

For Cabinet

19/499

**Water Efficiency Initiative: ACT Government participation in the Murray-Darling Basin Water Infrastructure Program (MDBWIP)**

**Minister for the Environment and Heritage, Mick Gentleman MLA**

CABINET SUBMISSION

Cabinet Office Rec	[Date / Time]
<b>Purpose</b>	<p>This submission seeks Cabinet agreement to:</p> <ul style="list-style-type: none"> <li>a) transfer to the Commonwealth, in exchange for payment of approximately \$63 million, 4.9 GL<sup>1</sup> of high security water entitlements to meet the ACT's Shared Reduction Amount (SRA) as per the Murray Darling Basin Plan and the ACT Water Resource Plan.</li> <li>b) investigate a further transfer of up to 10.1 GL of entitlements (subject to the outcomes of business cases) to the Commonwealth under the MDBWIP in exchange for funding water efficiency plus water quality and waterway/catchment improvement works.</li> <li>c) investigate options to establish an appropriate financial management model (for funding received from the Commonwealth under the MDBWIP, including consideration of an environmental management trust), to provide a sustainable funding stream for the progression of Canberra towards a world class water sensitive city<sup>2</sup>.</li> </ul>
<b>Timing</b>	<p>For Cabinet consideration on 29 October 2019 in order to continue negotiations around the transfer of 4.9 GL of high security water to the Commonwealth to meet the ACT's Shared Reduction Amount.</p>
<b>Impact</b>	<ul style="list-style-type: none"> <li>• Government Priorities Infrastructure – Building a better city: Securing Commonwealth funding will contribute to the ACT becoming more resilient to the impacts of drought, water shortages and climate change; and improve water quality in waterways and catchment areas.</li> <li>• Triple Bottom Line                             <ul style="list-style-type: none"> <li>Social Impacts -improving water efficiency and catchment quality will increase urban sustainability and improve the liveability and the wellbeing of the community.</li> <li>Environmental Impacts - Our usable water supply is finite. Implementing water efficiency projects will contribute to the ACT becoming more resilient to the impacts of drought, water shortages and climate change.</li> <li>Economic Impacts – improving water efficiency will benefit the ACT regional economy through job creation, economic diversification, and building capacity –within government, the community and academia.</li> </ul> </li> <li>• Intergovernmental Yes. Intergovernmental Agreement on Murray- Darling Basin Reform.</li> <li>• Regulatory Impact None at this time</li> <li>• Red Tape Reduction None currently</li> </ul>

<sup>1</sup> 1 Gigalitre (GL) is equivalent to 1,000 Megalitres (ML)

<sup>2</sup> A water sensitive city (defined by the CRC for Water Sensitive Cities) of the future is a place where people want to live and work. It is a place that:

- has a secure; diversified and highly secure water source;
- provides ecosystem services and a healthy natural environment, thereby offering a range of social, ecological, and economic benefits; and
- consists of communities where citizens have the knowledge and desire to make wise choices about water, are actively engaged in decision-making, and demonstrate positive behaviours.

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<p><b>Consultation</b></p> <p>• Elected Body</p> <p><b>Legislation Change</b></p> <p><b>Communications Plan</b></p> <p><b>Implementation Plan</b></p> <p><b>Documents for Release</b></p>	<p>Consultation has been undertaken across government, along with the Project Steering Committee, Working Group, Director-General's Water Group, and ICON Water There has been strong support for the proposed delivery approach.</p> <p>N/A</p> <p>No</p> <p>No</p> <p>No. Implementation plans will be developed as part of the business cases</p> <p>No, see <u>Attachment B</u></p>																																			
<p><b>Budget Impact:</b></p> <p><i>A cost to the budget (i.e. 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></p> <p>Treasury Agreement (required): Yes</p>	<table border="1"> <thead> <tr> <th></th> <th align="right">2018-19</th> <th align="right">2019-20</th> <th align="right">2020-21</th> <th align="right">2021-22</th> </tr> <tr> <th></th> <th align="right">\$'000</th> <th align="right">\$'000</th> <th align="right">\$'000</th> <th align="right">\$'000</th> </tr> </thead> <tbody> <tr> <td>Controlled Recurrent Payments</td> <td align="right">-</td> <td align="right">63,000</td> <td align="right">-</td> <td align="right">-</td> </tr> <tr> <td>Capital Injection</td> <td align="right">-</td> <td align="right">-</td> <td align="right">-</td> <td align="right">-</td> </tr> <tr> <td>Depreciation</td> <td align="right">-</td> <td align="right">-</td> <td align="right">-</td> <td align="right">-</td> </tr> <tr> <td>Revenue/Offsets</td> <td align="right">-</td> <td align="right">63,000</td> <td align="right">-</td> <td align="right">-</td> </tr> <tr> <td><b>Net Operating Impact</b></td> <td align="right">-</td> <td align="right">-</td> <td align="right">-</td> <td align="right">-</td> </tr> </tbody> </table> <p>Staffing – FTE</p> <p>Note:</p> <ol style="list-style-type: none"> <li>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. Resolution of the 4.9 GL Shared Reduction Amount will be the first tranche of water entitlements to be transferred to the Commonwealth.</li> <li>In practice, funds identified in the table above to be received and expended in 2019-20 will 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.</li> <li>Once negotiation 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.</li> <li>As revenue from the transfer of 'up to' 10.1 GL will be based on the outcomes of proposed business cases – the table does not yet account for this component of the Cabinet Submission, which would likely result in additional revenues and offsetting controlled recurrent payments over several years.</li> <li>Further modelling will be undertaken to determine the full financial impacts, including additional costs and revenues, associated with the potential funding arrangements.</li> </ol>		2018-19	2019-20	2020-21	2021-22		\$'000	\$'000	\$'000	\$'000	Controlled Recurrent Payments	-	63,000	-	-	Capital Injection	-	-	-	-	Depreciation	-	-	-	-	Revenue/Offsets	-	63,000	-	-	<b>Net Operating Impact</b>	-	-	-	-
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**Recommendations**

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**Water Efficiency Initiative: ACT Government participation in the Murray-Darling Basin Water Infrastructure Program (MDBWIP)**

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- 1) That Cabinet agree to:
  - a) Transfer to the Commonwealth, in exchange for payment of approximately \$63 million, 4.9 GL of high security water entitlements to meet the ACT's Shared Reduction Amount (SRA) as per the Murray Darling Basin Plan and the ACT Water Resources Plan;
  - b) investigate a further transfer of up to 10.1 GL of water entitlements to the Commonwealth under the Murray-Darling Basin Water Infrastructure Program (MDBWIP) in exchange for funding for water efficiency and waterway/catchment improvement works as identified in future business cases;
  - c) investigate options to establish an appropriate financial management model (for funding received from the Commonwealth under the MDBWIP, including consideration of an environmental management trust), to provide a sustainable funding stream for the progression of Canberra towards a world class water sensitive city;
  - d) delegate to the Minister for the Environment and Heritage and the Treasurer, to approve:
    - i) the final arrangements for transfer of 4.9 GL of water entitlements to the Commonwealth for the SRA; and
    - ii) a preferred option in relation to appropriate financial management arrangements; and
  - e) delegate to the Minister for the Environment and Heritage, in consultation with the Treasurer, to approve the final business cases for the transfer of up to 10.1 GL of additional entitlements under the MDBWIP.

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- 2) I recommend that Cabinet note:
- a) that under the Murray Darlin Basin Plan, the ACT is required to make a contribution to the SRA amount, being 4.9 GL;
  - b) the Minister for Environment and Heritage will continue to liaise with the Treasurer with respect to budget forward estimates with revised estimates to be provided to the Treasurer once there is a greater level of confidence around quantum and timeframe for receipt;
  - c) that the MDBWIP is funded from the Commonwealth Water for the Environment Special Account. This means that under legislation the funds provided to jurisdictions must only be expended against water efficiency, water quality and waterway/catchment improvement works. This requirement is also documented in the Project objectives and funding agreement between the ACT and the Commonwealth;
  - d) the outcomes of the business case being prepared under the MDBWIP will inform the quantum of water efficiency (relative to the 10.1 GL) and the mechanisms (efficiency measures) to achieve the savings;
  - e) the transfer of water entitlements to the Commonwealth will **not impact** on Canberra's water security<sup>3</sup> or the Territory's net Sustainable Diversion Limit;<sup>4</sup>
  - f) that should the ACT transfer entitlements to the Commonwealth the expected return, based on the current market price of high security water entitlements (times a 1.75 multiplier paid by the Commonwealth under the MDBWIP) is in the vicinity of \$13.1 million to \$14.1 million per GL; and
  - g) 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*.

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<sup>3</sup> Water held in the Territory's potable water supply storages.

<sup>4</sup> The net amount of water available for extraction by jurisdictions under the Murray Darling Basin Plan.

## SUPPORTING ARGUMENT

### 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 gigalitres (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. Water efficiency measures attract a premium of up to 1.75 times the market price of a permanent water trade. The ACT is not required to provide matching funding. A schematic of the program can be found at [Attachment D](#).
- 4) Under the Basin Plan, the ACT is also required to contribute to the sustainable diversion limit resource unit shared reduction amount (SRA), being 4.9 GL. This is the Territory's share to achieve the Basin-wide targeted reduction in water use. 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 counted as part of the ACT's commitment of 'up to' 15 GL contribution.

## ISSUES & OPTIONS

### Murray-Darling Basin Water Infrastructure Program (MDBWIP)

#### Funding Agreement

5) The MDBWIP provides payment for business cases and/or feasibility studies required to determine the nature (efficiency initiatives) and quantum of water savings to be transferred to the Commonwealth, the expected costs of implementation and identification of any risks.

6) In May 2019 I, along with the Hon David Littleproud<sup>5</sup> MP, signed a funding agreement which made \$1.5 million of 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. The SRA is discussed further at paragraph 14.

7) Under the funding agreement, the business cases could deliver up to 10.1 GL<sup>6</sup> through efficiency programs such as:

- a) infrastructure renewal and maintenance;
- b) water sensitive urban design mandatory standards and planning codes;
- c) stormwater harvesting and reuse;
- d) demand management (education and practice change); and
- e) sustainable development.

Work is progressing on developing the business cases.

8) Undertaking the business cases does not necessarily commit the ACT to transferring water entitlements to the Commonwealth. The Environment Planning and Sustainable Development Directorate (EPSDD) will work with relevant partners, including Treasury, in development of the business cases. Following the completion, I (as the relevant Minister) and the Treasurer will be provided with the outcomes of investigations, anticipated financial returns, risk assessment and the proposed approach with respect to submission to the Commonwealth. It is anticipated that this will occur in the first half of 2020 although delivery timeframes are currently being discussed with the Commonwealth. The business cases will

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<sup>5</sup> Since the May 2019 Federal election, the Hon. David Littleproud MP is now Minister for Water Resources, Drought, Rural Finance, Natural Disasters and Emergency Management

<sup>6</sup> The 10.1 GL represent 15 GL minus the 4.9 GL SRA

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inform the proposed quantum of water efficiency and the mechanisms (efficiency measures) to achieve the savings.

9) The business cases must be formally submitted to the Commonwealth Government for assessment. The outcome of their assessment is also expected in the first half of 2020 and will determine actual quantum of saving agreed to by the Commonwealth and funding amount for implementation.

10) The EPSDD has engaged a suitably qualified valuer to quantify the market value for ACT water entitlements. This will assist the negotiations with the Commonwealth. Advice indicates that high security water entitlements are currently valued at between \$7500 per ML and \$8000 per ML.

11) Should the business cases lead to the transfer of entitlements to the Commonwealth the expected return, based on the current market price of high security water entitlements (times the 1.75 multiplier), is in the vicinity of \$13.1 million to \$14.1 million per GL, noting that the market price for high security water entitlements has increased due to the supply and demand effects of the current drought.

12) The MDBWIP is funded from the Commonwealth Water for the Environment Special Account. The Water Amendment (Water for the Environment Special Account) Act 2013 requires that funds from this account only be expended on initiatives such as water efficiency, water quality and waterway/catchment improvement work. This is also stipulated in the MDBWIP objectives and ACT efficiency measure criteria (see Department of Agriculture website), and Part 1 (10) of the funding agreement between the ACT and Commonwealth.

Shared Reduction Amount (SRA)

13) In 2014 the Commonwealth made a purchase of an equivalent 4.9 GL/yr High Security Murrumbidgee Regulated River (NSW) water entitlement from the ACT-owned water utility, Icon Water, in order to satisfy the requirements of the SRA.

14) Despite the earlier agreements and Commonwealth recognition of the ACT having met its commitment in Commonwealth water recovery registers and reporting to COAG, the Commonwealth has recently advised that the previous arrangement did not meet the legal definition of the Basin Plan. The Commonwealth noted the ACT was still required to contribute its SRA and

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confirmed that it is a requirement of the Basin Plan to resolve the SRA prior to the ACT Water Resources Plan being accredited by the Commonwealth Minister for Water Resources.

15) The Commonwealth has advised that its initial priority is to secure the ACT's 4.9 GL 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 noted at paragraph 2). 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 the transfer of this entitlement. Once negotiation outcomes are known, EPSDD will be in a better position to advise on the full financial impact and profile over the forward estimates. The approach proposed to deliver the entitlement along with the management of risk is addressed at paragraph 29.

Potential ACT Revenue and establishment of appropriate funding arrangements

16) The ACT Government has a number of policy positions requesting EPSDD to develop a sustainable funding source for water and catchment management, such as the ACT Water Strategy *Striking the Balance*, ACT and Region Catchment Management Strategy and the ACT Governments response to the Auditors General Report "Restoration of the Lower Cotter Catchment" (3/2015).

17) The MDBWIP provides the potential for such a funding source and aligns with a number of the above mentioned Government endorsed documents. 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. As noted at paragraph 13, this funding can only be used for water efficiency, water quality and waterway/catchment improvement works.

18) The Commonwealth have advised that their preference is for the revenue to be placed in trust, and that this funding be directly aligned with the August 2018 MinCo MDBWIP objectives. The Commonwealth's preference relate to transparency and accountability for Commonwealth reporting purposes (relative to funding agreements), provision of line of sight with respect to deliverables, better manage financial and implementation risks, and operational efficiencies

19) It is recommended that Cabinet agree to investigate appropriate models for management of funds (generated from the transfer of entitlements) including

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consideration of environmental trust arrangement. The preferred model will need to deliver against the objectives of the MDBWIP and Commonwealth Water for the Environment Special Account requirements.

20) Precedence exists for the establishment of a trust in the ACT, including the Wetlands and Woodland trusts. The difference being considered here is that the trust would be a government trust similar in nature to the NSW Environmental Trust. All jurisdictions across Australia have an “environmental trust” with defined environmental objectives. A trust arrangement also responds to the Government’s requirement to develop a sustainable funding source for water and catchment management.

21) Treasury has indicated that establishing a trust may attract initial and ongoing costs, depending on the nature and complexity of the trust. EPSDD will work with Treasury to determine an appropriate arrangement is in place and determine implementation costs, if any.

22) Subject to Cabinet agreement, following these investigations myself (as the relevant Minister) and the Treasurer, will work together to determine a preferred model for implementation.

23) It is important to note that opportunity also exists for funds (ie. received from the transfer of the SRA) to be used to support delivery of components of other ACT Government policy commitments that may be complimentary to the agreed Commonwealth funding objectives – eg. ACT Water Strategy, Climate Change Strategy, Urban Forest Strategy (currently being developed).

24) The general objectives for use of the trust (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 improvement measures;
- c) connecting people with nature to enhance wellbeing; and
- d) delivering living infrastructure to reduce the impacts of climate change.

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25) 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.

### Risk Management

26) The perception that the transfer of water entitlements may diminish the ACT's water security may be contentious with some sectors of the community. However, the risks are considered low as ACT's participation in the MDBWIP will be undertaken in a manner that maintains long term water security for ACT water users.

27) ACT water security is measured using two criteria being:

- a) water levels in dams - the <5% (1 in 20 year) water restrictions Level of Service target; and
- b) limiting water use to sustainable levels – ensure transfers of entitlements has negligible impact of the the ACT's Sustainable Diversion Limit<sup>7</sup> (SDL).

28) The approach proposed to deliver the 'up to' 15 GL (4.9 GL + 10.1 GL) water entitlements to the Commonwealth is to create new entitlements from the water management area in the lower reaches of the ACT Molonglo/Murrumbidgee River (i.e. below the Lower Molonglo Water Quality Control Centre). This means there would be no impact on water storages and therefore no impact on the <5% water restrictions Level of Service target.

29) The Lower Molonglo Water Quality Control Centre is the ACT's main wastewater treatment plant and is the largest inland treatment facility. Currently 30 GL per annum of water is released into the lower reaches of the ACT Molonglo/Murrumbidgee River (below the Control Centre) making it a very reliable water source for trading to the Commonwealth without impacting the ACT's water security.

30) Current projections show that the SDL limit will not be reached until the ACT population grows to over 1.2 million people - in 75 to 100 years. The funds

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<sup>7</sup> The net amount of water the Territory can extract under the Murray Darling Basin Water Plan

received from the Commonwealth as a result of a water transfer will be invested in water savings projects to offset the transfer of entitlements. This means that, beyond current projections, there will be no net impact on the SDL. The 4.9 GL arrangements does not affect the ACT's SDL.

## **CONSULTATION**

31) Consultation has been undertaken with relevant areas of government. Icon Water is participating in the development of business cases as are Transport Canberra and City Services Directorate, Community Services Directorate, Education Directorate and the ACT Health Directorate.

32) A Project Steering Committee (EPSDD and Chief Minister, Treasury and Economic Development Directorate (CMTEDD)) and a Working Group (EPSDD, CMTEDD, Environment Protection Authority and Icon Water) have assisted with this Project.

33) The Directors-General Water Group was briefed in November 2018 and May 2019. They were supportive of the ACT approach to the MDBWIP. The Economic Development Sub-Committee of Cabinet was briefed in July 2019. The briefing addressed both the MDBWIP arrangements and the intent to mobilise funds through establishment of a trust.

34) The Sub-Committee decision (19/333/CAB) 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. This submission responds to the Economic Development Sub-Committee of Cabinet July 2019 considerations.

35) Icon Water has been consulted extensively in developing the methodology to transfer entitlements to the Commonwealth in a way that will protect the ACT's water security.

36) In May 2019, Icon Water, in their capacity as member of the Directors-General Water Group, supported the policy to create new entitlements from the water management area in the lower reaches of the ACT Molonglo/Murrumbidgee River and understands that this will not impinge on the ACT's water security.

**Directorate comments**

37) An exposure draft of this paper was circulated to all directorates for comment.

The submission was supported with nil comment by Justice and Community Safety Directorate, Health Directorate, Canberra Health Services, Education Directorate, Transport Canberra and City Services, Community Services Directorate and Environment, Planning and Sustainable Development Directorate.

38) Chief Minister, Treasury and Economic Development Directorate provided comments on the submission. A table of final agency comments and response to those comments is provided at Attachment A to this submission.

**MEDIA/COMMUNICATIONS**

39) 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.

40) No attachments are proposed for release.

**IMPLEMENTATION**

41) In early 2020, I (along with the Treasurer) will be briefed on outcomes of the business case(s), anticipated financial return from efficiency measures and the implementation approach. Implementation plans will be developed as part of the business cases. Subject to Cabinet agreement, myself and the Treasurer will determine final content of business case(s) prior to submission to the Commonwealth. It is anticipated that the Commonwealth funding will be available in the first half of 2020, subject to the outcomes of the Commonwealth's assessment of the business cases.

**FINANCIAL IMPACT**

	2018-19	2019-20	2020-21	2021-22
	\$'000	\$'000	\$'000	\$'000
Controlled Recurrent Payments	-	63,000	-	-
Capital Injection	-	-	-	-
Depreciation	-	-	-	-
Revenue/Offsets	-	63,000	-	-
<b>Net Operating Impact</b>	-	-	-	-
Staffing – FTE				

42) Based on current estimates, the funding available to the ACT associated with the 4.9 GL contribution being agreed in this submission is about \$63 million as indicated in the financial impact table. As noted previously the Commonwealth require these funds to be expended only on water efficiency and waterway/catchment improvement works.

43) Further modelling will be undertaken to determine the full financial impacts, including additional costs and revenues, associated with the potential funding arrangements.

44) As noted at paragraph 16, negotiations with the Commonwealth Government around the 4.9 GL SRA are continuing. Negotiations relate to transfer arrangements, market price and operational criteria. Once the business cases (for the 10.1 GL) are complete and negotiation finalised with the Commonwealth Government for the 4.9 GL SRA, EPSDD will be in a better position to advise on the full financial impact and profile over the forward estimates.

45) Additional fees and charges such as the water abstraction charge may also be incurred by the Commonwealth. EPSDD will work with Treasury to investigate the applicability of the fees and charges to the transfer of entitlements.

Minister's signature



Date

21/10/18

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