

Executive Summary.

The Department of Agriculture and Water Resources (the Department) welcomes the opportunity to respond to the Productivity Commission's (the Commission) *Draft Report on the Murray-Darling Basin Plan: Five-year assessment* (the Draft Report). This submission reflects the views of the Department, noting that all findings and recommendations are draft. Key findings and recommendations will be considered by the Australian Government following release of the final report.

As the Draft Report notes, the *Basin Plan 2012* (the Basin Plan) is a significant step-change in re-setting the balance between environmental and consumptive uses of water, and establishing a new framework for sustainable water resource management. Basin States, the Murray-Darling Basin Authority (MDBA), the Commonwealth Environmental Water Holder (CEWH) and the Department continue to work closely together in delivering Basin Plan outcomes.

The Australian Government, in making the Basin Plan in 2012, ensured that all Basin States agreed to the Basin Plan adopted by the then Commonwealth Water Minister. Successive governments, both Basin State and Commonwealth, have repeatedly reaffirmed their commitment to the Basin Plan. The Department is of the view that the successful delivery of the complex and inter-related reforms to the Basin over the terms of successive governments requires bipartisan support at the Federal level and the ongoing support of the Basin Governments.

The Department, the MDBA, the CEWH and the Basin States have individual and collective responsibilities for implementing various parts of the Basin Plan. The Department agrees with the Commission that strong cooperation between all these entities is required to implement this interjurisdictional reform and achieve Basin Plan outcomes. The Department recognises that differences in views of governments and tensions in relationships can, at times, result in sub-optimal outcomes and rigidity in decision making, whilst also accepting that the Basin Plan is inherently a successful example of the Australian cooperative Federalism approach. These challenges will continue to be a feature of delivering the Basin Plan over the remaining years of its implementation.

The Commission acknowledges the significant progress to date in implementing the Basin Plan, particularly in recovering water entitlements for environmental use. With water recovery complete¹ in 22 of 28 water catchments in the Basin (as at 31 August 2018), we are now in the final stages of water recovery for the Basin and are on track to meet the water recovery target before 1 July 2019, when Basin Plan sustainable diversion limits (SDLs) take effect. The Department supports the Commission's finding that new management arrangements established under the Basin Plan, including for both environmental watering and water trading, have proven successful.

The agreement reached between the Australian Government and the Federal Opposition on 7 May 2018 to secure the outcomes of both the SDL adjustment mechanism and Northern Basin Review was important to maintaining bi-partisan support for Basin reform in the Federal Parliament. The key commitments and outcomes arising from this agreement are intended to: strengthen protection of environmental flows; strengthen compliance with Basin water laws; improve outcomes for Indigenous people and address the social and economic impacts of the Basin Plan; improve confidence in Northern Basin Review data; and strengthen implementation of the SDL adjustment mechanism outcomes. Progress by the Australian Government towards delivery on these commitments is now well underway.

¹ Subject to accreditation and finalisation of Water Resource Plans.

The Department is working hard to support Basin jurisdictions to continue working together to deliver Basin Plan outcomes, as set out in the Murray-Darling Basin Ministerial Council's (Ministerial Council) plan to the Council of Australian Governments (COAG) *Implementing the Basin Plan* (March 2017) (the COAG Plan). However, the Department acknowledges that there are significant challenges ahead in the efficient delivery of some key Basin Plan outcomes, including the timely accreditation of Water Resource Plans (WRPs) and the delivery of 450 gigalitres (GL) of efficiency measures with neutral or positive socio-economic outcomes.

At the 8 June 2018 meeting of the Ministerial Council, Basin Governments (the Commonwealth Government and the Basin States) agreed to:

- progress the funding and delivery of SDL adjustment (supply measure) projects, in consultation with local communities
- develop an integrated work plan for constraints
- set the basis on which the Commonwealth's Basin-wide infrastructure program will roll-out to recover the initial 62 GL in efficiency measures and the remaining gap-bridging water by 1 July 2019
- development of additional program criteria to ensure neutral or beneficial socio-economic outcomes for on-farm projects; develop a communication strategy to build social license and understanding of the need for an efficiency measures program; and develop a work plan to recover 450 GL in efficiency measures with neutral or beneficial socio-economic outcomes, at their December 2018 meeting, and
- report through the Basin Officials Committee (BOC) on progress towards implementing pre-requisite policy measures by 30 June 2019.

New South Wales, Queensland and Commonwealth Governments have also committed to fund and implement 'toolkit' measures across the northern Basin.

As always, the hard work is in implementing these agreements in practice. Basin Governments and the MDBA will continue progressing this work and delivering key commitments through regular meetings of the Ministerial Council and the BOC.

In relation to the Commission's concerns about existing governance arrangements, we would note that an independent review of inter-jurisdictional governance arrangements for the Basin, being undertaken by Greg Claydon (former State Government Water Executive), is now underway, and is expected to report to Basin Governments in the first quarter of 2019. The terms of reference for this review are at **Attachment A**, and we are hopeful that this review will provide detailed, practical suggestions to improve Basin governance.

The Department acknowledges that there have been a number of matters that have recently challenged public confidence in the operation of the Basin Plan, including allegations of water theft and disallowance of the initial Northern Basin Review amendment by the Senate.

In response to concerns around compliance, on 8 June 2018 the Ministerial Council approved the Basin Compliance Compact (Compliance Compact) – to be provided to the COAG for endorsement at its next meeting. The Compliance Compact details a compliance implementation framework, including specific plans to improve compliance and enforcement activities in each Basin jurisdiction, and transparent reporting and accountability arrangements on progress.

In addition, on 24 August 2018, the Hon. David Littleproud MP, Minister for Agriculture and Water Resources, (the Commonwealth Water Minister), appointed the former Australian Federal Police Commissioner, Mr Mick Keely AO APM, as the Northern Basin Commissioner. The Northern Basin

Commissioner has a wide-ranging remit, and will report annually to the Commonwealth Water Minister on progress across a number of areas including the roll-out of toolkit environmental works and measures, and on the implementation of compliance commitments in the northern Basin.

Looking forward to 2024

Looking forward, the Department continues to work to deliver the Government's commitment to implement the Basin Plan in full and on time by 2024. The timelines will be challenging to meet as the Basin Plan relies on Commonwealth and Basin State cooperation to deliver key outcomes.

Nevertheless, the Department does not support the Commission's draft recommendations to extend Basin Plan timeframes. While we acknowledge there are challenges ahead, we remain committed to implementation of the Basin Plan, and of key Basin Plan outcomes such as SDLs, in full and on time. The Department also considers that keeping to the legislated deadlines is important to drive consensus and cooperation between the Commonwealth and Basin State Governments. It is also critical to providing a degree of certainty to Basin industries, communities and other stakeholders who are looking for the Basin Plan to be implemented.

The Department acknowledges that some WRPs are behind schedule and there are challenges in delivering the efficiency measures with neutral or positive socio-economic outcomes. Nevertheless, the Department is working closely with Basin States and the MDBA to ensure that key Basin Plan outcomes are delivered in a way that maintains the integrity of Basin Plan measures, objectives and outcomes.

Comments on the Commission's draft findings and recommendations.

3. Recovering water to meet Sustainable Diversion Limits by 1 July 2019

Draft finding 3.1 - Water recovery to date and the remaining task

The Department agrees that the risk of not meeting water recovery targets by 1 July 2019, is low (**draft finding 3.1**). The Department will continue its focus on finalising the remaining gap-bridging water requirement of 29.5 GL for surface water and 37.7 GL for groundwater (as at 31 August 2018²) by 30 June 2019 and the recovery of 62 GL of efficiency measures in the same timeframe. The Department would like to provide the following updates to the remaining water recovery task listed in **draft finding 3.1**.

As at 31 August 2018:

- recovery in the Northern Basin of a further 29.1 GL from the following SDL resource units:
 - Queensland - Condamine Balonne, Queensland Border Rivers
 - Northern New South Wales - Barwon-Darling, Namoi and New South Wales Border Rivers.
- a groundwater purchase tender in the Queensland Upper Condamine Alluvium has recently closed and is expected to yield about 32 GL, leaving a small residual amount of less than 1 GL to be recovered in the Central Condamine Alluvium, and 4.8 GL in the Upper Condamine Alluvium Tributaries
- the Wimmera-Mallee SDL in Victoria requires a further 0.4 GL of water recovery. Changes to planning assumptions may adjust the recovery required once the WRP for the Wimmera-Mallee is settled.
- the Australian Government has existing contracts with delivery partners, including State governments, for the delivery of 121.2 GL of water. Until water transfer contracts have been exchanged however, these figures may be subject to change, and
- efficiency measures water recovery is 1.5 GL, of which 0.46 GL is registered with the CEWH.

It is important to note that updated 'cap factors' are currently in development by Basin States and will be confirmed as WRPs are finalised and accredited by 30 June 2019. Revised cap factors may affect reported water recovery figures.

² For total water recoveries allow for minor rounding.

All water recovery figures are expressed in gigalitres long term average annual yield (GL LTAAY) terms.

Water recovery is reported at the point at which water savings or purchase have been received, estimated or agreed in signed contracts. These figures may be subject to change, until such time as water transfer contracts have been exchanged.

Draft recommendation 3.1 - over-recoveries

The Department notes that the final amount of 'over-recoveries', if any, in particular zones or SDL resource units is not yet known and is dependent on a number of factors, including:

- changes in planning assumptions and the impact of any changes to cap factors will vary recovered volumes (to be resolved, as discussed above), and
- delivery of all water currently reported as contracted or in agreed funding contracts with States being recovered by 30 June 2019.

With the exception of those remaining Commonwealth-funded water recovery projects administered by Basin States, the Commonwealth is responsible for recovering remaining water against the targets in the Basin Plan. This includes the 62 GL of efficiency measures required to be recovered by 30 June 2019 to enable the full supply measure offset of 605 GL to take effect from that time. As agreed by the Ministerial Council, Basin Governments are working to develop an agreed efficiency measures work plan through to 2024.

The Australian Government has commenced work regarding policy arrangements and timeframes to address any over-recovery, should this be required at 2019. If there are any over-recoveries identified post 30 June 2019, handling of any such over-recovery volumes would need to comply with legislative requirements, including the requirements for Commonwealth water holdings. Any decisions regarding the management of the Commonwealth water holdings, primarily rest with the CEWH.

Draft finding and recommendation 3.2 - environmental value of recovered water

The Department disagrees with the Commission's **draft finding 3.2** that it does not have a systematic and transparent process to demonstrate the water recovered has environmental value. The Department agrees that transparency in its operations is important, however with regard to the environmental value of water acquisitions, the Department takes into account the confidential advice of the CEWH. Water holdings are used by the CEWH, consistent with the statutory function set out in the *Water Act 2007* (the Water Act), and responsibilities under the Basin Plan. The CEWH routinely publishes information demonstrating the utility of the entitlements recovered, through forward-looking environmental watering plans and reports illustrating the effectiveness of water use to achieve the environmental outcomes.

Requests for the Department to publish environmental acquisitions advice provided by the CEWH are considered on a case-by-case basis as this information is confidential in nature, may have market implications, and may be relied upon by the Department in negotiating future recovery of water. The Department will continue to be guided by advice from the CEWH as it recovers water through to 2024, and release of such advice will continue to be assessed on a case-by-case basis.

Draft finding 3.3 – return flows

The Department urges caution in relation to **draft finding 3.3** concerning return flows, and does not support recent claims, including by Professor Quentin Grafton, that more efficient irrigated agriculture damages the environment by reducing 'return flows' to rivers. While return flows can be reduced by more efficient irrigation infrastructure, this is usually a good thing. Return flows can cause environmental damage, particularly where:

- irrigation surface run-off contains high levels of nutrients, salt or other pollutants, or

- seepage due to inefficient watering causes rising water tables and salinization of our rivers and landscape.

The Australian Government's irrigation efficiency programs recover at least 50 per cent of water savings as water entitlement held by the CEWH. The recovered entitlements allows the CEWH to target the use of held water when and where it can have the most benefit to the environment. This often means that environmental water is used to achieve multiple environmental objectives as it moves through the system. Return flows coming from farm land are not able to be directed to best environmental effect.

Over time, irrigators who strive to improve their efficiency have less wastage and reduced salinity and water quality issues. Irrigators are always able to fund these efficiency improvements themselves and retain all of the water savings in production or for sale to other irrigators. Instead, Australian Government-funded programs to date have enabled water savings to be shared between farmers and the environment. Advocates of the return flows thesis also argue for water purchases rather than infrastructure. Under their thesis, these purchases would also have an embedded return flows element. To date, water entitlements yielding around 2,100 GL annually (on average) have been recovered or contracted, and will deliver on an ongoing basis significant environmental benefits across the Basin.

The Department advises that the MDBA has commissioned the University of Melbourne to undertake an independent expert review of the risks to the effectiveness of water recovery posed by reduced return flows. The final report is expected to be finalised shortly and will be made available on the MDBA's website, but preliminary analysis indicates that the extent of water recovery replacing return flows claimed by Professor Quentin Grafton and others is not supported by detailed analysis of available data.

Draft finding 3.5 – strategic water purchase and cost-effectiveness of water recovery

The Department has greatly increased its transparency and published on its website the volume, location and value of all strategic water purchases. The Department releases market valuation information on a case-by-case basis, having regard to the need for further water recovery and possible impacts relating to commercial sensitivities.

The application of a multiple of the market rate for water obtained through infrastructure projects, provides an incentive for participation and enhances broader regional economic benefits. This has been the policy of successive governments since water recovery activities commenced. Water recovered through investment in water saving infrastructure delivers substantial long term benefits for Basin communities and industries, beyond the market value of the water recovered for the environment.

All Australian Government water recovery programs are required to achieve value for money, with individual programs differing slightly in their assessment criteria and processes, tailored to reflect each program's objectives and delivery arrangements. Applications submitted by State Governments or other proponents under Australian Government water programs are assessed in accordance with the relevant approved program guidelines that align Australian Government objectives and anticipated program outcomes. All projects are subject to robust due diligence processes that may include technical input from independent experts, auditors and other Australian Government agencies, including modelling advice from the MDBA.

Draft recommendation 3.3 – further assistance to communities

The Australian Government's commitment to plan, modernise and invest in infrastructure has provided rural communities with support and the ability to improve their resilience.

In 2017, the Department commissioned Marsden Jacobs Associates (MJA) to analyse the social and economic impacts of the Australian Government's on- and off-farm infrastructure modernisation programs in the Murrumbidgee Irrigation Area in New South Wales (MJA 2017). The study found that employment will increase significantly from 2013 to the peak of the construction phase in 2019, with an estimated 298 additional jobs to be created in the Griffith region in 2019. These net gains in employment are expected to continue well beyond 2020. MJA also estimated a \$470 million increase in regional domestic product over 25 years to 2034.

The Australian Government will continue to prioritise water recovery through water infrastructure investment in a way that minimises impacts on communities, and contributes to supporting improved water use efficiency and agricultural productivity. Given the market multiple applied through infrastructure programs, the funding put into the system exceeds the asset value of the water being removed, providing a net injection of capital into rural communities. The programs also aim to enable farms to produce as much output as prior to the investment (as only part of the water savings are recovered by the Commonwealth).

As noted by the Department in its submission to the Commission's issues paper for this inquiry (DAWR 2018), full delivery of the outcomes of the Northern Basin Review, including the recommendations of the Northern Basin Review taskforce, and the successful operation of the SDL adjustment mechanism will further support these objectives.

On 7 May 2018, the Commonwealth Water Minister announced a \$20 million grant program over four years for economic development projects for Indigenous, remote, rural and regional communities most impacted by the Basin Plan. This program will provide assistance and give the highest priority to communities in most need of support as identified by the MDBA in the Northern Basin Review and the 2017 evaluation of the Basin Plan.

4. Supply measures and toolkit measures

Draft recommendation 4.1 - governance arrangements for supply measures

Basin Governments, in consultation with the MDBA, are continuing to work together to establish robust and integrated governance arrangements to facilitate the efficient and timely implementation of the package of supply measure projects. These arrangements are necessary to facilitate collaboration, incentivise timely delivery, and to monitor and manage risks effectively during implementation. The National Partnership Agreement (NPA) that will be established during 2018-19 will cover the implementation of the supply measures and associated matters. Under the NPA, project schedules will specify timeframes for project implementation, clear performance milestones and the schedule of Commonwealth milestone payments. There will be a two-stage funding approach that means the second stage of funding will not be provided until the project has been through the robust gateway review process (see further detail below).

Basin Governments also recently agreed to establish an Adjustment Implementation Committee to support the delivery of the entire package of supply and constraints measures to achieve the 605 GL offset, in a manner that is consistent with Basin Plan requirements.

Draft recommendation 4.2 - 2024 timeframe for implementation of supply measures

The Department acknowledges that there are challenges associated with the implementation by Southern Basin Governments of supply measures by 2024. Nevertheless, the Department considers that any decision to extend the 30 June 2024 timeframe at this stage, for implementation of supply measures, would be pre-emptive. The first priority is to ensure supply measure project risks – including risks to timely delivery – are adequately addressed before construction begins. Retention of the 30 June 2024 timeframe for supply measures to be operational remains important to incentivising the timely commencement of supply measure projects by proponent States and to guard against the associated risk of a blow-out in implementation costs.

Progress in implementation of the package will be closely monitored through the proposed governance arrangements including through regular milestone reporting and assessment, and monitoring and management of implementation risks.

Draft recommendation 4.4 - Determining value for money

Consistent with the 2013 *Intergovernmental Agreement on implementing Water Reform in the Murray Darling Basin*, total Commonwealth funding for the agreed package of state-led supply measure projects is limited in aggregate to the cost of recovering the same amount of water through water purchase. This arrangement, which was agreed by all Basin First Ministers, ensures that the package of projects as a whole delivers value for money outcomes.

As detailed above, the Department has established a two-stage approach to the implementation of supply measures consisting of an initial phase and an implementation phase. The initial phase will involve the provision of funding to Basin States to undertake pre-construction activities including progressing statutory approvals and conducting stakeholder consultation.

At the end of the initial phase, each project will be subject to a robust gateway review process that will determine whether or not the level of funding sought for individual projects is appropriate for the proposed activities, and whether the individual projects should proceed to implementation. The gateway review process will assist in the management of implementation risks by determining the viability of projects, focussed on whether they can achieve their intended outcomes within Basin Plan timeframes.

South Australia has provided its initial phase funding proposal for its constraint measure project (also notified as a supply measure) to the Department, which the Department is now considering. The Department expects to receive supply measure funding proposals from New South Wales and Victoria shortly.

As the Commission is aware, funding for supply measures is provided for the package as a whole. The supply measures are modelled together as a package as the offset benefits of individual projects are highly co-dependent on their interaction with other measures in the package. To individually assess the cost-effectiveness of each project would overlook the interactions between, and other benefits that arise from, operating the measures together as a package and would potentially undermine achievement of the offset benefits and other outcomes associated with the full package as a whole.

In this context it is likely that the estimated SDL 'offset' benefit of any individual project would vary considerably, not only as a result of interactions between projects, but also depending on the order it was added to or removed from the package of measures. For these reasons any assessment of a project's individual contribution to the package would be unreliable.

Draft recommendation 4.5 - toolkit measures

In relation to **draft recommendation 4.5** regarding the northern Basin toolkit implementation, governance arrangements for implementing toolkit measures are now being established by the New South Wales, Queensland and Australian Governments (the northern Basin jurisdictions).

Since June 2017, there have been a number of significant developments relating to northern Basin water reform, including the disallowance of the first Northern Basin Review amendment to the Basin Plan in February 2018 and the re-making of the amendment in July 2018. The parliamentary disallowance period for the Northern Basin Review amendments expired on 20 September 2018, meaning that these amendments remain in law. The new Northern Basin Commissioner, whose role includes monitoring progress in delivering the toolkit, will report on this and other matters to the Commonwealth Water Minister. The reports will then be provided to Basin Ministers and tabled in the Australian Parliament.

The Commonwealth, New South Wales and Queensland Governments are working together to finalise governance arrangements for a consistent and cooperative implementation of toolkit measures in the northern Basin. The arrangements include the establishment of an interjurisdictional group to monitor and report to the BOC. The group is now working to progress development of a prioritisation framework for toolkit measures. Chaired by the Department, the group includes members from New South Wales and Queensland, the MDBA and the Commonwealth Environmental Water Office.

A National Partnership Agreement is also being developed which will set out the various obligations for jurisdictions and include individual project schedules, which will specify clear milestones for the environmental works and measures project activities and the payment of associated Commonwealth funding to the States.

5. Efficiency measures

Draft finding 5.1 – socio-economic outcomes

The Department recognises continuing community concern in some parts of the Basin regarding the potential for socio-economic impacts arising from on-farm water recovery projects. While on-farm irrigation upgrades have positive outcomes at the farm scale, concerns focus on their potential for regional impacts, such as water market price rises and the improved capacity of participating irrigators with upgraded farming systems to out-compete irrigators who do not upgrade their systems. It is generally accepted that urban, industrial and off-farm efficiency projects have positive socio-economic outcomes. This was supported in 2017 by a major review into the socio-economic impacts of further water recovery across on-farm, off-farm, urban and industrial uses, undertaken by EY.

The EY report to Ministerial Council (*Analysis of efficiency measures in the Murray-Darling Basin 2018*) identified that on-farm irrigation efficiency upgrades have resulted in positive social and economic outcomes for participants. However, the report also identified four potential ways that an on-farm program might have an adverse socio-economic impact, though it found no evidence that any such impact was occurring. The Department has developed a monitoring and evaluation framework that draws from the EY advice, and will continue to examine the results of the program investment through these four potential pathways, helping us to identify and respond to any unintended impacts that do occur from on-farm irrigation efficiency projects.

Recent reports to the Victorian Government on the impacts of on-farm water recovery have found that small impacts on water prices can occur, with the impact on allocation price only around 4-6% of the impact experienced from weather. The Aither report (Aither 2017) identified that the impact from

drought, without program investment, was \$337/ML while the impact from efficiency measures programs alone was \$13-\$18/ML, but only on the assumption that the full 450 GL of water recovery occurs solely in on-farm modernisation in the southern Murray-Darling Basin. This means that the potential for impact from water recovery programs overall is much less than \$13-18/ML.

It must also be noted that an increase in water allocation prices, in a market with both buyers and sellers, does not in itself equate to an adverse socio-economic impact. Rather, it reflects an increase in the capital value of water entitlements.

The Department is working closely with Basin States to develop additional program criteria for on-farm projects that take into account the potential for wider regional impacts and the impact of cumulative implementation of programs. In addition, the Department is developing a stakeholder engagement process to help promote understanding of the need for the efficiency measures program and help inform and improve the program design, for example, through industry-led initiatives. This work will be considered at the next Ministerial Council meeting in late 2018.

The Department is not aware of any evidence that off-farm, urban or industrial efficiency projects may give rise to any adverse socio-economic impacts.

Draft finding 5.2 and draft recommendation 5.2 – recovery of 450 GL and environmental outcomes

The Department notes **draft finding and recommendation 5.2** and notes that there are challenges ahead in the delivery of 450 GL in efficiency measures by 2024, as this will require Basin Governments to continue to work together in a cooperative and collaborative manner.

Recovery of 450 GL in efficiency measures

On 8 June 2018, the Ministerial Council made a number of important commitments in relation to efficiency measures (see [Communique](#)). As a result, Basin Government officials are working together to develop a work plan for efficiency measures for the period 2019-2024. Basin Governments are also working together on additional program criteria for on-farm efficiency measures (see response to 5.1 above). Both of these programs of work are due to be provided to Basin Ministers in December 2018 for consideration and agreement. The matters raised by the Commission in **draft recommendation 5.2** will be addressed by the efficiency measures work plan and program criteria.

On 13 July 2018, the Australian Government launched the new Murray-Darling Basin Water Infrastructure Program to recover both the remaining gap-bridging water required by June 2019 and water for the environment through efficiency measures with neutral or beneficial socio-economic outcomes. Under this program, a series of tenders have now been launched seeking projects in urban, industrial, off-farm and metering streams Basin-wide. On-farm projects can also be tendered in Queensland, South Australia and the Australian Capital Territory. The program design is sufficiently flexible that it can be adapted as a result of community and industry feedback or as a result of learnings from the monitoring and evaluation framework. It is not intended to release a new water efficiency strategy or program in 2019.

Efficiency measures and constraints proposals

Several key constraints projects are included in the notified package of supply measures, and are required to be delivered by mid-2024. The modelling undertaken as part of the SDL adjustment mechanism takes into account the effect of supply measures, including these constraints measures and the associated 'hydro-cues' project, in determining the supply SDL adjustment and associated reduction in the water recovery target.

The Basin Plan intends that the easing of constraints and recovery of water through efficiency measures will together deliver better environmental outcomes. However, it is important to note that only some of the environmental benefits associated with recovering more water are dependent on relaxing constraints.

The evaluation of proposed efficiency projects under the Basin-wide program will take into account the contribution the proposed water savings would make to the enhanced environmental outcomes set out in Schedule 5 of the Basin Plan.

Efficiency measures programs are funded by the Water for the Environment Special Account (WESA). Under Section 86AJ of the Water Act, the Commonwealth Water Minister must cause two independent reviews to be conducted into whether the resources allocated to the WESA is sufficient to recover 450 GL by 30 June 2024, and to ease or remove constraints on the capacity to deliver environmental water to environmental assets. The report for the first review is due in September 2019.

The Department's approach to efficiency measures water valuation has been clearly articulated and made available [online](#) for all potential program participants. Where there is an active market, the Department will be guided by published market prices. Where there are insufficient or no published market values on the relevant state government water register or other market data sources to derive a market value, the Department will procure external valuation advice from an industry-accredited valuer, or use existing relevant, recent external valuation advice previously obtained.

The Department will publish the per-megalitre price agreed for each contract awarded under the Program and the agreed price will not change for the life of the particular project.

Basin Governments are working together on arrangements to ensure the timely delivery of all constraints projects, and on a pathway to recover water through efficiency measures, with neutral or beneficial socio-economic outcomes.

Draft recommendation 5.3 – Water for the Environment Special Account

The Water Act sets out quite explicitly the requirements for the two reviews of the WESA. Within these provisions, the Minister may consider whether the suggestions raised by the Commission in 2018 remain relevant in 2021 and should be considered by the review. At this point, it would not be appropriate to pre-empt the outcomes of these two reviews.

It is important to note that the WESA does not provide for payments that are not associated with an adjustment to the sustainable diversion limit in a WRP area.

6. Water Resource planning

Draft finding and recommendation 6.1 – water resource plan delivery timeframes

The Department does not consider it appropriate to extend the statutory timeframes for the completion and accreditation of state WRPs. However the Department does acknowledge that some Basin State WRPs are behind schedule and there are challenges in the accreditation of all State WRPs by 30 June 2019.

Basin States have established their work plan to deliver WRPs through the assessment and accreditation processes before 30 June 2019 and agreed through the COAG Plan to provide WRPs to the MDBA for assessment by the end of February 2019. Basin States are working hard to complete quality WRPs within this timeframe. The MDBA is working directly with each Basin State on progress towards meeting work plan timelines, and publishes a quarterly WRP progress report. The most recent quarterly report was published in September 2018.

It is important to note that the Basin Plan statutory framework is able to accommodate late WRPs. The Water Act provides an opportunity for the Minister and Basin States to negotiate in good faith to address circumstances in which a WRP has not been provided to MDBA for assessment by a certain time or it is not consistent with the Basin Plan. This process also includes consultation with the States, to ensure that quality WRPs are developed while ensuring key elements of the Basin Plan, such as SDL compliance, are able to be given effect from 1 July 2019, by agreement between ministers.

While the timeframes for WRPs remain very important, it is worth noting that with almost all 'gap-bridging' water now recovered, the way is clear for the SDLs to take effect in WRP areas from 1 July 2019. The Department will continue to support the MDBA and Basin States with a view to ensuring that quality WRPs are developed, assessed and accredited on time.

7. Indigenous values and uses

Draft finding 7.1 – engaging Traditional Owners in WRP development.

On 8 June 2018, the Ministerial Council welcomed the increased commitment of all jurisdictions to engage, work with and actively involve Indigenous communities in all aspects of water management. Basin Governments have committed to the active involvement of and consultation with Indigenous communities in the development of WRPs in accordance with the MDBA guidelines for WRP consultation, consistent with the Convention on Biological Diversity's Akwé: Kon guidelines. Further, Basin Governments have committed to supporting Indigenous communities to work with water managers to enable improved delivery of water for cultural purposes.

The Department acknowledges the challenge to complete effective engagement with Traditional Owners, by 1 July 2019, as part of WRP development, particularly in New South Wales. However the MDBA has provided additional resourcing to both Northern Basin Aboriginal Nations (NBAN) and Murray Lower Darling Rivers Indigenous Nations (MLDRIN) and are working to streamline processes so this consultation can be done in the most effective and timely manner.

Draft finding 7.2 - \$40 million commitment

As part of the package of commitments announced by the Commonwealth on 7 May 2018 to support Basin Plan implementation, the Australian Government will provide \$40 million over four years (\$20 million each for the northern and southern Basin) to help Indigenous communities invest in water for cultural and economic purposes. With regard to **draft finding 7.2**, the Department confirms that this funding is limited to the benefit of Indigenous communities within the Basin. This commitment is part of a number of initiatives intended to enhance Indigenous involvement in water planning and management in the Basin, recognising that water is crucial to Indigenous communities and livelihoods in the Basin. The Department will continue to report to the Australian Government on progress in the delivery of this \$40 million commitment, along with other initiatives under this package of commitments.

8. Water quality

In relation to the Commission's **draft recommendation 8.1**, the Department agrees that it would be useful for the Basin Plan salt export objectives to be reviewed within the MDBA 2020 review of salinity and water quality targets, with specific consideration given to the relationship between the salt export objective and site-specific salinity targets.

With respect to the management of water quality in the Lower Darling (**key finding 8.2**), development and accreditation of the New South Wales Murray and Lower Darling WRP will be

useful to resolve this concern as WRPs are required under the Basin Plan to include a water quality management plan.

9. Critical Human Water Needs

Draft finding 9.2 – management of critical human water needs in the Lower Darling

The Department agrees with the Commission's concerns regarding the management of critical human water needs (CHWN) during periods of low flow in the Lower Darling.

The MDBA has processes in place for CHWN, noting also that control of Menindee Lakes reverts to New South Wales when lake levels are low, and therefore sits outside formal CHWN processes agreed between the Basin Governments. The Department agrees that a CHWN provision for management of low flows at these times in the Lower Darling WRP would be useful. The MDBA also notes if the water supply to Broken Hill comes from diversions from the River Murray in the future, then it will need to readjust the New South Wales volumes which are part of the jointly agreed CHWN process.

10. Water trading rules

In relation to **draft finding and recommendation 10.1**, the Department agrees that the actions recommended will promote progress by facilitating a consistent, transparent approach to assessment of trade restrictions against the Basin Plan trading rules, and monitoring and reporting on progress to address compliance issues where trade restrictions are inconsistent with the trade rules.

The Department also considers that **draft findings 10.2 and 10.3**, and **draft recommendation 10.2** are useful.

The effects on third parties and the environment, arising from trade growth, including increased demands on delivery capacity and pressure on delivery constraints in some parts of the Basin is of concern to the Department and other Basin Governments have also raised concerns. It is appropriate that there be a coordinated response to ensure proposed solutions are consistent with the water trade rules and messaging to the public is also consistent and transparent, to maintain confidence in the water market.

The MDBA is currently collaborating with the southern Basin States investigating current and long-term risks to meeting state water orders in the River Murray System. The work is also looking at how best to manage and mitigate these risks.

In September 2018 the MDBA also published a fact sheet on its website titled [*Understanding River Murray water delivery shortfall risks*](#).

Victoria is undertaking a review of delivery shares in northern Victoria in recognition of rapidly changing irrigation use patterns due to reduced water availability, new technology and global markets and commodity prices. The preliminary findings report and summary were released on 24 July 2018. The preliminary findings report lists a number of options for managing delivery patterns, including options for trade in delivery rights. Consultation on the preliminary findings report closed on 31 August 2018.

11. Environmental water planning and management

Draft finding 11.1- Pre-requisite policy measures

The MDBA assessed the adequacy of each pre-requisite policy measure (PPM) implementation plan, including seeking independent advice. As noted by the Commission, all implementation plans were

endorsed by the MDBA. To ensure PPMs will be in place by 30 June 2019, Basin Governments have agreed to report, through the BOC, on ongoing implementation, including written annual reports to the BOC.

Draft Recommendation 11.4 – governance arrangements for environmental watering

The Department considers that existing formal governance arrangements for environmental watering are now generally working well.

Southern Basin

The Southern Connected Basin Environmental Watering Committee (SCBEWC) has been operating since 2015. Its role is to plan for and coordinate the delivery of environmental water in the southern connected Basin. The committee's members cover all southern Basin jurisdictions, the CEWH and the Department.

The Department considers that the SCBEWC is the formalised arrangement to coordinate environmental watering across the southern connected Basin.

SCBEWC has considered, and will continue to consider, ways to improve its operation and effectiveness, including by identifying and recommending any changes to its Terms of Reference required to ensure the most effective and efficient use of environmental water consistent with the Basin Plan Environmental Watering Plan and its objectives.

The CEWH has also established partnership agreements that set out arrangements for how the CEWH and Basin State environmental water managers (delivery partners) work together for planning and delivery of environmental water.

Northern Basin

The CEWH and the Office of the Environment and Heritage in New South Wales are the only environmental water holders operating in the northern Basin and formal arrangements on cooperative planning and coordination of environmental watering events are already established through a partnership agreement.

12. Compliance

Compliance Compact

In agreeing the Compliance Compact on 8 June 2018, Ministerial Council acknowledged the importance of prompt and comprehensive implementation of these shared commitments. The Compliance Compact represents a consistent and transparent approach to ensuring compliance with all Commonwealth and state laws applicable to water use in the Basin. As noted by the Commission, the Compliance Compact is expected to be provided to COAG for endorsement at its next scheduled meeting.

The Compliance Compact details a compliance implementation framework, including specific plans to improve compliance and enforcement activities in each Basin jurisdiction and transparent reporting and accountability arrangements on progress.

Basin Governments and the MDBA have commenced work on their obligations under the Compliance Compact with some significant progress towards providing greater transparency, accountability and confidence in water management arrangements. Progress towards delivering the commitments set out in the Compliance Compact, including improved metering of water take, will be reported through the arrangements set out in the Compliance Compact.

The Department agrees that the Commission's scheduled 2023 inquiry into Basin Plan implementation will be an appropriate point to review the effectiveness of the commitments made by Basin Governments in relation to compliance (**draft finding 12.2**).

As part of the package of commitments announced under the agreement reached with the Federal Opposition of 7 May 2018, the Government has committed \$20 million to support improved hydrometric networks in the northern Basin and the development of remote sensing and other technologies to enhance monitoring, measurement and compliance in all Basin jurisdictions.

The BOC has agreed to a number of measures to improve water metering as part of the Compliance Compact. A related commitment by BOC includes examining the case to review the Australian Standard 4747, which applies to meters and the practical application of those standards. While state metering policies are matters for Basin States, the Department supports efforts to improve metering standards. The implementation of widespread metering is an important step in restoring public confidence in the measurement and compliance activities associated with the take of water.

Northern Basin Commissioner

As previously mentioned, the Commonwealth Water Minister recently appointed Mr Keelty as the Northern Basin Commissioner. The Commissioner will play an important role in providing independent assurance that key reforms and initiatives in the northern Basin are delivered, including the outcomes of both the Northern Basin Review and the Compliance Compact. The Commissioner will also audit and report on Northern Basin matters including knowledge and information requirements, engagement with Indigenous communities, protection of environmental flows and implementation of water use compliance commitments. The Commissioner will report to the Commonwealth Water Minister, with reports also being made available to Basin Governments and the public.

Compliance monitoring using satellite imagery

The MDBA has also recently published a report on a case study undertaken into compliance monitoring. In a trial, MDBA used imagery provided by Geoscience Australia to track water flows in the Barwon and Darling River systems during a major release of water for the environment into northern rivers between April and June. The report found that satellite images provide an important line of evidence for compliance. The report is now published on the MDBA's website:

<https://www.mdba.gov.au/publications/mdba-reports/compliance-monitoring-using-satellite-imagery>

13. Reporting, monitoring and evaluation

Draft recommendation 13.1 - Basin Plan implementation intergovernmental agreements

The Department does not agree with the Commission's draft finding of weaknesses in the *National Partnership Agreement on Implementing Water Reform in the MDB* (NPA) (**draft finding 13.1**). It is not the case that milestones in the NPA were listed as met where there was evidence to the contrary.

The Draft Report references an audit undertaken by the Australian National Audit Office (ANAO), which reported on the Department's assessment of New South Wales' performance in 2014-15 and 2015-16. Overall, the ANAO found the Department had followed agreed processes for monitoring performance but there was a lack of evidence used to substantiate its assessment of New South Wales in light of information provided by the MDBA and CEWH, and that it did not provide adequate information to the Commonwealth Water Minister. While acknowledging it could have provided more detail around matters of concern, the Department did not agree with the finding, arguing that relevant

factors were taken into account. The Department's response is available at www.agriculture.gov.au/about/media-centre/on-the-record/response-anao-assessment-murraydarling.

The Department also does not agree there were delays in the release of assessments in some years (**draft finding 13.1**). Under the NPA, the assessments are not published by the Department until required processes, including the Minister's authorisation and release of the report to Basin Governments, are completed. The NPA does not specify a timeframe for this.

Basin Plan Evaluation Framework

The Department acknowledges the relevance of **draft recommendations 13.2** and **13.3**, and will consider them further in consultation with Basin States and the MDBA. An effective program of monitoring, evaluation and reporting is crucial to delivering accountability and continuous improvement as the Basin Plan is implemented.

The first interim evaluation of the Basin Plan was conducted by the MDBA in 2017 and we understand that preparations for the next evaluation are already underway. If a new evaluation framework and strategy is developed in time, it could contribute to the MDBA's 2020 Basin Plan evaluation reporting. A key component of this evaluation work is to establish a robust evaluation framework and an integrated program of monitoring and evaluation effort, consistent with the draft recommendations of the Commission.

The Commonwealth continues to share findings of ongoing monitoring and evaluation, which is important for maintaining and improving public confidence in the implementation and operation of the Basin Plan. However, the Department notes there may be different interpretations of these findings by stakeholders.

While monitoring, evaluation and reporting on Basin Plan outcomes is primarily led by the MDBA, the Department, Basin States and the CEWH also actively contribute to this work. The Department is also collaborating with the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) to develop a new framework and work plan for monitoring and evaluating the socio-economic effects of Commonwealth water recovery programs. When completed, this new framework will help the Department to prepare and provide useful input to the MDBA's 2020 Basin Plan evaluation.

14. Institutional and governance arrangements

Draft Finding 14.1 - institutional and governance arrangements

The Water Act establishes the MDBA and provides the framework for its roles and responsibilities. The Water Act covers the functions of the MDBA as relates to both (i) the Basin Plan and (ii) serving the needs of Basin jurisdictions in accordance with the Murray-Darling Basin Agreement (the Agreement) set out in Schedule 1 of the Water Act. The legislative framework also provides the setting for managing any potential for real or perceived conflict of interest, and assists in keeping the agency functioning as efficiently and responsively as possible.

These arrangements reflect the wishes of all Basin Governments, as set out in the *Intergovernmental Agreement on Murray-Darling Basin Reform* (the 2008 IGA), as agreed by all Basin First Ministers on 3 July 2008. In particular, Basin Governments considered it both unnecessary and inefficient to maintain the former Murray-Darling Basin Commission and its office as an institution that was separate to the MDBA, noting in particular the overlap in skills, knowledge and expertise required to deliver the two core functions described above.

Accordingly, arrangements under this framework articulate the roles and responsibilities of the MDBA and Basin Governments and provide appropriate intergovernmental arrangements for consultative and collaborative purposes (as relates to the MDBA's Basin Plan functions) and decision-making and operational purposes under the Agreement.

In addition, the MDBA operates its jointly funded activities in accordance with a Service Level Agreement that exists between the MDBA (as the agent of the Basin States) and the Ministerial Council.

In order to ensure that the intergovernmental arrangements are efficient, effective and transparent to continue to deliver the Basin Plan, the Ministerial Council agreed on 8 June 2018 to review the joint governance arrangements supporting the delivery of the Basin water reforms. The independent reviewer, Mr Greg Claydon (former State Government Water Executive), was appointed in September 2018. The aim of the review is to ensure streamlined decision making; improve clarity of the roles and responsibilities of the various committees; improve the efficiency and cost effectiveness of joint governance arrangements; and to increase transparency and community confidence.

The review is expected to be completed by February 2019. Any decisions on the findings of the review will be a matter for Basin State Governments, the MDBA and the Australian Government.

Prior to this, Basin Governments have commissioned, at various times, reviews of cost share arrangements under the Agreement; the structure and strategic directions of joint programs; and the cost-efficiency of River Murray Operations (RMO) (including options to manage RMO cost spikes into the future). All outcomes of these and other reviews are considered by Basin Governments collectively.

Managing the risk of real or perceived conflict between Policy, Program delivery and Regulatory functions

The MDBA has well-established internal processes to manage any risk of real or perceived conflict arising from its roles.

In addition, Basin Governments have committed to a number of initiatives and measures to support the MDBA to effectively perform its collaborative service delivery functions (as an agent of governments) while also serving as an independent and credible regulator that ensures compliance with the Plan, with minimal risk of a real or perceived conflict.

These initiatives to support the MDBA include:

- the Ministerial Council agreed Compliance Compact that was developed from the findings of the MDBA and the Independent Panel comprehensive review of Basin-wide compliance matters across the Murray–Darling Basin
- the establishment of the MDBA Office of Compliance
- the Independent Assurance Committee to strengthen the focus and integrity of its Basin-wide regulatory role, and
- the appointment of the independent Northern Basin Commissioner for a three-year term.

Draft Recommendation 14.2 – institutional reform of the Murray-Darling Basin Authority

The functions of the MDBA are set out in section 172 of the Water Act. These functions are reflected in the 2008 IGA. Broadly these functions are divided into:

- functions performed on behalf of the joint Basin Governments (discussed above), which include the operation of the River Murray on behalf of Basin Governments, management of jointly-funded assets and the administration of other jointly funded activities, and
- the Authority's Basin Plan functions, which can loosely be divided into development and review of the Basin Plan and preparation of amendments; generating data, information and knowledge pertaining to Basin rivers and water resources; assisting states in implementation matters including the development of WRPs for assessment and accreditation; and regulating and enforcing compliance with the Basin Plan.

As a general principle, the Department does not agree that the potential for any real or perceived conflict between policy, operational and regulatory roles should necessarily require institutional separation of these roles. Indeed, there are numerous instances where regulatory functions within governments (such as the biosecurity and Water Efficiency Labelling and Standards scheme regulatory functions within this Department) operate under the same institutional framework as policy and operational functions.

Other considerations, including: Government policy pertaining to Commonwealth corporations and statutory authorities; capacity to manage conflict; and the cost-efficiency of government services; are equally important considerations for Commonwealth public sector institutional arrangements.

The Department does not agree that the claimed benefits of two new institutions in place of the MDBA is warranted, and nor does it agree that such an arrangement would deliver better and more cost-effective and efficient public administration.

Draft recommendation 14.3 – Basin Officials Committee and Basin Plan implementation

The Department recognises that the governance arrangements for Basin Plan implementation would benefit from further analysis to support improvements for ongoing intergovernmental collaboration. As noted above, Basin Governments are in the process of reviewing the joint governance arrangements and the terms of reference for this review are at **Attachment A**. The review is being undertaken by Greg Claydon and is expected to report to Basin Governments in the first quarter of 2019. The review is expected to include an examination of the committee arrangements, and associated capability and resource requirements to support ongoing intergovernmental collaboration for implementing the Basin Plan. Any decisions on the findings of the review will be a matter for Basin Governments, the MDBA and the Australian Government. The Department notes that any decision to change existing governance arrangements prior to the finalisation of this review, would be pre-emptive.

Draft Recommendation 14.4 – expanding the role of the MDBA's Office of Compliance to include compliance and evaluation functions

In December 2017, the MDBA established an Office of Compliance. This was supported by additional funding from the Australian Government. The Office of Compliance is the focal point within the MDBA to improve water compliance across the Basin in line with the Basin Plan.

The MDBA anticipates that its regulatory functions will expand over time to include compliance with WRPs (once accredited), and to incorporate the MDBA's Basin Plan monitoring, evaluation and reporting.

Given the magnitude and complexity of the MDBA's work in supporting the development of Basin Plan compliant WRPs, the Commonwealth considers that broadening the role of the Office of

Compliance at this time would be both unhelpful and disruptive to the task of supporting States in completing WRPs.

As noted in 14.2 above, the Commonwealth does not agree that the potential for any real or perceived conflict between policy, operational and regulatory roles should necessarily require institutional separation of these roles.

Draft Recommendation 14.5 – efficacy of proposed institutional arrangements

As discussed above, the Commonwealth does not consider that the claimed benefits of establishing a new institution of the Basin Plan Regulator would deliver better, more efficient and more cost-effective public administration in ensuring compliance with the Basin Plan and Water Act.

It is important to note that the Water Act was subject to a thorough and extensive review by an Independent Expert Panel in 2014. Notwithstanding some recommendations for statutory change, subsequently implemented by the Australian Government, the review largely validated the existing statutory framework setting out the expectations of the MDBA and Authority members.

The Government responded very positively to the findings and recommendations of the Water Act Review.

As recommended in the report of the Independent Review of the Water Act, the next review of the Water Act will be undertaken in 2024. The Commonwealth agrees that a review at that point will provide a timely opportunity to revisit matters such as the role of the MDBA, the MDBA's performance in exercising its regulatory functions, and the knowledge and skills mix of Authority members.

Reference List

Aither 2017, [Water market impacts of on-farm water use efficiency programs that require entitlement transfer](#), Aither

DAWR 2018, [Submission by The Australian Department of Agriculture and Water Resources Murray-Darling Basin Plan: Five-year assessment Productivity Commission Issues Paper](#), Department of Agriculture and Water Resources.

EY 2018, [Analysis of efficiency measures in the Murray-Darling Basin](#), Ernst & Young, Canberra.

MJA 2017, [Economic effects of the Commonwealth water recovery programs in the Murrumbidgee Irrigation Area](#), Marsden Jacobs Associates.

Review of the Murray-Darling Basin Joint Governance Arrangements

Terms of Reference

Background to the Review

On 8 June 2018, the Murray-Darling Basin Ministerial Council agreed to the Murray-Darling Basin Compliance Compact (the Compact). The Compact brings together the findings from various compliance reviews, including the Basin-wide compliance review undertaken by the Murray-Darling Basin Authority (MDBA) and an independent panel. The Compact details a compliance implementation framework, including specific plans for improving compliance and enforcement activities for each Basin jurisdiction and the MDBA, and a commitment for the MDBA and Basin governments to report annually on progress.

To progress one element of the Compact, the Australian Government and Basin State and Territory governments agreed to review the joint governance arrangements supporting the delivery of the Basin water reforms. The review is to take account of the governance recommendations in the MDBA Compliance Review and will seek to improve the efficiency and effectiveness of current arrangements.

Basin water management is complex, highly inter-related and entails a range of policy, program and regulatory responsibilities. It is important that the governance arrangements support and facilitate joint decision making in the areas where it is required and efficient consultation where decisions are the responsibility of a single entity.

More specifically, the existing Murray-Darling Basin governance arrangements provide for inter-governmental committees for decision-making under the Murray-Darling Basin Agreement (Agreement) on the one hand, and to support the delivery of Basin Plan objectives and outcomes on the other.

In these circumstances, effective governance requires collaboration and consultation across a range of different, but related and sometimes overlapping areas covering the Basin Plan, the Agreement, and environmental watering. To ensure inter-governmental arrangements are sufficiently robust and collaborative to deliver on these expectations, a review of the structure and purpose of governance and associated committee arrangements is warranted.

The aims of this review are to ensure streamlined decision making; to improve clarity of the roles and responsibilities of the various committees; to improve efficiency and cost effectiveness of joint governance arrangements; and to increase transparency and community confidence.

Principles

1. To maintain the collaborative commitment to progress Murray-Darling Basin reforms and implement key elements of the Basin Plan.
2. To ensure clear assignment of decision making responsibilities at appropriate levels.

3. To ensure that all those with implementation obligations are engaged, statutory roles are respected and decisions are appropriately integrated.
4. To build transparency and community confidence in implementation of the Basin Plan through joint government arrangements.

Purpose

To review the Murray-Darling Basin inter-governmental committee arrangements (refer **Attachment B** for current joint arrangements) to achieve the most efficient and effective arrangements to implement the Basin Plan and administer the Agreement within the context and objectives of the *Water Act 2007* (Water Act), the Basin Plan, and the Agreement.

Scope

The review will assess the existing joint governance arrangements supporting both Basin Plan implementation and administration of the Agreement, and will be structured around five key questions:

1. What needs to be delivered?
2. Who is responsible for each deliverable and under what authority have they been given that responsibility?
3. What are the practical alternate governance arrangements to support this delivery, having regard to other related responsibilities of Basin governments, and what are their pros and cons?
4. What should be the requirements of members of the recommended arrangement(s) including level of authority, skills, behaviours and culture?
5. How should ongoing performance, including structures, processes and participants be best assessed?

Within this context, the analysis undertaken will provide advice on:

- a. the effectiveness of existing committee arrangements with an initial priority focus on higher level committees and subcommittees supporting the delivery of the Basin Plan and administration of the Agreement. This will include an assessment of the:
 - i. role, responsibilities, performance and reporting arrangements of each of the committees and subcommittees, including consideration of disbanding committees when they are no longer required.
 - ii. roles, responsibilities and performance of the chairs and supporting secretariats
 - iii. barriers which may be affecting the committees and subcommittees ability to achieve their objectives, including any possible revised/additional legislative requirements.
- b. the suitability and capability of committee members to participate in providing advice and decision making on Basin Plan and the Agreement matters in line with both individual

governments' governance responsibilities and respective inter-governmental requirements including the:

- i. level of authority and expertise required for each committee
 - ii. scope of membership of the BOC and relevant committees and subcommittees related to the delivery of the Basin Plan and the Agreement.
- c. alternate approaches to achieving efficient and effective committee arrangements to implement the Basin Plan and the Agreement, including consideration of:
- i. the benefits, costs, and risks, and any other relevant considerations (including legal, regulatory and cultural issues)
 - ii. a proposed transition path to implement preferred alternatives, including consideration of a phased approach to meet key milestones – June 2019, 2019-2014 and post 2024 in Basin Plan implementation
 - iii. any associated legislative amendment and resourcing requirements.

The review will **NOT** address the Murray-Darling Basin Ministerial Council, Murray-Darling Basin Authority constitution or agency structure, Basin Community Committee, or advisory committees established for a specific short-term purpose.

The review should have regard to:

- the *Water Act 2007* (s201, 203);
- The Murray Darling Basin Agreement (Schedule 1 to the Water Act) (c18, c20, c21, c22, 26.1,c25, c27)
- *Intergovernmental Agreement on Murray-Darling Basin Reform (2008)*
- the roles and responsibilities of the Commonwealth and Basin states in implementing the objectives of the Water Act, Basin Plan and the Agreement
- Basin Officials Committee Guide to Procedures
- Service Level Agreement between the Murray-Darling Basin Ministerial Council and the Murray-Darling Basin Authority
- Basin Plan Implementation Agreement between the MDBA, Basin states and the Commonwealth Environmental Water Holder.

The review should also have regard to the Murray-Darling Basin Compliance Compact and the findings of the Murray-Darling Basin Water Compliance Review (including Independent Panel). It should also consider any relevant inquiries including the Productivity Commission reviews and government responses, and any reform initiatives at the jurisdictional level relevant to the scope of the review.

Any recommendations for change in governance arrangements for committees should be consistent with the objectives of the Water Act, Basin Plan and the Agreement.

Process

The review will be led by an independent person (the review leader) commissioned by the BOC and contracted by the MDBA on behalf of the BOC. The review leader will report to BOC through the

Chair. Any recommended changes to committee governance arising from the review will be considered and progressed by the BOC.

The review leader will consult with Basin governments, the MDBA, the Commonwealth Environmental Water Holder and other key stakeholders to identify issues and areas for improvement.

The review will include preparation of a draft discussion paper for consultation with the relevant parties, a draft report and final report on the findings.

Deliverables

The review will conclude with a final report to be provided to the BOC Chair (Department of Agriculture and Water Resources) by **16 November 2018** to allow for consideration by the BOC prior to being provided to the Ministerial Council for consideration at its scheduled 14 December 2018 meeting.

Milestones

	Activity	Date
1	Prepare a draft discussion paper on the review for consultation with Basin officials and the MDBA	7 September 2018
2.	Consult with Basin officials, the MDBA and other key stakeholders on the discussion paper.	28 September 2018
3.	Prepare a draft report based on findings from the discussion paper for consideration by Basin officials and the MDBA.	26 October 2018
4.	Prepare a draft final report for consideration by the BOC chair, Basin officials and the MDBA.	9 November 2018
5.	Final report to be delivered to the BOC chair	16 November 2018