



# SDL Adjustment Mechanism

## Process Review

Brett Tucker, Peter Davies, Graeme Turner  
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# Summary of Key Findings

- The Intergovernmental Agreement for Implementing Water Reform (IGA) reflects the processes specified in the Water Act and Basin Plan.
  - The processes established for project identification, development and approval were consistent with the requirements of the IGA.
  - Based on a high level review, all notified projects have been put through the agreed phased assessment process with business cases prepared for each project.
  - It is evident that the notified projects:
    - are at various stages of development;
    - make different contributions to the final outcome; and
    - each have a unique set of risks and issues.
  - Based on a detailed review of a sample of projects, including those that were considered key and higher risk, it was found that:
    - The evaluation processes have been applied rigorously;
    - All jurisdictions had the opportunity to identify issues and hold each other to account at each approval gate, against the agreed evaluation criteria;
    - A register of issues has been established for all projects;
    - Approvals are conditional upon satisfactory resolution of issues and actions.
  - Notwithstanding, projects are at different stages of development and risk, therefore the continuous tracking of issues and their resolution is critical to the success of the SDLAM program.
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# Summary of Key Findings

- The process has in-built protections in respect of both funding risk and volume risk.
    - Final funding for implementation of all projects is contingent upon satisfactory resolution of outstanding issues.
    - The reconciliation process identified in the Basin Plan requires an adjustment to the SDL in the event that the final result differs to the originally determined result.
  - In respect of future reconciliations, the Panel recommends that:
    - Multiple lines of evidence should be the basis of reconciliation assessments, not just the application of a hardwired number.
    - However to maintain confidence in the process, the assessments should be “verifiable” within the existing ecological scoring framework.
    - Jurisdictions should identify mechanisms in the implementation phase to report on the alignment between ecological objectives and expected ecological outcomes of each supply measure with those described in Long Term Watering Plans and the Basin Watering Strategy.
    - Well-designed monitoring and evaluation should be an early consideration in the implementation phase, to help demonstrate the outcomes and assess success at achieving the objectives.
  - In relation to Program Governance, the Panel recommends that :
    - The implementation of program and project governance arrangements for approved projects should be established as a matter of priority.
    - A more comprehensive review of transition and implementation governance be commissioned.
    - That form and composition should follow function – governments should not make the mistake of loading existing committees with new governance responsibilities.
    - That the level at which various governance arrangements are established should correspond to the level at which control of risks and issues is best exercised.
    - Arrangements around implementation governance must recognise the need for greater agility in decision-making.
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# Summary of Key Findings

- In relation to Reporting, the Panel recommends that :
  - Public annual reporting of progress should be mandatory.
  - There should be independent review of each annual report.
  - More regular “internal” reporting of projects status should be mandatory, monitored through the agreed governance arrangements.
- In relation to the issues and actions register from Phase 2 and Phase 3 approval gates the Panel recommends that :
  - The register should be a control document with restricted access – single source of truth with an audit trail for changes made and source references (such as minutes) identified.
  - The register needs to incorporate details of who is responsible for each issue, when the issue is scheduled to be resolved and when the issue is actually resolved.
  - The register needs to be “live” document, tracked and reported on as part of agreed reporting protocols.
  - In the interim period until implementation of governance arrangements are agreed, the MDBA should have responsibility for active monitoring of progress/completion.

# Problem Statement

Senator Rex Patrick, in consideration of the proposed SDLAM disallowance motion currently before the Senate, requested that the MDBA obtain and provide the following advice from an independent source:

*That the prescribed processes and evaluation criteria contained in the Water Act 2007 (Cth) and Basin Plan 2012 (Cth) have been appropriately applied in the assessment of projects included in the proposed SDLAM (605).*

# Terms of Reference

The Independent Panel was asked to:

1. Undertake a review of the application of the SDL adjustment mechanism\*, for consistency with the requirements of the Water Act 2007, the Basin Plan 2012 and the Intergovernmental Agreement on Implementing Water Reform in the Murray Darling Basin.
  - Provide an assessment of the application of the SDL adjustment process.
  - Provide an assessment of the extent to which the assessment of notified projects has been undertaken consistent with the agreed process
2. Provide advice/recommendations to the Authority on the implementation of the SDL adjustment mechanism projects going forward.
  - Identify the key high level risks to future implementation of the SDL Adjustment Mechanism
  - Provide advice on further actions required to manage the implementation of the SDL adjustment mechanism moving forward

\* The Panel was not asked to review the decision logic surrounding the SDL(605) adjustment figure nor the merits of any project that forms part of the suite of 37 projects.

# Probity Statements

- The Panel can confirm that MDBA staff placed no restrictions on access to documents or personnel during this process.
- The Panel can also confirm that MDBA staff responded to issues raised in a timely and cooperative manner.
- Panel members provided a register of their prior work related to the SDLAM process or projects. None of this prior work was thought to represent any conflict of interest.

# Methodology – review logic

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graph TD; A[What does the Water Act and Basin Plan mandate?] --> B[Are the processes adopted in the IGA consistent with Act and Plan?]; B --> C[Is there evidence that the processes have been followed?]; C --> D[What are the key risks and issues in terms of future processes?];
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What does the Water Act and Basin Plan mandate?

Are the processes adopted in the IGA consistent with Act and Plan?

Is there evidence that the processes have been followed?

What are the key risks and issues in terms of future processes ?

# Limitations of Study

- This review has been undertaken at short notice in order to assist Parliamentary consideration of the SDLAM package.
- With only limited time available the Panel was unable to analyse the details and status of issues and actions identified for each project. Instead, a risk-based sampling approach was adopted (see page 21 for full details)

# Review Part 1 – Legislative obligations

- This review commenced with a comparison of the SDLAM requirements in Legislation, with the subsequent contents of the Intergovernmental Agreement.
- That is, the Panel sought to confirm that legislative requirements flowed through to the enabling instrument (the IGA)
- The Panel reviewed:
  - Water Act 2007 (Cth) – The Act
  - Basin Plan 2012 – The Plan
  - Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin (2013 revised 2017) – IGA
  - IGA project evaluation criteria
- The Panels findings are contained in the following pages 13 to 17.

# Consistency of IGA with Water Act & Basin Plan Obligations

- There are direct obligations under the Water Act and Basin Plan for the conduct of the SDL assessment and the SDL adjustment
  - The SDLAM method and assessment process, as defined under the IGA is :
    - Consistent with Section 23 of the Water Act 2007
    - Consistent and aligned with the provisions of the Basin Plan as stipulated in Chapters 5, 7 and Schedule 6:
  - The majority of components are fully aligned and enacted
  - Several remaining components are in progress or planned
    - The Prerequisite Policy Measures Implementation Plan for the Murray is still to be finalised.
    - The details of the reconciliation process to be followed between now and June 2024.
  - We find the process defined, adopted and used for the SDLAM under the IGA is both consistent in objectives, spirit, detail and methodological approach with the Basin Plan
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# Consistency of IGA with Water Act & Basin Plan Obligations

- The SDLAM processes have been followed for all notified projects, however adaptations have been necessary for several complex supply measures where the required activities have thus far prevented resolution of some elements of the evaluation process.
- Examples of such activities include finalising landholder negotiations and undertaking statutory environmental approvals.

# Consistency of IGA with Basin Plan Obligations

Basin Plan Requirements	Assessment of whether IGA ADL adjustment process is aligned
<b>5.06 Objective and outcome for operation of the SDL adjustment Mechanism</b>	
Does the adopted SDL adjustment mechanism/process address:	
(1) The Basin Plan objective of the mechanism?	Yes
(2) The overarching Basin Plan outcome of the SDL adjustment mechanism?	Yes where appropriate
<b>7.01 Adjustment of SDLs</b>	
Use mechanism to propose SDL adjustments on the basis of:	
(a) new measures to increase water supply or use efficiency of water use	Yes where appropriate
(b) re-allocating the SDL resource unit shared reduction amounts	Yes (MDBA)
(c) new or improved information relating to groundwater SDL resource units.	n/a
<b>7.02 Interpretation</b>	
Does the assessment process use a benchmark condition as described in Chapter 7 and Schedule 6?	Yes, where appropriate
<b>7.05 Consultation with Basin Officials Committee</b>	
Seek and consider advice from the Basin Officials Committee.	Yes
<b>7.06 Public consultation</b>	
Authority must:	
(a) publish a draft determination of proposed adjustment amounts with explanations	Yes
(b) invite public submissions on the draft determination	Yes
<b>7.07 Combined proposals</b>	
Prepare amendments giving effect to their net combined effect	Yes

# Consistency of IGA with Basin Plan Obligations

Basin Plan Requirements	Assessment of whether IGA ADL adjustment process is aligned
<b>7.18 Apportionment of supply contribution to affected units</b>	
Apportion supply contribution to affected units/zones	Yes
<b>7.08 Constraints management strategy</b>	
Constraints management strategy to assess impacts of constraints modifications on environmental water delivery	Yes
<b>7.09 Objective for adjustment of surface water SDLs for notified measures</b>	
Address environmental and socio-economic objectives for SDL adjustment for supply, constraint and efficiency measures	Yes where appropriate
<b>7.10 Initial adjustments to be proposed in 2016</b>	
The Authority to propose adjustment of the SDL for each affected unit and for the Basin water resources equal to the net effect of the adjustments for all the affected units	Yes
<b>7.15 Contribution to adjustments from supply measures</b>	
Address unimplemented policy measures regarding crediting environmental return flows and allow held environmental water calls from storage during un-regulated flow events	In progress
<b>7.16 Contribution to adjustments from efficiency measures</b>	
Identify efficiency contributions for 2016 and 2024 determinations	Not assessed under this review
<b>7.12 Notification of measures</b>	
Notifications of SDL adjustment measures	Yes
<b>7.13 Register of measures</b>	
	Yes
<b>7.15 &amp; 7.16 Contribution to adjustments from supply and efficiency measures</b>	
Ensure consistency with steps defined in the Basin Plan to determine the amounts of proposed SDL adjustments resulting from notified measures and additional efficiency measures	Yes

# Consistency of IGA with Basin Plan Obligations

Basin Plan Requirements	Assessment of whether IGA ADL adjustment process is aligned
<b>7.17 Criteria for amounts of adjustments</b>	
Conduct adjustment assessment with following criteria: Equivalent environmental outcomes; Neutral or improved socio-economic outcomes; Use of agreed approval process	Yes
<b>7.19 Overall limitation on size of adjustment amounts</b>	
Ensure net adjustment effect across the Basin is within the 5% limit	Yes provided efficiency measures enacted
<b>7.20 Final determination of amounts in 2016</b>	
Consider Basin Officials Committee advice and public submissions	Yes
Determine proposed adjustments amounts for each affected unit, in balance with whole of Basin resources, including time dependency, efficiency contributions and adjustment limits	Yes where appropriate
<b>7.22 Objective for adjustments relating to shared reduction amounts</b>	
Allow SDL adjustment to be re-allocated among resource units within Basin States	Yes
Schedule 6 Default method	
Satisfy all following elements of the default method: Hydrological model, indicator sites & regions, flow regime characteristics and preference curves, ecological elements, benchmark model (& its elements), environmental outcomes, comparison scoring method, identification and use of limits of change, calculated supply contribution approach, use of repeated test supply contributions to identify lowest volume with equivalence of environmental score	Yes, all elements adopted
Ensure independent scientific reviews of metrics and preference curves and jurisdictional contributions to them	Yes
<b>7.27 Independent audit of Authority's calculations</b>	
Authority may appoint or establish an independent person or body to audit calculations (per Chapter 7 Parts 2 & 4)	n/a
<b>7.11 Reconciliation adjustments to be proposed in 2024</b>	
Authority to plan for any required reconciliation adjustments	In progress

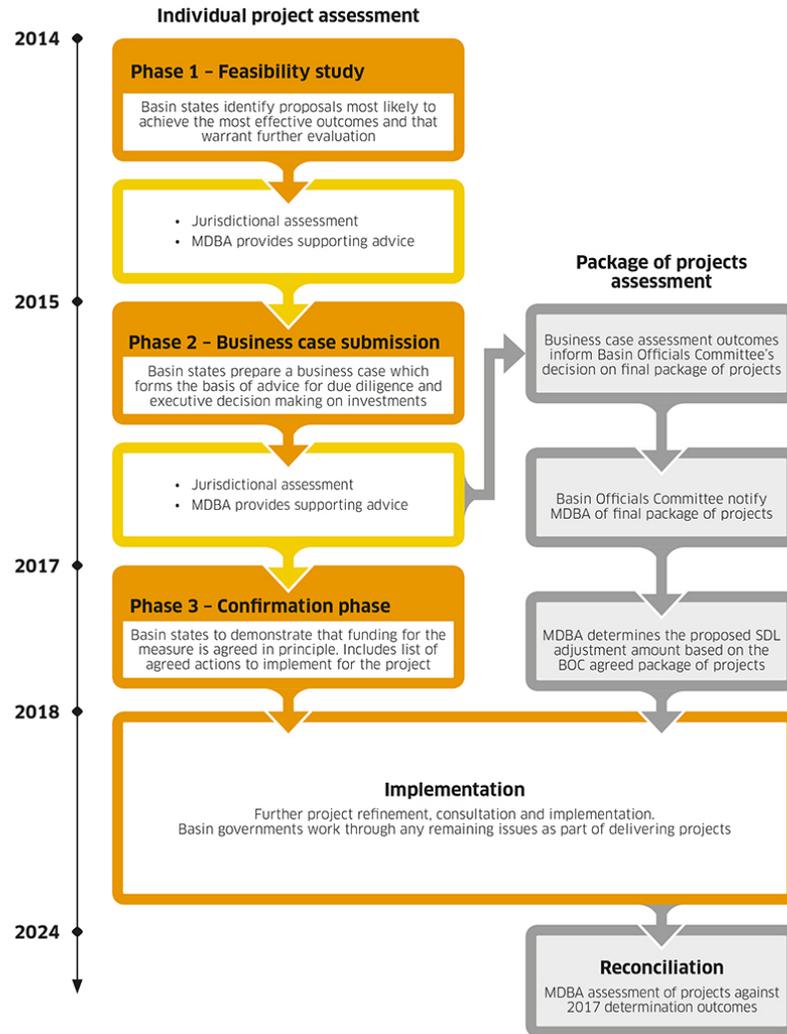
# Consistency of Evaluation Criteria with Plan

Phase 2 Evaluation Criteria	Consistency with Basin Plan & Water Act?
Project details	n/a
Ecological values of the site	Yes
Ecological objectives and targets	Yes
Anticipated ecological benefits	Yes
Potential adverse ecological impacts	Yes
Current hydrology and proposed changes	Yes
Environmental water requirements	Yes
Operating regime	Yes
Assessment of risks & impacts of measure operation	Yes
Technical feasibility and fitness for purpose	n/a
Complementary actions and interdependencies	Yes
Costs, Benefits and Funding Arrangements	n/a
Stakeholder management strategy	Yes
Legal and regulatory requirements	n/a
Governance and project management	Yes
Risk assessment of Project Development and Delivery	Yes

## Part 2 - Processes established to satisfy obligations

- Panel members reviewed the extent to which the actual, adopted intergovernmental and MDBA processes were consistent with the IGA requirements.
  - The IGA was established in 2013 and amended in 2017. The Agreement established a 3-part process for development and approval of eligible SDL measures (projects):
    - Phase 1 – Feasibility
    - Phase 2 - Business case
    - Phase 3 – Confirmation
  - Each phase of the process for each project was to be assessed against set evaluation criteria.
  - Jurisdictions agreed to form the SDL Adjustment Assessment Committee (SDLAAC) and nominate it as the “process owner”.
  - A Technical Working Group (TWG) was also formed to work through the detail of issues and actions prior to SDLAAC consideration at each phase gate.
  - Progression through approval gates required SDLAAC agreement. Approved projects were referred to the Basin Officials Committee (BOC), with outstanding issues noted.
  - BOC-endorsed projects were periodically submitted to MinCo as “project packs” with accompanying MDBA Hydrologic modelling.
  - The modelling confirmed the SDL offset volume resulting from the “package as a whole”, not the contributions from each individual projects.
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# Approvals Process Map



Source : MDBA

# Part 3 - Assessment of Compliance with Processes

- The Panel assessed the status of projects against the agreed approvals process.
  - Initially, a high level status review was undertaken for all projects.
  - In addition the Panel was able to undertake a more detailed review of a representative sample of projects. This sample included :
    - one quarter of all notified projects; and
    - the following high risk / high reward projects (Menindee, Hydro cues and Murray Constraints)
  - The detailed review included confirmation that a process has been identified for outstanding issues.
  - The Panel found that:
    - Based on the high level review, there is evidence that all projects have been through the required phased assessment process and business cases have been completed.
    - All jurisdictions have been the opportunity to identify issues and hold each other to account at each approval gate, against the agreed evaluation criteria.
    - A log of issues exists for all projects and this has been transferred to a single register.
    - Approvals are conditional upon satisfactory resolution of issues and actions although the process by which this tracking takes place is not well defined – the process does not appear to be formalised and the Panel found it difficult to find contemporary evidence of updates to progress.
    - As the program moves into implementation phase mechanisms need to be put in place to formalise control of the register.
  - The Panel did not audit progress towards resolution of outstanding issues.
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# Project Notification List

Project	Notified as Supply Project	Included in 605GL Supply Package
<b><u>Environmental Works Projects</u></b>		
Belsar-Yungara floodplain management project	Yes	Yes
Burra Creek floodplain management project	Yes	Yes
Gunbower National Park environmental works project	Yes	Yes
Guttrum and Benwall Forests environmental works project	Yes	Yes
Hattah Lakes North floodolain management project	Yes	Yes
Lindsay Island(Stage 2) floodplain management project	Yes	Yes
Nyah floodplain management project	Yes	Yes
Vinifera floodplain management project	Yes	Yes
Wallpolla Island floodplain management project	Yes	Yes
Riverine Recovery Project	Yes	Yes
South East Flows Restoration Project	Yes	Yes
TLM Environmental Works and Measures – Koondrook-Perricoota	Yes	Yes
TLM Environmental Works and Measures – Mulcra	Yes	Yes
TLM Environmental Works and Measures – Lindsay Island (Stage 1)	Yes	Yes
TLM Environmental Works and Measures – Hattah Lakes	Yes	Yes
TLM Environmental Works and Measures – Gunbower Forest	Yes	Yes
TLM Environmental Works and Measures – Chowilla Floodplain	Yes	Yes
Improved flow management works at the Murrumbidgee River –Yanco Creek Offtake	Yes	Yes
SDL Offsets in the Lower Murray (Locks 8 and 9 Weir Pool Manipulation)	Yes	Yes
Nimmie-Caira Infrastucture Modification Proposal	Yes	Yes
East Mount Lofty Ranges Flows for the Future Project	Yes	Yes
Murray and Murrumbidgee Valley National Parks	Yes	Yes
Modernising supply systems for effluent creeks – Murrumbidgee River	Yes	Yes
South Australian Riverland Floodplain Integrated Infastructure Program	Yes	Yes

# Project notification list (cont)

Project	Notified as Supply Project	Included in 605GL Supply Package
<b><u>Combined Works &amp; Operational Rule Change Projects</u></b>		
Menindee Lakes Water Savings Project (including Lower Darling key focus area)	Yes	Yes
<b><u>Operational Rule Change Projects</u></b>		
Operating rule change to Hume Dam air-space management and pre-releases	Yes	Yes
Flexible rates of fall in river levels downstream of Hume Dam – 6 inch rule	Yes	Yes
Operating rule change to the use of the Barmah-Millewa Forest Environmental Water Allocation	Yes	Yes
Computer Aided River Management system for the Murrumbidgee River	Yes	Yes
2011 Snowy Water Licence Schedule 4 Amendments	Yes	Yes
Improved regulation of the River Murray	Yes	No
Enhanced Environmental Water Delivery (Hydro Cues)	Yes	Yes
<b><u>Constraints Projects</u></b>		
Yarrowonga to Wakool Junction reach constraints measure	Yes	Yes
Murrumbidgee key focus area	Yes	Yes
Goulburn constraints measure	No	No
Hume to Yarrowonga constraints measure	Yes	Yes
River Murray in SA constraints measure	Yes	Yes

# Effectiveness of Evaluations – sample projects

Audited Projects (sample)	Notified as Supply Project	Included in 605GL Supply Package	Phase 1 Ass'ment Feasib'ty	Phase 2 Ass'ment Bus Case	Phase 3 Ass'ment Confirmation	Sample of Outstanding issues from Phase 3	Actions identified
<b>Envir'mental Works</b>							
South East Flows Restoration	Yes	Yes	Yes	Detailed assessment by Comm, Vic, NSW & SA	Yes	Project funded – Asset ownership, responsibility for O&M, stakeholder engagement	Yes – Treatment process identified
Lindsay Island (Stage 2) Floodplain Management Project	Yes	Yes	Yes	Detailed assessment by Comm, Vic, NSW & SA	Yes	Numerous, most of which are generic to all Vic env works projects and are to be resolved in the detailed design phase. Asset ownership, responsibility for O&M. Funding subject to resolution of issues.	Yes – Treatment process identified
SDL offsets in the Lower Murray NSW	Yes	Yes	Yes	Detailed assessment by Comm, Vic, & SA	Yes	Numerous, mainly to be resolved during detailed design phase. Asset ownership, responsibility for O&M. Funding subject to resolution of issues.	Yes – Treatment process identified
Gunbower TLM	Yes	Yes	N/A	Detailed assessment by Comm, Vic, & SA	Yes	Project funded and operational. Potential for further minor works to manage third party impacts.	Yes – Treatment process identified
Gunbower National Park Floodplain Management Project	Yes	Yes	Yes	Detailed assessment by Comm, Vic, NSW & SA	Yes	Minor – agreed can be resolved in detailed design/implementation phase. Asset ownership, responsibility for O&M. Funding subject to resolution of issues.	Yes – Treatment process identified
Enhanced Environmental Water Delivery (Hydro Cues)	Yes	Yes	No – Agreed by BOC to go direct to Phase 2	Detailed assessment by Comm, Vic, & SA	Yes	Numerous. Most significant include a requirement for a detailed analysis of all operating risks, interaction with key constraints projects, development of comprehensive stakeholder engagement programs and multi-jurisdictional governance arrangements	Yes – Treatment process identified.

# Effectiveness of Evaluations – sample projects

Audited Projects (sample)	Notified as Supply Project	Included in 605GL Supply Package	Phase 1 Ass'tment Feasib'ty	Phase 2 Ass'tment Bus Case	Phase 3 Ass'tment Confirmation	Sample of Outstanding issues from Phase 3	Actions identified
<b>Combined Works &amp; Operational Rule changes</b>							
Menindee Lakes Water Savings project (inc Lower Darling key focus area)	Yes	Yes	No – Agreed by BOC to go direct to Phase 2	Detailed assessment by Comm. (& MDBA advice)	Not yet, although project conditionally approved	Conditional support – final arrangements subject to outstanding issues including legal arrangements, peer review of concept design and construction costs, EIS approvals commenced and in-train and landholder consultation progressed. Agreement required from Vic and SA on MDB Agreement changes. Funding subject to resolution of issues.	Yes, however final treatment processes still to be clarified pending submissions from Victoria and SA
<b>Operational Rule changes</b>							
Hume Dam airspace management and pre-release rules	Yes	Yes	No – Agreed by BOC to go direct to Phase 2	Detailed assessment by Comm, Vic, & SA	Yes	No funding requirement. Assessment of risks and impacts required with acceptance of final package. Further consultation with community	Yes – Treatment process identified
Enhanced Environmental Water Delivery (Hydro Cues)	Yes	Yes	No – Agreed by BOC to go direct to Phase 2	Detailed assessment by Comm, Vic, & SA	Yes	Numerous. Most significant include a requirement for a detailed analysis of all operating risks, interaction with key constraints projects, development of comprehensive stakeholder engagement programs and multi-jurisdictional governance arrangements	Yes – Treatment process identified.
<b>Constraints</b>							
Yarrowonga to Wakool Junction key focus area	Yes	Yes	No – Agreed by BOC to go direct to Phase 2	Detailed assessment by Comm, Vic, & SA	Yes	Numerous. Relate to clarifying the anticipated ecological benefits, future operating arrangements, the risks and impacts of operation of the measure, feasibility given the need to resolve stakeholder and liability issues, basis of estimated costs and future governance arrangements.	Yes – Treatment process identified for majority of issues although future implementation work plans will need review of treatments.

# Implementation Risks and Issues

## SDL Reconciliation

- The primary risk to implementation of the SDLAM is the potential failure to deliver on promised outcomes – ie: one or more of the projects are not fully delivered as proposed and the benefits of the 605pack are not realised.
- Approval of the SDL Package requires an upfront (2018) commitment to the volume and funding, with a backend (2024) assessment of success or failure.
- The SDL(605) volume is the modelled volume from the package of projects not the sum of the results from each project.
- The process allows for project contributions to vary up or down prior to the 2024 assessment date – it is possible that the pluses and minuses will cancel each other out.
- There is no mechanism for new “supply” projects to be brought forward however there is one notified project that was not included in the 605GL volume that could be revisited.

# Implementation Risks and Issues

- The MDBA proposes that outcomes from implementation be assessed on “multiple lines of evidence” not just the remodelled SDL volume.
- There is merit in this approach from a risk management perspective, because each project contributes differently to ecological outcomes for a given volume of offset. So even if the overall number (605) remains the same ecological outcomes may be different (within the agreed limits of change) if they accrue from a different mix of project contributions.
- The MDBA would need to demonstrate whether or not the same, less or more benefits accrue from the different SDL offset volume.
- The Panel recommends that:
  - Multiple lines of evidence should be the basis of assessment, not just the application of a hardwired number.
  - However to maintain confidence in the process, the assessment should be “verifiable” within the existing ecological scoring framework.

# Implementation Risks and Issues

## Environmental outcomes – multiple lines of evidence

- In considering the need for multiple lines of evidence, the Panel notes that:
  - The SDLAM supply measure approval process requires documentation of ecological objectives and outcomes. Ideally, this information should be linked to the SDLAM Ecological Elements scoring method (which applies to the integrated package of measures), and the broader outcomes of the regional watering plans or the Basin Watering Strategy.
  - Monitoring and evaluation information should also be important elements in the assessment of implementation outcomes and for the reconciliation process.
- The Panel recommends that:
  - Jurisdictions should identify mechanisms in the implementation phase to report on the alignment between ecological objectives and expected ecological outcomes of each supply measure with those described in Long Term Watering Plans and the Basin Watering Strategy.
  - Well-designed monitoring and evaluation should be an early consideration in the implementation phase, to help demonstrate the outcomes and assess success at achieving the objectives.

# Implementation Risks and Issues

## Governance

- Governance structures are in place for the SDLAM development phase. However, the process has arguably entered a transition phase into implementation and currently no governance structures exist around SDLAM implementation.
- The Panel understands that interjurisdictional discussions have commenced in relation to Program implementation governance, but these are yet to be resolved.
- SDLAM implementation governance will have multiple drivers, including:
  - Probity and performance of intergovernmental agreements.
  - Oversight of risks and issues surrounding planning, delivery and completion of works programs and projects.
  - Oversight of changes to regulations, rules, policies & agreements.
  - Community consultation and accountability.

# Implementation Risks and Issues

- These different drivers will influence:
    - The level at which governance should be established.
    - The charter of the governing body.
    - The composition of the governing body.
    - The skills mix required of the governing body.
  - For example the charter, composition and skills of a Program Control Board established to provide oversight of a suite of construction projects is different to that required for the oversight of changes to legislation or interjurisdictional agreements.
  - The Panel recommends that:
    - The implementation of program and project governance arrangements for approved projects should be established as a matter of priority
    - A more comprehensive review of transition and implementation governance be commissioned.
    - That form and composition should follow function – governments should not make the mistake of loading existing committees with new governance responsibilities.
    - That the level at which various governance arrangements are established should correspond to the level at which control of risks and issues is best exercised.
    - Arrangements around implementation governance must recognise the need for greater agility in decision-making.
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# Implementation Risks and Issues

## Reporting

- Governments have discussed but not resolved a process of public reporting against agreed milestones to avoid 'last minute surprises'. The Panel considers that :
  - Public annual reporting of progress should be mandatory.
  - Reporting should differentiate project implementation status / risks from potential changes or risks (if any) to the agreed SDLAM outcomes.
  - There should be independent review of each annual report.
  - More regular "internal" reporting of projects status should be mandatory, monitored through the agreed governance arrangements.
- The issues and actions register from Phase 2 and Phase 3 approval gates is a critical control document for each project. The Panel considers that :
  - The register should be a control document with restricted access for changes – single source of truth with an audit trail for changes made and source references (such as minutes) identified.
  - The register needs to incorporate details of who is responsible for each issue, when the issue is scheduled to be resolved and when the issue is actually resolved.
  - The register needs to be a "live" document, tracked and reported on as part of agreed reporting protocols.
  - In the interim period until implementation of governance arrangements are agreed, the MDBA should take responsibility for active monitoring of progress/completion.
- The Panel notes from discussions with the Commonwealth as part of this review, that funding agreements will be linked to resolution of outstanding issues from the register.

# Implementation Risks and Issues

## Risk Sharing

- It is noted that the Basin Plan (2012) provides guidance in respect of the process of reconciliation in the event there is a difference between determined SDL adjustment and the actual contribution from projects.

### **7.11. Reconciliation adjustments to be proposed in 2024**

- (1) *If it appears to the Authority that a new determination, as at 30 June 2024, of the appropriate adjustment amounts resulting from the notified measures and any additional efficiency measures would produce a result different from the determination made for the purpose of section 7.10, the Authority must, by that date:*
  - (a) *determine the amounts of proposed adjustments for each affected unit resulting from the notified measures and any additional efficiency measures, in accordance with Division 4; and*
  - (b) *propose accordingly, under section 23A of the Act:*
    - (i) *an adjustment of the SDL for each affected unit; and*
    - (ii) *an adjustment of the SDL for the Basin water resources equal to the net effect of the adjustments for all the affected units.*