

Recommendation on the accreditation of the proposed Australian Capital Territory (Surface Water) Water Resource Plan

Meeting No. 144 of the Authority

Recommendation

1. The Murray–Darling Basin Authority ('the Authority') has considered and assessed the proposed Australian Capital Territory (Surface Water) Water Resource Plan ('proposed WRP') for the Australian Capital Territory (Surface Water) ('WRP area') (**Attachment A**) provided by the Australian Capital Territory (ACT) on 15 January 2020 consistent with s63(1)(a) of the *Water Act 2007* (Cth) ('the Act').
2. A previous version of the proposed WRP was submitted to the Authority in April 2019. On 27 September 2019, the ACT withdrew this submission. A new version was submitted on 20 December 2019.
3. On the basis that the ACT had failed to give the Authority a WRP for the ACT (Surface Water) Water Resource Plan area, the Minister wrote to the relevant ACT Minister on 8 November 2019 giving preliminary notice under s 73(2) of the Act that they were considering exercising their power under s 68 of the Act to request the Authority to prepare a WRP for the ACT (Surface Water) Water Resource Plan area. The Minister proposed that the circumstances be resolved without resort to the step-in power and that, instead of the ACT and the Commonwealth engaging in mediation, the ACT would provide a revised WRP by 31 March 2020, and the Minister would request that the Authority assess this revised submission in accordance with s 63 of the Act. On 21 November 2019 the ACT wrote confirming agreement to this proposed approach.
4. Minister Gentleman wrote to the Minister and the Authority on 20 December 2019 submitting a revised WRP. Following initial assessment by the Authority, several formatting errors were found in the proposed WRP submitted 20 December 2019. The ACT subsequently amended these errors and provided a correctly formatted document on 15 January 2020.
5. On 12 March 2020, the Minister requested that the Authority assess the proposed ACT (Surface Water) Water Resource Plan provided by the ACT to the Authority on 15 January 2020.

6. The Authority is satisfied that the proposed WRP is consistent with the relevant Basin Plan (*Basin Plan 2012* (Cth), version F2018C00451, registered on 11 July 2018 and ending on 31 December 2019) ('Basin Plan'), as is required by section 55(2) of the Act including:
 - a. the requirements for water resource plans ('WRPs'), and
 - b. the long-term annual diversion limits ('SDLs') for the water resources of the WRP area.
7. In considering consistency the Authority has had regard to the legislative framework within which the proposed WRP operates, as is required by section 55(3) of the Act.
8. In exercising its powers and performing its functions, the Authority has had regard to the Basin Plan and the extent to which the proposed WRP is consistent with the Basin Plan (in accordance with sections 56(1)(a) and (b) of the Act).
9. In arriving at its recommendation, the Authority has taken into account the proposed changes to the Baseline Diversion Limit ('BDL') in the WRP area. The Authority is satisfied that the revised estimate of the BDL used to calculate the SDL is based on the best available information and better reflects the level of diversion noted in Schedule 3 of the Basin Plan.
10. The Authority has also considered the status of water recovery in the Water Resource Plan area. Recovery of 4.9 GL of surface water per year is required to meet the relevant SDL as part of the Shared Reduction Amount for the southern Basin Australian Capital Territory zone, as set out in s 6.05 of the Basin Plan. At the time of making this recommendation the 4.9 GL had not been recovered.
11. The water recovery was previously considered to be complete following the purchase of entitlements by the ACT in the NSW Murrumbidgee SDL Resource Unit that were transferred to the Commonwealth, however the construction of the Basin Plan makes it difficult to formally attribute this recovery against the Shared Reduction Amount for the ACT.
12. The Authority is of the view that the Commonwealth and ACT Governments remain committed to resolving this matter and are considering options to address it. This does not impede the function of the proposed WRP.
13. The Authority has also taken into account the relevant version of the Basin-wide Environmental Watering Strategy (BWS). A revised version of the BWS was published by the MDBA on 22 November 2019. The resubmission process for the proposed WRP however, was initiated prior to this date on 27 September 2019. As the proposed WRP was initially developed prior to 22 November 2019, the Authority is satisfied this is a reasonable approach given the timing of resubmission in relation to the BWS. As such, the Authority has assessed the proposed WRP against the 2014 version of the BWS. It is also noted as there were few changes to the BWS between the 2014 and 2019 versions, the Authority expects the proposed WRP would also be consistent with the 2019 version.
14. The Authority has also taken into account changes to the rules protecting Planned Environmental Water ('PEW') in the WRP area. The Authority is satisfied that these changes have not reduced the level of protection given to PEW in the WRP area, and will be as effective at delivering environmental outcomes as those rules in effect prior to commencement of the Basin Plan.
15. The Authority has also considered the nature of water resources in the WRP area and their connections. The proposed WRP is connected to the water resources of New South Wales (NSW) both up and downstream, being wholly surrounded by the NSW Murrumbidgee WRP area. The Authority is satisfied the water management rules set out in the proposed WRP enable a coordinated approach to meeting the water requirements of connected resources.

16. The Authority has also taken into account the highly connected nature of the water resources of the WRP area with those of the ACT (Groundwater) WRP Area. Due to this high level of connectivity, they are managed by the ACT as a single resource. The Authority is satisfied the measures set out in the proposed WRP enable appropriate management of the water resources of the connected WRP areas.
17. The Authority has also considered the assessment of Basin Plan requirements for Aboriginal values and uses undertaken by MLDRIN (provided under cover letter of 21 April 2020) and the subsequently amended advice (provided under cover letter of 27 May 2020 (**Attachment D**)). Consistent with MLDRIN's amended advice, the Authority is satisfied that the requirements of Part 14 of Chapter 10 of the Basin Plan have been met. The Authority noted the effective and ongoing consultation between the ACT and Ngunnawal to address concerns raised in the MLDRIN advice 21 April 2020 that was subsequently amended on 27 May 2020.
18. **On this basis the Authority gives the Minister the proposed WRP and recommends that the Minister accredit the proposed WRP.**
19. The Authority's detailed reasoning is set out in the document titled 'Water Resource Plan assessment report, proposed Australian Capital Territory (Surface Water) Water Resource Plan', May 2020.

