestones

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

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Funding (excl GST)
	Project Milestone 1	All elements of Project Milestone 1 are completed to the reasonable satisfaction of the previous DSEWPac now DotE.	8 June 2012 (completed)	
1.1	Signing of the Project Schedule by both Parties.	Project Schedule signed by both Parties.		
	Project Milestone 2	All elements of Project Milestone 2 are completed to the reasonable satisfaction of DotE.	By 31 October 2014	
2.1	Signing of updated Project Schedule by both Parties.	Variation 1 to the Project Schedule signed by both parties		
2.2	State commences procurement for Priority Project	Evidence that Expression of Interest has been advertised.		
2.3	State confirms water savings using Final Independent Verification of Agreed Water Savings Report produced under the Pilot Project.	NSW response to the report confirming water savings to be made available to the Commonwealth.		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Funding (excl GST)
2.4	Pre-construction survey completed for downstream Murray, Murrumbidgee and Lower Darling catchments.	Completed pre-construction survey.		
2.5	State provides a procurement strategy for the Priority Project	Procurement Strategy Report.		
2.6	State submits Progress Report to DotE.	Progress Report that meets the requirements of Item I.2.		
	Project Milestone 3	All elements of Project Milestone 3 are completed to the reasonable satisfaction of DotE.	1 November 2014	
3.1	State installs approximately 60 meters in the Mid Murray to enable Tranche 1 water entitlement transfer	Schedule of meters installed.		
3.2		Provision of the information specified in Item B.3.3 in respect of the Water Entitlement(s).		
3.3		Issue of certificates of title for the Water Entitlement(s).		
3.4	State submits Progress Report to DotE.	Progress Report that meets the requirements of Item I.2.		
	Project Milestone 4	All elements of Project Milestone 4 are completed to the reasonable satisfaction of DotE.	5 December 2014	
4.1	State provides a draft project plan for the Priority Project.	Draft Priority Project plan provided to DotE.		
4.2	State provides Implementation Plan for the Priority Project	Implementation Plan provided to DotE		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Funding (excl GST)
4.3	Request for Tender issued to market	Copy of RFT		
4.4	State submits Progress Report to DotE.	Progress Report that meets the requirements of Item I.2.		
	Project Milestone 5	All elements of Project Milestone 5 are completed to the reasonable satisfaction of DotE.	31 March 2015	
5.1	State awards contract for installation of meters for remainder of Priority Project.	Copy of signed contract		
5.2	State provides a final project plan for the Priority Project, including expected implementation costs, annual detailed budgets, Nominal Meter Capacities, water savings and timelines.	Final Priority Project plan completed and provided to DotE.		
5.3	State submits Progress Report to DotE.	Progress Report that meets the requirements of Item I.2.		
	Project Milestone 6	All elements of Project Milestone 6 are completed to the reasonable satisfaction of DotE.	31 July 2015	
6.1	State installs meters equivalent to 30% of Nominal Meter Capacity to enable Tranche 2 water entitlement transfer.	Schedule of meters installed.		
6.2	Project Control Group to agree terms of reference for the independent verification consultancy into Additional Water Savings.	Minute agreeing terms of reference for consultancy.		
6.3	State to engage verification consultancy to determine Additional Water Savings.	Evidence of letter of engagement.		
	Project Milestone 7	All elements of Project Milestone 7 are completed to the reasonable satisfaction of DotE.	30 August 2015	
7.1		Provision of the information specified in Item B. 3.3 in respect of the Water Entitlement(s).		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Funding (excl GST)
7.2	[REDACTED]	Issue of certificates of title for the Water Entitlement(s).		
7.3	State submits Progress Report to DotE.	Progress Report that meets the requirements of Item I.2.		
	Project Milestone 8	All elements of Project Milestone 8 are completed to the reasonable satisfaction of DotE.	30 October 2015	[REDACTED]
8.1	State installs meters equivalent to 50% of Nominal Meter Capacity to enable Tranche 3 water entitlement transfer.	Schedule of meters installed.		
8.2	[REDACTED]	Provision of the information specified in Item B.3.3 in respect of the Water Entitlement(s).		
8.3	[REDACTED]	Issue of certificates of title for the Water Entitlement(s).		
8.4	Consultant to determine if verification methodology used for the Pilot Project can be applied to the Additional Water Savings resulting from this Priority Project.	State provides written confirmation of verification methodology to DotE.		
8.5	State submits Progress Report to DotE.	Progress Report that meets the requirements of Item I.2.		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Funding (excl GST)
	Project Milestone 9	All elements of Project Milestone 9 are completed to the reasonable satisfaction of DAWR.	13 May 2016	[REDACTED]
9.1	State installs meters equivalent to 70% of Nominal Meter Capacity to enable Tranche 4 water entitlement transfer.	Schedule of meters installed.		
9.2	[REDACTED]	Provision of the information specified in Item B.3.3 in respect of the Water Entitlement(s).		
9.3	[REDACTED]	Issue of certificates of title for the Water Entitlement(s).		
9.4	State submits Progress Report to DAWR.	Progress Report that meets the requirements of Item I.2.		
	Project Milestone 10	All elements of Project Milestone 10 are completed to the reasonable satisfaction of DAWR.	20 May 2016	[REDACTED]
10.1	State installs meters equivalent to 80% of Nominal Meter Capacity to enable Tranche 5 water entitlement transfer.	Schedule of meters installed.		
10.2	[REDACTED]	Provision of the information specified in Item B.3.3 in respect of the Water Entitlement(s).		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Funding (excl GST)
10.3	[Redacted]	Issue of certificates of title for the Water Entitlement(s).		
10.4	State submits Progress Report to DAWR.	Progress Report that meets the requirements of Item I.2.		
	Project Milestone 11	All elements of Project Milestone 11 are completed to the reasonable satisfaction of DAWR.	27 May 2016	[Redacted]
11.1	State installs meters equivalent to 90% of Nominal Meter Capacity to enable Tranche 6 water entitlement transfer.	Schedule of meters installed.		
11.2	[Redacted]	Provision of the information specified in Item B.3.3 in respect of the Water Entitlement(s).		
11.3	[Redacted]	Issue of certificates of title for the Water Entitlement(s).		
11.4	State submits Progress Report to DAWR.	Progress Report that meets the requirements of Item I.2.		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Funding (excl GST)
11.5	Consultant completes verification consultancy in relation to the Additional Water Savings and provides written report on Additional Water Savings resulting from this Priority Project.	Report from consultant on Additional Water Savings resulting from this Priority Project.		
	Project Milestone 12	All elements of Project Milestone 12 are completed to the reasonable satisfaction of DAWR.	3 June 2016	
12.1	State installs meters equivalent to 100% of Nominal Meter Capacity to enable Tranche 7 water entitlement transfer.	Schedule of meters installed.		
12.2		Provision of the information specified in Item B.3.3 in respect of the Water Entitlement(s).		
12.3		Issue of certificates of title for the Water Entitlement(s).		
12.4	State submits Progress Report to DAWR.	Progress Report that meets the requirements of Item I.2.		
	Project Milestone 13	All elements of Project Milestone 13 are completed to the reasonable satisfaction of DAWR.	15 December 2016	
13.1	State submits Independent Audit Report on expenditure for this Priority Project.	Independent audit report on expenditure for this Priority Project that meets the requirements of Item I.4.		
13.2	State submits Final Report on all outcomes for this Priority Project.	Final Report that meets the requirements of item I.3.		

D. Project Cost

D.1. Project Cost for the Priority Project

D.1.1. The Project Cost for this Priority Project is set out in the following table:

Table has been removed
COMMERCIAL - IN - CONFIDENCE

D.2. Contributions for Priority Project

D.2.1. The parties' contributions for the Priority Project are set out in the following table:

Contribution	Maximum Contribution (\$ exc GST)
1. Commonwealth Funding	\$31,500,000
2. State Contributions to Project Cost	

D.3. State Contributions

D.3.1.

[Redacted]

D.3.2. The State agrees that any Priority Project costs in excess of the Funding must be met by the State.

E. Grant of Water Entitlements

E.1. Agreed Water Savings (clauses 5.2.3 and 5.2.4)

- E.1.1. The State agrees that the Agreed Water Savings for this Priority Project are [REDACTED] and will be achieved from the installation of meters in the Murray, Murrumbidgee and Lower Darling catchments of the southern-connected NSW Murray Darling Basin regulated river and groundwater sources under this Priority Project.
- E.1.2. The Agreed Water Savings that arise from the installation of the meters in regulated river and groundwater sources under this Priority Project are water savings in a "system" as that term is defined in section 8C of the WMA Act.
- E.1.3. The Agreed Water Savings are to be in the proportions across catchments and security types set out in the State's business case referred to in Item B.1.3.

E.2. The Commonwealth's Proportion of Agreed Water Savings (clauses 5.2.3)

- E.2.1. The Commonwealth's Proportion of the Agreed Water Savings is 50 per cent of the Agreed Water Savings. The Commonwealth's Proportion of the Agreed Water Savings is [REDACTED] as set out in the following table:

Commonwealth Proportion of Agreed Water Savings (ML)	Water Characteristics
[REDACTED]	

E.3. Grant of Water Entitlements to the Commonwealth (clauses 5.2.6 to 5.2.8)

- E.3.1. The State agrees that all Water Entitlements Granted to the Commonwealth under this Project Schedule will:
 - a. meet the requirements of clause 5.2.4 of this Agreement; and
 - b. be of like character to existing equivalent Water Entitlements in the relevant catchment.
- E.3.2. The State is required to Grant Water Entitlements equal to the Commonwealth's Proportion of the Agreed Water Savings [REDACTED]. The State's requirement to grant these Water Entitlements will be proportionately reduced to the extent that the parties agree that the scope of the meter rollout is reduced.
- E.3.3. In addition, the State is required to Grant the following Water Entitlements to the Commonwealth [REDACTED]

- a. Water Entitlements that contain 50 per cent of any Additional Water Savings achieved by the Priority Project that are verified by the independent consultant as outlined in item B.3.1.e; and
 - b. Water Entitlements that contain 50 per cent of any Unregulated Water Savings achieved by the Priority Project that are verified by the consultant as outlined in item B.3.1.e.
- E.3.4. The State agrees that all Water Entitlements Granted to the Commonwealth under this Project Schedule are to be sourced from water savings achieved by this Priority Project and are not to include water in a Water Entitlement that is already allocated to or is being used for environmental purposes.
- E.3.5. The Water Entitlements to be Granted to the Commonwealth arising from the Commonwealth Proportion of Agreed Water Savings must have the same characteristics (be in the same proportion, type, security and catchments) as the water used at the locations where meters have been installed by this Priority Project.

E.4. Arrangements between the State and a third party

- E.4.1. Not applicable.

E.5. Verification of Actual Water Savings (clauses 5.2.9 and 5.2.10)

The verification of Actual Water Savings (including as required in order to verify any Additional Water Savings) does not involve the process outlined in clauses 5.2.9 and 5.2.10 of this Agreement.

F. Sharing of water savings

F.1. Additional Water Savings

- F.1.1. The Commonwealth is entitled to 50 per cent of any Additional Water Savings that are verified in accordance with the requirements of this Project Schedule.
- F.1.2. The Verification of Additional Water Savings does not involve the process outlined in clause 5.2.9 and 5.2.10 of this Agreement.

F.2. Shortfall in Agreed Water Savings

- F.2.1. The Commonwealth is entitled to the Commonwealth's Proportion of the Agreed Water Savings and is not required to share any shortfall in the Agreed Water Savings (such shortfall being where the Actual Water Savings are less than the Agreed Water Savings).

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

G.1. Agreement Material

- G.1.1. Not used.

G.2. Existing Material

- G.2.1. Not used.

H. Indemnity

- H.1.1. Notwithstanding any other provision of this Agreement, 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 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 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. Project Reports

- I.1.1. Further to clause 8 and Schedule 4 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.

I.2. Progress Reports

- I.2.1. Each Progress Report must demonstrate evidence of the State's project management and contract management activities, proof of meter purchase, installation and testing, and financial management, and must contain the following information:
- a. a description of the actual performance of the Priority Project to date against the aim of the Priority Project (as specified in this Project Schedule), including information and evidence to demonstrate the State's completion of the Project Milestones (see Item C.1.1 of this Project Schedule) that were due for completion during the period that is the subject of this Progress Report (Period);
 - b. a description of the Activities undertaken for the Priority Project to date;
 - c. a description of how many meters have been installed and the location of these meters;

- d. a description of the progress of the Verification Process against the requirements of B.3.1.e, including the process of extrapolating the Pilot Project's methodology for use in this Priority Project;
- e. a statement that the Water Entitlements are derived from the installation of more efficient meters or improved river operations;
- f. a statement of income and expenditure of the Funding to date against the Project Cost in Item D.1.1 and annual detailed budget required in Project Milestone 3 of Item C.1.1;
- g. an estimate of the interest earned by the State to date on the Funds provided for the priority Project;
- h. promotional activities undertaken in relation to, and media coverage of, the Priority Project during the Period and those proposed activities during the next Period;
- i. the Agreed Water Savings (if any) achieved for the Priority Project to date and the volume of Water Entitlements that represent the Commonwealth's Proportion of the Agreed Water Savings that have been Granted to the Commonwealth;
- j. the Additional Water Savings (if any) achieved for the Priority Project to date and the volume of Water Entitlements (if any) that have been Granted to the Commonwealth in respect of the Additional Water Savings;
- k. the Unregulated Water Savings (if any) achieved for the Project to date and the volume of Water Entitlements (if any) that have been Granted to the Commonwealth in respect of the Unregulated Water Savings;
- l. the State Contributions for the Project to date and the value of the Water Entitlements that have been Granted to the Commonwealth as part of the State Contributions; and
- m. any other items that are agreed by the State and the Commonwealth to be included in the Progress Report.

I.3. Final Project Report

- I.3.1. The final Project Report will 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 at the earliest of:
 - a. Milestone 13 as set out in Item C.1.1; or
 - b. three months after the completion of the Priority Project; or
 - c. three months after the termination of this Project Schedule or the Priority Project; or
 - d. 15 December 2016.
- I.3.3. The final Project Report will contain information that:
 - a. describes the conduct, benefits and outcomes of the Priority Project as a whole;

- b. evaluates the Priority Project, including assessing the extent to which the outcomes and Project Milestones of the Priority Project, as specified in Item B of this Project Schedule, have been achieved, including the Verification Process as specified in Item B.3.1.e, and explaining why any aspect of the Priority Project was not achieved;
- c. confirms the extent to which all of the Water Entitlements that are required to be Granted to the Commonwealth in respect to this Priority Project have, as at the date of the Final Report, been Granted to the Commonwealth, including any Additional Water Savings and Unregulated Water Savings entitlements, as identified by the Verification Process;
- d. specifies if any Commonwealth's Proportion of the Agreed Water Savings or Additional Water Savings or Unregulated Water Saving or State Contributions have not been Granted to the Commonwealth, and the reasons why they have not been Granted;
- e. provides detailed financial information regarding the total Project Cost, Funding, and State Contributions for the Priority Project;
- f. summarises all promotional activities undertaken in relation to, and media coverage of, the Priority Project;
- g. includes a discussion of any other matters, relating to the Priority Project, which DAWR notifies the State should be included in this final Project Report at least 40 Business Days before it is due; and
- h. any other items that are agreed by the State and the Commonwealth will be included in the Final Report.

I.3.4. The final Project Report should be accompanied by a certified income and expenditure statement signed by a delegated officer of DPI Water that clearly identifies:

- a. the amount of interest earned by the State on the Funding;
- b. confirmation that all Funding paid to the State (including any interest earned by the State on the Funds and approved for expenditure on this Priority Project by the Commonwealth) was spent by the State in accordance with this Project Schedule;
- c. any State Contributions;
- d. any Other Contributions that were provided for the Priority Project;
- e. any cost savings or cost overruns for the Priority Project; and
- f. advice as to the amount of any Funds that the State is required to return to the Commonwealth under the Agreement.

I.4. Independent Audit Report

I.4.1 Annual audited financial Reports from an independent auditor are to be provided for the Priority Project as specified in Schedule 4, Item C of the Agreement.

J. Payment Schedule for Funding for Priority Project

- J.1.1. The maximum Funding payable by the Commonwealth to the State in respect of this Priority Project is \$31,500,000 (excluding GST).
- J.1.2. Subject to the terms of this Project Schedule and clauses 6 and 17 of the Agreement, the Funding will be paid in instalments, and on the completion of the Payment Preconditions [REDACTED] Each such payment of Funds is due within 32 Business Days after the date that the State is assessed as having completed all of the Payment Preconditions relating to that payment and has provided DAWR with an invoice for that payment of Funds.
- J.1.3. The Payment Preconditions for a payment of Funds under this Project Schedule are completion of the Project Milestones [REDACTED]
- J.1.4. Each Payment also has the Payment Precondition that all preceding Project Milestones have been achieved.

K. Contact Officer

- K.1.1. The nominated Contact Officers for this project are:
- I. For the Commonwealth, the Director, Northern Priority Projects Section, Department of Agriculture and Water Resources, 18 Marcus Clarke St, Canberra City, ACT 2601, Ph: 02 6272 4737;
 - II. For New South Wales, the Commonwealth Program Co-ordinator, DPI Water, 10 Valentine Ave Parramatta, NSW 2124, Ph: 02 8838 7845.
- K.1.2. Either Party signatory to this Schedule may change its Contact Officer at anytime by notice in writing to the other Party.

By signing this document, the Parties to this Agreement dated 11 January 2010, agree that this document will be incorporated into the Agreement as a Project Schedule on and from the date the Commonwealth signs this document.

Dated the _____ day of _____ 2014.

SIGNED for and on behalf of the Commonwealth)
of Australia by:)
_____)

Name of signatory

Signature

In the presence of:

Name of witness

Signature of witness

SIGNED for and on behalf of NSW by:)
)
_____)

Name of signatory

Signature

In the presence of:

Name of witness

Signature of witness

ATTACHMENT 1: REQUIREMENTS RELATING TO THE BUILDING CODE 2013

1.1 Interpretation

1.1.1 In this Attachment 1:

- the Building Code** means the Building Code 2013. The Building Code can be downloaded from www.employment.gov.au/BuildingCode.
- the Guidelines** means the supporting guidelines for Commonwealth Funding Entities to the Building Code 2013. The Supporting Guidelines can be downloaded from www.employment.gov.au/BuildingCode.
- Project Parties** means all 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 specifically relates to building and construction activity, subject to the thresholds specified in the Building Code, the State must comply and ensure that the Project Parties comply with the Building Code and the Guidelines.

1.2.2 The Building Code and the Guidelines require the State to 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>; and
- 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>

1.3 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 Fair Work Building Industry Inspectorate, full access to premises and records of the State and the Project Parties to:

- a. inspect any work, material, machinery, appliance, article or facility;
- a. inspect and copy any record relevant to the Priority Project and works governed by this Project Schedule;
- b. 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 Fair Work Building Industry Inspectorate, to produce a specified document within a specified period, in person, by fax, or by post.

1.3.3 The Commonwealth and those authorised by it may publish or otherwise disclose information in relation to compliance by the State and the Project Parties with the Code and the Guidelines. The State is required to 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 contractors, subcontractors and consultants that have a demonstrated commitment to:

- a. adding and/or retaining trainees and apprentices;
- c. increasing the participation of women in all aspects of the industry; or
- d. promoting employment and training opportunities for Indigenous Australians in regions where significant Indigenous populations exist.

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

- a. the appointment would breach a sanction imposed by the Commonwealth Minister for Employment; or
- b. the contractor, subcontractor or consultant has had a judicial decision against them relating to employee entitlements, not including decision under appeal, and has not paid the claim.

ATTACHMENT 2: REQUIREMENTS RELATING TO THE AUSTRALIAN GOVERNMENT BUILDING AND CONSTRUCTION OHS ACCREDITATION SCHEME

1.1 Interpretation

1.1.1 In this Attachment 2:

the Act	means the <i>Fair Work (Building Industry) Act 2012 (Cth)</i>
Builder	has the meaning given in section 35 of the Act
Building Work	has the meaning given to it by section 5 of the Act
Regulations	means the <i>Fair Work (Building Industry – Accreditation Scheme) Regulations 2005</i> .
Scheme	means the Australian Government Building and Construction OHS Accreditation Scheme established under 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 \$3 million or more (GST inclusive); or
- b. the value of the Commonwealth's contribution is at least \$5 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.

