



To: Minister for the Environment and Heritage

Cabinet No.: 19/499

Rec'd Minister's Office .../.../...

From: Executive Group Manager, Environment

Subject: Final Lodgement of Cabinet item 'Water Efficiency Initiative: ACT Government Participation in the Murray-Darling Basin Water Infrastructure Program'

Critical Date: 22 October 2019

Critical Reason: The final submission must be lodged with Cabinet Office on or before 10:00am Tuesday 22 October for Cabinet consideration on 29 October 2019.

- DG .../.../...
- DDG, Land Strategy and Environment .../.../...

Purpose

To seek your agreement to lodge the final Cabinet submission at Attachment 1.

Recommendations

That you:

1. **Agree** to final lodge the Cabinet submission and associated documents at Attachment 1; and

Agreed / Not Agreed / Please Discuss

2. **Agree** to Ben Ponton, Erin Brady and Ian Walker, attending the Cabinet meeting to provide support and further advice on the submission.

Agreed / Not Agreed / Please Discuss

Mick Gentleman MLA

21/10/19

Minister's Office Feedback

Background

1. The Murray-Darling Basin Plan (the Basin Plan) contains commitments to increase environmental flows through environmental water recovery within the Murray-Darling Basin.
2. The Basin Plan also includes a commitment to recover an additional 450 gigalitres¹ (GL) of environmental water through efficiency projects. In August 2018 Basin Ministers agreed to progress recovery of the 450 GL by 30 June 2024. In addition, Basin governments agreed to develop state-led projects for consideration for funding. The ACT has committed to investigate a contribution of up to 15 GL (towards the 450 GL target).
3. To support recovery efforts, the Commonwealth established the Murray-Darling Basin Water Infrastructure Program (MDBWIP). This \$1.5 billion program involves the Commonwealth providing funding for water efficiency measures in exchange for water entitlements for environmental flows. The program runs until 2024.
4. The Basin Plan (and associated ACT Water Resource Plan) also includes a requirement for the provision of water for environmental flows by each Basin jurisdiction. This is known as the "Shared Reduction Amount" (SRA). In the ACT's case the SRA volume is 4.9 GL.
5. The ACT and Commonwealth had previously considered that the ACT had met its SRA commitment. The ACT was paid market value at that time. However, the Commonwealth has recently advised that the previous arrangements do not meet the legal requirements under the Basin Plan. There has been agreement at Ministerial level that the Commonwealth will remedy this situation by purchasing an additional 4.9 GL via the MDBWIP. The 4.9 GL SRA would be accounted as part of the ACT's commitment to investigate up to 15 GL contribution.

Issues

Funding Agreement

6. In May 2019 you endorsed the funding agreement formalising the ACT's participation in the MDBWIP. The agreement has made Commonwealth funds available for the development of five business cases for ACT led efficiency measure proposals, along with a notional funding amount for the recovery of the 4.9 GL SRA.
7. Work has begun on scoping of the business cases. Under the funding agreement, the business cases could deliver up to 10.1 GL² through efficiency programs. Undertaking the business cases does not necessarily commit the ACT to transferring water entitlements to the Commonwealth. Following the completion of the business cases, you will be provided with the outcomes of investigations, anticipated financial returns and the proposed approach with respect to submission to the Commonwealth. It is anticipated that this will occur in the first half of 2020 and a government decision, in consultation with the Treasurer, can then be made accordingly.
8. The Commonwealth has advised that its initial priority is to secure the ACT's SRA. They are proposing that the ACT meet its SRA by transferring 4.9 GL of entitlements to the Commonwealth (noting that this 4.9 GL would not be in addition to the 15 GL). This would be purchased at 1.75 times the market price. A return of approximately \$63 million is anticipated. Negotiations are continuing with the Commonwealth around transfer arrangements, market price and operational criteria.

¹. A gigalitre (GL) is equal to 1000 megalitres (ML).

². The 10.1 GL represent 15 GL minus the 4.9 GL SRA

Maintaining the ACT's water security

9. Under the MDBWIP the Commonwealth provides funding for water efficiency measures in exchange for water entitlements for environmental flows. There may be a community perception that the transfer of water entitlements will diminish the ACT's water security. The risks are considered low as the ACT's participation in the MDBWIP will be in a manner that maintains long term water security for ACT water users. This involves:
- Issuing entitlements from the water management area in the lower reaches of the ACT Molonglo/Murrumbidgee River (i.e. below the water storages). This means that there would be no impact on water storages and therefore the <5% (1 in 20 year) water restrictions Level of Service target. This also reduces perceived risks to ICON Water.
 - Current impact projections demonstrate that the ACT's Sustainable Diversion Limit (SDL) will not be reached until the ACT's population grows to over 1.2 million (in around 75 to 100 years). Funds received from the Commonwealth for transferred water entitlements will be invested in water savings projects thereby offsetting the transfer of entitlements. This means that the population threshold and date of the SDL being reached is unlikely to change.

Potential ACT Revenue and establishment of an appropriate model for management of funds

10. Based on current estimates, the funding available to the ACT with respect to the 15 GL contribution is in the order of between \$190–200 million, of which \$63 million is associated with the 4.9 GL transfer of entitlement.
11. As the MDBWIP is funded from the Water for the Environment Special Account, the Commonwealth requires these funds to be expended only on water efficiency, water quality and waterway/catchment improvement works. This requirement is documented in the Water Amendment (Water for the Environment Special Account) Act 2013, and in Commonwealth project documentation (eg. MDBWIP objectives and the funding agreement between the ACT and Commonwealth).
12. The Commonwealth has advised that their preference is for the revenue to be placed in trust. Treasury do not support this approach. They have indicated that establishing a trust may attract initial and ongoing costs, depending on the nature and complexity of the trust. Treasury's preference is that funds received from the project be managed through existing Treasury processes and reporting to the Commonwealth be undertaken through ACT Budget Statements.
13. In order to obtain Treasury agreement to circulate, the submission recommends that Cabinet agree to investigate models for management of funds (generated from the transfer of entitlements) including consideration of an environmental trust arrangement. This provides opportunity for a range of models, including a trust, to be more fully considered.
14. EPSDD will work with Treasury to determine an appropriate arrangement is in place (for the revenue received from transferring water entitlements to the Commonwealth under the MDBWIP) and determine implementation costs, if any. Following the outcome of investigations, the submission recommends that you (along with the Treasurer) determine the preferred model. This approach is proposed to accommodate Treasury feedback.
15. Precedence exists within the ACT for establishing trusts. EPSDD is of the view that establishing a trust would provide transparency and accountability for Commonwealth reporting purposes

(relative to funding agreements), provide line of sight with respect to deliverables, better manage financial and implementation risks, and operational efficiencies. It would also respond to the ACT Government's requirement that a sustainable funding source be developed for water and catchment management.

16. Opportunity exists for funds (ie. received from the transfer of the SRA) to be used to support delivery of the other ACT Government policy commitments – eg. ACT Water Strategy, Climate Change Strategy, Urban Forest Strategy (currently being developed). The general objectives for use of the fund (outside of measures identified in business cases) will be to improve environmental good through;
 - a) conserving and restoring our natural assets to improve water quality;
 - b) creating a world leading water sensitive city through a range of water efficiency measures;
 - c) connecting people with nature to enhance wellbeing; and
 - d) delivering living infrastructure to reduce the impacts of climate change.
17. These objectives will be refined and included within the funding agreement. The intent being that the Commonwealth agree to funds being spent in accordance to the objectives, rather than specific projects. This provides the ACT with flexibility to deliver government policy commitments which align with the funding objectives and respond to strategic ACT government priorities. This approach is currently being discussed with the Commonwealth.

Financial Implications

18. The initial 4.9 GL transfer of entitlements with respect the SRA is likely to realise approximately \$63 million. Revenue figures along with timeframes for receipt of funds for the 4.9 GL transfer of entitlements are based on best estimates. Negotiations with the Commonwealth around the 4.9 GL are continuing. Negotiations relate to transfer arrangements, market price and operational criteria.
19. Funds (\$63 million) identified in the financial table within the submission received and expended in 2019-20 will in practice be expended over several years. As the final profile of these projects is not yet known, the controlled recurrent payments are shown in one year for the sake of simplicity. Once negotiations with the Commonwealth for the 4.9 GL are finalised, and the business cases for state-led projects are complete, EPSDD will be in a better position to advise on full financial impact and profile over the forward estimates.
20. As revenue from the transfer of 'up to' 10.1 GL will be based on the outcomes of proposed business cases – these funds are not yet accounted for, but it is likely to result in additional revenues and offsetting controlled recurrent payments over several years.

Consultation

21. Icon Water is participating in the development of business cases as are Transport Canberra and City Services Directorate, Community Services Directorate, Education Directorate and ACT Health Directorate.
22. A Project Steering Committee (EPSDD and Chief Minister, Treasury and Economic Development Directorate) and a Working Group (EPSDD, CMTEDD, Environment Protection Authority and Icon Water) have assisted with this Project.
23. Directors-General Water Group, including Icon Water, were briefed in November 2018 and May 2019. They were supportive of the ACT approach to the MDBWIP and briefed on the proposal to establish a trust to provide these funds.

24. The Economic Development Sub-Committee of Cabinet was briefed in July 2019 (19/333). It noted the ACT participation in the MDBWIP, and that a further submission would be brought back to Cabinet outlining the proposed governance arrangements and the accounting treatment for the MDBWIP. EPSDD understand that reference in the decision to governance arrangements and the accounting treatment relate to the proposal to establish a trust for the Commonwealth funds.
25. Icon Water has been consulted extensively in developing the methodology to transfer entitlements to the Commonwealth in a way that will protect the ACTs water security.

Benefits/Sensitivities

26. The MDBWIP has the potential to form the basis for a more sustainable funding stream for water efficiency, water quality and catchment management projects which aligns with a number of recommendations in Government endorsed documents. This includes the ACT and Region Catchment Strategy, ACT Water Strategy 2014-44 *Striking the Balance* and the ACT Auditor-General's Report into the Restoration of the Lower Cotter.
27. Icon Water may have sensitivities regarding investments in water efficiency in terms of potential to reduce their revenue from water sales although this should be minimal as the majority of Icon charges are fixed costs. Improving water efficiency is an agreed and clearly stated government priority in the ACT Water Strategy. Water use is still expected to increase as a result of population growth, albeit at a slower rate.
28. Treasury has raised concerns around the establishment of a trust and ensuring that funds received from the transfer of entitlements are appropriately identified in forward estimates. The submission reflects agreed approach to manage these concerns.

Media Implications

29. There are no media implications at this this stage. The ACT must submit a business case(s) to the Commonwealth for assessment on the viability of the proposed efficiency projects. If business case(s) are considered viable, additional Commonwealth funding will be provided to the ACT to proceed to delivery. A communication plan will be prepared at this stage of the Project.

Signatory Name: Chris Glennon Phone: 59023
Action Officer: Maria Mangeruca Phone: 59651

Summary of Attachments

- 1 – Final Cabinet submission
 - A – Table of Final Comments
 - B – Open Access Information release – decision summary
 - C – Triple Bottom Line summary
 - D – Schematic of the Murray-Darling Basin Infrastructure Program
- 2 – Cabinet brief

