

For Cabinet

18/384

Water Resources Amendment Bill 2018–Policy Approval

Minister for the Environment and Heritage, Mick Gentleman MLA

CABINET SUBMISSION

Cabinet Office Rec	[Date / Time]
Purpose	Amendments are proposed to the <i>Water Resources Act 2007</i> (ACT) to better identify the ACT's water resource plan (surface and groundwater resources) and to demonstrate how the ACT is complying with the net sustainable diversion limit for water use under the Murray-Darling Basin Plan (Basin Plan), an instrument of the <i>Water Act 2007</i> (Cwlth). Two amendments are proposed to reflect how the ACT is complying with requirements under the Basin Plan. Specifically, it is proposed that: (a) a section be inserted to indicate the nature and framework of the ACT's water resource plan as already set out in the four disallowable instruments that in general are the basis for the ACT's water resource planning; and (b) a subsection be inserted into section 17 which deals with amounts of water available from the ACT's water management areas to reflect the total limit of water that can be made available as a result of the net sustainable diversion limit set for the ACT's surface water and groundwater.
Timing	For Cabinet consideration in the week commencing 20 November 2018 in order for the proposed amendments to the <i>Water Resources Act 2007</i> to be introduced to the Legislative Assembly in early 2019. The ACT Water Resource Plan (surface and groundwater) is required to be finalised and submitted to the Commonwealth for accreditation no later than 28 February 2019.
Impact • Government Priorities • Triple Bottom Line • Intergovernmental • Regulatory Impact • Red Tape Reduction	City services – Better services in your community The proposed amendments will enhance the health and liveability of the natural and urban environment by ensuring that the ACT plans and manages its water resources efficiently and sustainably. Social Impacts: There are no social impacts. Environmental Impacts: The proposed amendments will enhance the environmental planning and management of the ACT's water resources and improve the environmental health of the Murray-Darling Basin. Economic Impacts: There are no economic impacts. Yes as the proposed legislation demonstrates how the ACT Government is meeting its requirements under the Basin Plan through the development and submission of its water resource plan under the Commonwealth's <i>Water Act 2007</i>. The ACT along with all other Basin States is a signatory to the National Partnership Agreement on Implementing Water Reform in the Murray–Darling Basin. Yes – the limitation on the provision of water access entitlements in the future may affect possible water demand but through interstate water trading potential buyers can acquire entitlements outside the ACT for use in the ACT. Not Applicable
Consultation	The following Directorates were consulted during the development of this submission (CMTEDD, CSD, HD, JACSD, EPD, EDU and TCCS) There is agreement. Consultation has also occurred with Icon Water and the Environment Protection Authority (part of Access Canberra).

• Elected Body	No.				
Legislation Change	Yes - Amendment to the <i>Water Resources Act 2007</i>				
Communications Plan	No – not required at this stage				
Implementation Plan	No – not required				
Documents for Release	Yes, see Attachment B				
Budget Impact:					
<i>A cost to the budget (ie an increase in expenses or decrease in revenue) should be presented as a negative. Net Operating Impact is the sum of Controlled Recurrent Payments, Depreciation and Revenue/Offsets impacts.</i>		2016-17	2017-18	2018-19	2019-20
		\$'000	\$'000	\$'000	\$'000
	Controlled Recurrent Payments	0-	0 -	- 0	0 -
	Capital Injection	0-	0 -	-0	0 -
	Depreciation	0-	0 -	-0	0 -
	Revenue/Offsets	0-	0 -	-0	0 -
	Net Operating Impact	0-	0 -	-0	0 -
Treasury Agreement: Yes	Staffing – FTE				

Recommendations

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- 1) I recommend Cabinet agree to the drafting of amendments to the *Water Resources Act 2007* to give effect to the ACT's water resource plan (surface and groundwater resources) as required for development and accreditation under the Murray-Darling Basin Plan 2012 including:
 - a) identification of the components/legislative instruments that consist of the ACT's water resource planning and management, and
 - b) ACT's water availability under the management of its water access entitlements incorporating a net sustainable diversion limit for use of surface water and groundwater.
- 2) I recommend Cabinet note:
 - a) the bill is scheduled for introduction to the Legislative Assembly in early 2019; and
 - b) there will be an additional Cabinet submission, in the week commencing 4 February 2019, to obtain Cabinet's approval to submit the ACT's water resource plan, by no later than 28 February 2019, to the Murray-Darling Basin Authority for assessment and subsequent accreditation by the Commonwealth Minister for Agriculture and Water Resources.
- 3) I recommend Cabinet note the advice to the Chief Minister on the release of the Cabinet Decision Summary (Attachment B) as required under Section 23 of the *Freedom of Information Act 2016*.

SUPPORTING ARGUMENT

BACKGROUND

- 1) Under the Commonwealth *Water Act 2007* the ACT is required to implement a number of components of the *Basin Plan 2012*. The ACT became a signatory to the Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin in June 2013.
- 2) For the ACT, the most critical component and requirement in the Basin Plan is the preparation of a water resource plan for the Territory's surface water and groundwater resources. The Murray-Darling Basin Authority (MDBA) administers the Basin Plan and assesses the submission of water resource plans from the Basin States. Following assessment by the MDBA the Commonwealth Minister for Agriculture and Water Resources accredits the ACT water resource plan.
- 3) Under the Basin Plan, a water resource plan must include a sustainable diversion limit, and meet a number of other requirements. It is usually expressed through a comprehensive index system, for a defined water resource plan area, such as the Murrumbidgee River or the Goulburn River system.
- 4) The main requirement of a water resource plan is to demonstrate how a Basin State is ensuring that its water use for a water resource plan area does not exceed the sustainable diversion limit that has been set under the Basin Plan. Other components of a water resource plan include a plan for environmental watering, meeting water quality objectives, addressing interception activities such as farm dams, accounting and modelling water use and the identification of Aboriginal objectives, desired outcomes, values and uses which have been occurring through specific consultation.
- 5) The ACT has been developing its water resource plan and undertook public consultation on the draft plan in June 2016. An extensive body of material has already been submitted to the MDBA including the draft plan and additional material based on MDBA feedback. The ACT's water resource planning is based on four key legislative instruments under the *Water Resources Act 2007* that set out water availability, volumes and uses (refer also to paragraph 6). These instruments are being revised as well to ensure that the latest data and analysis is embodied in the ACT's water management framework.

ISSUES & OPTIONS

Need to identify and coordinate the instruments

6) The ACT's *Water Resources Act 2007* (the Act) is the principal and overarching legislation for key aspects of the ACT's water resource plan. These include the following disallowable instruments made under the Act which set out how the ACT manages its water resources. These instruments are:

- Environmental Flow Guidelines;
- the determination of water management areas;
- the determination of amounts of water available from areas and
- Guidelines for the amounts of water reasonable for uses.

7) Unlike a number of other Murray-Darling Basin jurisdictions, the ACT does not have one document that makes a clear and transparent identifiable water resource plan. This has been an issue for the ACT in the past when the ACT's progress under the National Water Initiative was being assessed.

8) Two amendments to the legislation are proposed. The first relates to the identification of the ACT's water resource plan and the second relates to the means to ensure that the ACT does not exceed the sustainable diversion limit as set under the Basin Plan for the ACT.

9) The first amendment to the Act is for a section be inserted to indicate the nature and framework of the ACT's water resource plan as already set out in the four disallowable instruments that in general are the basis for the ACT's water resource planning.

Prescribing a net sustainable diversion limit for the ACT

10) Under the Basin Plan the ACT is required to manage and account for its water use on a net basis under the sustainable diversion limit (SDL) set for the ACT. This means that the ACT has a net diversion volume for water usage derived from the difference between gross water use, largely taken by Icon Water for supply via the urban network use, and discharged back into the Molonglo/Murrumbidgee River as provided by the Lower Molonglo Water Quality Control Centre, operated by Icon Water, and the sewage treatment plant operated by the Queanbeyan Palerang Regional Council.

11) The ACT has a net SDL of 54.7 GL for surface water (42.7 GL for surface water extractions, 11 GL for commercial plantations and 1 GL for farm dams) and 3.16 GL for groundwater. Under the Basin Plan the ACT is required to demonstrate how it will conform to these SDLs. Performance under the net SDL is monitored by the Murray-Darling Basin Authority. Under water resource planning requirements it is necessary for the ACT to ensure compliance on available water use. Without adequate controls, there is a risk that the ACT could potentially issue more entitlements, and/or allow water use over what currently can be provided under the water resource plan and thereby exceed the SDL.

12) To ensure compliance with the SDL, the second amendment to the Act is to section 17 of the Act which deals with water available from ACT catchments (water management areas), and is to limit the volume of water that can be taken in line with the net water use limit, as issued by the ACT Government as water access entitlements (which are defined under section 19 of the Act).

13) This legislative change is proposed so as to provide a clear general statement and direction on the limit of net water use for future water management and compliance under the ACT's water resource plan.

14) If, in the future, there is a demand for water and hence entitlements above what can be allocated up to the net SDL figure of 42.7 GL, additional water entitlements can be acquired through interstate water trade into the ACT through the purchase of an entitlement elsewhere in the Southern Basin, likely from the lower Murrumbidgee River system. The Environment, Planning and Sustainable Development Directorate is now working on the development of interstate water trading arrangements.

Submission of the ACT water resource plan

15) The ACT's water resource plan is due to be submitted no later than 28 February 2019. This date has become critical for all Basin States in the submission of their water resource plans as the Commonwealth Government is now proposing the potential activation of a 'step-in' power under the Commonwealth's Water Act to ensure that all water resource plans have been prepared, submitted and assessed by 30 June 2019. I will be submitting the ACT's water resource plan to Cabinet for endorsement on 4 February 2019 to ensure that the ACT meets that set deadline.

CONSULTATION

- 16) All relevant directorates have been consulted on the substance of the proposed amendments.
- 17) Icon Water, as the utility that provides urban water for use in the ACT, has been consulted.
- 18) The Murray-Darling Basin Authority has been consulted, and has indicated that it supports a clause to identify the ACT's water resource plan framework as a means to demonstrate how the ACT is presenting its water resource plan and adhering to its requirement of managing its limit on water diversions.

Directorate comments

- 19) An exposure draft of this paper was circulated to all Directorates.
- 20) A table of final agency comments is provided at Attachment A to this submission.

MEDIA/COMMUNICATIONS

- 21) A media release will be prepared for the introduction of the amendment bill in 2019.

IMPLEMENTATION

- 22) Implementation of the amendment bill will occur within existing resources. There have already been meetings with the key stakeholders with respect to the development and content of the ACT's water resource plan.

FINANCIAL IMPACT

- 23) There is no financial impact arising from the proposed amendments. The Commonwealth Government has provided funding under an implementation agreement to enable the ACT to implement the Basin Plan. Therefore, this Cabinet Submission does not have a budget impact and does not seek Cabinet's agreement to provide appropriation and/or to reduce forecast revenue.

Table 1 Budget/Appropriation – Impact of Recommendations

	2018-19 \$'000	2019-20 \$'000	2020-21 \$'000	2021-22 \$'000
Controlled Recurrent Payments	0-	0-	-0	0-
Capital Injection	0-	0-	-0	0-
Depreciation	0-	0-	-0	0-
Revenue/Offsets	0-	0-	-0	0-
Net Operating Impact	0-	0-	-0	0-
Staffing – FTE				

Note 1: Net Operating Impact is the sum of Controlled Recurrent Payments, Depreciation and Revenue/Offsets impacts. A cost to the budget (ie an increase in expenses or decrease in revenue) should be presented as a negative.

Minister's signature



Date

13 / 11 / 18

INDEX TO ATTACHMENTS

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C	Triple Bottom Line Assessment	2
D	Tri-fold summary of the ACT Water Resource Plan	2

