



Australian Government



Sustainable Diversion Limit Adjustment Mechanism Reconciliation Framework

This document sets out how the MDBA will conduct assurance on SDLAM projects leading to a decision by the Authority on whether to undertake a formal reconciliation prior to 30 June 2024

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Acknowledgement of the Traditional Owners of the Murray–Darling Basin

The Murray–Darling Basin Authority pays respect to the Traditional Owners and their Nations of the Murray–Darling Basin. We acknowledge their deep cultural, social, environmental, spiritual and economic connection to their lands and waters.

The guidance and support received from the Murray Lower Darling Rivers Indigenous Nations, the Northern Basin Aboriginal Nations and our many Traditional Owner friends and colleagues is very much valued and appreciated.

Aboriginal people should be aware that this publication may contain images, names or quotations of deceased persons.

Background

The *Basin Plan 2012* (Cth) (Basin Plan) is a multi-jurisdictional plan for the sustainable management of the Murray–Darling Basin (Basin). It was prepared by the Murray–Darling Basin Authority (MDBA), in accordance with the *Water Act 2007* (Cth) (Water Act), as part of the government response to the Millennium drought and the historic over allocation of water from the Basin.

On 13 January 2018, the Basin Plan was amended to increase sustainable diversion limits (SDLs) in the southern-connected Basin. This was the outcome of a five-year work program by Basin governments (the Commonwealth, Basin states: New South Wales, Victoria, South Australia, Queensland, and the Australian Capital Territory) under the Basin Plan’s sustainable diversion limit adjustment mechanism (SDLAM). Through the SDLAM Basin governments proposed 37 projects that, if implemented, would improve water management to make both consumptive and environmental water use more efficient, and collectively manage the river system to optimise the use of available water (see [Register of Measures](#)).

Using an agreed methodology, based on the best available science, the Authority determined that when implemented, this package of projects could deliver Basin Plan environmental outcomes in the southern Basin with 605 GL less environmental water recovery. Projects were not assessed individually as they interact and are designed to work together as a package. The Basin governments committed to implementing the SDLAM projects (notified measures) in full by 30 June 2024.

Under the Basin Plan, the MDBA is required to assess whether the notified measures have been implemented as proposed and achieved the adjustment initially determined in 2017. Leading up to this decision, the MDBA will conduct assurance on the progress and expected outcomes of the notified measures. If the notified measures are not implemented or are amended in a way that would impact on the outcomes as per the 2017 determination, the Authority must undertake a reconciliation of the adjustment, which may lead to a revision of the adjustment volume.

This framework sets out:

- the roles and responsibilities of the parties in SDLAM reconciliation
- the MDBA’s approach to assurance and SDLAM reconciliation
- the process for amending notified measures

and should be read with the relevant elements of the Basin Plan and Water Act.

The MDBA may build on this framework and publish additional detail on its approach to SDLAM reconciliation as required.

Roles and responsibilities for the SDLAM projects and reconciliation

The following section sets out the roles and responsibilities of Basin governments and the MDBA in SDLAM including in project implementation and reconciliation.

Murray–Darling Basin Authority

Regulatory role

Under the Basin Plan, the Authority is responsible for:

- determining the initial proposed adjustments to the SDL arising from notified measures
- undertaking SDL adjustment reconciliation in 2024, if it considers there would be a different result from the original determination (for example, if projects have changed, have not been completed or have been withdrawn)
- monitoring and auditing compliance with the Basin Plan.

To ensure transparency in its decision as to whether a final determination is needed in 2024, the MDBA will conduct annual assurance on project progress and publish a report on its findings.

Advisory and project implementation role

The MDBA has agreed to provide technical advice and assistance to Basin governments as they proceed with implementing the notified measures, as well as share its expertise in river operations and management. This is to assist Basin governments to make informed project design and implementation decisions that could affect the adjustments that can be achieved.

The MDBA is also being contracted by Basin states to implement a small number of measures. This work is being undertaken within the MDBA’s River Management portfolio, separate to the MDBA’s regulatory functions which are housed within the MDBA’s Basin Plan Regulation portfolio.

The MDBA has a probity strategy to manage and maintain the independence of these role. The probity strategy will be reviewed by an independent third party annually. Where the Authority may be required to assess the detailed progress of projects being implemented by the MDBA, the Authority will seek independent assurance of project progress.

Australian Government

The Australian Government, through the Department of Agriculture, Water and Environment (the Department), provides funding for SDLAM supply, efficiency and constraint projects. The Department will fund supply and constraint measures through project agreements that contain project milestones and payment schedules.

The Australian Government is also responsible for the water efficiency program to recover the additional 450 GL of environmental water.

Basin state governments

Basin state governments are responsible for implementing the SDLAM measures, including consulting and working with communities about the projects, undertaking detailed project design, obtaining the necessary approvals, and undertaking construction.

The Authority must be notified of any changes to the notification or withdrawal of measures, as soon as practicable.

Basin Officials Committee

The Basin Officials Committee (BOC), on behalf of the Basin governments, made the initial notifications of the proposed SDLAM measures to the Authority.

The MDBA will seek and consider BOC's advice before the Authority proposes any adjustment to the SDL, including undertaking a reconciliation in 2024.

The BOC has established the Sustainable Diversion Limit Adjustment Mechanism Implementation Committee (SDLAMIC) to support the delivery of the entire package of supply, constraints and efficiency measures through to 2024.

The SDLAMIC is responsible for identifying and providing advice on managing risks to the delivery of the 605 GL supply offset in a manner that facilitates collaboration between members, incentivises the delivery of the supply and constraints measures and responds to realised risks.

Legal Framework under the Basin Plan

Chapter 7 of the Basin Plan sets out the process, roles and requirements for the notification of SDL adjustment projects (measures), determinations and for conduct of the reconciliation process.

2017 determination

Under section 7.10 of the Basin Plan, the Authority proposed adjustments to surface water SDLs on the basis that changes in infrastructure and other measures to be implemented by the Basin states will come into operation by 30 June 2024.

SDLAM projects are “Notified measures”

Measures are defined under section 7.02 of the Basin Plan, as works or measures undertaken or funded by the Commonwealth or a Basin State, including but not limited to the following:

- (a) changes to water infrastructure
- (b) changes to other infrastructure that affect the hydrology of the Basin
- (c) changes to legal requirements, including to Commonwealth or State laws, that affect the way water is used
- (d) changes in river management and river operational practices
- (e) changes in methods of delivering water.

They are sometimes referred to as projects.

Notified measures are measures that have been notified under subsection 7.12(1). This means they are measures that have been proposed by the Basin Officials Committee, will have entered operation by 30 June 2024 (section 7.12(3)(a)) and are to be taken into account by the Authority for proposing adjustments under section 7.11 of the Basin Plan (Reconciliation).

Notified measures can be amended or withdrawn through the Notification Amendment Process outlined below (sections 7.12(5) and (6)).

2024 determination and reconciliation

The Basin Plan (sections 7.11 and 7.21) requires the Authority to decide if a new determination, incorporating the adjustments resulting from the implementation of the notified measures (as they are expected to be at 30 June 2024) and any additional efficiency measures, would produce a different result from the 2017 determination.

If the Authority considers that a different result would be produced, the Authority must undertake a reconciliation process to compare the difference between the adjustment that is expected to be made by 30 June 2024 through implementation of the notified measures, against what was committed to be made under the 2017 determination (i.e. how much water has actually been recovered), and determine a new adjustment amount. The new adjustment amount must be proposed by 30 June 2024.

Conversely, if the Authority considers that the final implementation and operation of the notified projects would not produce a different result to the 2017 determination, the Authority would not be required to undertake a reconciliation.

MDBA's Approach to SDLAM Reconciliation

The decision on whether to undertake a reconciliation is based on the Authority's level of confidence that the SDLAM measures will be operational, as notified, by 30 June 2024 and any additional efficiency measures would result in the same result as the 2017 determination.

The MDBA will use information from Basin governments on the progress and full implementation of the SDLAM measures, as well as the MDBA's own assurance of progress and outcomes, to determine whether the adjustments have been achieved and decide whether it will need to initiate a reconciliation process in 2024.

MDBA project assurance

From 2021, the MDBA will undertake project assurance on progress of each SDLAM measure and the associated adjustment, to ensure the Authority is well placed to determine whether a reconciliation adjustment is required.

The MDBA will use all available information to satisfy itself of progress and to avoid duplicating reporting processes. The MDBA's SDLAM assurance process will at large rely on state-submitted evidence on the implementation progress of SDLAM measures but on an as needs basis the MDBA may seek additional lines of evidence such as interviews with project implementation and construction teams.

The MDBA will use project assurance to form a view on the likelihood that:

- the SDLAM project enter operation by 30 June 2024
- the SDLAM project will deliver the expected adjustment amounts
- the SDLAM project will deliver the expected environmental outcomes.

The Authority will use this project assurance to inform it as to whether a reconciliation is required in 2024.

The SDLAM assurance reports will be published on the MDBA's website to ensure information about SDLAM progress is publicly available.

In the lead up to 2024, the MDBA may also undertake other monitoring and forecasting to assist with:

- understanding the delivery trajectory of SDLAM projects to date
- an evaluation of the effectiveness of SDLAM
- increasing public transparency of SDLAM and the Basin Plan.

MDBA's expectations of Basin governments' reporting on project changes

Under the Basin Plan, the original notification for each measure was required to include the details of the measure, the surface water SDL resource units affected by the measure, details of any relevant constraint measure and the date on which the measure entered into operation or by which it would enter into operation.

The Basin Plan recognises that notified measures may change as they are implemented, and requires that the notifications are amended or withdrawn, at any time prior to 31 December 2023:

- as soon as practicable if a notified measure has changed (**amendment notification for change**) or
- to withdraw a measure if the measure will not enter into operation by 30 June 2024 (**amendment notification for withdrawal**).

The process for submitting amendment notifications is outlined in **Figure 1** of the appendix.

The MDBA will welcome additional advice from Basin governments on SDLAM implementation progress at any time. Relevant information can support the assurance process and provide the Authority with confidence that the environmental outcomes as determined in 2017 are on track to being maintained or enhanced.

Relevant information may include:

- evidence of progress on individual project implementation, including stakeholder consultation outcomes
- Environmental Impact Statements and development approvals
- other milestone achievements, similar to progress reporting provided to the Department under funding milestone reporting
- additional assessment advice not already submitted as part of any notification amendment.

The SDLAM reconciliation determination process

Under the Basin Plan, if it appears to the Authority that a new determination at 30 June 2024 would produce a different result to the 2017 determination, the Authority must make a new determination considering the effect of all notified measures – supply, constraint, efficiency, and any additional efficiency measures, and propose an adjustment of the SDLs for affected units and, in consequence, for Basin water resources.

If a determination is required, it will be made between 31 December 2023 (after any final notification amendments or withdrawals have been made) and 30 June 2024.

The Authority will base its decision on whether a reconciliation is required to support a new determination based on assessments of:

- whether the SDLAM projects will enter operation by 30 June 2024
- whether SDLAM project will deliver the expected adjustment amounts
- whether the SDLAM measures will deliver expected environmental outcomes.

If a new determination is required, it must be undertaken using either the ‘applicable method’ set out in Schedule 6 of the Basin Plan, or another method agreed to by the Authority and BOC. The Schedule 6 method was the basis of the 2017 determination.

The use of a different method to undertake a reconciliation determination, including the consideration of any additional information, would need to be agreed in accordance with s 7.15(2)(b) of the Basin Plan.

The Basin Plan sets out the methodology for determining the amount of the adjustment, including apportionment arrangements across catchments, which may have implications for multiple catchments (i.e. not just the catchment the project is proposed within). The Authority will follow the advice from Basin governments on agreements made on the apportionment of supply contributions.

The MDBA will consult with the BOC and consider submissions from the public prior to the Authority making any determination to adjust SDLs, in accordance with the Basin Plan.

The MDBA intends to update this framework to provide additional detail on how it will undertake a reconciliation in the future.

Appendix: Amendment Notification Process

The Basin Plan requires that all project changes or withdrawals must be notified to the Authority as soon as practicable. This is because the Authority and the Basin governments need to understand the implications of the progress, amendment or withdrawal of notified projects, as they relate to SDLAM reconciliation.

The Basin Plan recognises that projects may change as they are implemented. It is likely that some projects will undergo change as projects move from concept planning (as per the notifications) through to the detailed-design phase, subject to concept trials, community and stakeholder input is sought, and interactions between projects are better understood. Project changes or withdrawal information should be provided to the MDBA as soon as practicable using the process outlined in Figure 1 below.

The Basin Plan considers any changes to the following matters will require an amendment of a notification:

- details of the measure
- details of any constraint measure that may be relevant
- the affected SDL resource units for the measure
- the date on which the measure will enter operation.

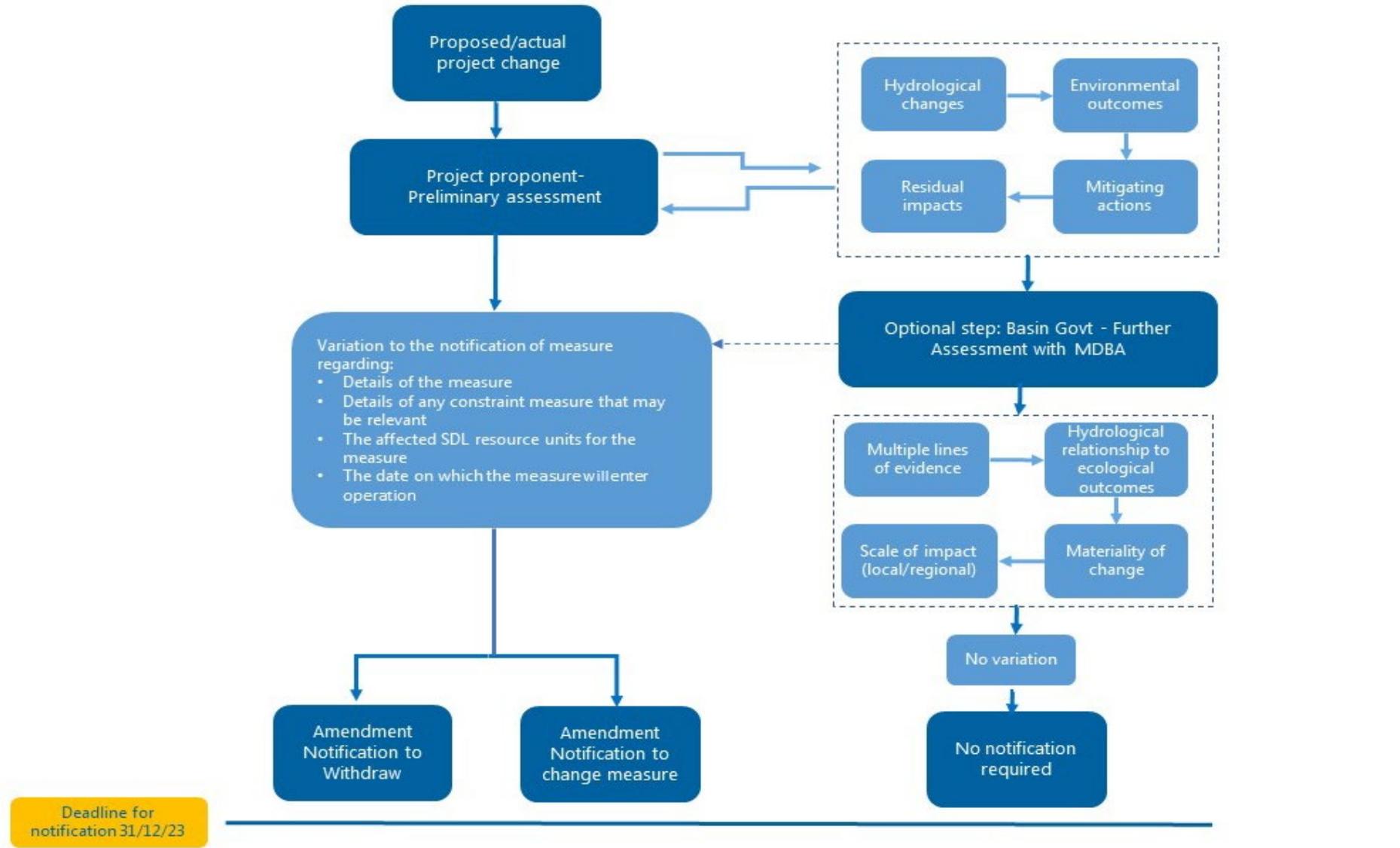
Notification amendments or withdrawals can be submitted at any point up to 31 December 2023 and should be submitted as soon as practicable, ideally with supporting evidence.

Notification amendments or withdrawals should be provided to the MDBA by 15th December annually, to enable them to be considered in the MDBA's SDLAM annual assurance process.

The register of measures will be updated to reflect the amendments or withdrawal notifications.

Until 31 December 2023, notified measures can be formally withdrawn, or formally amended through the Notification Amendment process outlined below.

Figure 1 - Amendment Notification Flow Diagram



Assessing changes to projects

As outlined in **Figure 1 - Amendment Notification Process**, any proposed or actual change to a notified project should firstly be assessed by the Basin government implementing the measure. This assessment may be undertaken in conjunction with the SDLAMIC.

The objectives of this initial assessment are to:

- understand the environmental implications of the project change(s), particularly in terms of the hydrological outcomes (and therefore the implications for the environmental outcomes) including consideration of any effects to other SDLAM projects
- identify any mitigating actions to offset any hydrological implications, noting that these must have a hydrological outcome
- outline the residual impacts of the project change to determine whether the change is material (i.e. hydrological/ecological outcomes are not likely to be maintained or enhanced), or not material (hydrological/ecological outcomes will be maintained).

Multiple lines of evidence may be brought to bear in this assessment; however, the evidence must have a hydrological relationship to environmental outcomes. For example, complementary natural resource management measures are unlikely to produce the required evidence that hydrological outcomes will be maintained.

If a change is assessed by a Basin government as material, the extent of the materiality is important and should be disclosed to the MDBA.

Any changes that are likely to have regional scale implications (e.g. likely to also affect the performance of other SDLAM projects) should be advised as early as possible to the MDBA. The MDBA may provide resources (modelling and ecological equivalence testing) to assist in understanding the materiality of project changes, where there are clear intersections with other projects (assessment at the 'suite of projects' scale); and/or the project itself is particularly complex (e.g. Menindee Lakes Water savings project, or various constraints projects).

The MDBA and the Basin government implementing the measure, will work collaboratively to explore the hydrological and environmental implications, workshop potential mitigating actions, and describe the residual impacts. Based on these joint considerations, a formal Notification amendment would be submitted to the MDBA. Note that the MDBA expects Basin governments to undertake their own analysis of the impact of minor project changes.

Implications for SDLAM reconciliation

The MDBA will consider the new information in the notification amendment material (and other evidence available to the MDBA) and advise the Basin government of the MDBA's view of the materiality and therefore, the likely impact that changes will have on the need to undertake a reconciliation of the adjustment amount in 2024.

To inform a reconciliation decision, the withdrawal or amendment of notifications, along with completed measures, will be assessed for variance and impact on adjustment volumes and ability to achieve environmental outcomes equal to or higher than the benchmark scenario.

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