

Office of the Chief Executive

Ref: EC20-000140

The Hon. Keith Pitt MP
Minister for Resources, Water and Northern Australia
PO Box 6022
Parliament House
CANBERRA ACT 2600

Dear Minister

Accreditation of the proposed Northern Victoria Water Resource Plan

I am writing to give you the proposed Northern Victoria Water Resource Plan ('proposed WRP') submitted by Victoria on 26 November 2019 (**Attachment A**) and the Murray-Darling Basin Authority's (MDBA) recommendation on accreditation of the proposed WRP (**Attachment B**) in accordance with the process agreed between the former Minister for Water Resources and Minister Neville under section 73(14)(a) 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 the 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 Northern Victoria, Victorian Murray and Goulburn-Murray Water Resource Plans in a combined package. The Authority assessed each water resource plan separately and makes this recommendation in relation to the Northern Victoria Water Resource Plan.

I also note that a previous version of the proposed WRP was submitted to the Authority in April 2019. On 22 November 2019, Victoria withdrew this previous version and on 26 November 2019 submitted a new version of the proposed WRP.

The submission date of 26 November 2019 for the proposed WRP was after the deadline for provision of a proposed WRP for the water resource plan area ('WRP area'), imposed by the regulations made for the purposes of s 63(9) of the Act. On this basis the former Minister for Water Resources wrote to Minister Neville on 23 December 2019 giving preliminary notice under s 73(2) of the Act that he was considering exercising the power under s 68 of the Act to request the Authority to prepare a water resource plan for the Northern Victoria WRP area. The former Minister for Water Resources proposed that the circumstances be resolved without resort to the step-in power and that he would request that the Authority assess the proposed WRP package that was submitted by

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Victoria on 26 November 2019, rather than Victoria and the Commonwealth engaging in mediation. On 23 January 2020, Minister Neville wrote to the former Minister for Water Resources confirming agreement to this proposed approach.

On 11 February 2020, you requested that the Authority assess the proposed Northern Victoria Water Resource Plan that was submitted by Victoria to the Authority on 26 November 2019 for the Northern Victoria Water Resource Plan area.

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

Officers from the MDBA have worked closely with the 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 the former Minister for Water Resources 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.

Planned environmental water

The Authority considers that the extensive amount of water in the system that the CEWH and Victorian Government (through the VEWH) rely upon to deliver environmental outcomes needs protection to ensure the associated intended environmental outcomes can be achieved, particularly as a strategy for mitigating risks from climate change.

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Victoria does not identify this water as Planned Environmental Water (PEW) in the proposed WRP, as it uses this water to meet multiple purposes rather than it being solely for the environment. While the Authority takes a broader interpretation of the Basin Plan definition of PEW than Victoria, in order to progress the development of the WRPs, the MDBA and Victoria agreed to an alternative approach which enables the proposed WRP to acknowledge above cap water as providing an important flow base that water managers build on to deliver environmental outcomes. This is intended to ensure that these different 'types' of water are sufficiently protected so that environmental watering requirements for Priority Environmental Assets (PEAs) and Priority Environmental Functions (PEFs) are not compromised.

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.

Priority environmental assets and functions

The Basin Plan requires identification of PEAs and PEFs that can be watered by environmental water (consisting of Held Environmental Water (HEW) or Planned Environmental Water (PEW)). As Victoria only holds HEW and PEW in regulated surface water systems, this has limited the identification of PEAs and PEFs to the regulated systems of the Northern Victoria and Victorian Murray water resource plan areas. The Authority is concerned that Victoria has not identified any PEAs in the unregulated systems, or that may be entirely groundwater dependent, as Victoria has determined that there is no environmental water in these areas and expects to see this considered through the review of Victoria's Long-Term Watering Plans.

Northern Victoria 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. Instead, the information required for demonstrating delivery of environmental outcomes is set out in the proposed WRP package. The Northern Victoria Long-Term Watering Plan will be updated within 12 months of the proposed WRP being accredited, with the update to specifically address Basin Plan objectives and targets for environmental watering. In particular, it will be required 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.

Surface water – groundwater trade

Victoria's trade arrangements between surface water and groundwater as set out in the Upper Ovens River Water Supply Protection Area Management Plan are potentially inconsistent with the

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Basin Plan. To address this, and ensure consistency with the Basin Plan, the proposed WRP contains a rule to ensure that characteristics of water access rights for timing are the same in the two locations before a trade is undertaken. The Authority notes that this conversion process is not in place yet and to ensure Victoria acts consistently with the Basin Plan, trades will not be approved until this process has been identified.

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. The proposed WRP states that it is not currently possible to estimate the proportion of water taken that is measured by different classes of meters. 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.

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.

Implementation of the proposed WRP, including effective compliance arrangements, is of keen interest to the Authority. The MDBA will continue to work closely with the Victorian Government to manage compliance against the proposed WRP and ensure it is appropriately implemented.

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 Belinda Wilson, A/g General Manager, Water Resource Plans Branch (belinda.wilson@mdba.gov.au or 02 6279 0647) 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

5 March 2020

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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