The Murray Darling Basin Plan

November 2012

On Thursday 22 November 2012 the Commonwealth Minister for Water, the Hon. Tony Burke MP, announced that he had signed the final Murray Darling Basin Plan into law. The adoption of the Basin Plan is the culmination of more than three years of consultation and negotiations between state and federal governments, Basin residents, scientists, industry, environment and Indigenous groups.

Following Minister Burke's adoption of the Basin Plan, the Parliament has 15 sitting days to consider and disallow the Basin Plan.

Minister Burke's press release is available here. The Murray Darling Basin Plan is available in full at www.mdba.gov.au.

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Background

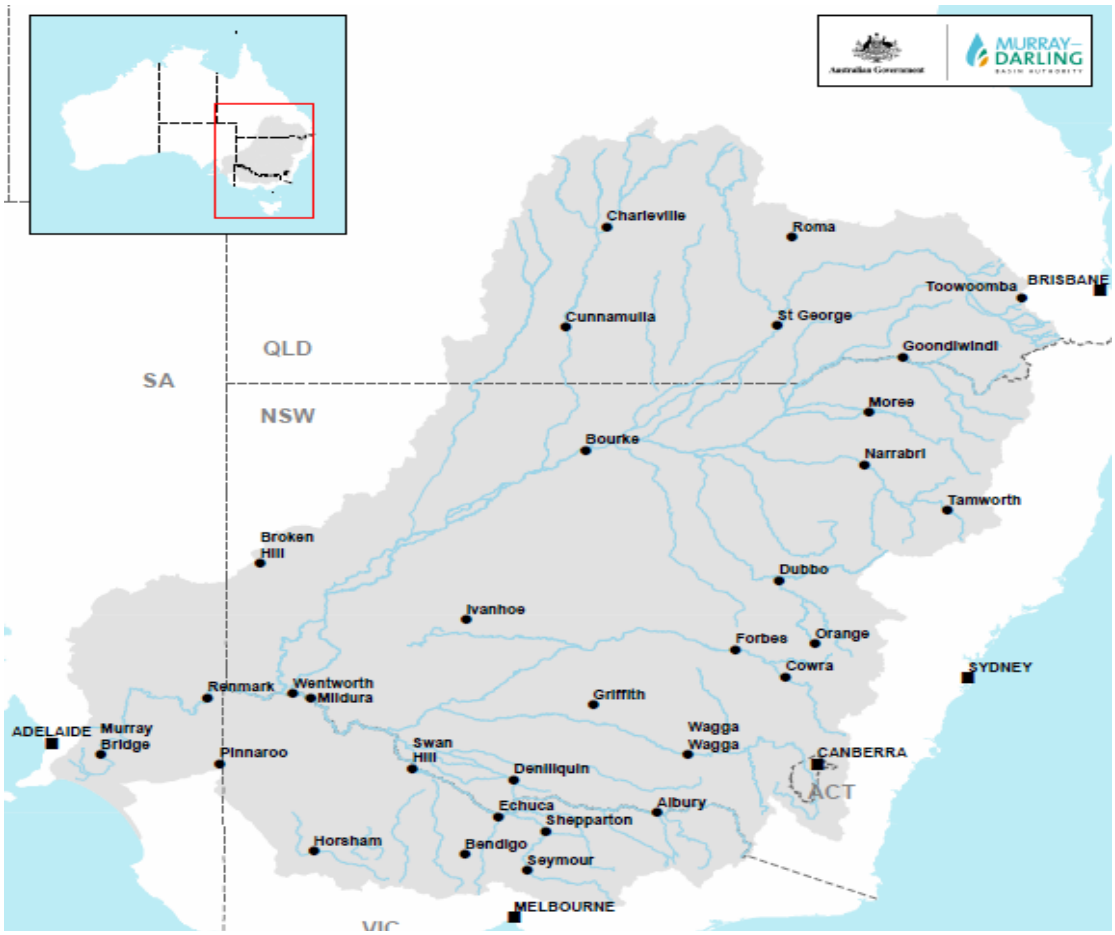
The Murray Darling Basin refers to the catchment areas of the Murray and Darling River and their many tributaries. The Basin covers over 1 million square kilometers in Queensland NSW, Victoria, the Australian Capital Territory and South Australia. The current and historical use of water in the Basin has led to degradation of the water quality, and the water-dependent eco-systems, such as the wetlands and red gum forests including native fish and bird populations, are decreasing.

The Basin Plan is designed to provide a high level framework that sets standards for management of the Murray-Darling Basin's water resources. It is based on managing Basin water resources in the national interest rather than on jurisdictional or sectoral based views. The Basin Plan builds on the past milestone agreements made by the Basin States that remain current today, such as the Murray-Darling Basin Agreement, the 2004 National Water Initiative and the 2008 Intergovernmental Agreement on Murray-Darling Basin Reform.

The aim of the Murray Darling Basin Plan is to return the Basin into a healthy condition to secure a sustainable and productive economic future for the region. In order to achieve this, the Basin Plan will set a limit, known as a Sustainable Diversion Limit (SDL), on the amount of water that can be taken from the Basin for consumptive use, including irrigation, agriculture,

drinking, therefore increase volume of water left in the Basin system. The SDLs are set at both a catchment and at Basin-wide levels.

The SDLs will replace the existing cap on water use, and will be set at both a catchment and Basin-wide scale. Once the SDLs have been set, the amount of water currently being taken out of the Basin must be reduced to meet the limit, creating a process of water recovery.



The Murray Darling Basin Authority (MDBA) was established in 2007 by the *Water Act 2007*, for the purpose of developing and implementing the Basin Plan. The MDBA has worked in consultation with the Commonwealth Minister for Water, the Hon. Tony Burke MP, and the Legislative and Governance Forum of the Murray Darling Basin (formerly the Murray Darling Basin Ministerial Council). The Legislative and Governance Forum is made up of the responsible Minister from each of the five Basin States and Territories, as well as the Commonwealth Minister for Water.

Current members of the Forum are:

- the Hon Tony Burke MP (Commonwealth) (Chair);
- the Hon Katrina Hodgkinson MP (New South Wales);
- the Hon Peter Walsh MP (Victoria);
- the Hon Paul Caica MP (South Australia);
- Mr Simon Corbell MLA (Australian Capital Territory); and
- the Hon Andrew Cripps MP (Queensland).

The Final Murray Darling Basin Plan

The final Basin Plan cements the SDLs on surface and groundwater resources in the Murray-Darling Basin that were proposed in the previous draft versions Basin Plan. The Basin-wide long-term average SDL as set out in the final Basin Plan is 10,873 GL/y for surface water. To achieve this, 2,750 GL/y of consumptive water use needs to be recovered. Under the Plan, these SDLs will come into force from 2019, allowing communities time to adjust.

At 30 September 2012, 1,577 GL of the 2,750 GL/y recovery target had already been recovered through initiatives undertaken by both the Basin States and the Commonwealth, including water buy-backs.

Approximately 600 GL of the overall recovery target is expected to be recovered through the Sustainable Rural Water use and Infrastructure Program (SRWUIP). This is a $5.8 billion program to increase water use efficiency in rural Australia and help irrigation communities make early adjustments in anticipation of the SDLs. So far funding has been granted to significant state-based water infrastructure and reform projects in South Australia, New South Wales, Victoria, Queensland and the ACT, as well as Private Irrigation Infrastructure Operators.

The final Basin Plan also includes an SDL Adjustment Mechanism, new rules on water trade, an environmental watering plan and a water quality and salinity plan.

SDL Adjustment Mechanism

One of the more significant changes in the final Basin Plan is the inclusion of the SDL Adjustment Mechanism. On 21 November 2012 the Parliament agreed to amend the *Water Act 2007* to provide a mechanism to allow the Minister, on the advice of the Murray Darling Basin Authority, to adjust the SDL within defined limits to achieve enhanced environmental and socioeconomic outcomes.

Activities to be considered under the adjustment mechanism will either allow equivalent environmental outcomes to be achieved with less water or increase the volume of water available for environmental use with neutral or improve socio-economic impact.

The two different types of projects that will be considered by the adjustment mechanism for surface water SDLs are called 'supply' and 'efficiency' measures.

Supply measures are works, river operations or rule changes that enable the use of less water but still achieve the Plan's environmental outcomes. Such projects would allow the SDL to be achieved by other means, thereby reducing the Basin Plan's 2,750 GL consumptive water recovery target, as well as reducing the social and economic impact of water recovery.

An example of a supply project is the installation of infrastructure such as regulators on a floodplain to enable inundation events using smaller quantities of water than would typically be needed in a general 'overbank' flooding event.

Efficiency measures recover and provide more water for the environment without negative social and economic impacts. They include improving the efficiency of on-farm irrigation and

transferring the water savings for environmental use. Such projects achieve water savings for the environment without adverse impact on production and would allow the Basin Plan's 2,750 GL recovery volume to be increased without reducing productive capacity in the Basin.

Suitable measures are to be proposed by the Basin states and territories, and approved by the Commonwealth Minister. The Commonwealth will retain the power to ensure the SDL is met, including through buybacks, but has stated that if suitable measures are proposed by the states that the reserve power will not be exercised.

The amendment to allow for the Adjustment Mechanism came as a result of consultation between the Commonwealth and the Basin Water Ministers. Any adjustment to the SDL will be determined by 2016. More information about the SDL adjustment mechanism is available here.

Additional Water Recovery

On Friday 26 October 2012, the Hon. Tony Burke MP announced plans to return an additional 450 GL of water to the Murray Darling Basin. This 450 GL is in addition to the 2,750 GL recovery target for consumptive water used. The additional 450 GL will be recovered primarily through on-farm efficiency initiatives that generate water savings.

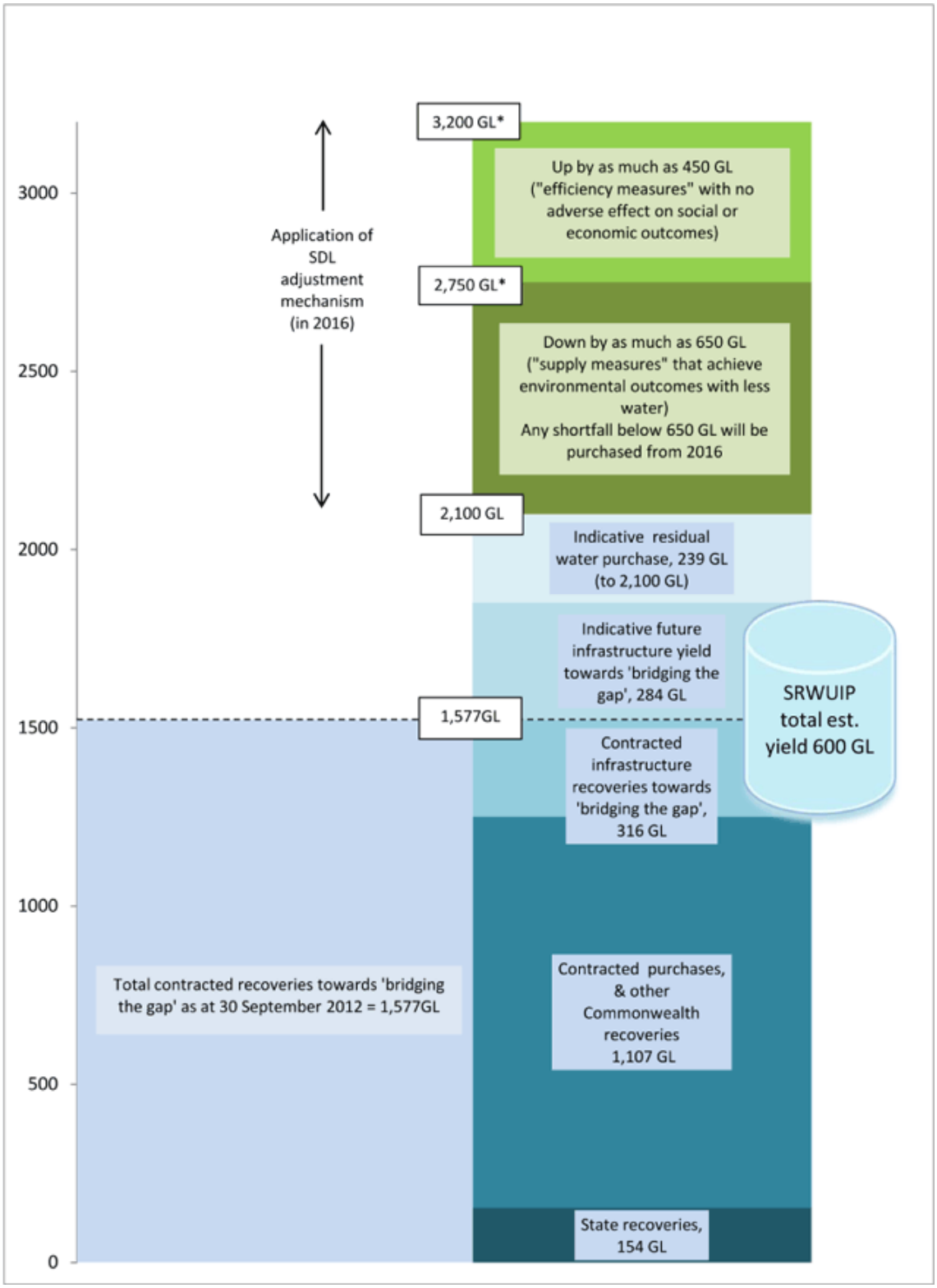
These initiatives will be funded by an additional $1.77 billion of Commonwealth funding over ten years from 2014. This funding comes from within existing resources and from funds set aside in the 2012-13 Mid-Year Economic and Fiscal Outlook.

The result of this announcement is that the environmental outcomes that have been modelled when returning 3200 GL to the Basin will be achieved without any further cut to the consumptive water use.

Of the extra funding, $200 million will be used to remove constraints such as low lying bridges and undersized dam outlets that currently limit both the volume of water that can flow through river systems and the environmental uses to which it can be put.

Minister Burke's press release is available here

Water Recovery and the SDL Adjustment Mechanism

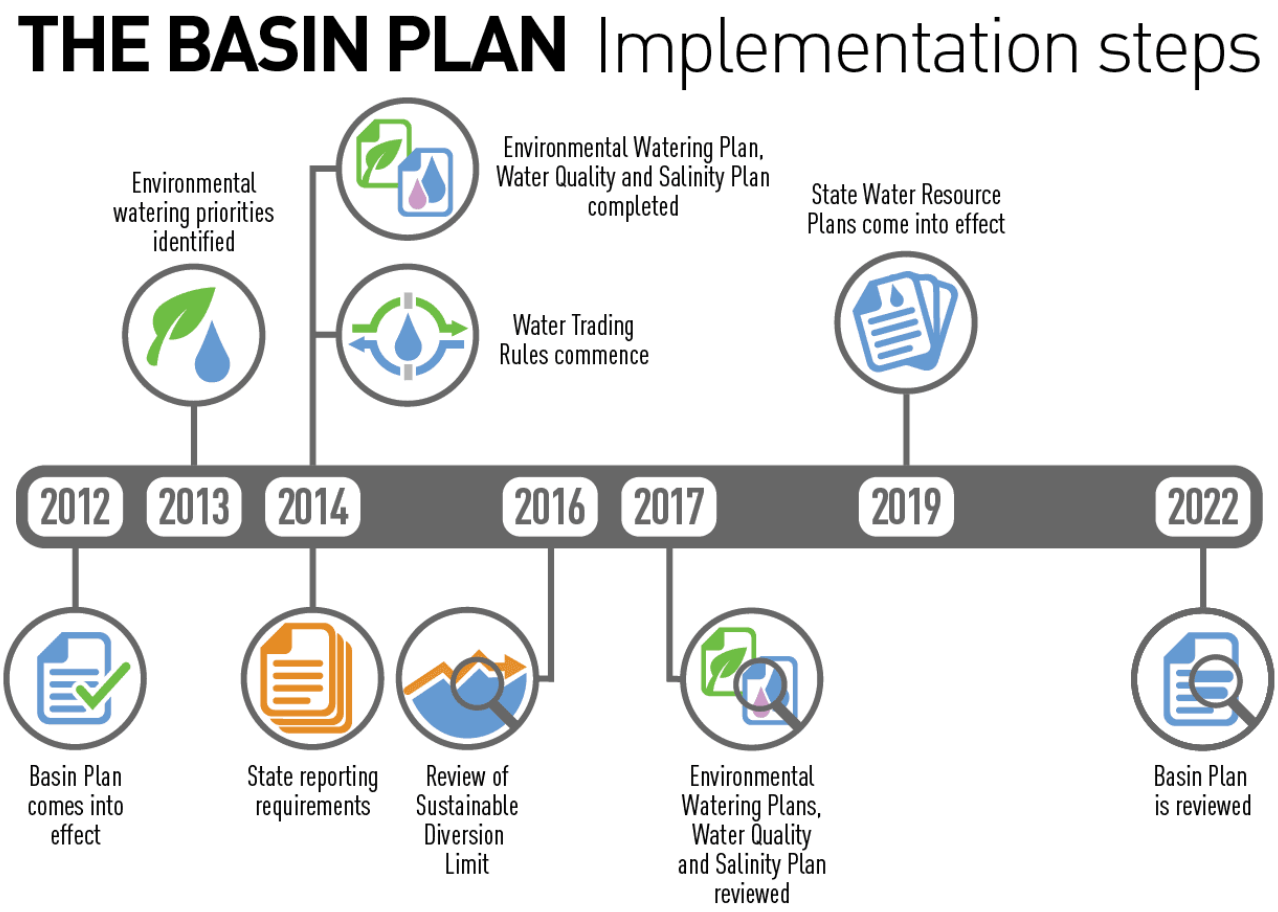


* The Commonwealth has made a commitment to 'bridge the gap' between current diversions and the sustainable diversion limit in the Basin Plan. In the absence of an adjustment mechanism, the recoveries to 'bridge the gap' would total 2,750 GL.

Implementation

The Basin Plan, apart from Chapter 12, formally commenced upon is acceptance by Government. However Chapter 12, which outlines the rules for water trading within the Basin, will commence on 1 July 2014.

As per the time-frame set out in the Basin Plan, the SDLs will come into effect in 2019. This implementation date is designed to allow communities adequate time to adapt.



The Basin Plan Development Timetable

The release of the final Basin Plan comes after a three year drafting process, which involved extensive public consolations, and negotiations between key stakeholders. A more detailed summary of the development of the Basin Plan can be found in Hawker Britton's earlier Occasional Paper, available here.

August 2007	*The Water Bill 2007* is passed through the House of Representatives and Senate, establishing the Murray Darling Basin Authority and mandating the development of the Basin Plan
March 2008	Commencement of the *Water Act 2007*
December 2008	*Water Amendment 2008* amends the *Water Act 2007* following the referral of powers from the Basin States
December 2008	Murray Darling Basin Authority assumes responsibility for all of the functions of the former Murray Darling Basin Commission
October 2010	*The Guide to the Proposed Murray Darling Basin Plan* is released
November 2011	*The Proposed Murray Darling Basin Plan* is released
April 2012	Public consultation on *the Proposed Murray Darling Basin Plan* ends
May 2012	The *Proposed Murray Darling Basin Plan* (revised draft) is published
May - June 2012	The Ministerial Council considers the *Proposed Murray Darling Basin Plan* and provides comments
August 2012	The *Proposed Murray Darling Basin Plan* (second revision) (also called the *Altered Proposed Basin Plan*) is published
August - November 2012	The Commonwealth Minister for Water, in consultation with the Ministerial Council, considers the *Proposed Murray Darling Basin Plan* (second revision) and provides comments
November 2012	The Commonwealth Minister for Water adopts the *Proposed Murray Darling Basin Plan* and it becomes law

Water Act 2007

The *Water Act 2007* (the Act) and the *Water Amendment Act 2008* (the Amendment Act) are two significant pieces of legislation that enabled the development of the Murray Darling Basin Plan. The Acts specifically enable the Commonwealth, in conjunction with the Basin states, to manage the Basin water resources in the national interest. Prior to these pieces of legislation, the Basin had been managed by the competing interests of the five Basin states and territories: ACT, NSW, QLD, SA and VIC.

For more information on the significance of these pieces of legislation, visit the Water Legislation section of the Department of Sustainability, Environment, Water, Population and Communities' website, available here.

The Water Act commenced on 3 March 2008. Key features of the *Water Act 2007* include:

- Establishing the Murray-Darling Basin Authority (MDBA) with the functions and powers, including enforcement powers, needed to ensure that Basin water resources are managed in an integrated and sustainable way.
- Requiring the MDBA to prepare the Basin Plan - a strategic plan for the integrated and sustainable management of water resources in the Murray-Darling Basin.
- Establishing a Commonwealth Environmental Water Holder to manage the Commonwealth's environmental water to protect and restore the environmental assets of the Murray-Darling Basin, and outside the Basin where the Commonwealth owns water.
- Providing the Australian Competition and Consumer Commission (ACCC) with a key role in developing and enforcing water charge and water market rules along the lines agreed in the National Water Initiative.
- Giving the Bureau of Meteorology water information functions that are in addition to its existing functions under the *Meteorology Act 1955*.

In December 2008, the Act was amended by the *Water Amendment Act 2008*.

In addition to Commonwealth constitutional powers, the *Water Amendment Act 2008* required referral of certain powers from the Basin States to the Commonwealth. The Amendment Act passed through the Commonwealth Parliament following the passage of referring legislation through the Basin states - Queensland, New South Wales, Victoria and South Australia. (Referral of power was not required from territories, so the legislation did not have to pass through the ACT's Legislative Assembly.)

In the process of negotiating with the Basin States, two significant intergovernmental agreements were made:

- The Memorandum of Understanding on Murray Darling Basin Reform was signed by the Prime Minister and the Premiers of New South Wales, Victoria, South Australia and Queensland, and the Chief Minister of the Australian Capital Territory at a Council of Australian Governments (COAG) meeting in March 2008.

- An Intergovernmental Agreement on Murray Darling Basin Reform was signed by First Ministers, which built on the principles of the Memorandum of Understanding. In the Intergovernmental Agreement, Governments committed to a new culture and

practice of Basin-wide management and planning, through new governance structures and partnerships, at a COAG meeting in July 2008.

Key features of the Amendment Act include:

- The functions of the Murray-Darling Basin Commission, established under the Murray Darling Basin Agreement in 1987, were transferred to the Murray-Darling Basin Authority, meaning there is now a single body responsible for overseeing water resource planning in the Murray-Darling Basin.
- The role of the ACCC was strengthened by providing for the water charge rules and the water market rules to apply to all water service providers and transactions.
- The current powers of the ACCC were extended to determine or accredit determination arrangements for all regulated non-urban water charges.
- It enabled the Basin Plan to provide arrangements for meeting critical human water needs.

Structure of the Final Basin Plan

The final Basin Plan is a 245 page document divided into thirteen chapters plus twelve schedules.

Chapter	Title	Subject Matter
Chapter 1	Introduction	The structure of the Basin Plan, definitions of terms used in the Plan as well as agreements with regard to jurisdictional implementation obligations.
Chapter 2	Basin water resources and the context for their use	The description of Basin water resources and the context in which those resources are used.
Chapter 3	Water resource plan areas and water accounting periods	The identification of the particular areas that are to be water resource plan areas and the periods that are to be the water accounting periods for each of those areas.
Chapter 4	Identification and management of risks to Basin water resources	The identification of the risks to the condition, or continued availability, of the Basin water resources and the strategies to be adopted to manage, or address, those risks.
Chapter 5	Management objectives and outcomes to be achieved by the Basin Plan	The management objectives and outcomes to be achieved by the Basin Plan.
Chapter 6	Water that can be taken	The long-term average sustainable diversion limits, the temporary diversion provisions, and the method for determining whether the long-term annual diversion limit has been complied with and the extent of any failure to comply with that limit. This Chapter also includes matters required by Division 4 of Part 2 of the Act which relate to the allocation of risks in relation to reductions in water availability, and provisions for the Authority to conduct research and investigations.
Chapter 7	Adjustment of SDLs	The Authority may propose adjustments to the long-term average sustainable diversion limits under section 23A of the Act. These may be made by amendment to the Basin Plan under section 23B of the Act. The Chapter also provides for a constraints management strategy.
Chapter 8	Environmental watering plan	The plan for the protection and restoration of the wetlands and other environmental assets of the Murray-Darling Basin; for the protection of biodiversity dependent on Basin water resources;

		and for achieving other environmental outcomes for the Murray-Darling Basin.
Chapter 9	Water quality and salinity management plan	Water quality and salinity objectives, water quality targets for planning of water flows, water quality targets that apply to the preparation of the water resource plans, and water quality targets for the purposes of long-term salinity planning and management. This Chapter also includes the key causes of water quality degradation in the Murray-Darling Basin.
Chapter 10	Water resource plan requirements	The requirements that a water resource plan must comply with for it to be accredited or adopted under Division 2 of Part 2 of the Act.
Chapter 11	Critical human water needs	The arrangements for meeting critical human water needs.
Chapter 12	Water trading rules	The rules for the trading of tradeable water rights in relation to Basin water resources.
Chapter 13	Program for monitoring and evaluating the effectiveness of the Basin Plan	The program that will be used to monitor and evaluate the effectiveness of the Basin Plan. Specific Commonwealth and Basin State reporting requirements are also included.
Schedule 1	Basin water resources and the context for their use	The description of Basin water resources and the context in which those resources are used.
Schedule 2	Matters relating to surface water SDL resource units	Surface water SDL resource units and long-term average sustainable diversion limits for those units.
Schedule 3	BDLs for surface water SDL resource units	The BDL for each surface water SDL resource unit.
Schedule 4	Matters relating to groundwater SDL resource units	Groundwater SDL resource units; groundwater covered by those units; BDLs for those units; and long-term average sustainable diversion limits for those units.
Schedule 5	Enhanced environmental outcomes referred to in paragraph 7.09(e)	Outcomes that will be pursued under the Commonwealth's program to increase the volume of water resources available for environmental use by 450 GL per year.
Schedule 6	Default method for calculation of supply contribution	Provisions for quantifying supply adjustments for Part 2 of Chapter 7.
Schedule 7	Targets to measure progress towards objectives	Targets by which to measure progress towards achieving the environmental objectives specified in Part 2 of Chapter 8.
Schedule 8	Criteria for identifying an environmental asset	Criteria for identifying an environmental asset.
Schedule 9	Criteria for identifying an ecosystem function	Criteria for identifying an ecosystem function.
Schedule 10	Key causes of water quality degradation	Key causes of water quality degradation.
Schedule 11	Target values for target application zones	Water quality targets that apply for target application zones.
Schedule 12	Matters for evaluation and reporting requirements	Matters relating to the objectives and outcomes against which the effectiveness of the Basin Plan will be evaluated and on which the Authority, the Basin States, the Department and the Commonwealth Environmental Water Holder are required to report.