

VARIATION

VARIATION NUMBER 2 TO PROJECT SCHEDULE 3 TO THE WATER MANAGEMENT PARTNERSHIP AGREEMENT BETWEEN THE COMMONWEALTH AND NEW SOUTH WALES FOR THE NSW BASIN PIPES PROJECT

VARIATION

PARTIES

This Variation No. 2 is made between:

The **Commonwealth of Australia (Commonwealth)** represented by the Department of the Environment (**DotE** and formerly DSEWPaC) ABN 34 190 894 983

AND

The **State of New South Wales (State)** represented by the New South Wales Office of Water, Department of Primary Industries ABN 47 661 556 763 (**NOW**)

(together, the **Parties**)

CONTEXT

This Variation No 2. is made in the following context:

- A. The Commonwealth, represented by DotE (then known as the Department of Sustainability, Environment, Water, Population and Communities) and the State, represented by NOW, entered into a Water Management Partnership Agreement (the **Agreement**) on 11 January 2010.
- B. In accordance with clauses 5.1.1.b and 16.2.1 of the Agreement, the Parties signed a project schedule (the **Original Project Schedule**) for the New South Wales Basin Pipes Project (the **Priority Project**) on 4 June 2012.
- C. On 30 August 2013, the Commonwealth, represented by the Department of the Environment (then known as Department of Sustainability, Environment, Water, Population and Communities) and the State, represented by NSW Office of Water, signed a variation (Variation 1) to the Project Schedule.
- D. Under clause 16 of the Agreement, a Project Schedule may be varied by the written and signed agreement of the Parties.
- E. In accordance with clause 16 of the Agreement, the Parties now agree to vary the Project Schedule as set out in this **Variation**.

1. Interpretation

1.1. Definitions

- 1.1.1. Unless the contrary intention appears a term in bold type has the meaning shown opposite it:

Agreement	has the meaning given in Recital A.
Project Schedule	has the meaning given in Recital B.
Variation Date	means the date on which this Variation No. 1 is signed by the last Party to do so.

1.2. Interpretation

- 1.2.1. Clause 18.5 of the Agreement applies to this Variation No. 1 as though all references in that clause to the "Agreement" were instead references to this "Variation".

2. Variation of the Project Schedule

- 2.1.1. With effect from the Variation Date, the Project Schedule is varied by:
- a. inserting all clauses and words that are underlined; and
 - b. deleting all clauses and words that are crossed through,
- in the copy of the Project Schedule which forms the **Annexure 1** to this Variation No. 2.
- 2.1.2. Subject only to the amendments contained in this Variation No. 2, the Parties confirm all other provisions of the Project Schedule and the Agreement.

3. Effect of Variation

- 3.1.1. The Parties agree that **Annexure 2** to this Variation No. 1 shows a clean version of the Project Schedule after it is varied in accordance with clause 2 of this Variation No. 2.

4. Costs

- 4.1.1. The Parties shall each bear their own costs and expenses (including legal costs) arising out of and incidental to the negotiation, preparation and signing of this Variation No. 2.

5. Counterparts

- 5.1.1. This Variation No. 1 may be signed by the Parties in two counterparts, in which case the two counterparts together will be taken to constitute the one Variation No. 2.

Signatures

SIGNED for and on behalf of the
COMMONWEALTH OF AUSTRALIA
represented by the Department of the
Environment by

Nancy Vincent

^Name of signatory^

AK 5 28/1/15 A/G FAS, WATER DIVISION

Signature and date

In the presence of:

Kathryn Anthony

^Name of witness^

K Anthony 28/1/15

Signature of witness and date

SIGNED for and on behalf of the
STATE OF NEW SOUTH WALES by
the NSW Office of Water, Department
of Primary Industries by

Bruce Cooper

^Name of signatory^

Bruce Cooper 22/1/15 A/DG WATER

Signature and date

In the presence of:

Tracey Nicol

^Name of witness^

[Signature] 22-1-15

Signature of witness and date

PROJECT SCHEDULE

COMMONWEALTH OF AUSTRALIA REPRESENTED BY
THE DEPARTMENT OF THE ENVIRONMENT

WATER FOR THE FUTURE
NEW SOUTH WALES STATE PRIORITY PROJECT
NSW BASIN PIPES PROJECT

PROJECT SCHEDULE 3 TO THE WATER MANAGEMENT
PARTNERSHIP AGREEMENT BETWEEN THE COMMONWEALTH
AND NEW SOUTH WALES

PROJECT SCHEDULE 3 – NSW BASIN PIPES PROJECT

A. Terminology used in this Project Schedule

- A.1.1. Except where indicated in Item A.1.2, capitalised terms in this Project Schedule have the same meaning as in clause 18.4 of the *Water Management Partnership Agreement* between the Commonwealth and New South Wales dated 11 January 2010 (the Agreement).
- A.1.2. For the purpose of this Project Schedule only, the terms specified in this Item have the following meaning:
- a. Activity: means an activity that the State is required to undertake, or ensure is undertaken, to complete the Priority Project and includes anything that is reasonably incidental to the completion of that activity.
 - b. Business Case Information Requirements: means the criteria set out in Schedule E of the IGA.
 - c. DoTE: means the Commonwealth Department of the Environment (formerly known as the Department of Environment, Water, Heritage and the Arts or DEWHA; and the Department of Sustainability, Environment, Water, Population and Communities or DSEWPaC) ABN 34 190 894 983 or other department or agency that has from time to time responsibility for this Agreement, and includes its Personnel and successors.
 - d. Grant: means, the permanent grant of Water Entitlement by the State to the Commonwealth under section 63A of the WM Act. For the purposes of this Project Schedule, a reference to the term "Transfer" in a clause of this Agreement includes a reference to a "Grant" as defined in this Project Schedule.
 - e. Land Owner: means the legal owner of land on which part of this Priority Project is or will be carried out (a Land Owner may also be a Proponent).
 - f. ML: means megalitre, which is 1,000,000 litres.
 - g. NOW: means the New South Wales Office of Water, a business unit in the Department of Primary Industries, which is an office of the Department of Trade and Investment, Regional Infrastructure and Services (ABN 72 189 919 072) representing the Crown in right of the State of New South Wales, and includes its Personnel and successors.
- [REDACTED]
- i. Progress Report: means a report received at the intervals specified in the Milestones in Item C.1.2 and as specified in Item I.2.
 - j. Project Control Group: means a group comprising representatives from the State and any agreed independent members who will monitor the progress of this Priority Project, including against this Project Schedule. The Commonwealth's representatives will be observers at the meetings of the Project Control Group and will be entitled to receive all Project Control Group documentation, including its agendas and minutes.
 - k. Start-up Amount: means the [REDACTED] (exc GST) of funding specified in Item B.1.4 that was provided by the Commonwealth to the State under the funding deed of 28 April 2009, for the State to develop the business case for this Priority Project. The

Start-Up amount does not, however, form part of the Funding governed by this Project Schedule.

- I. State Contributions: means the contributions which the State is required to provide under this Priority project as specified in Item D.3. The State Contributions are in lieu of a 10 per cent State cash contribution to the cost of this Priority Project and are to equal 10% of the sum of the Funding for this Priority Project and the Start Up Amount.
- m. Stock and Domestic Scheme(s): means a scheme or schemes that provide water to landowners for the purpose of human and animal consumption. They include:
 - i. Replenishment Flow schemes where replenishment flow is released from storages 2-3 times a year and delivered to riparian landholders via ephemeral creeks and manmade distribution channels; and
 - ii. Stock and Domestic schemes where licensed water is delivered via an earthen distribution system (natural or manmade) or pipeline system to individual landholders. Stock and Domestic Scheme licences may be held by individual landholders or by a group of landholders who have formed a legal entity. Stock and Domestic Schemes may include schemes where the earthen distribution channel serves the dual purposes of supplying both irrigation and stock and domestic water and may include augmentation or upgrade to existing pipeline schemes.
- n. WM Act means the *Water Management Act 2000 (NSW)*.

B. Priority Project

B.1. Summary and duration of the Priority Project

- B.1.1. In the IGA, the Commonwealth agreed in-principle to provide funding of up to \$1.358 billion for New South Wales' proposed projects, subject to Due Diligence of each such project and compliance with the Commonwealth's Business Case Information Requirements and this Agreement.
- B.1.2. In the IGA, the Commonwealth agreed in-principle to provide funding of up to \$137 million for the State's proposed Basin Pipes project subject to the Priority Project satisfying the Commonwealth's Due Diligence.
- B.1.3. The State submitted a business case to DSEWPaC for a proposed NSW Basin Pipes Priority Project (Proposed Project) on 11 June 2010. The Proposed Project involved the upgrading of selected Stock and Domestic Schemes in the NSW section of the Murray-Darling Basin.
- B.1.4. Both Parties acknowledge that the Commonwealth has previously provided the State with a Start-up Amount to develop the business case for this Priority Project. The Funding specified in this Project Schedule does not include the funding for the business case.
- B.1.5. The Commonwealth's Due Diligence assessment of the Proposed Project against the Business Case Information Requirements was completed in April 2011. The Proposed Project was approved for funding by the Commonwealth Minister for Sustainability, Water, Environment, Population and Communities (the Minister) on 2 May 2011, subject to the conditions in the Commonwealth's final Due Diligence report. The revised conditions were agreed by the State on 7 November 2011. The maximum Funding for this Priority Project is \$136,202,122 (excluding GST). The conditions of the final Due Diligence are now reflected in this Project Schedule.

B.1.6. This Priority Project will commence on the date this Schedule is signed and will be completed by 1 October 2017.

B.2. Aim of Project Activities

B.2.1. The purpose of this Priority Project is the upgrading of selected Stock and Domestic Schemes in that part of the Murray-Darling Basin which is within NSW.

B.2.2. This Priority Project will assist the State to meet its commitments to the IGA and Reform Requirements. The Priority Project will result in Agreed Water Savings that will be shared between the State and the Commonwealth.

B.3. Project Outcomes and Activities

B.3.1. The Priority Project outcomes include Agreed Water Savings, upgrades to Stock and Domestic Schemes and environmental outcomes. Set out below are key outcomes which will be used as the basis for assessing the Priority Project

a. the State will Grant Water Entitlements to the Commonwealth

b. If this Priority Project results in water savings that exceed the sum of the Commonwealth's Proportion of the Agreed Water Savings and the State Contributions, then those additional water savings may be granted to the State under section 63B of the WM Act;

c. An upgrade to Commonwealth-approved Stock and Domestic Schemes, including the piping of replenishment flows in ephemeral creeks supplied under NSW Water Sharing Plans, and piping schemes for Stock and Domestic Scheme licence holders, to improve the efficiency of water use, minimise water losses and contribute to a sustainable future for participating Land Owners and dependent communities;

d. Improved environmental outcomes arising from the restoration of more natural flow patterns in natural watercourses; and

e. Improved management by the State of Water Entitlements held by upgraded Stock and Domestic Schemes consistent with the State's commitments under the National Water Initiative, the IGA, the Agreement and NSW legislation.


B.3.2. The project will involve (1) detailed planning by NSW, (2) approval by the Commonwealth of site specific plans for work to upgrade each Stock and Domestic Scheme prior to the commencement of that work, and (3) the implementation of works by the State to upgrade each approved Stock and Domestic Scheme.

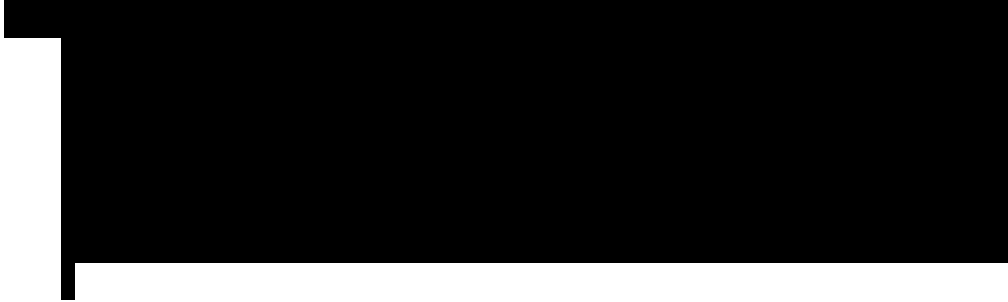
a. The State is required to identify projects, prepare concept designs and secure the agreement of Land Owners. The State is required to prepare detailed site specific plans for work on each proposed Stock and Domestic Scheme which are to include:

i. a survey of existing infrastructure, water usage and water delivery requirements;

ii. technical details of the proposed upgrade or construction of water infrastructure and proposed decommissioning of existing infrastructure, including relevant maps;

iii. a detailed budget for each proposed Stock and Domestic Scheme including, but not limited to, stakeholder engagement, all required planning, project management, contract administration and project delivery costs;

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- v. the Agreed Water Savings from the proposed work and the quantum and characteristics of Water Entitlements to be Granted to the Commonwealth to reflect the Commonwealth's Proportion of those Agreed Water Savings; and
 - vi. an assessment of the environmental outcomes to be gained from the work, if any.
- b. The State will provide draft site specific plans (covering all of the information specified in Item B.3.2. a) for the work on each Stock and Domestic Scheme to the Commonwealth for its approval prior to the commencement of that work.
 - c. The Commonwealth will advise the State of the Commonwealth's decision whether to approve proposed work on a specific Stock and Domestic Scheme within 21 Business Days after receipt of all required documentation pertaining to that work.
 - d. The Commonwealth's approval of plans for proposed work on a Stock and Domestic Scheme will be based on DoTE satisfying itself that:
 - i. There is evidence of support from all Land Owners whose property or infrastructure is directly affected by the proposed work.

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- iii. All Water Entitlements to be Granted to the Commonwealth are to have the characteristics described in Item E.3.
 - iv. The State is complying with its obligations, where relevant, under the *Environment Protection and Biodiversity Conservation Act 1999*.
 - e. The State will undertake works on Stock and Domestic Schemes.
 - f. The State may only apply Funding to the implementation of works on Stock and Domestic Schemes that have been approved by the Commonwealth.

B.4. Priority Project Requirements

B.4.1. The State agrees that:

- a. the State is responsible for ensuring the proper and efficient conduct and management of this Priority Project in accordance with this Project Schedule;
- b. the State will ensure there is appropriate monitoring, auditing and reporting of Priority Project expenditure against the Project Cost (and the detailed budget(s) referred to in Item B.4.7) and achievement of the Agreed Water Savings and the Grant of the Commonwealth's Proportion of the Agreed Water Savings and the State Contributions to the Commonwealth in the form of high security, general security or supplementary Water Entitlements to enable the Commonwealth to be suitably informed on the progress and outcomes of this Priority Project;

- c. the State will comply, and ensure that its Proponents and their subcontractors comply, with all applicable requirements of the *National Code of Practice for the Construction Industry* as set out in Attachment 1 to this Project Schedule;
- d. the State will comply, and ensure that its head contractors comply, with all applicable requirements of the *Australian Government OHS Accreditation Scheme* as set out in Attachment 2 to this Project Schedule;
- e. if requested, the State will provide the Commonwealth with timely access to the sites at which the works are being conducted on, and the State's records and personnel to enable the Commonwealth to conduct its own independent audit or review of any aspect of this Priority Project; and
- f. the State is responsible for meeting the Project Milestones specified in this Project Schedule.
- g. the State will carry out each Activity in accordance with all applicable laws (including, but not limited to, all required planning, environmental, development, building, occupational health and safety and regulatory approvals and all applicable Australian standards);
- h. in Granting the Water Entitlements to the Commonwealth, the State will ensure that it does not adversely affect the rights of any other holders of Water Entitlements;
- i. the State will only acquire property for, or in the course of, this Priority Project with the property owner's prior consent to the proposed acquisition;
- j. no additional funding will be provided by the Commonwealth to the State if the Priority Project delivers water savings in excess of the Agreed Water Savings or if the costs of the Priority Project exceed the Funding; and
- k. In the eventuality that the State considers that the scope of work should change, the State may propose a variation to this Project Schedule consistent with clause 16 of the Agreement, but no such change is effective until agreed by the parties in accordance with clause 16.

B.4.2. Payment of Funding by the Commonwealth to the State is dependent on:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

B.4.3. The process for preparing for and effecting a Grant of Water Entitlements by the State to the Commonwealth as part of a Project Milestone in [REDACTED] is as follows:

- a. at the end of each two month period from 1 July each year, NOW will review the completion of works upgrades to Stock and Domestic and Replenishment Schemes to identify Water Entitlements to be granted to DoTE, and commence the water entitlement transfer process within a further two months.
- b. Prior to Water Entitlements being granted to the Commonwealth, the State will provide to DoTE all relevant details about the Water Entitlements that the State intends to Grant to the Commonwealth as part of that Project Milestone (including in respect of both the Commonwealth's Proportion of Agreed Water Savings and State

Contributions). Such details to include but not be limited to the volume, security, water source of, and any proposed conditions on, the Water Entitlements;

- c. DoTE will review the Water Entitlements details provided by the State and undertake any necessary checks to confirm that those details accord with the requirements of this Project Schedule; and
- d. once DoTE advises the State that it agrees that the Water Entitlements details provided by the State accord with the requirements of this Project Schedule, the State may Grant Water Entitlements with those agreed details to the Commonwealth as specified in the relevant Project Milestone

[REDACTED];

B.4.4. The State acknowledges that DoTE is not required to perform any aspect of this Priority Project, other than evaluating and approving site specific plans.

B.4.5. In undertaking this Priority Project, the State will comply, where relevant, with the requirements of the *Environment Protection and Biodiversity Conservation Act 1999*.

B.4.6. In delivering the Priority Project, the State agrees to the following conditions of Funding:

- a. Consistent with clause 14 of the Agreement, the State agrees that it will seek the agreement of DoTE before the release of any publicity material by the State in relation to the Priority Project. DoTE will provide its agreement on the release of such publicity material within 10 Business Days, excluding any which require approval by the Commonwealth Minister;
- b. The State is responsible for ensuring that the Funding is spent for the purposes of the Priority Project in accordance with the Project Budget and in accordance with this Project Schedule;
- c. Commonwealth Funding provided under this Priority Project can be spent on legal advice regarding the implementation of this Priority Project but must not be spent on legal advice:
 - i. regarding the development of the Project Schedule;
 - ii. for any dispute or action against or involving the Commonwealth except where that dispute or action involves the Commonwealth, the State and a third party to the extent that DoTE, at its sole discretion, gives its prior written consent to the State using the Funds for that purpose; or
 - iii. in relation to any dispute or action against or involving the State except to the extent that DoTE, at its sole discretion, gives its prior written consent to the State using the Funds for that purpose.
- d. The use of any interest that the State earns on the Commonwealth Funds will be consistent with clause 6.1.9 of the Agreement. The prior approval of the Commonwealth will be obtained for the use of any interest on the Priority Project.

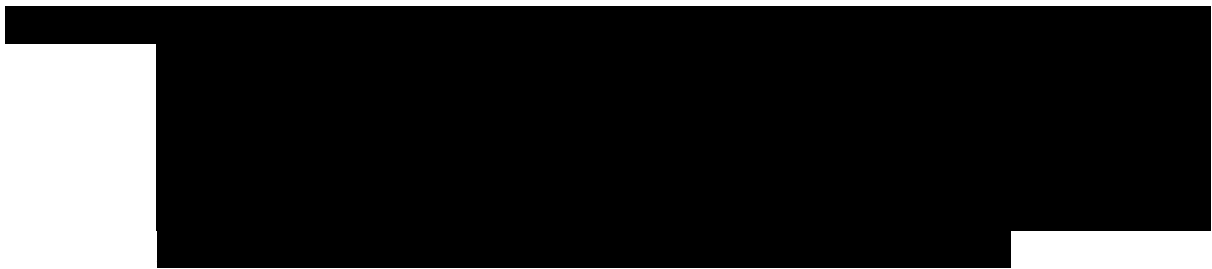
B.4.7. The State agrees to develop detailed budgets for this Priority Project to the satisfaction of the Commonwealth and to have completed the planning referred to in Item B.3.2, before Project Milestone 3 can be paid. These detailed budgets must reflect contemporary costings for the Priority Project's implementation and capital costs.

B.4.8. The State agrees to develop a project implementation plan, identifying current and prospective projects including timelines.

- B.4.9. Any amount that the Commonwealth may recover from the State under Clause 6.3 and/or Clause 17 of the Agreement includes any amount that the State has provided to any Proponent that has either:
- a. not been spent by the Proponent; or
 - b. been spent by the Proponent other than:
 - i. for this Priority Project; or
 - ii. in accordance with the Proponent's agreements with the State.

C. Project Milestones

C.1.1. The Project Milestones for this Priority project are set out in the table in this Item C.



Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Payment Value
	Project Milestone 1	All elements of Project Milestone 1 are completed to the reasonable satisfaction of DSEWPaC.	8 June 2012	
1.1	Signing of the Project Schedule by both Parties.	Project Schedule signed by both Parties.		
	Project Milestone 2	All elements of Project Milestone 2 are completed to the reasonable satisfaction of DSEWPaC.	1 August 2012	
2.1	State provides a comprehensive strategy for the assessment of detailed site project plans for Stock and Domestic Schemes.	Comprehensive strategy for the assessment of detailed site project plans for Stock and Domestic Schemes.		
2.2	State establishes the Project Control Group with the Commonwealth participating as an observer.	Minutes from the first meeting of the Project Control Group.		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Payment Value
	Project Milestone 3	All elements of Project Milestone 3 are completed to the reasonable satisfaction of DSEWPaC.	1 October 2012	████████
3.1	Documentation for the first tranche of proposed works on selected Stock and Domestic Schemes provided to the Commonwealth including the detailed planning required in Item B.3.2 for the proposed works.	All information specified in Item B.3.2 on the proposed first tranche of works.		
3.2	State provides a detailed budget for the Priority Project, including detailed costings for its implementation and capital costs	Detailed budget,		
3.3	State provides an implementation plan for the Priority Project, including targeted priority works, expected Replenishment Flow Schemes and Stock and Domestic Schemes including expected implementation costs, and water savings and timelines.	Implementation Plan,		
3.4	State provides a Progress Report to Commonwealth.	Progress Report that meets the requirements of Item I.2.1.		
	Project Milestone 4	All elements of Project Milestone 4 are completed to the reasonable satisfaction of the DSEWPaC.	1 September 2013	████████ ████████ ████████ ██████
4.1	Document completion of works on approved Stock and Domestic Schemes relating to the delivery of Agreed Water Savings for Project Milestone 4.	Evidence of practical completion.		
4.2	Documentation for further tranches of proposed works on selected Stock and Domestic Schemes provided to the Commonwealth with the detailed planning required in	All information on the selected Stock and Domestic Schemes required in Item B.3.2.		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Payment Value
	Item B.3.2 for the proposed works.			
4.3	[REDACTED]	<p>Issue of certificates of title for the Water Entitlement(s).</p> <p>Documentation of the value of water entitlement granted to the Commonwealth.</p> <p>Copies of letters of engagement for construction of projects and documentation of the total value of savings from those projects.</p>		
4.4	State provides a Progress Report to Commonwealth.	Progress Report that meets the requirements of Item I.2.1.		
	Project Milestone 5	All elements of Project Milestone 5 are completed to the reasonable satisfaction of DoTE	30 January 2015	[REDACTED]
5.1	Document completion of works on approved Stock and Domestic	Statement of practical		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Payment Value
	Schemes relating to the delivery of Agreed Water Savings for Project Milestone 5.	completion.		
5.2	Documentation for further tranches of proposed works on selected Stock and Domestic Schemes provided to the Commonwealth with the detailed planning required in Item B.3.2 for the proposed works.	All information on the selected Stock and Domestic Schemes required in Item B.3.2.		
5.3	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>Issue of certificates of title for the Water Entitlement(s).</p> <p>Documentation of the value of water entitlement granted to the Commonwealth.</p> <p>Copies of letters of engagement for construction of projects and documentation of the total value of savings from those projects.</p>		
5.4	State provides a Progress Report to Commonwealth.	Progress Report that meets the requirements of Item I.2.1.		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Payment Value
	Project Milestone 6	All elements of Project Milestone 6 are completed to the reasonable satisfaction of DoTE.	1 May 2015	[REDACTED]
6.1	Document completion of works on approved Stock and Domestic Schemes relating to the delivery of Agreed Water Savings for Project Milestone 6.	Statement of practical completion.		
6.2	Documentation for further tranches of proposed works on selected Stock and Domestic Schemes provided to the Commonwealth with the detailed planning required in Item B.3.2 for the proposed works.	All information on the selected Stock and Domestic Schemes required in Item B.3.2.		
6.3	[REDACTED]	<p>Issue of certificates of title for the Water Entitlement(s).</p> <p>Documentation of the value of water entitlement granted to the Commonwealth.</p> <p>Copies of letters of engagement for construction of projects and documentation of the total value of savings from those projects.</p>		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Payment Value
	[REDACTED]			
6.4	State provides a Progress Report to Commonwealth.	Progress Report that meets the requirements of Item 1.2.1.		
	Project Milestone 7	All elements of Project Milestone 7 are completed to the reasonable satisfaction of DoTE.	1 December 2015	[REDACTED]
7.1	Document completion of works on approved Stock and Domestic Schemes relating to the delivery of Agreed Water Savings for Project Milestone 7.	Statement of practical completion.		
7.2	Documentation for further tranches of proposed works on selected Stock and Domestic Schemes provided to the Commonwealth with the detailed planning required in Item B.3.2 for the proposed works.	All information on the selected Stock and Domestic Schemes required in Item B.3.2.		
7.3	[REDACTED]	Issue of certificates of title for the Water Entitlement(s). Documentation of the value of water entitlement granted to the Commonwealth. Copies of letters of engagement for construction of projects and documentation of the total value of savings from those projects.		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Payment Value
	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>			
7.4	State provides a Progress Report to Commonwealth.	Progress Report that meets the requirements of Item I.2.1.		
	Project Milestone 8	All elements of Project Milestone 8 are completed to the reasonable satisfaction of DoTE.	1 May 2016	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
8.1	Document completion of works on approved Stock and Domestic Schemes relating to the delivery of water savings for milestone 8.	Statement of practical completion.		
8.2	Documentation for further tranches of proposed works on selected Stock and Domestic Schemes provided to the Commonwealth with the detailed planning required in Item B.3.2 for the proposed works.	All information on the selected Stock and Domestic Schemes required in Item B.3.2.		
8.3	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>Issue of certificates of title for the Water Entitlement(s).</p> <p>Documentation of the value of water entitlement granted to the Commonwealth.</p> <p>Copies of letters of engagement for construction of projects and documentation of the total value of savings from those projects.</p>		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Payment Value
	[REDACTED]			
8.4	State provides a Progress Report to Commonwealth.	Progress Report that meets the requirements of Item I.2.1.		
	Project Milestone 9	All elements of Project Milestone 9 are completed to the reasonable satisfaction of DoTE.	1 December 2016	[REDACTED]
9.1	Document completion of works on approved Stock and Domestic Schemes relating to the delivery of Agreed Water Savings for Project Milestone 9.	Statement of practical completion.		
9.2	Documentation for further tranches of proposed works on selected Stock and Domestic Schemes provided to the Commonwealth with the detailed planning required in Item B.3.2 for the proposed works.	All information on the selected Stock and Domestic Schemes required in Item B.3.2.		
9.3	[REDACTED]	Issue of certificates of title for the Water Entitlement(s). Documentation of the value of water entitlement granted to the		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Payment Value
	[REDACTED]	Commonwealth. Copies of letters of engagement for construction of projects and documentation of the total value of savings from those projects.		
9.4	State provides a Progress Report to Commonwealth.	Progress Report that meets the requirements of Item 1.2.1.		
	Project Milestone 10	All elements of Project Milestone 10 are completed to the reasonable satisfaction of DoTE.	1 May 2017	[REDACTED]
10.1	Document completion of works on all approved Stock and Domestic Schemes relating to the delivery of water savings for Project Milestone 10.	Statement of practical completion.		
10.2	Documentation for further tranches of proposed works on selected Stock and Domestic Schemes provided to the Commonwealth with	All information on the selected Stock and Domestic Schemes		

Project Milestone Number	Project Milestone	Indicator / Evidence	Due Date	Payment Value
		DoTE.		
11.1	[Redacted]	Issue of certificates of title for the Water Entitlement(s). Documentation of the value of water entitlement granted to the Commonwealth. Copies of letters of engagement for construction of projects and documentation of the total value of savings from those projects.		
11.2	State provides Final Report to the Commonwealth.	Final Report that meets the requirements of Item I.3.		
11.3	State provides the final Audit Report to the Commonwealth.	Audit Report that meets the requirements of Item I.4.		

D. Project Cost


D.1. Project Cost for the Priority Project

D.1.1. The Project Cost for this Priority Project is set out in the following table:

**TABLE HAS BEEN REMOVED
COMMERCIAL-IN-CONFIDENCE**

D.2. Contributions to Priority Project

D.2.1. The contributions for the Priority Project are set out in the following table:

Contribution	Maximum Contribution (\$ exc GST)
Commonwealth Funding	\$136,202,122
State Contributions to Project Cost	

D.3. State Contributions

[REDACTED]

D.3.2. The State agrees that any Priority Project costs in excess of the Funding must be met by the State.

E. Grant of Water Entitlements

E.1. Agreed Water Savings (clauses 5.2.3 and 5.2.4)

[REDACTED]

E.2. The Commonwealth's Proportion of Agreed Water Savings (clauses 5.2.3)

E.2.1. The Commonwealth's Proportion of the Agreed Water Savings from this Priority Project is set out in the following table:

Commonwealth proportion of Agreed Water Savings	Water Characteristics
[REDACTED]	High security, general security or supplementary Water Entitlements Granted to the Commonwealth [REDACTED]

E.3. Grant of Water Entitlements to the Commonwealth (clauses 5.2.6 to 5.2.8)

E.3.1. The State agrees that all Water Entitlements Granted to the Commonwealth (including those Granted as part of the Commonwealth's Proportion of the Agreed Water Savings and those Granted as part of the State Contributions) under this Project Schedule will:

- a. meet the requirements of clause 5.2.4 of the Agreement; and
- b. be of like character to existing equivalent Water Entitlements in the relevant catchment.

[REDACTED]

E.3.3. The Commonwealth will accept the volume of water offered by the State from this Priority Project [REDACTED]

E.3.4. The State agrees to Grant to the Commonwealth Water Entitlements that contain the Commonwealth's Proportion of the Agreed Water Savings and the State Contributions [REDACTED]

[REDACTED]

E.3.6.

[REDACTED] the total Funding for this Priority Project will remain capped at \$136,202,122.

F. Sharing of any water savings in excess of the Agreed Water Savings

- F.1.1. The State will be entitled to any water savings from this Priority Project that exceed the sum of the Commonwealth's Proportion of the Agreed Water Savings and the State's Contributions. It may grant any such excess savings as Water Entitlements under section 63B of the WM Act.
- F.1.2. The sharing regime in clauses 5.2.9 and 5.2.10 of the Agreement does not apply to any aspect of this Priority Project.

G. Agreement Material and Existing Material relating to this Priority Project

G.1. Agreement Material

- G.1.1. None Specified.

G.2. Existing Material

- G.2.1. None Specified.

H. Indemnity

- H.1.1. Notwithstanding any other provision of this Agreement, the State agrees to indemnify, and keep indemnified, the Commonwealth against any cost, liability, loss or expense incurred by the Commonwealth:
 - a. in rectifying any environmental damage;
 - b. in dealing with any third party (including Commonwealth Personnel) claims against the Commonwealth, which includes without limitation the Commonwealth's legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used and disbursements paid by the Commonwealth;arising from any act or omission by State or its Personnel in connection with the Priority Project specified in this Project Schedule.
- H.1.2. The State's liability to indemnify the Commonwealth under this Item H will be reduced proportionally to the extent that any fault on the Commonwealth's part contributed to the relevant cost, liability, loss or expenses. In this Item H.1.2 'fault' means any reckless, negligent or unlawful act or omission or wilful misconduct.
- H.1.3. The right of the Commonwealth to be indemnified in this Item H is in addition to, and not exclusive of, any right, power or remedy provided to the Commonwealth by law, but the Commonwealth is not entitled to be compensated in excess of the relevant cost, liability, loss or expense.

I. Project Reports

I.1. Project Reports

- I.1.1. Further to clause 8 and Schedule 4 of the Agreement, the State agrees to provide the Commonwealth with all of the Reports detailed, and at the times outlined, in the Project Milestone table in Item C.

I.2. Progress Reports

- I.2.1. Each Progress Report must demonstrate evidence of the State's project management and contract management activities, progress and financial management, and must contain the following information:
- a. a description of actual performance of the Priority Project to date against the aim of the Priority Project (as specified in this Project Schedule), including information and evidence to demonstrate the State's completion of the Project Milestones (see Item C of this Project Schedule) that were due for completion during the period that is the subject of this Progress Report (Period);
 - b. a description of the Activities, if any, undertaken for the Priority Project to date;
 - c. a description of progress on each tranche of works on approved Stock and Domestic Schemes;
 - d. a statement that the Water Entitlements are derived from a tranche of works for an approved Stock and Domestic Schemes;
 - e. an income and expenditure statement of the Funding to date against the Project Cost in Item D.1.1 and detailed budgets referred to in Item B.4.7;
 - f. An estimate of the interest earned by the State to date on the Funds provided for the Priority Project;
 - g. promotional activities undertaken in relation to, and media coverage of, the Priority Project during the Period and those proposed activities during the next Period;
 - h. the Water Entitlements Granted to the Commonwealth for the Priority Project to date;
-
- j. any other items that are agreed by the State and the Commonwealth to be included in the Progress Report.

I.3. Final Project Report

- I.3.1. The final Project Report will be a stand-alone document that can be used for public information dissemination purposes regarding this Priority Project.
- I.3.2. The final Project Report for the Priority Project is due at the earliest of:
- a. Milestone 11 as set out in Item C.1.2; or
 - b. three months after the completion of the Priority Project; or
 - c. three months after the termination of this Project Schedule or the Priority Project; or
 - d. 1 March 2018.

- I.3.3. The final Project Report will contain information that:
- a. describes the conduct, benefits and outcomes of the Priority Project as a whole;
 - b. evaluates the Priority Project, including assessing the extent to which the outcomes of the Priority Project (as specified in Item B of this Project Schedule) have been achieved and explaining why any aspect of the Priority Project was not achieved;
 - c. confirms the extent to which all of the Water Entitlements that are required to be Granted to the Commonwealth in respect to this Priority Project have, as at the date of the Final Report, been Granted to the Commonwealth;
 - d. specifies if any Commonwealth Proportion of the Agreed Water Savings or any State Contributions have not been Granted to the Commonwealth, and the reasons why this has not occurred;
 - e. provides detailed financial information regarding the total Project Cost, Funding and State Contributions for the Priority Project;
 - f. summarises all promotional activities undertaken in relation to, and media coverage of, the Priority Project;
 - g. includes a discussion of any other matters, relating to the Priority Project, which DoTE notifies the State should be included in this final Project Report at least 30 Business Days before it is due; and
 - h. addresses any other items that are agreed by the State and the Commonwealth will be included in the Final Report.

- I.3.4. The final Project Report should be accompanied by a certified income and expenditure statement signed by a delegated officer of NSW Office of Water that clearly identifies:
- a. the amount of interest earned by the State on the Funding;
 - b. confirmation that all Funding paid to the State (including any interest earned by the State on the Funds and approved for expenditure on this Priority Project by the Commonwealth) was spent by the State in accordance with this Project Schedule;
 - c. any State Contributions;
 - d. any Other Contributions that were provided for the Priority Project;
 - e. any cost savings or cost overruns for the Priority Project; and
 - f. advice as to the amount of any Funds that the State is required to return to the Commonwealth.

I.4. Independent Audit Report

- I.4.1. Annual audited financial Reports from an independent auditor are to be provided for the Priority Project as specified in Item C of Schedule 4 of the Agreement.

J. Payment Schedule for Funding for Priority Project

- J.1.1. The maximum Funding payable by the Commonwealth to the State in respect of this Priority Project is \$136,202,122 (excluding GST).

- J.1.2. Subject to the terms of this Project Schedule and clauses 6 and 17 of the Agreement, the Funding will be paid in instalments, and on the completion of the Payment Preconditions, [REDACTED]. Each such payment of Funds is due within 32 Business Days after

the date that the State is assessed as having completed all of the Payment Preconditions relating to that payment and has provided DoTE with an invoice for payment of Funds.

J.1.3. The Payment Preconditions for a payment of Funds under this Project Schedule are completion of the Project Milestones at [REDACTED]

J.1.4. Each Payment also has the Payment Precondition that all preceding Project Milestones have been achieved.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

B. Contact Officer

B.1.1. The nominated Contact Officers for this project are:

- I. For the Commonwealth, the Director, New South Wales Priority Projects Section, Department of Sustainability, Environment, Water, Population and Communities, John Gorton Building, Parkes, ACT 2600, Ph: 02 6274 2682;
- II. For New South Wales, the Project Co-ordinator, State Priority Projects, NSW Office of Water, 10 Valentine Ave Parramatta, NSW 2124; Ph: 02 8838 7872.

B.1.2. Either party signatory to this Schedule may change its Contact Officer at any time by notice in writing to the other party.

By signing this document, the Parties to this Agreement dated 11th January 2010, agree that this document will be incorporated into the Agreement as a Project Schedule on and from the date the Commonwealth signs this document.

Dated the 28th day of January 2012.

SIGNED for and on behalf of the Commonwealth of Australia by:)
)
_____)_____)
Name of signatory *Signature*

In the presence of:

_____)_____)
Name of witness *Signature of witness*

SIGNED for and on behalf of NSW by:)
)
_____)_____)
Name of signatory *Signature*

In the presence of:

_____)_____)
Name of witness *Signature of witness*

ATTACHMENT 1: REQUIREMENTS RELATING TO THE BUILDING CODE 2013

1.1 Interpretation

1.1.1 In this Attachment 1:

the Building Code	means the Building Code 2013 . The Building Code can be downloaded from www.employment.gov.au/BuildingCode .
the Guidelines	means the Supporting Guidelines for Commonwealth Funding Entities to the Building Code 2013. The Supporting Guidelines can be downloaded from www.employment.gov.au/BuildingCode .
Project Parties	means all Proponents, contractors, subcontractors, consultants and employees who perform on-site work in relation to the Priority Project.

1.2 Compliance with Code

1.2.1 Where the Funding specifically relates to building and construction activity, subject to the thresholds specified in the Building Code, the State must comply and ensure that the Project Parties comply with the Building Code and the Guidelines.

1.2.2 The Building Code and the Guidelines require the State to ensure that:

- a. all requests for application or tender, expressions of interest, submissions and invitations to join 'Common Use Arrangements' in relation to the Priority Project made by it or any of the Project Parties, contain the commitment to apply the Building Code and Guidelines as set out in the model tender documents available at: <https://docs.employment.gov.au/documents/building-code-2013-supporting-guidelines-commonwealth-funding-entities>; and
- b. all contracts entered into in relation to the Priority Project by it or any of the Project Parties contain the commitment to apply the Building Code and Guidelines as set out in the model contract clauses available at: <https://docs.employment.gov.au/documents/building-code-2013-supporting-guidelines-commonwealth-funding-entities>

1.3 State must maintain Records and permit access

1.3.1 The State must maintain adequate records of compliance by it and each of the Project Parties with the Building Code and the Guidelines. The State must permit the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, full access to premises and records of the State and the Project Parties to:

- a. inspect any work, material, machinery, appliance, article or facility;
- b. inspect and copy any record relevant to the Priority Project and works governed by this Project Schedule;
- c. interview any person,

as is necessary to monitor compliance with the Building Code and the Guidelines.

1.3.2 Additionally, the State undertakes that it and each of the Project Parties will agree to a request from the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, to produce a specified document within a specified period, in person, by fax, or by post.

1.3.3 The Commonwealth and those authorised by it may publish or otherwise disclose information in relation to compliance by the State and the Project Parties with the Code and the Guidelines. The State must obtain the consent of the Project Parties to the publication or disclosure of information under this clause.

1.4 Appointment of sub-contractors

1.4.1 While acknowledging that value for money is the core principle underpinning decisions on government procurement, when issuing tenders the State may preference Proponents, contractors, subcontractors and consultants that have a demonstrated commitment to:

- a. adding and/or retaining trainees and apprentices;
- b. increasing the participation of women in all aspects of the industry; or
- c. promoting employment and training opportunities for Indigenous Australians in regions where significant Indigenous populations exist.

1.4.2 The State must not appoint a Proponent, contractor, subcontractor or consultant in relation to the Priority Project where:

- a. the appointment would breach a sanction imposed by the Commonwealth Minister for Employment; or
- b. the Proponent, contractor, subcontractor or consultant has had a judicial decision against them relating to employee entitlements, not including decision under appeal, and has not paid the claim.

ATTACHMENT 2: REQUIREMENTS RELATING TO THE AUSTRALIAN GOVERNMENT BUILDING AND CONSTRUCTION OHS ACCREDITATION SCHEME

1.1 Interpretation

1.1.1 In this Attachment 2:

the Act	means the <i>Fair Work (Building Industry) Act 2012 (Cth)</i>
Builder	has the meaning given in section 35 of the Act
Building Work	has the meaning given to it by section 5 of the BCII Act
Regulations	Means the <i>Fair Work (Building Industry – Accreditation Scheme) Regulations 2005</i> .
Scheme	means the Australian Government Building and Construction OHS Accreditation Scheme established under the Act.

1.2 Scheme requirements

1.2.1 Subject to the exclusions specified in the Regulations, construction projects that utilise funds provided under this Project Schedule are bound by the application of the Scheme.

1.2.2 The State must ensure it complies with item 1.2.3 below for all contracts that it enters into as part of the Priority Project, and all contracts that its subcontractors enter into as part of the Priority Project, where:

- a. the head contracts for Building Work are greater than \$3 million or more (GST inclusive); or
- b. the value of the Commonwealth's contribution is at least \$5 million and represents at least 50 per cent of the total construction project value; or
- c. the Commonwealth's contribution is \$10 million or more, irrespective of the proportion of the Commonwealth funding.

1.2.3 For contracts that are subject to the above item 1.2.2, the following conditions must be satisfied:

- a. those contracts are notified to the Office of the Federal Safety Commissioner at the earliest possible opportunity; and
- b. contain a requirement that the Builder:
 - i. is accredited under the Scheme;
 - ii. maintains Scheme accreditation for the life of the contract; and
 - iii. must comply with all conditions of the Scheme accreditation.

1.2.4 The State agrees to notify the Commonwealth immediately if that Builder has ceased, or is likely to cease, to meet the accreditation requirements in paragraph 1.2.3(b) above.

- 1.2.5 The State must maintain adequate records of compliance by it, and each of its subcontractors with the Scheme.

