

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture and Water Resources

Water Act 2007

Water Act (Northern Basin Review and Other Measures) Direction 2018

Legislative Authority

The *Water Act 2007* (the Act) makes provision for the management of the water resources of the Murray-Darling Basin, and makes provision for other matters of national interest in relation to water and water information, and for related purposes.

The *Water Act (Northern Basin Review and Other Measures) Direction 2018* (the Direction) is made under section 49AA of the Act.

Under subsection 49AA(1) of the Act, the Minister may give a direction to the Murray-Darling Basin Authority (the Authority) to prepare an amendment of the *Basin Plan 2012* (the Basin Plan) that will be the same in effect as an earlier amendment of the Basin Plan that has been disallowed under subsection 42(1) or (2) of the *Legislation Act 2003*.

Overview

The Direction requires the Authority to prepare an amendment of the Basin Plan that is the same in effect as the *Basin Plan Amendment Instrument 2017 (No.1)*, which was disallowed by the Senate on 14 February 2018. The Direction also requires the amendment to include the changes set out in paragraphs (a) to (c) of subsection (2) of Schedule 10 to the Act. These paragraphs identify certain changes that, if included in the amendment of the Basin Plan, do not prevent the amendment from being the same in effect as the previously disallowed *Basin Plan Amendment Instrument 2017 (No. 1)*.

Subsection 49AA(5) provides that a direction made under subsection 49AA(1) is a legislative instrument, but neither section 42 (disallowance) nor Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* (the Legislation Act) applies to the Direction. However, any Basin Plan amendment made pursuant to a section 49AA direction is a legislative instrument (see section 33 of the Act) and subject to the requirements of the Legislation Act including provisions relating to disallowance.

Under the Direction, the Minister is directing the Authority to prepare an amendment of the Basin Plan that is the same in effect as the *Basin Plan Amendment Instrument 2017 (No.1)*, which was disallowed by the Senate on 14 February 2018. The Direction also requires the amendment to include the changes set out in paragraphs (a) to (c) of subsection (2) of Schedule 10 to the Act.

Purpose

The purpose of the Direction is to direct the Authority to prepare an amendment of the Basin Plan that is the same in effect as the *Basin Plan Amendment Instrument 2017 (No.1)*, which was disallowed by the Senate on 14 February 2018.

Consultation

The Authority was consulted prior to the Direction being made by the Minister.

Regulation Impact Statement

There is no regulatory impact from this Direction because the Authority is not a regulated entity.

Details of the *Water Act (Northern Basin Review and Other Measures) Direction 2018*

Section 1 Provides that the name of the Direction is the *Water Act (Northern Basin Review and Other Measures) Direction 2018*.

Section 2 Provides that the Direction commences on the day after it is registered on the Federal Register of Legislation.

Section 3 Provides that the Direction is made under section 49AA of the Act.

Section 4 Provides that a number of expressions used in this instrument are defined in section 4 of the Act, including “Authority” and “Basin Plan”. The definitions are outlined below.

Authority has the meaning given by section 18A of the Act. In section 18A the Authority means the Murray-Darling Basin Authority established by section 171 of the Act.

Basin Plan means the Basin Plan adopted by the Minister under section 44 (as amended from time to time).

In this Instrument:

Act means the Water Act 2007.

Section 5 Subsection 5(1) provides that the Authority must prepare an amendment of the Basin Plan that is the same in effect as the *Basin Plan Amendment Instrument 2017 (No.1)*. The note in subsection 5(1) states that the *Basin Plan Amendment Instrument 2017 (No.1)* was disallowed by the Senate on 14 February 2018.

Subsection 5(2) provides that the amendment must include the changes set out in paragraphs (a) to (c) of section 2 of Schedule 10 to the Act. These paragraphs identify certain changes that, if included in the amendment of the Basin Plan, do not prevent the amendment from being the same in effect as the previously disallowed *Basin Plan Amendment Instrument 2017 (No. 1)*. These are outlined below.

Paragraph 2(2)(a) provides for a change involving an additional requirement in the definition of **re-allocation adjustment request** in section 6.05 (as substituted by the amendment) of the Basin Plan that a request made before that substitution should be expressed to be made in anticipation of that substitution.

Paragraph 2(2)(b) provides for a change involving an additional requirement in subsection 6.05(13) (as substituted by the amendment) of the Basin Plan that requires the Authority to publish on its website variations to the SDL resource unit shared reduction amounts for SDL resource units in the relevant zones.

Paragraph 2(2)(c) provides for a change to section 7.14A (as inserted by the amendment) to reflect that the initial adjustments proposed in 2017 (as required by section 7.10 of the Basin Plan) have already occurred.