

## Basin Officials Observations of the INDEC STATUS ASSESSMENT REPORT – SUSTAINABLE DIVERSION LIMIT ADJUSTMENT MECHANISM PROGRAM

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### Introduction

The Department of Agriculture, Water and the Environment commissioned Indec Pty Ltd to undertake an independent assessment of the status of the sustainable diversion limit adjustment mechanism (SDLAM) program to inform discussions at the Murray–Darling Basin Ministerial Council’s strategic meeting on 29 April 2021.

At this meeting, Water Ministers noted the findings from Indec’s assessment of project status and dashboards of supply and constraints measures and agreed to the publication of program status material on a quarterly basis.

Basin governments acknowledge the need to continue to engage and work with communities to harness and build support for all projects, especially those that require modifications to capture local conditions and needs of communities.

Whilst all Basin governments are working towards delivering as much of the 605 gegalitres (GL) offset as possible by 30 June 2024, Basin Officials and Ministers have acknowledged the ongoing challenges associated with meeting the required offset by the June 2024 deadline and the risk of not achieving this.

This response provides an overview of how the suite of recommendations made by Indec will be incorporated in the ongoing delivery of the SDLAM program, noting that some decisions made by the Ministerial Council at its April meeting explicitly responded to recommendations in the Indec report (Recommendations 1–3).

### At risk projects

Indec noted that seven projects were ‘at risk’ of not meeting the Basin Plan’s statutory requirement for measures to be operational by 30 June 2024 which were:

- Goulburn constraints relaxation (Victoria)
- Hume to Yarrowonga constraints relaxation (New South Wales and Victoria)
- Yarrowonga to Wakool constraints relaxation (New South Wales)
- Murrumbidgee constraints relaxation (New South Wales)
- Enhanced Environmental Water Delivery (New South Wales, Victoria and South Australia)
- Menindee Lakes (including the Lower Darling constraints project) (New South Wales)
- Yanco Creek Offtake Regulator (New South Wales)

Indec recommended that of these seven projects:

- The four constraints projects and the Menindee Lakes Water Savings projects be reset and rescope as these projects are unlikely to deliver planned outcomes
- The Yanco Creek Offtake Regulator be reviewed to determine if it should be discontinued

- The Enhanced Environmental Water Delivery project continue with increased scrutiny with major intervention to be implemented if required

Indec presented draft terms of reference for an independent rescoping of projects in its report that focused on examining in detail project governance and management, project fundamentals (including ecological outcomes sought, measures, metrics), options assessment, implementation strategy both pre and post 2024 and funding approach.

The independent re-scoping of projects as suggested by Indec was considered by Ministers at the Ministerial Council meeting on 29 April. Decisions made by Ministers, and subsequently by Basin Officials that address this suggestion are detailed below.

## Decisions at April 2021 Ministerial Council meeting that respond to Recommendations 1–3

### **Menindee Lakes Water Savings and Yanco Creek Offtake Regulator projects**

At the 29 April Ministerial Council meeting, Ministers agreed that the New South Wales Menindee Lakes Water Savings Project (including the Lower Darling constraints project) and the Yanco Creek Offtake Regulator project be re-scoped within two months.

New South Wales is developing these re-scoped projects using the extensive feedback received during the past few years from other Basin states and the community, particularly around improved connectivity along the river systems and delivery of better outcomes for Aboriginal people, Basin communities and the environment.

Additional funding for some elements of the rescoped projects may be required if they are agreed by Basin governments and the community. Consideration and agreement of any changes to the original notification will be required from Basin states.

### **New South Wales and Victorian constraints projects**

Ministers discussed the challenges in delivering other complex projects, with particular reference to the four New South Wales and Victorian constraints relaxation proposals by 30 June 2024.

New South Wales and Victoria are continuing to progress constraints projects in line with current Commonwealth funding milestones and will consider the matters raised by Indec in the ongoing development of these projects. This work will provide governments with a more detailed understanding in 2022 of what is needed to give the Constraints Measures Program the best chance of success.

The co-design focus currently underway in South Australia and the tailored focus of New South Wales and Victorian constraints delivery will help ground the original modelling in real world outcomes at the local scale and may inform updated metrics recommended by Indec.

Two elements of the New South Wales Yarrawonga to Wakool constraints relaxation project are included in the accelerated package of works and are proposed to be delivered by June 2024. This represents an important opportunity to trial a new approach with close engagement with landholders and communities on how constraints measures can be implemented.

### **Enhanced Environmental Water Delivery (EEWD) project**

Ministers noted that New South Wales, Victoria and South Australia are progressing this project through existing project management processes with a heightened level of review and readiness to respond to new information. This approach is in line with the Indec report recommendation. The MDBA is the delivery agent for the EEWD project via an interjurisdictional Steering Committee.

This project is currently in the detailed planning phase which is critical to ensure adequate planning is in place for the project to be delivered by 2024, given the compressed timeframe available for implementation than anticipated in the original business case. Final advice to governments on project scope and outcomes will be provided once the workplan for delivery of the latter components of the project are completed in June 2022.

## Program Management Recommendations

Indec made a number of recommendations in response to identified program level risks, which may impact project delivery and achievement of the overall outcomes of the SDLAM (Recommendations 4 to 8). Basin officials recognise the importance of having clear and agreed processes and reporting to ensure the passage of projects from Stage 1 (design and approval) through to Stage 2 (funding and construction) and that without this structure, unnecessary delays may result.

The Basin officials have agreed on the following language for responding to the Program Management recommendations:

Definition	Response
Agree	All elements of the recommendation are supported.
Agree in principle	Generally support the intent or merit of the recommendation, but do not support the proposed approach for achieving the intended outcome.
Agree in part	Agree with one or elements of the recommendation, but other elements either need further analysis or are not agreed.
For further consideration	Further analysis is required before a decision is made on the recommendation.
Disagree	The recommendation is not supported.

### Recommendation 4 – Maximise utility from the SDLAMIC program and project dashboards

- Adjust template to suit requirements (if changes are needed)
- Develop efficient and robust reporting method
- Increase frequency of reporting (monthly or quarterly)

#### Agree

Basin officials to consider current dashboard and make ongoing improvements on the information being reported and the process to coordinate the reporting of the program level dashboard.

Basin Ministers agreed at their April 2021 meeting, that the program status dashboard (covering the period up to 31 March 2021) and the full Indec report be published on the Murray–Darling Basin Authority (MDBA) website. This is consistent with a genuine commitment to improving transparency of government decision making.

The program dashboard will be updated and published on a quarterly basis, noting that for some projects there may be limited change in reporting metrics. The second covering April – June 2021 is

report will be available on the MDBA website in August 2021 with a further update on July – September 2021 progress expected before the end of the year.

Basin officials will continue to develop an agreed and efficient process for populating and refining this report on an ongoing basis.

#### **Recommendation 5 – Review the Stage 2 Funding Approval Process**

For the majority of projects this is a major risk as delays in funding approval impact on schedule, project continuity, and stakeholder credibility.

- Provide for staged release of funding to enable a more adaptive design and delivery model that better aligns with the reality of project delivery challenges
- There would be potential to delegate this approval process below Ministerial level within a funding envelope

#### **Agree**

By December 2021, Commonwealth officials will work in collaboration with New South Wales, Victoria and South Australia Basin officials on improvements to:

- clarify the documentation required to progress from Stage 1 (planning) to Stage 2 (implementation) funding
- the timeliness and efficiency of the process for finalising new and amended funding agreements
- updating project progress reporting.

The Australian government has allocated a capped amount of funding to New South Wales, Victoria and South Australia to implement the package of supply and constraints measures. Noting that increasing construction cost since business cases were developed may present challenges to some projects. Further to this, increased challenges for engagement and construction due to COVID are likely to inflate costs further.

The Australian Government funding is provided under the Federal Financial Relations framework agreed by the Australian, State and Territory Governments. Funding agreements negotiated with New South Wales, Victoria and South Australia for supply and constraints measures must align with this framework and follow the prescribed approvals process. The Australian Government must also comply with the *Public Governance, Performance and Accountability Act 2013* (Cwlth) in agreeing funding and in making payments.

Within the constraints of this funding framework, the Australian Government will work with Basin states to improve joint understanding of Stage 2 (implementation) funding assessment criteria, flexibility and efficiency of funding approval processes.

The Australian Government is working with NSW to accelerate a package of five New South Wales SDLAM projects to enable delivery of outcomes by 2024. The Commonwealth has also agreed to look at opportunities to bring forward the timing of Victorian project activities in the Goulburn River to maximise project delivery. These processes seek to improve the efficiency of the funding approvals and to work flexibly with states.

### **Recommendation 6 – Improved Project Management and Reporting**

Incorporate improved project management and reporting requirements into Stage 2 Agreements.

- Project Management Plan (more than just milestones)
- Requirement to report through SDLAMIC dashboards (monthly or quarterly)

#### **Agree**

- Funding agreements for Stage 2 (implementation) will continue to be supported by detailed Project Management Plans or equivalent
- Basin states will meet the requirements for quarterly reporting via SDLAMIC.

Basin Ministers agreed in November 2020 on the need for improved consistent project monitoring and reporting to Basin Officials to provide confidence to Basin governments and communities of progress on supply and constraints projects. Ministers agreed at Ministerial Council in April 2021 to the quarterly updates of program dashboards and relevant information that may be published to give context to project and program updates.

As part of their funding agreements milestones, Basin states will provide Project Management Plan or equivalent project documentation to the Commonwealth, providing clarity on proposed project delivery and risk management. The NSW proposal for project acceleration, which draws on both Stage 1 and Stage 2 funding, was supported by a full suite of project management documentation including a Project Management Plan. In addition to providing clarity of proposed project delivery and risk management approaches, these will also streamline assessment for payment at each milestone for these projects.

### **Recommendation 7 – Scope Change Mechanism**

Establish an administrative mechanism to enable changes to project scope, schedule and funding to be submitted, evaluated and approved (or not) in a timely manner.

#### **Agree**

- By December 2021, Basin State officials, the Commonwealth and the MDBA will prepare a guiding document for Basin officials' endorsement that outlines the process to change project scope, including
  - clarifying and establish criteria for what qualifies as scope change
  - what information needs to be provided to Basin governments to endorse a change of scope
- Agreed project changes will be reflected in updated quarterly reporting and funding milestones as required
- The MDBA will work with Basin Governments to provide further clarity on how this information will be considered in their SDL assurance and reconciliation framework by December 2022.

In 2017, Basin governments endorsed the feasibility and concept proposals of the notified packaged of 36 supply and constraints measure projects. The MDBA modelling of these projects and key assumptions are explicitly documented in notification statements and the determination report. The “modelling instructions” were also endorsed by Basin governments prior to MDBA’s determination of the SDL adjustment volume in 2017.

Basin Ministers recognise that some existing projects will need to be amended to maximise supply offsets or better match community needs. The Basin Plan requires that proponents amend project notifications to reflect any changes in scope or timing for operation of notified measures as soon as practicable (subsection 7.12(5)).

Basin officials acknowledge the need for a clear process for formally notifying and considering changes in project scope (including expansion, reduction and withdrawal). Formal notification or project changes need to be weighed against the materiality of project changes on anticipated outcomes and administrative efficiency during the detailed project design phase. For example, should a project scope have to be formally amended if there are only minor changes that do not have a notable impact on outcome of the package of 36 projects? Project proponents will provide updated information on changes in project scope as soon as practicable when there is clarity about the nature of the project changes.

With Basin Ministers agreeing in April 2021 to rescope the Menindee Lakes Water Savings and Yanco Creek Offtake Regulator projects, Basin governments need to develop a process for when a formal notification amendment is required and what information needs to be presented for consideration. A streamlined process with clear expectations will prevent delays to the delivery of these projects.

In May 2021, the Murray–Darling Basin Authority published its SDLAM [reconciliation framework](#). The Framework documents the Authority’s Amendment Notification process under the Basin Plan, including implications for SDLAM reconciliation.

#### **Recommendation 8 – Independent Verification**

Consider use of a 3rd party to provide independent verification and reporting through SDLAMIC:

- Progress reporting
- Issue’s facilitation
- Information verification
- Completion process.

#### **For further consideration**

- Basin officials to consider as part of the agreed actions under Recommendation 7 – Stage 2 Funding Approval Process the merit of additional third-party scrutiny of existing and rescope projects as required with reporting through BOC.

Under the Basin Plan, the MDBA’s role is to assess whether projects delivered the environmental outcomes anticipated in the 2017 SDL adjustment determination. As part of this process, the MDBA

has produced and published annual progress reports and has commenced trialling an SDL assurance process to undertake early assessment of SDLAM projects that are operational (or can be operated under the right conditions), focussing on if the projects are “capable of the expected environmental outcomes that supported the 2017 SDLAM determination to adjust relevant SDLs”. These assessments will be part of the package of information the MDBA will use to determine if a reconciliation is required and, if so, undertake this reconciliation prior to 30 June 2024.

For projects that involve construction of new or modified infrastructure, existing project assurance processes include independent verification of the quality and satisfaction of design criteria. This is part of project commissioning and handover between constructing authorities and operators. Supporting documentation is required as part of the project closure process and project delivery reporting underpinning funding arrangements between Basin states and the Australian Government. This existing third-party verification will continue to be used for project closure. Arrangements for ongoing operations and maintenance costs have not yet been determined and there is a possibility that some projects, by agreement, may create jointly owned assets and costs. Independent audit of costs identified as part of the stage two business cases for all projects could provide valuable information and assurance for those discussions.

Given this existing process, Basin officials have not formed a view that additional independent validation is required at this stage but may be considered in the future should the need arise.