

South Australia's Response to the Murray-Darling Basin Royal Commission

September 2019



Government of
South Australia

Foreword

The River Murray is the life-blood of South Australia, providing essential water for irrigation, industry, domestic and recreational use and our precious wetlands and floodplains. However, the River is not just important to South Australia. All people across the Basin rely on rivers and tributaries as a key part of their environment and as a critical social and economic driver of their community.

Rainfall deficiencies have affected most of New South Wales and the Queensland parts of the Murray-Darling Basin since the start of 2017. For many areas of New South Wales, this is one of the most severe droughts on record and communities are hurting. Should conditions not improve it is also possible that South Australia and Victoria will be in a similar situation. These communities, and all Australians who consider the sustainability of our river systems to be important, are relying on Basin Governments to show leadership, including delivering on their commitments under the Basin Plan.

Increasing water use has led to a decline in the health of the Basin. We are all impacted directly or indirectly by what happens in the Basin. It is our shared resource, so it is our shared responsibility to achieve a sustainable and healthy river system for current and future generations.

The Basin Plan emerged out of the collective need to address the environmental damage and bring extractions from the Basin back to a healthier and more sustainable level, while continuing to support primary production and other industries. The Basin Plan is not, and was never intended to be, a static document. This first Basin Plan covers a twelve-year implementation period and at the end of this time it will be reviewed and recast in the

light of new information and research. This review, scheduled for 2026, may result in a new Environmentally Sustainable Level of Take (ESLT).

Importantly, even if further water recovery is found to be required, the equivalent of 3200 GL will still need to be recovered before we can reach any new target. This highlights how critical it is that we deliver the current Basin Plan, while continuing to monitor and review its performance.

The Productivity Commission has proposed that Basin Governments demonstrate strategic leadership for implementing the Basin Plan. It is this leadership, in cooperation with the Murray-Darling Basin Authority that is required, rather than reviewing and resetting the foundations of the Plan prematurely, which will only cause uncertainty and the diversion of resources from delivering critical water into the system.

The South Australian Government is committed to continuing a bipartisan and collaborative approach to securing the future of this critical resource while the current Basin Plan is implemented to deliver a healthy, thriving river system. Failure will be catastrophic for our State and our Nation. This matter is too important to allow petty disputes and delays to derail the return of water to the system.

It is pleasing the Royal Commission confirmed the constitutional validity of the federal *Water Act 2007*, upon which the Basin Plan is founded. The Royal Commission report also recommended going back to the drawing board and resetting core elements of the Basin Plan, including the ESLT and Sustainable Diversion Limits (SDL). While the South Australia Government does not consider these recommendations helpful in the short-term, as they will slow water recovery down, we will use them to inform our planning for the Basin Plan review in 2026. On the other hand, the Productivity Commission has outlined a measured way forward to support delivery of the current Basin Plan, which will secure real benefits for South Australia and the broader Basin.



The Royal Commission was established following allegations of water theft. Claims of water theft are of significant concern and should be dealt with swiftly and strongly. It is a matter of record that the Royal Commission did not proceed to investigate specific incidents of water theft, as these are dealt with by the appropriate processes and law enforcement authorities. Importantly, both the Royal Commission and Productivity Commission reflected the need for greater monitoring of compliance.

Some views have been expressed by the Royal Commission about the adoption of agreed social-economic criteria by all jurisdictions at the Murray-Darling Basin Ministerial Council on 14 December 2018. The commentary related to these views was arrived at without applying a process of natural justice to the South Australian Minister for Environment and Water. Neither the South Australian government, Minister or relevant departmental officials were ever asked by the Royal Commission for their view about how decisions at this meeting were reached, nor given an opportunity by the Royal Commission to respond to or correct the Commission's commentary. The commentary included in the report was made in a vacuum without due reference to the very significant outcomes achieved in these complex negotiations.

Unlike other independent reports to government, very few recommendations from the Royal Commission were within South Australia's remit to implement alone. Rather, the recommendations were targeted at Basin Governments either collectively or individually, the Commonwealth, the Murray-Darling Basin Authority and other bodies such as the Commonwealth Auditor-General. South Australia's response to the report's findings could not be developed in isolation from these bodies and I wrote to the Prime Minister calling for a meeting to consider the findings in the Royal Commission and Productivity Commission reports.

On 9 August 2019 I met with the Prime Minister and other Murray-Darling Basin First Ministers to discuss the findings of the Productivity Commission's Five Year Assessment, the Murray-Darling Basin Royal Commission and the Independent assessment of the 2018-19 fish deaths in the lower Darling. At that meeting First Ministers reaffirmed their commitment to the Murray-Darling Basin Plan and agreed to the importance of ongoing transparency about what each jurisdiction is doing to implement the Plan and support communities and farmers. First Ministers also agreed to a joint response to the Productivity Commission's *Murray-Darling Basin Plan: Five-Year Assessment* and endorsed the establishment of an Inspector-General of Murray-Darling Basin Water Resources to improve transparency, accountability and community confidence in the delivery of the Basin Plan.

The South Australian Government is committed to continuing this bipartisan and collaborative approach to securing the future of Murray-Darling Basin and delivering a healthy, thriving river system. This response identifies the actions that South Australia will progress to address the recommendations across the Murray-Darling Basin Royal Commission and Productivity Commission's reports and provides an update on the activities being undertaken by Basin Governments to implement the Basin Plan.



**Hon Steven Marshall MP
PREMIER**

Introduction

In January 2019, two significant reports on the Murray-Darling Basin were released, the Productivity Commission's Murray-Darling Basin Plan: Five-year assessment and the Murray-Darling Basin Royal Commission Report.

The South Australian Government considered all 82 recommendations across both reports and subsequently focused on five priority areas to help improve the health and sustainability of the Murray-Darling Basin:

- Strengthening compliance and enforcement, particularly regarding water theft.
- Championing the establishment of an 'independent umpire' to monitor the performance of the Murray-Darling Basin Authority (MDBA) and Basin Governments.
- Supporting Aboriginal Nations to identify their water objectives.
- Working with the Bureau of Meteorology to provide climate change projections on water resource impacts.
- Reducing constraints to the flow of environmental water through a scheme that clarifies the government's existing powers to facilitate environmental flows across floodplains.

Our commitment to a bipartisan and collaborative approach, combined with strong advocacy, contributed to First Ministers from the Murray-Darling Basin reaffirming their commitment to the Murray-Darling Basin Plan at the COAG meeting on 9 August 2019. The establishment of the Inspector-General of Murray-Darling Basin Water Resources to monitor the performance of the MDBA and relevant jurisdictions will address the need for an 'independent umpire' and is strongly supported by the South Australian Government. The Australian Government has also now requested the Bureau of Meteorology to produce annual Murray-Darling Basin climate statements on the future impacts on water resource availability.

While continuing to advocate for improved compliance and enforcement across the Basin, we will also look at improving our own framework, particularly with regard to water theft. The South Australian Government will also work with Aboriginal Nations to identify their water values, objectives and outcomes and to develop strategies for advancing their priorities in water planning processes. Work has already started in South Australia to address constraints issues. In addition to engaging with local communities on works to reduce constraints to flow, we will investigate a scheme that clarifies governments' existing powers to facilitate more natural flows in the river and across floodplains and the existing rights of landholders.

A joint response to the Productivity Commission's assessment and key themes raised in the Murray-Darling Basin Royal Commission Report and other relevant reports was released

by the Basin Governments on 9 August 2019. South Australia's response to the Murray-Darling Basin Royal Commission identifies the actions that South Australia will progress to address the recommendations across both reports and provides an update on the applicable activities being undertaken by Basin Governments to the recommendations of the Murray-Darling Basin Royal Commission Report.

Commitment to the current Basin Plan

The South Australian Government is strongly committed to the current Basin Plan. While we recognise more can be done, we should not lose sight of the fact the Basin Plan is delivering real outcomes. Its continued implementation requires strong leadership from the Commonwealth and Basin Governments.

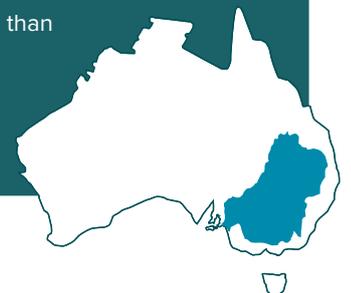
South Australia is committed to implementing the current Basin Plan within agreed timeframes, including reconciliation of the 2017 Sustainable Diversion Limit adjustment in 2024 and full review of the Basin Plan in 2026. The most productive approach to achieve this is through collaborative and positive work between the Commonwealth and Basin Governments and action at the local level. Walking away from the Basin Plan, or abandoning the timeframes now, is not in the best interests of South Australia, any other Basin jurisdiction or the Nation as a whole.

The required leadership can only come from the Basin Governments, who must hold themselves accountable for delivery of the Basin Plan and work cooperatively to secure the future of the whole system, including taking a zero-tolerance approach to non-compliance, particularly water theft. This important issue is and should remain a priority of the Council of Australian Governments (COAG).

Water theft undermines confidence in the Basin Plan and harms local communities and businesses who are operating in good faith. This is a serious matter and will not be tolerated. The Basin Plan requires everyone to do their part, from Basin Governments to irrigators and communities. It is vital we have a strong monitoring and compliance system to support those doing the right thing and appropriately respond to those who are not.

Key facts about the Basin

- More than 77,000 kilometres of rivers
- The Basin covers over 1 million square kilometres – larger than France and Germany combined
- Average yearly flow is less than two days of flow from the Amazon River



What is the Basin Plan and how does it work?

The Basin Plan was established in 2012 following extensive negotiations involving the Australian Government and the governments of South Australia, Victoria, Australian Capital Territory, New South Wales and Queensland. It is an agreement under the *Commonwealth Water Act 2007*.

The aim of the Basin Plan is to ensure the long-term health and sustainability of the Murray-Darling Basin. It does this by recognising that historically too much water has been allocated for commercial and consumptive use (e.g. urban, domestic, irrigation and industry use). To address this imbalance, the Basin Plan sets lower, sustainable, extraction limits to achieve environmental and other outcomes. It also outlines the key actions, processes and timeframes that Governments are required to adopt to implement the Basin Plan.

The Basin Plan establishes an **Environmentally Sustainable Level of Take (ESLT)**. This is the level of water that the Murray-Darling Basin Authority (MDBA) determined could be extracted without harming the environmental sustainability of the Basin.

The Basin is divided into 33 regions, known as Sustainable Diversion Limit (SDL) resource units, each with a water recovery target. **Baseline Diversion Limits (BDLs)** are used as an estimation of how much water was used in the Basin before the Basin Plan. **Water allocations**, usually in the form of water licenses, allow the holder to legally access Basin water.

Water Resource Plans (WRPs) must be developed for each SDL resource unit. These specify how the SDL will be implemented and how key elements, such as critical human water needs, environmental water requirements and water quality, will be met. WRPs are a key instrument in implementing the Basin Plan and SDLs. In December 2018, Basin Ministers agreed that compliance from 1 July 2019 would be based on the SDL even if a WRP hadn't been accredited. This was a decision to ensure the integrity of the Basin Plan.

On 12 December 2018, the Council of Australian Governments agreed to the MDB **Compliance Compact**, which sets out an agreed workplan for the Basin Governments and the MDBA

to ensure adherence to the rules that support fair and transparent water use and management in the Murray-Darling Basin. To provide flexibility, the Basin Plan includes a **Sustainable Diversion Limit Adjustment Mechanism** to enable changes to the SDL in the southern Basin. The mechanism requires projects to be implemented to allow Basin Plan environmental outcomes to be achieved with less water.

Following amendments to the Basin Plan that adjusted the SDLs by up to 605 GL for equivalent environmental outcomes in the Southern Basin and 70 GL in the Northern Basin, the **water recovery target** is 2075 GL a year plus an additional recovery target of 450 GL of efficiency measures by 2024, which should enable sustainable management of our nation's most important river system.

Successful implementation of the Basin Plan in 2024 means that Basin Governments and communities will have achieved environmental outcomes equivalent to a water recovery of 3200 GL. This will be a significant achievement.





1. Compliance and Leadership

Action to be taken:

- 1.1. Establishment of an ‘independent umpire’, the Murray-Darling Basin Inspector General, by the Commonwealth to monitor the performance of the MDBA and Basin Governments.**
- 1.2. South Australia will write to the Inspector General to request him to investigate the adequacy of compliance approaches and opportunities to achieve greater uniformity between jurisdictions in relation to penalties and the prosecution of water theft offences.**
- 1.3. Strengthen South Australia’s compliance and enforcement framework, particularly regarding water theft.**
- 1.4. Support a comprehensive Basin-wide environmental monitoring program.**
- 1.5. Along with fellow Basin Governments, take a greater leadership role through the Basin Officials Committee.**

Recommendations: *This section addresses recommendations 27, 28, 31, 33, 34, 35, 36, 38 and 39 of the Murray-Darling Basin Royal Commission Report and recommendations 6.1, 6.2, 6.3, 10.2, 11.4, 12.1, 12.2, 12.3, 13.1, 13.2, 13.3, 14.1, 14.2, 14.3, 14.4 and 14.5 of the Productivity Commission Report..*

Water theft

Successful delivery of the Basin Plan requires that everyone, from Basin Governments to licence holders, plays their part. Allegations of water theft were the catalyst for the Royal Commission. Stealing water from other users and the environment is a critical issue and cannot be tolerated. It damages public confidence, impacts the environment and communities that rely on the Basin and undermines the principles of a managed system.

South Australia has a strong framework for prosecuting offenders, which we will continually look to improve. For example, in July 2019 we introduced reconciliation of South Australian River Murray Water allocations with associated compliance activities on a quarterly basis, rather than the previous annual basis. This will increase public confidence that water users are not ‘borrowing’ from the environmental water being delivered to improve the health of the River, while also increasing security of supply for the downstream water users. Other changes being considered for consultation with South Australians include pursuing a ‘proceeds of crime’ approach to accurately reflect the level of offending, as well as reviewing all available mechanisms to ensure rigorous compliance.

Compliance and enforcement protocols can help ensure effective, transparent and efficient action on water theft, holding governments to account for enforcing water take laws. Basin Governments have agreed to a Compliance Compact, setting out the actions that individual jurisdictions will take to enhance the management of water use compliance in their own jurisdictions. Jurisdictions are also taking action outside of the Compliance Compact. For example Victoria has recently introduced legislation into their Parliament improving their penalty regime. To further enhance these arrangements across the Basin, the South Australian Government will write to the Murray-Darling Basin Inspector General to request him to investigate the adequacy of compliance approaches and opportunities to achieve greater uniformity between jurisdictions in relation to penalties and the prosecution of water theft offences.

The Royal Commission also recommended a licensing and metering regime for floodplain diversions. South Australia supports Basin Governments developing this proposal to strengthen and improve existing regimes aimed at addressing water theft.

Monitoring and compliance

South Australia's approach to water compliance has been acknowledged in a number of independent reviews as being the best in the Basin. While we are proud of this result, we are conscious that it does not mean that further improvements cannot be made.

Compliance has improved across the Basin. In the December 2018 assurance report the MDBA found that there had been real progress in Basin governments' implementation of Compliance Compact commitments. For example, New South Wales had largely completed the Compact actions due to be delivered in 2018 and was progressing well to achieving its forward commitments, in particular around the implementation of new metering arrangements and addressing the backlog of allegations of non-compliance in NSW.

The July 2019 deadline for having all Water Resource Plans (WRP) accredited has not been met. However, bilateral agreements have been developed with all governments to ensure that key elements of the Basin Plan, including sustainable diversion limits and measures to protect environmental water are now in place. Basin Governments have agreed to monitor their compliance through annual reporting of Water Resource Plan (WRP) activities.

There have been ongoing discussions about processes for making amendments to accredited WRPs. South Australia supports progression of this work, along with expanding the auditing program. Compliance with water resource plans is a crucial part of implementing the Basin Plan. Enabling greater transparency of reporting against WRPs will help improve community confidence in the achievement of SDL outcomes. South Australia supports increased auditing of Basin State compliance and agrees that more than two water resources areas per year should be audited.

The MDBA has a key role to play in the efficient provision of information about water demand across the Basin and, with Basin Governments, to manage risks and find solutions for River Murray System capacity issues. However, Basin Governments have primary responsibility for day to day management of water resources and it is not practical that the MDBA has sole responsibility for managing these risks. South Australia is supportive of consistent metering policies to ensure equal treatment and compliance throughout the Basin.

To this end, and consistent with the Compliance Compact, South Australia has reviewed its metering framework and updated the SA Licensed Water Use Meter Policy and Specification. South Australia's state-wide approach to metering has been in place since 1997 and considers the cost implications for licence holders. The Productivity Commission's proposal to develop business cases for metering regulation and implementation plans would therefore be of little value in

our state. Meter Implementation Plans are published on the Department for Environment and Water website.

The Royal Commission recommended amendments to the Basin Plan to reduce the 20 per cent threshold, against which SDL compliance is measured, to no more than 5 per cent. South Australia supports a tightening of SDL compliance but significant changes to the Basin Plan before the Basin Plan review in 2026 are not supported. South Australia supports this recommendation being considered at the appropriate time, in 2026.

The Productivity Commission recommended the MDBA develop a revised Basin Plan evaluation framework. This is consistent with a finding of the review of the 2017 interim Basin Plan evaluation. After the review the MDBA revised its evaluation framework to ensure specific questions on the outcomes and effectiveness of the Basin Plan are defined and published in the planning stage leading up to an evaluation. The revised evaluation framework is available on the MDBA website.

The framework outlines how outcomes will be evaluated at the asset and Basin scales and the timing of these evaluations. Development of this framework is consistent with South Australia's strong support for robust and strengthened monitoring and accountability against the Basin Plan.

Increased monitoring of Basin Plan implementation and impacts should occur. However, this should not be based on the Sustainable Rivers Audit, which compared progress against a pre-European river system rather than the managed system we have today. Environmental monitoring should report on the ecological health of the system compared to the immediate pre-Basin Plan conditions and against the Basin Plan targets. This will provide us with a clear picture of where we have come from and how we are progressing towards the Basin Plan outcomes.

Leadership

Both the Royal Commission and the Productivity Commission have made recommendations for stronger leadership and governance.

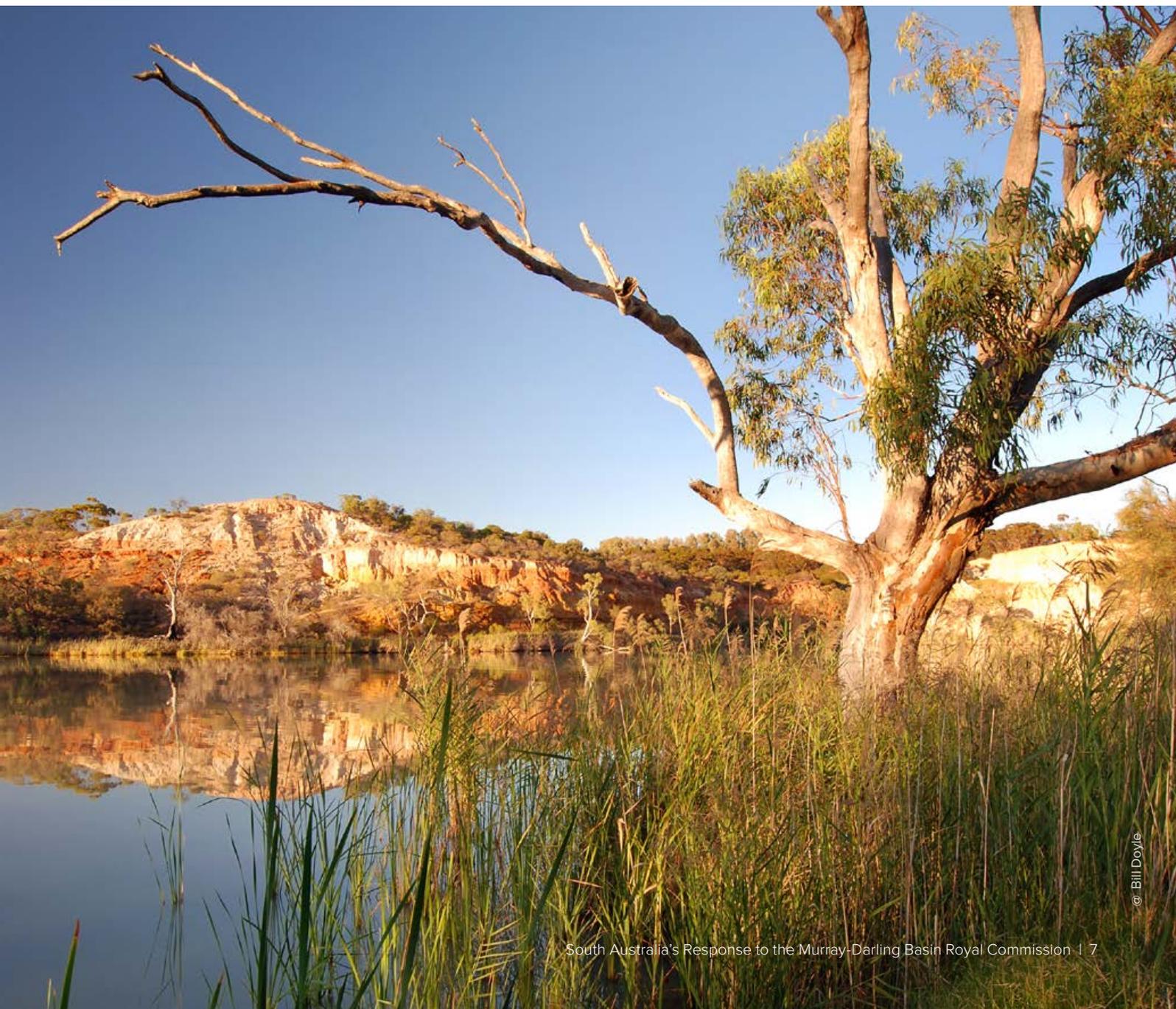
South Australia agrees with the Productivity Commission that Basin Governments must demonstrate strategic leadership and take direct responsibility for implementation of the Basin Plan. It is essential that Basin Governments are held to account for delivering the Basin Plan. An independent review of the governance arrangements for implementing the Basin Plan that drew on the findings and recommendations of the Productivity Commission is currently being considered by Basin Governments.

Basin Governments regularly review the capability and resources needed to implement the Basin Plan, including the role of the Basin Officials Committee in supporting Basin Ministers and the functions fulfilled by the MDBA to deliver programs under the Basin Plan and the Murray-Darling Basin Agreement.

To further enhance governance, South Australia lobbied for the establishment of an independent umpire, which would monitor performance of the MDBA and relevant jurisdictions in the implementation of the Basin Plan, associated WRPs and supply and efficiency measures. The announcement by the Commonwealth Government of the establishment of the MDB Inspector General will address this need and is strongly supported by the South Australian Government. The establishment of the Inspector General should provide communities across the Basin and beyond with much greater comfort that government agencies are not marking their own homework. It will also provide an independent mechanism through which people can lodge complaints about Basin Plan implementation and have them appropriately investigated.

South Australia supports the Royal Commission's recommendation 38 to rectify the inconsistency in the Water Act regarding Ministerial power of direction to ensure that the MDBA's independence concerning decisions on factual and scientific matters is consistently maintained. There does not appear to be any justification for this inconsistency between these sections of the Act. South Australia will raise this inconsistency at the next statutory review of the Water Act which is scheduled to occur before the end of 2024.

Strengthening the leadership and governance of the Basin Plan is a critical step to ensure successful delivery of the Basin Plan. South Australia is committed to working with the MDBA and Basin Governments to ensure that there is clear accountability and monitoring of this vital work.





Why the Murray-Darling Basin is so important

Environmental

30,000 wetlands, including 16 internationally significant wetlands (Ramsar).

120 water bird species and 46 native fish species are found in the Basin.

Home to 95 threatened species of animals and plants including 35 birds, 6 mammals and 5 snakes.



Social

More than 3 million Australians rely on the Murray-Darling Basin rivers for drinking water, including Canberra and Adelaide.

Home to more than 40 Aboriginal Nations with deep cultural, social, environmental, spiritual and economic connection to their lands and waters.

Healthy water resources provide Basin residents with a sense of place, psychological wellbeing and local identity.



Economic

Water trading in the Basin is estimated to be worth about \$2 billion annually.

Produces more than one third of the nation's food and approximately three quarters of Australia's irrigated crops.

Spending on tourism in the Basin is now worth around \$7.5 billion per year, with Australians making 17 million visits annually for recreation.

Recreational fishing is estimated to be worth around \$1 billion each year, generating more than 10,000 jobs.



What is the SDL Adjustment Mechanism

The Sustainable Diversion Limit (SDL) can only be adjusted up or down by a maximum of five percent. It is facilitated through Basin Plan measures that result in environmental outcomes being achieved with less water.

In the southern Basin, this occurs through three types of measures:

- **Supply measures** aim to improve water infrastructure and river operating rules that support achievement of environmental outcomes with less water. For example, through constructing environmental works on the floodplains downstream of Lock 5 (Pike floodplain) and Lock 4 (Katarapko floodplain) the South Australian Riverland Floodplain Integrated Infrastructure Project generates greater watering of the floodplain under low – medium flows and flowing habitat for fish and aquatic organisms in a region where flowing habitat has been greatly reduced as a result of the locks and weirs.

- **Constraints measures** aim to overcome physical and operational barriers that impede delivery of water along the Basin system. These can include changing infrastructure such as crossings and bridges, as well as negotiating easements to inundate private land.
- **Efficiency measures** are activities that change water use practices and save water for the environment. This is through projects that increase the technical efficiency of water use (e.g. upgrading irrigation systems or installing water meters), while having either a positive or neutral socioeconomic effect on Basin communities and industries. These projects also build business resilience to changes in climate.

Environmental watering or **environmental flows** is the process of strategic releases of water down the river system to deliver environmental benefits. Water allocated for environmental purposes is held and then released in a planned manner to meet specific and identified environmental outcomes, such as watering of wetlands and floodplains to support fish breeding.



2. Sustainability of the Murray-Darling Basin

Action to be taken:

- 2.1. Work with the MDBA and Basin Governments to establish a gateway process for supply measures to determine early if a project is unlikely to meet outcomes.**
- 2.2. Provide the best science available to the MDBA for new determinations of the Environmentally Sustainable Level of Take and Sustainable Diversion Limits in 2026.**
- 2.3. Deliver our commitments under the current Basin Plan.**
- 2.4. Provide comprehensive information about South Australia's implementation of our Basin Plan commitments to the public through the Department for Environment and Water website.**
- 2.5. Conduct research and provide advice to First Ministers to support an environmental monitoring program.**

Recommendations: *This section addresses recommendations 1, 5, 6, 25, 26, 29, 30 and 32 of the Murray-Darling Basin Royal Commission Report and recommendations 4.1, 4.2, 4.3, 4.4, 11.1, 11.2, 11.3, 11.6 and 11.7 of the Productivity Commission Report.*

Both the Royal Commission and Productivity Commission reflect that delivering the current supply and efficiency measures within the agreed timeframes will be challenging. This does not mean they are not achievable.

South Australia is committed to the delivery of the current Basin Plan, including supply measures, within the agreed timeframes. Accordingly, new determinations of the ESLTs and SDLs or significant changes to either the Water Act or the Basin Plan before the Basin Plan review in 2026 are not supported. South Australia supports new determinations at the appropriate time, in 2026 as agreed by all jurisdictions. Significant changes at this stage would impede implementation, undermine achievement of real environmental outcomes and cause uncertainty for businesses and communities across the Basin.

In December 2018, consistent with the Productivity Commission's recommendations, Basin Ministers agreed to the Australian Government developing a 'gateway process' for assessing Basin measures to ensure that projects are on track to deliver their expected outcomes. This 'gateway' would facilitate remedies, or removal of measures, where it is apparent the desired outcomes will not be achieved. Any decision to extend deadlines for completion of projects should occur at the completion of that process, considering all available information about individual measures and their likelihood of meeting intended outcomes. The Productivity Commission suggested an independent panel be appointed to provide advice on projects in the gateway process. The Australian Government will consider the merits of an independent panel on a case-by-case basis, for example where the department does not have the expertise to provide advice in its own right.

There is an incentive for all Basin Governments to meet the agreed timeframes, as additional water recovery from consumptive users will be required if supply measures are not completed. Under the agreement reached between the Hon. David Littleproud MP and the Hon. Tony Burke MP on 7 May 2018, payments can be withheld where there is insufficient effort to adhere to timeframes. The Inspector General will provide the independent oversight to ensure that this agreement is adhered to.

This 'gateway process' will include measures such as the Menindee Lakes Water Savings Project. The Royal Commission recommended a full analysis of the effects of this project. South Australia is of the view that the Environmental Impact Statement process that will be undertaken will be sufficient and appropriate to consider whether or not this project should proceed in either its current, or a modified form.

Environmental Watering

The clear objective of the Basin-wide Environmental Watering Strategy should be to maximise environmental outcomes. In some situations, achieving environmental objectives also delivers cultural and social benefits, but these should not be the priority driver for these watering decisions.

The Basin-wide Environmental Watering Strategy could offer more direction on how to prioritise demands but should not be overly prescriptive, as needs will vary at different times even under equivalent water availability scenarios. Annual processes will still be required to determine relative priorities under any given conditions and as conditions change throughout the year. It would be inappropriate and unhelpful for the strategy (as a long-term document) to specifically identify Basin priorities, as this would reduce flexibility and be inconsistent with the nature of regularly changing conditions.

South Australia supports the Productivity Commission's recommendation that Basin Governments should establish clear and transparent processes with key stakeholders for consultation and coordination on event-based watering decisions. To support this recommendation, information on the processes in place to engage local communities and Traditional Owners about environmental watering events will be made available on the Department for Environment and Water website.

It is critical that community input is included in defining environmental needs during review and revision of the Long-term Environmental Watering Plans. South Australia will be using the same consultation process used for the development of the WRPs in revising the Long-term Environmental Watering Plans.

South Australia does not support amendments to the Water Act relating to either the functions of the Commonwealth Environmental Water Holder or to the provisions for the limitation of disposal of environmental water.

South Australia supports greater investment in the scientific understanding of the environmental requirements of floodplains and the Basin's groundwater resources. However, this investment must focus on practical considerations for the management of water resources and be part of the Basin Science Strategy currently under development at the request of the Murray-Darling Basin Ministerial Council.

South Australia is of the view that Basin Governments should be able to provide new evidence to support Baseline Diversion Limit changes and that, in the interests of transparency, the MDBA's independent analysis of those proposals and the reasoning behind its decision should be made publicly available.

Water recovery is the process of recovering water for environmental purposes. Previously, this was mostly through a program of buying water entitlements (referred to as buybacks) to use this water for environmental purposes.

More recently, governments have agreed to use efficiency measures instead of buybacks to secure water entitlements to deliver environmental water and meet water recovery targets.

The Basin-wide water recovery target comprises local targets and shared targets.

Water for the environment has contributed to a vast improvement in the condition of Bookmark Creek at Renmark in South Australia; from a dry salty irrigation disposal site to a healthier, fast flowing habitat.



Bookmark Creek, December 2011



Bookmark Creek, June 2018



3. Recovery and Efficiency

Action to be taken:

3.1. Support complementary investment in Basin communities and monitoring of the impacts on communities including:

- Independent panel to assess Murray-Darling Basin community socio-economic health.
- \$25 million Murray-Darling Basin Economic Development Program to strengthen the economic and social resilience of 15 Basin communities.
- \$40 million initiative to invest in water for cultural and economic purposes to benefit Aboriginal communities of the Murray-Darling Basin.

3.2. Complete South Australia's supply measure projects by 2024.

3.3. Increase the resilience and productivity of our communities through the implementation of efficiency measures

3.4. Reduce constraints to environmental flows through a scheme that clarifies the South Australian government's existing powers to facilitate environmental flows across floodplains.

Recommendations: *This section addresses recommendations 2, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 29 of the Murray-Darling Basin Royal Commission report and recommendations 3.1, 3.3, 4.5, 5.1, 5.2, 5.3, 5.4, 8.1 and 9.1 of the Productivity Commission report.*

The Royal Commission suggested that, under its proposal to revise the ESLTs and SDLs, additional water recovery would be required and that this should be purchased through buybacks. As stated earlier, South Australia is committed to the current Basin Plan and does not support new determinations being made at this time. The time to determine whether further recovery is required is after reconciliation of the adjustment to sustainable diversion limits in 2024.

Basin Governments have agreed to recover the 450 GL through efficiency measures to provide real water savings for the environment. Both the Royal Commission and the Productivity Commission, highlight that the 450 GL recovery target is challenging and the Royal Commission proposed purchasing this water through buybacks. Buybacks are a blunt tool and can harm local communities. They also forgo the longer-term benefits available to participants through embracing technological advances and increasing a business' resilience to climate change, the benefits of which continue to grow with the years.

Past experience shows that the South Australian River Murray Sustainability program, implemented by Primary Industries and Regions SA, created opportunities for irrigators to increase their productivity with sustainable spin-off opportunities for suppliers of goods and services in the region. Participants in the program purchased plant stock from nurseries, design services for engineering projects, business consulting services (e.g. marketing and export), irrigation equipment from local suppliers and building services for construction of on-farm infrastructure.

South Australia does not support additional buy-backs at this time and believes that efficiency measures are currently the most effective pathway forward. These measures will provide real, positive outcomes to irrigation businesses, while supporting communities that would otherwise be hard hit by the reduction in regional productivity or the closure of businesses through buybacks and a once-off cash injection.

Work has commenced to investigate the contribution that urban and industrial projects could make to support the implementation of a socio-economically neutral 450 gigalitres efficiency measure program.

The Productivity Commission recommended that the now Department of Agriculture develop a strategy for the efficiency measures program to ensure that it meets intended outcomes while minimising adverse socio-economic impacts. An Efficiency Measures Work Plan was agreed by the Murray-Darling Basin Ministerial Council in December 2018.

The Australian Government will undertake ongoing monitoring and evaluation of individual projects and the program. This includes evaluation of the socio-economic outcomes, through the Monitoring, Reporting and Improvement Framework. This framework includes methods for assessing socio-economic impacts of projects to identify regions most impacted by the program. The Australian Government will also provide \$25 million over four years through the Murray-Darling Basin Economic Development Program for projects that support remote, rural and regional communities most affected by the Basin Plan. A further \$40 million initiative is investing in water for cultural and economic purposes to benefit Aboriginal communities of the Murray-Darling Basin. An Independent Panel to assess Murray-Darling Basin community socio-economic health has also been established.

Supply measures

South Australia recognises that the progress of these projects must be carefully monitored in the lead up to the 2024 deadline.

In South Australia, the TLM Chowilla Floodplain works and the Riverine Recovery Project have been completed. Construction of the South East Flows Restoration Project is complete and the project is undertaking operational trials. Stage 1 of the Eastern Mount Lofty Ranges Flows for the Future and the South Australian Riverland Floodplain Integrated Improvement Program (SARFIIP) are under construction. Stage 2 of the Eastern Mount Lofty Ranges Flows for the Future and River Murray in SA Constraints Measure are in concept design. To ensure that the 2024 deadline is met, South Australia will continue to consult with communities on the projects and strong governance and project management arrangements will be put in place to enable progress review and early identification of risks to project delivery.

The MDBA's annual progress reports will provide a review of projects and identify risks associated with delivering outcomes within the required timeframe. South Australia will work with Basin governments and the MDBA to develop an approach to reconciliation.

Environmental outcomes

South Australia considers it unnecessary to undertake additional modelling on the environmental outcomes obtained from further water recovery at this time. In 2012, as part of the negotiations associated with the Basin Plan, the MDBA modelled water recovery volumes of 2800 GL and 3200 GL with and without constraints. The SDLAM has reduced the total volume of water to be recovered by 605 GL. The forecast volume of environmental water, including the 450 GL, held in entitlements is now less than 2800 GL and the modelling undertaken in 2012 indicates that volume will be delivered within the current physical constraints. The modelling also showed that relaxing constraints

in addition to recovering the 2800 GL changed the distribution of flow, resulting in improved environmental outcomes along the river and in particular for the Barmah-Millewa Forest and the Coorong Lower Lakes Murray Mouth.

We've also used the outputs from this modelling to consider whether the environmental outcomes listed in Schedule 5 of the Basin Plan could be achieved by the current Basin Plan. The results of this analysis were reported to both the Royal Commission and the Productivity Commission in 2018. Based on that comparison, it is South Australia's proposition that the Basin Plan will achieve the enhanced environmental outcomes in Schedule 5.

In relation to the Productivity Commission's recommendation to review the benefits, costs and impacts of pursuing enhanced environmental outcomes under Schedule 5, there should be no compromise on recovering the 450GL together with the supply measures that were agreed by the Basin Governments in the negotiations for the Basin Plan. The Coorong, at the bottom end of the Murray-Darling Basin, needs water flows and the SDLAM has reduced the total quantity of water expected to flow the length of the Murray River by up to 605 GL. Any further reduction in water flow will have detrimental impacts on this site.

The Productivity Commission has recommended development of a process to return any identified over-recovery against the SDL to consumptive use. This matter is complex and South Australia urges the exercise of caution and patience by the Commonwealth and Basin Governments before pursuing this, as over-recovery may be better utilised to provide a surety against the risk of shortfall for the 605 GL supply measures.

South Australia does not support the view that the research into return flow identified in the Groundwater and Return Flow Impacts Report should be immediately undertaken. The report does not adequately represent the situation in South Australia. Governments have a good understanding of the groundwater flows under irrigation areas from having to construct and manage salt interception schemes. If required, further research in this area will be considered through the Basin Science Strategy currently under development.

Constraints

There are significant and complex challenges in managing constraint issues throughout the Murray-Darling Basin. The MDBA defines constraints, in the Basin Plan context, as anything that reduces the ability to deliver water for the environment. Constraints can include physical restrictions (e.g. low-lying bridges or restrictions to access to private land) or operational aspects (e.g. river rules or operating practices). There is a need to balance the critical importance of the Basin's health with individual property rights.

Constraints measure projects are progressing under a

coordinating work plan agreed by the Murray-Darling Basin Ministerial Council in December 2018. Funding to enable design and initial stakeholder engagement is now in place for the River Murray in SA Constraints Measure.

South Australia views the proposal outlined by the Royal Commission for a compulsory scheme to remove or ease constraints as being premature. Progress has already been made in South Australia and other jurisdictions to address constraints issues. To properly implement the Basin Plan and help make the projects happen we need to fully engage with local communities. Drawing on local knowledge creates more practical and effective solutions and people who are properly engaged show an increased commitment to the outcomes. In addition to engaging with local communities on works to reduce constraints to flow, the South Australian government will investigate a scheme that clarifies its existing powers to facilitate more natural flows in the river and across floodplains and the existing rights of landholders.

While technically each State must determine how it will balance easing constraints against individual land rights, South Australia supports uniformity of approach. South Australia will continue to advocate for ongoing discussions about this matter with Basin Governments and the Commonwealth in joint implementation planning and at the Basin Officials Committee.

Northern Basin and water quality

While the specific recommendations from the Royal Commission and the Productivity Commission in relation to the Northern Basin are matters for the relevant Basin Governments, the Northern Basin is still highly relevant to South Australia.

When the Basin Plan received bipartisan support in 2012, there was recognition that the knowledge about the Northern Basin and its specific requirements could be improved. The MDBA conducted a four-year review into the Northern Basin that resulted in a 70GL reduction to the water recovery target in the north and the NSW and Queensland governments adopting a range of 'toolkit measures' with assistance from the Australian Government.

Conducting the Northern Basin Review again is not supported. South Australia supports new determinations at the appropriate time, in 2026 as agreed by all jurisdictions.

Similar to the Southern Basin SDL adjustment measures the Northern Basin 'toolkit measures' are critical to delivering real outcomes in the Northern Basin. At their 9 August 2019 meeting, Murray-Darling Basin leaders agreed to amend the *Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin (IGA)*. The amended IGA unlocks \$180 million in funding for governments to progress the Northern Basin 'toolkit measures'.

Delivery of the 'toolkit measures' will require close monitoring of outcomes to ensure they are proceeding on track and with intended results. The Murray-Darling Basin Ministerial Council agreed in June 2017 that the Northern Basin projects should have no negative impact on triple bottom line outcomes in the Southern Basin. If any negative impacts are identified they will need to be addressed by the MDBA as part of the established review processes of the Basin Plan.

The Royal Commission recommended undertaking further research to better understand and quantify the environmental requirements of water resource areas that incorporate floodplains, especially in the Northern Basin. South Australia supports this work, which would ideally contribute to the 2026 review of the Basin Plan.

The mass fish deaths events, which occurred in the Lower Darling in December 2018 and January 2019, were a stark reminder of the fragility of the health of the river system. These events covered a large stretch of the Darling River downstream of Menindee Lakes and gave rise to considerable concern in the community about management of the Basin system.

An independent panel was appointed by the Australian Government to determine the cause of the fish deaths and what action could be taken to manage future events.

The report's key messages to Basin Governments were to protect low flows and ensure better management of environmental water in dry periods, improve compliance and monitoring, develop fishways and other strategies to enhance native fish populations and invest in research, including on the impacts of climate change. These messages are relevant for the entire system, not just the Lower Darling region where the fish deaths occurred.

The Federal Government has announced over \$70 million for a package of measures in response to the fish death events and funds to develop a Murray-Darling Basin Native Fish Management and Recovery Strategy. South Australia welcomes this approach and is working with the Commonwealth and other Basin Governments to progress these actions.

The Northern Basin 'toolkit' measures include:

- The strategic acquisition of the remaining water recovery in the Northern Basin
- The protection of environmental flows
- Investigating options to support event-based environmental water delivery
- Improving the management and coordination of environmental water
- Addressing system constraints in the Gwydir catchment
- Environmental works and measures to promote fish movement and habitat including fishway construction and cold water pollution control.



4. Climate Change

Action to be taken:

- 4.1. The Australian Government will ask the Bureau of Meteorology to produce annual Murray-Darling Basin climate statements on water resource impacts.**
- 4.2. Continue to work with the Goyder Institute, established as an independent expert science advisor, to provide quality, evidence-based information for the purposes of making decisions about water management issues.**

Recommendations: : *This section addresses recommendations 3 and 4 of the Murray-Darling Basin Royal Commission report.*

Climate change projections for South Australia indicate warmer and drier conditions and sea level rise across much of the state with an increased risk of severe weather events including storms, flooding, heatwaves, drought and bushfires. These changes will affect our individual health and wellbeing, along with the key industries and resources that underpin the state's economy. The South Australian Government has a strong commitment to addressing our changing climate by:

- Partnering with the New South Wales Government to develop future downscaled climate projections for South Australia.
- Funding the Goyder Institute to deliver expert scientific advice, including development of a climate resilience analysis framework and work on carbon offsets.
- Commitment to reduced greenhouse emissions through the *Climate Change and Greenhouse Emissions Reduction Act 2007*. The latest report from the Australian Government Department of the Environment and Energy reports that South Australia's net greenhouse gas emissions are now at their lowest point since the base year of 1990.

The impacts of climate change remain an ongoing significant issue for the future health and productivity of the Murray-Darling Basin. If not managed appropriately, climate change has the potential to alter the weather conditions necessary for successful crop cultivation, lead to extended periods of drought and negatively impact our environment and daily lives.

The impact of climate change on the Murray-Darling Basin is of vital concern and South Australia is committed to ensuring that the best science informs future reviews of the Basin Plan. Since 2012, considerable work has been undertaken by jurisdictions on refining global climate change projections to the local level. Basin Governments are currently scoping the development of a Basin Science framework to ensure robust, collaborative relevant science is available to underpin policy and management decision-making associated with the implementation of the Murray-Darling Basin Plan.

Trials and investigations are being designed to fill key knowledge gaps and provide the scientific evidence-base to inform the management actions that might be required to establish pathways to maintain the ecological values of the Coorong under a changing climate through the '*Healthy Coorong, Healthy Basin Action Plan*'. This work and other applicable research needs to be incorporated into the next Basin Plan review in 2026 and subsequent development of a revised Basin Plan.

South Australia agrees with the Royal Commission's recommendation that a review of the climate change risks facing the whole of the Basin should be conducted. This work should incorporate the 2021 climate change projections and occur in conjunction with Basin Governments in advance of the Basin Plan review in 2026. The Basin Plan requires future reviews to give consideration to the management of climate change risks.

The Australian Government will ask the Bureau of Meteorology to produce annual Murray-Darling Basin climate statements on the future impacts on water resource availability. The Bureau of Meteorology already has access to the information required for this role and this approach is supported by the *Water Act 2007*.

A new Commonwealth Climate Change Research and Adaptation Authority is a matter for the Australian Government to consider. However, South Australia believes that the CSIRO, the Bureau of Meteorology and Australian Universities have sufficient expertise to undertake this research, without creating a new organisation with associated administrative costs.



5. Aboriginal Engagement

Action to be taken:

5.1. Work with the Commonwealth and Basin Governments to appoint an Aboriginal member to the MDBA Board to ensure Aboriginal interests are represented in water management decisions and ensure appropriate resources are in place to achieve practical outcomes for Aboriginal communities.

5.2. Progress discussions with the Commonwealth and Basin Governments in relation to:

- Improved Commonwealth and State funding and support to Aboriginal groups to better represent their interests.
- Improved engagement in decision making.

5.3. Support implementation of the Australian Government's \$40 million initiative to invest in water for cultural and economic purposes to benefit Aboriginal communities of the Murray-Darling Basin.

5.4. Strengthen 'Aboriginal Nations' role and voices in South Australian water planning by assisting Aboriginal Nations to identify their water values, objectives and outcomes.

Recommendations: : *Report This section addresses recommendations 16, 17, 18, 19, 20, 21, 22, 23 and 24 of the Murray-Darling Basin Royal Commission.*

Freshwater is core to the culture and identity of Aboriginal peoples across the Murray-Darling Basin. Both the Murray-Darling Basin Royal Commission and the Productivity Commission Reports have a strong focus on Aboriginal issues.

The South Australian Government is committed to making real improvements to the lives of Aboriginal South Australians. This is demonstrated by the State Government's first Aboriginal Action Plan, through a focus on creating opportunities for Aboriginal employment, establishment of more Aboriginal owned and operated businesses and improving the quality and cost efficiency of service delivery to Aboriginal South Australians.

Representation of Aboriginal voices in decision making is critical. Legislation has been passed by the Commonwealth Parliament to give effect to the decision made by the Murray-Darling Basin Ministerial Council, at its meeting held on 14 December 2018, where it was agreed that a standing Indigenous Authority member position should be established.

This change alone will not achieve practical outcomes without appropriate resourcing, including a way to achieve cultural flows in areas with already over-allocated resources. Accordingly, South Australia will progress discussions with the Commonwealth and Basin Governments about the support needed to ensure meaningful and ongoing collaboration with Aboriginal people.

While Australian governments have recognised the need to provide for Aboriginal access to water resources, progress has been slow, as noted by the Productivity Commission. The Australian Government's commitment of \$40 million to help Aboriginal Nations secure water for economic purposes begins to address the biggest policy gap in dealing with the water interests of Aboriginal people. Defining the objectives and principles of this program and putting real initiatives into action is a key Basin priority.

Native title rights in South Australia are recognised through an authorisation under the *Natural Resources Management Act 2004*.

All three South Australian WRPs were informed by engagement of the River Nations in the drafting and accreditation. All three WRPs recognise the need for ongoing engagement and capacity building to give proper consideration to Aboriginal water interests and provide a high-level framework and commitment for that work to be done.

The South Australian Government is committed to working with Aboriginal Nations to identify their water values, objectives and outcomes and to develop and implement strategies for advancing their priorities in water planning processes, including for environmental watering processes. Engaging Aboriginal Nations in water resource management processes and instruments according to the principles outlined in the WRPs will progressively articulate and recognise more Aboriginal values and uses for water.

South Australia's long-term approach to collaborative consultation with Aboriginal Nations in the Murray-Darling Basin includes the appropriate elements of the Akwe: Kon Guidelines. South Australia will take this model state-wide in water planning. Consistent with the aims of the Basin Plan, South Australia will continue to pursue opportunities to increase engagement with Aboriginal Nations in the Murray-Darling Basin in other areas including the review of the long-term environmental watering plans.

The Government will also provide assistance to Nations using the Cultural Flows guide, developed as part of the National Cultural Flows Research Project, to describe and measure Nations' cultural water uses and values, then calculate how much water is needed to protect those values.

South Australia's collaborative approach for future water allocations will involve consultation with existing water holders and local communities. This will be done in a way that maintains the existing property rights of other water users.

Cultural flows recognise the importance of water to the spiritual, cultural, environmental, social and economic conditions of Indigenous people. Cultural flows would provide Aboriginal groups with legally-held water entitlements.

The independent review of the Commonwealth *Water Act 2007* in 2014 recommended the MDBA prepare guidelines to assist Basin Governments to develop Water Resource Plans in accordance with Basin Plan requirements relating to Aboriginal values and uses. The recommendation specified that the guidelines should draw on the Akwé: Kon Guidelines.

The **Akwé: Kon Guidelines** were developed by the Convention on Biological Diversity and provide guidance on how to incorporate cultural, environmental and social considerations into new or existing impact assessment procedures.







6. Transparency

Action to be taken:

- 6.1. Ensure greater transparency and disclosure of information about management of River Murray flows (including environmental) in South Australia in the most appropriate and accessible way.**
- 6.2. The Australian Government will establish a statutory position of Inspector General of Murray-Darling Basin Water Resources to provide independent assurance on Basin Plan implementation.**
- 6.3. The Australian Competition and Consumer Commission (ACCC) is reviewing the Murray-Darling Basin water market and its operation.**
- 6.4. A further \$5 million has been provided to the Bureau of Meteorology to standardise water allocation and availability information across states in the Basin and provide information in real time.**
- 6.5. Basin Governments have agreed that the Bureau of Meteorology will have an increased role in explaining the likely impacts of climate change to water users as part of its climate updates.**
- 6.6. The MDBA will undertake triennial reviews of River Murray Operations costs and engage communities in the management of the Basin through annual MDBA River Management and Operations Outlook Conferences held in rural and regional Basin communities.**

Recommendations: *This section addresses recommendations 37, 40, 41, 42, 43 and 44 of the Murray-Darling Basin Royal Commission Report and recommendations 3.2, 10.1, 11.5 and 13.4 of the Productivity Commission Report.*

The South Australian Government supports measures to improve transparency. There is a clear message from both the Royal Commission and the Productivity Commission that transparency is important for all parties – for governments, authorities implementing the Basin Plan and local communities.

The recommendations of both reports in relation to increased transparency cover a range of areas, including scientific research, project planning and delivery, modelling underpinning decisions, real-time monitoring and reporting of water use, water recovery and legal advice. Implementing these recommendations will assist everyone to understand why decisions are made and increase overall confidence in the Basin Plan.

Basin Governments have heard the communities' concerns about transparency and can see that confidence has been eroded. To improve confidence, the Australian Government will establish a statutory position of Inspector General of Murray-Darling Basin Water Resources to provide independent assurance on Basin Plan implementation.

Since the release of the Commission's report the Australian Government has announced an ACCC review of the basin water market and a further \$5 million has been provided to the Bureau of Meteorology to standardise water allocation and availability information across the Basin and provide information in real time. In addition, the MDBA will undertake triennial reviews of River Murray Operations costs and engage communities in the management of the Basin through annual MDBA River Management and Operations Outlook Conferences held in rural and regional Basin communities. Basin Governments have agreed that the Bureau of Meteorology will have an increased role in explaining the likely impacts of climate change to water users.

South Australia supports strengthening those parts of the Water Act regarding public disclosure of scientific advice and removal of any inconsistencies. However, care will need to be taken to avoid compromising future water recovery, procurement processes or other commercially sensitive arrangements. South Australia will advocate for this issue to be considered in the next statutory review of the Water Act which is scheduled to occur before the end of 2024.

Engagement with communities is central to ensuring transparency in decisions affecting water resources. In some instances, the data and modelling that would be made publicly available is highly technical. Efforts should be made to communicate this information in plain English so that it is accessible to all. To do otherwise risks communities being unable to engage in the decisions that affect them. South Australia therefore commits to providing easy-read versions with the information it releases and will seek the same from other jurisdictions. The technical data should also be made available for all those who wish to access it.

Page 7	Bookpurnong
Page 8	Tanyaca regulator, Pike Floodplain
Page 10	Banrock Station
Page 13	Bookmark Creek
Page 18	Murray Mouth
Page 24	Coppermine Waterhole, Chowilla



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