

Office of the Chief Executive

PDMS Ref: EC19-000711

The Hon David Littleproud
Minister for Water Resources, Drought, Rural Finance,
Natural Disaster and Emergency Management
PO Box 6022
Parliament House
CANBERRA ACT 2600

Dear Minister

Accreditation of the proposed Wimmera-Mallee (surface water) Water Resource Plan

I am writing to give you the proposed Wimmera-Mallee (surface water) Water Resource Plan (proposed WRP) submitted by Victoria on 3 July 2019 (**Attachment A**) and the Murray-Darling Basin Authority's recommendation on accreditation of the proposed WRP (**Attachment B**) in accordance with section 63(3)(c) of the *Water Act 2007* (Cth) (the Act).

I have also provided:

1. a detailed assessment report (**Attachment C**), including the Authority's reasoning; and
2. a copy of the advice the Authority sought from Murray Lower Darling Rivers Indigenous Nations (MLDRIN) on whether the proposed WRP is consistent with the requirements regarding Indigenous values and uses in Part 14 of Chapter 10 of the *Basin Plan* (Cth) (Basin Plan) (**Attachment D**).

I note that Victoria submitted the Wimmera-Mallee (surface water) Water Resource Plan and the Wimmera-Mallee (groundwater) Water Resource Plan in a combined package. The Authority assessed each of the Water Resource Plans separately and makes this recommendation in relation to the Wimmera-Mallee (surface water) Water Resource Plan.

I also note that previous versions of the proposed WRP were submitted to the Authority in June 2018 and February 2019. On 3 July 2019, Victoria withdrew the version submitted in February 2019 and submitted a new version.

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Consultation with Aboriginal people by the Victorian government associated with the June 2018 version of the proposed WRP was not considered to be appropriate. Not all affected groups were involved at all stages of the consultation process, and Victoria's consultation approach was not consistent. However, I am pleased to say that after being provided with advice from MLDRIN, Victoria conducted further improved consultation associated with the February and July 2019 versions, that MLDRIN considers was appropriate. Please refer to the advice from MLDRIN at **Attachment D**.

The submission date of 3 July 2019 for the proposed WRP was after the deadline for provision of a proposed WRP for the WRP area, imposed by the regulations made for the purposes of s 63(9) of the Act. On this basis you wrote to Minister Neville on 5 July 2019 giving preliminary notice under s 73(2) of the Act that you were considering exercising the power under s 68 of the Act to request the Authority to prepare a WRP for the Wimmera-Mallee WRP surface water and groundwater areas. You proposed that the circumstances be resolved without resort to the step-in power and that you would request that the Authority assess the proposed Wimmera-Mallee Water Resource Plan package that was submitted by Victoria on 3 July 2019, rather than Victoria and the Commonwealth engaging in mediation. On 8 July 2019, Minister Neville wrote to the Minister confirming agreement to this proposed approach.

On 1 August 2019, you requested that the Authority assess the proposed Wimmera-Mallee Water Resource Plan that was submitted by Victoria to the Authority on 3 July 2019 for both the Wimmera-Mallee (surface water) and the Wimmera-Mallee (groundwater) Water Resource Plan areas.

The Authority has undertaken its assessment of the proposed WRP and recommends you accredit this proposed WRP.

Officers from the MDBA have worked closely with Victorian government officers during Victoria's preparation of the proposed WRP, providing advice and assistance as contemplated by s 67 of the Act.

We have undertaken a comprehensive assessment and while we consider the proposed WRP meets requirements for accreditation, we have been disappointed with the process and approach that the Victorian Government has taken to produce this plan.

The documents presented to you for accreditation are more cumbersome than they need to be and Victoria's determination to rely heavily on references to its own water management framework and documents rather than expressing commitments in the language of the Basin Plan have resulted in WRP text that is minimalist in its expression of commitments. The Authority's concerns about this have been raised on numerous occasions with Victorian officials, including at the most senior levels, but this has not resulted in significant improvements to the form in which Victoria's proposed WRP is expressed. While we judge that this latest amended version of the proposed WRP meets the minimum legal standard required, its format makes it difficult for readers to gain a clear sense of what has been committed.

The complexity of Victoria's approach to the proposed WRP has required several iterations of this plan, culminating in you having to step-in and negotiate an alternative process for Victoria to submit a plan that could meet requirements. This resulting final version still includes details that will require our ongoing monitoring and oversight throughout its implementation, to ensure the intent of the water reform is achieved. The most important of these are set out below.

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Planned environmental water

The proposed WRP states that there is no planned environmental water identified in the WRP area. However, the proposed WRP includes a description of how other 'types' of water in the system (e.g. 'above-cap' water, systems water, consumptive flows en route, held environmental water, etc.) contribute to the achievement of environmental outcomes amongst other social, cultural and economic outcomes. While we would have preferred to see a specific commitment in the proposed WRP text to the protection of all water currently allocated to environmental objectives, the Authority acknowledges that Victoria is required to report annually on the identification and monitoring of environmental water under Schedule 12, Matter 9 of the Basin Plan, and report five-yearly on the delivery of environmental outcomes as part of implementation of the proposed WRP under Schedule 12, Matters 8 and 18 of the Basin Plan. The Authority will therefore closely monitor the contribution of these other 'types' of water to environmental outcomes in the proposed WRP area.

Wimmera–Mallee Long-Term Watering Plan

A further issue relates to the need for Victoria to update the Wimmera–Mallee Long-Term Watering Plan to specifically address Basin Plan objectives and targets for environmental watering. In particular, to clearly consider the needs of unregulated systems and specify how the method for selecting priority assets has been applied in developing the Long-Term Watering Plan. There is currently no Long-Term Watering Plan in Victoria that is consistent with the Basin Plan, and as such the proposed WRP does not rely on such a plan to set out an environmental water management approach that is consistent with the Basin Plan. The Authority and Victoria have agreed that Victoria will update the Wimmera-Mallee Long-Term Watering Plan within 12 months of the proposed WRP being accredited.

Proportion of take measured to agreed standards

The proposed WRP has not included the proportion of take which is measured in accordance with agreed metering standards (AS4747) as recommitted to in the Basin Compliance Compact. Victoria initially submitted an earlier proposed WRP in June 2018 that identified the impending Basin Compliance Compact, because at that time the Basin Compliance Compact was not endorsed. This approach has been carried through subsequent submissions and remains in the proposed WRP.

The Authority expects that following accreditation of the proposed WRP, and the determination of any exemptions to the metering standard that Victoria chooses to put in place, the proposed WRP will be amended by Victoria to include the proportion of take that is metered to agreed standards.

Implementation of the proposed WRP, including effective compliance arrangements, is of keen interest to the Authority. Accreditation of the proposed WRP would provide another mechanism through which the Authority can progress these commitments with Victoria.

In view of the significance of these issues, we would encourage you to raise them with the Victorian water minister should you accept our recommendation to accredit the proposed WRP.

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The Authority looks forward to progressing the implementation of the Basin Plan with you, through your consideration of this proposed WRP.

If you have any questions or require further information about this WRP accreditation package, please contact Dr Marcus Finn, A/g General Manager, Water Resource Plans Branch (marcus.finn@mdba.gov.au or 02 6279 0634) or Dr Peta Derham, A/g Executive Director, Water Resource Planning and Accounting Division (peta.derham@mdba.gov.au or 02 6279 0633).

Yours sincerely



Phillip Glyde

20 August 2019

List of Attachments

- Attachment A:** The proposed WRP
- Attachment B:** The Authority's recommendation on the proposed WRP
- Attachment C:** The assessment report relating to the proposed WRP
- Attachment D:** MLDRIN advice