

Victorian Farm Modernisation Project

Project Schedule

Project Schedule - Victorian Farm Modernisation Project

A. PREAMBLE

This Project Schedule to the Water Management Partnership Agreement (dated 11 January 2010) between the Commonwealth of Australia (the Commonwealth) and the State of Victoria (the State), sets out the terms and conditions under which the Commonwealth will fund and the State will deliver the Victorian Farm Modernisation Project (the Project).

Capitalised terms in this Project Schedule are defined in Item K of this Project Schedule.

B. Victorian Farm Modernisation Project

B.1. Summary and duration of Project

- B.1.1. The Project aims to deliver Water Savings through increasing the efficiency of Irrigators' farms in the Goulburn-Murray Irrigation District (GMID) through upgrading on-farm irrigation infrastructure. In return for Commonwealth Funding of up to \$100 million (GST exclusive), the State will Transfer no less than 55% of the Agreed Water Savings (in the order of 30 GL Long Term Annual Average Yield (LTAAY)) to the Commonwealth for the environment, with the remainder retained by Irrigators.
- B.1.2. This Project involves the State through the Goulburn Broken Catchment Management Authority (GBCMA) delivering an on-farm funding program within the GMID. In return for the Commonwealth's provision of the Funding, the State will Transfer not less than 55% of the Agreed Water Savings to the Commonwealth in the form of High Reliability Water Shares (HRWS).
- B.1.3. The Project will be implemented through three tranches
- a. The first tranche will provide 15.5 GL of Agreed Water Savings LTAAY with 9 GL of Agreed Water Savings LTAAY Transferred to the Commonwealth in return for Funding of \$30 million (GST exclusive).
 - b. The second tranche will provide Agreed Water Savings LTAAY which are yet to be determined, but the Commonwealth Proportion will be not less than 55% of Agreed Water Savings LTAAY in return for Funding of \$50 million (GST exclusive). The Parties will proceed to negotiate a variation to the Project Schedule in good faith in accordance with clause 16.3 of the Water Management Partnership Agreement.
 - c. The third tranche will proceed if there is a remaining gap to be bridged in the Victorian Murray (SS2) part of the Victorian Murray water resource plan area or the Goulburn (SS6) part of the Northern Victoria water resource plan area in Schedule 2 to the Basin Plan 2012 (Cth), and there is agreement between the Parties to proceed, with Funding of up to \$20 million (GST exclusive).
- B.1.4. If the Parties propose to proceed to a third tranche, the Parties will proceed to negotiate a variation to this Project Schedule in good faith in accordance with clause 16.3 of the Water Management Partnership Agreement.

- B.1.5. This Project commences on the date that this Project Schedule is signed by the Commonwealth and ends on 31 May 2018 unless a third tranche is agreed, in which case, the Project ends on 31 May 2019.
- B.1.6. Water Savings generated by this Project will be achieved by Irrigators in the GMID undertaking on-farm Works to improve the efficiency of their farm irrigation systems. Water Savings from funded activities or Sub-projects will be split with not more than 45% of Agreed Water Savings to be retained by the Irrigator and not less than 55% of the Agreed Water Savings being Transferred to the Commonwealth.
- B.1.7. The maximum possible Funding payable by the Commonwealth to the State for this Project is \$100,000,000 (GST exclusive).
- B.1.8. The State must ensure that Proponents make Other Contributions of at least 10 per cent of the total Project Cost by:
- a. making in kind contributions to the Works; or
 - b. paying for part of the Works.

B.2. Aim of the Project

- B.2.1. The aims of the Project include the following:
- a. the Agreed Water Savings from the first tranche of the Project will be 15.5 GL LTAAY (of which 9 GL LTAAY will be Transferred to the Commonwealth). Under subsequent tranches the Commonwealth will receive at least 55% of the Agreed Water Savings in the form of HRWS;
 - b. farm irrigation systems will be modernised, including the adoption of technology and practices that increase the efficiency of irrigation water use thereby sustaining irrigation communities in the GMID into the future;
 - c. reduced salt and nutrient loads in the Goulburn and Murray systems from improved irrigation practices on farms.

B.3. Project Requirements

- B.3.1. The State agrees to ensure that the delivery of the Project is undertaken in accordance with the requirements of this Project Schedule.
- B.3.2. The State agrees:
- a. to ensure there is proper and efficient monitoring, auditing and reporting of expenditure against the Project Cost, delivery of the Works Program, and Transfer of the Commonwealth's proportion of Agreed Water Savings, and to keep the Commonwealth informed of the progress and outcomes of the Project;
 - b. that, if requested, it will give, and will ensure that GBCMA gives the Commonwealth access to the State's and GBCMA's relevant records and personnel, to enable the Commonwealth to conduct an audit or review, by a person appointed by the Commonwealth, of any aspect of the Project;

- c. to ensure that each Works Contract contains a clause which:
 - i. requires the Irrigator to give the Commonwealth access to the Irrigator's farm, records and personnel, to enable the Commonwealth to conduct an audit or review, or Works Inspection, by a person appointed by the Commonwealth, of any aspect of the Project, including verifying the carrying out of Works for which Funding has been paid, and whether those Works have achieved the Agreed Water Savings; and
 - ii. provides that GBCMA holds its rights under that clause as agent of, and trustee for, the Commonwealth, and that the Commonwealth is treated to that extent as a party to the Works Contract;
- d. that all aspects of the Project will be carried out in accordance with all applicable laws (including, but not limited to, all necessary planning, environmental, workplace health and safety, building and regulatory approvals) and all applicable Australian standards;
- e. to comply with, and require that Proponents and their Sub-contractors comply with, the *National Code of Practice for the Construction Industry* in carrying out the Works, as set out in **Attachment 1** to this Project Schedule;
- f. to comply with and require that the Proponents and their Sub-contractors comply with the requirements of the *Fair Work (Building Industry) Act 2012 (Cth)* in carrying out the Works, as set out in **Attachment 2** to this Project Schedule;
- g. to ensure that GBCMA undertake audits of Works in relation to Sub-projects on a random basis using independent auditors, with the costs to be funded from the administration component of the Budget. These audits are separate from, and additional to, any other overall Project auditing that the Commonwealth may undertake, at its own cost;
- h. that it is responsible for meeting the Milestones and ensuring an appropriate alignment of payments to individual Irrigators against costs incurred, water Transferred and Sub-Projects completed;
- i. that progress reports, final reports and independent audit statements in respect of the Project are provided to the Commonwealth;
- j. that in respect of the second tranche, the Funding per GL of the Commonwealth's Proportion of the Agreed Water Savings will be generally consistent with the Commonwealth's funding per GL in respect of the On-Farm Irrigation Efficiency Program (OFIEP), Round 4, subject to the second tranche starting before 14 April 2015. If there is a longer time delay, the Funding per ML of the Commonwealth's Proportion of the Agreed Water Savings will be negotiated in good faith by the Commonwealth and the State by reference to prevailing market prices, but still with reference to OFIEP Round 4;
- k. to ensure that GBCMA establishes and implements fair, transparent and competitive processes for the distribution of any Funding to Irrigators with robust

governance arrangements and appeals processes for the assessment of eligibility, financial and technical criteria on a competitive merit basis;

- l. that it is responsible for ensuring the proper and efficient conduct of the Project notwithstanding the role of the Proponents;
- m. that is responsible for ensuring all Sub-projects are properly costed, technically sound and fit-for-purpose;
- n. that it will ensure that the processes administered by GBCMA to select Irrigators whose Works will be funded under this Project will include steps that assess the proposed Works against clear and justifiable eligibility, financial and technical criteria on a competitive and merit-based basis, in a manner consistent with this Project Schedule;
- o. to provide evidence of its compliance with this Item B, consistent with Item I;
- p. to provide for the Commonwealth an opportunity to review the list of preferred Sub-projects and relevant applicants that GBCMA recommends to be funded under the Project prior to any Funding offer being made to Irrigators by GBCMA, consistent with part 6 of the Business Case. This will enable the Commonwealth to check that there is no duplication of funding of Works under this Project and other Commonwealth programs;
- q. to ensure that the GBCMA requires Works Contracts to contain a clause, where applicable, requiring compliance with the National Framework for Non-Urban Water Metering which incorporates the Victorian State Implementation Plan;
- r. to ensure that GBCMA requires that all Irrigators are required to maintain:
 - i. workers compensation insurance as required by law;
 - ii. public liability insurance for \$20 million per claim or occurrence giving rise to a claim in respect of activities undertaken in relation to the Works; and
 - iii. insurance against any loss or damage to an asset valued at over \$5,000 or more that is created or acquired with the Funding for its full reinstatement or replacement cost;
- s. to take necessary steps to ensure that GBCMA has the resources and capacity to deliver the Project within agreed timelines and agreed Budget;
- t. to ensure that the Transfer to the Commonwealth of the Commonwealth's Proportion of the Agreed Water Savings is exempt from the four per cent limit on water traded out of an irrigation area under Rule 25 of the Trading Rules for Declared Water Systems;
- u. to ensure that the Funding paid to an Irrigator does not exceed the amount specified for the Works in the Irrigator's Works Contract;
- v. to ensure the Transfer of unencumbered HRWS to the Commonwealth, which together equal the Commonwealth's Proportion of the Agreed Water Savings for the Project, in accordance with the Milestones;

- w. to provide a statement to the effect that processes have been implemented to use best efforts to ensure that applicants receiving funding from different State or Commonwealth programs or different tranches of this Project, do not receive funding for the same (duplicate) or overlapping Works;
- x. to require that GBCMA will identify in the individual Works Contracts estimated cash and/or in-kind Other Contributions to be made by individual Irrigators. The State will specify in writing to the Commonwealth how cash and/or in-kind Other Contributions from Irrigators, stipulated in Item D, are to be assessed;
- y. to ensure that GBCMA takes responsibility for ensuring that Irrigators understand the eligibility requirements for the Project, including their involvement in the Goulburn-Murray Water Connections Project and that the integration with the Goulburn-Murray Water Connections Project does not impact on the timeliness of the delivery of this Project;
- z. that if a second call for applications is to be undertaken for a tranche of Works, any additional costs will be contained within the Budget or met by the State using its own resources;
- aa. to ensure that there will be a separate water entitlement assignment contract developed between the Commonwealth and GBCMA for all water transfers to the Commonwealth;
- bb. to transfer the Commonwealth Funding to GBCMA within 8 Business Days after receipt of such Funding by the State;
- cc. that the Commonwealth may deem interest to accrue (at the Reserve Bank of Australia's cash rate) on a daily basis on any amount of Funding (not including the State administration component of the Project Cost set out at Item D.1) that has not been transferred by the State to GBCMA within 8 Business Days after receiving it from the Commonwealth. The Commonwealth agrees that it will determine the amount of interest it deems to have been accrued by the State during the course of the Project under this Item B.3.2.cc, but will not deduct any amounts determined until financial year 2016/17;
- dd. to ensure that GBCMA spends Project Costs in accordance with Item D; and
- ee. to ensure that final payments of Funding to Irrigators will be calculated on actual costs of Works verified by invoices/receipts and Works Inspection.

B.3.3. The Commonwealth will only undertake the following aspects of this Project:

- a. make timely payments in accordance with agreed Milestones, at Item C.1.3, where, in the Commonwealth's judgement, the State has met Milestone requirements;
- b. review of proposed Works for funding duplication under other Commonwealth programs, including the OFIEP, to ensure that applicants receiving funding from different State or Commonwealth programs or different tranches of this project do not receive funding for the same (duplicate) or overlapping Works;

- c. any due diligence activities the Commonwealth considers necessary associated with the Transfer of water to the Commonwealth pursuant to this Project Schedule; and
 - d. if it considers it necessary, undertake audits of individual Irrigators' Works, including reviewing that the Works are consistent with Whole Farm Plans.
- B.3.4. The Commonwealth agrees to make available any unused Funds from each tranche for any subsequent calls for applications under this Project Schedule to undertake on-farm Works projects. Any underspends may fund further Sub-projects, either in the current tranche in which the underspend occurred, or in a subsequent tranche, if it is more efficient to do so.
- B.3.5. The Commonwealth agrees that the administration component of the Budget within each tranche can be allocated during the life of the Project to meet any cash flow shortfalls in the overall Budget, but that final expenditure will be in accordance with Item D.
- B.3.6. The Commonwealth agrees that Water Shares Transferred from Proponents to the GBCMA or from GBCMA to the Commonwealth in any given Project Milestone that exceeds the Project Milestone targets consistent with Item C.1.3, will carry forward and may be used toward meeting subsequent Project Milestones within a tranche.
- B.3.7. The Commonwealth agrees that Water Shares Transferred from Proponents to the GBCMA in any given tranche that exceeds the Commonwealth's Proportion of Agreed Water Savings for that tranche consistent with Item E.2, will remain in the ownership of the State.

C. Project Milestones

- C.1.1. For each Project Milestone, the State agrees to calculate the Agreed Water Savings LTAAAY in the form of HRWS at Item E.1. and E.2. using the conversion factors at Item E.3.2. and Item E.3.3.
- C.1.2. Notwithstanding anything else in this Project Schedule, the parties acknowledge and agree that Milestones for tranche 2 and tranche 3 (which are yet to be agreed) must be agreed by both parties before they will be part of the Project and included in this Project Schedule.
- C.1.3. The agreed Milestones for this Project are set out in the following table.

C.2. Contribution Components of Project

C.2.1. The Parties agree to the following contribution components for this Project:

Party	Contribution \$ Million (GST exc)
Commonwealth Funding (up to a maximum of)	100.0
Other Contributions – a minimum of 10% in-kind and/or financial contributions of the total Project Cost	11.1
Total Estimated Project Cost (for three tranches)	111.1

C.2.2. The State must ensure that the Irrigators make Other Contributions equivalent to at least 10% of the total Project Cost.

D. Transfer of Water Shares

D.1. Agreed Water Savings

D.1.1. The Agreed Water Savings from the first tranche of this Project will be 15.5 GL in the form of HRWS. The Commonwealth's Proportion of this will be 9 GL LTAAY of Agreed Water Savings. Agreed Water Savings from tranche 2 and tranche 3, will be agreed by the Commonwealth and the State. The amount Transferred to the Commonwealth will be 55 per cent of the Agreed Water Savings and will be specified at Item C.1.3.

D.1.2. Notwithstanding anything else in this Project Schedule, the Parties acknowledge and agree that the Agreed Water Savings that are yet to be determined for tranche 2 and tranche 3 (if tranche 3 proceeds), will be agreed by both parties via variation to this Project Schedule in good faith in accordance with clause 16.3 of WMPA, before they will be part of this Project Schedule.

D.2. The Commonwealth's Proportion of Agreed Water Savings

Tranche	Commonwealth Proportion of the Agreed Water Savings	Water characteristic
Tranche 1	9 GL LTAAY	Victorian unencumbered HRWS
Tranche 2	55%	Victorian unencumbered HRWS
Tranche 3	55%	Victorian unencumbered HRWS

D.3. Transfer of Water Shares

D.3.1. The State agrees to ensure that GBCMA Transfers the Commonwealth's Proportion of the Agreed Water Savings for the Project, in accordance with Item C.1.3 and Item E. GBCMA is to acquire Water Shares from individual Irrigators who are being funded through the Project and consolidate those Water Shares and then Transfer the unencumbered HRWS to the Commonwealth in accordance with the requirements of the Project Schedule.

D.3.2. The Parties agree that the Agreed Water Savings LTAAY and Commonwealth Proportion (Item E.1. and Item E.2.) will be calculated using the following Long Term Diversion Limit Equivalent factors (LTDLE). These factors were determined by the Murray Darling Basin Authority on 29 November 2011 – version 2.05:

Catchment	LTDLE
Goulburn	0.950
Murray (both above and below Choke)	0.950

D.3.3. If the LTDLE factors for Victorian HRWS are changed by the Murray Darling Basin Authority and they differ from the conversion factors in Item E.3.2, then the Parties will apply the new factors to calculate the entitlement transfers for this Project from that time forward.

D.4. Arrangements between the State or a third party and Project Proponents

D.4.1. As this Project requires:

- a. the State to provide Commonwealth Funds to GBCMA; and
- b. GBCMA to use the Funds it receives from the State as grants to Irrigators for the construction of their Works,
any amount that the Commonwealth may recover from the State under clause 6.3 and/or clause 17 of the Water Management Partnership Agreement includes:
- c. any amount that the State has provided to the GBCMA that has either:
 - i. not been spent by the GBCMA; or
 - ii. has been spent by the GBCMA but not for the Project in accordance with this Project Schedule; and
- d. in respect of an Irrigator who has not completed its Works, the amount of Funding that was paid by the GBCMA to the Irrigator minus the greater of:
 - i. the amount of that Funding that is equal to the agreed market value (based on the Water Transfer Contract at the time) of the Water Share that has been Transferred to the Commonwealth; or
 - ii. the sum of that Funding that has been spent, is legally due and payable by the Irrigator, or is legally and irrevocably committed by the Irrigator, in accordance with their Works Contract with GBCMA up to the earlier of the expiry or termination of its Works Contract.

- D.4.2. The State also agrees to ensure that where an Irrigator completes Works in accordance with the Works Contract with, and to the satisfaction of GBCMA, and the cost of those completed Works is less than the total amount of Funding specified in the Irrigator's Works Contract, the GBCMA will only pay the Irrigator the part of the Final Payment under the Works Contract that is required to reimburse the Irrigator for the costs actually incurred in completing the Works.
- D.4.3. For the purpose of Water Management Partnership Agreement clause 6.1.9, the State will ensure that any interest that the GBCMA earns on the Funds is to be treated as interest earned by the State and may only be spent on this Project and then only with the prior written approval of the Commonwealth.
- D.4.4. The State will ensure that:
- a. GBCMA assesses Works proposals to ensure they are properly costed and technically sound and fit for purpose. The project approval process will include steps to assess on-farm works projects against eligibility, financial and technical criteria in accordance with the agreed processes set out in this Project Schedule Item B.3.2;
 - b. GBCMA reports the cash and/or in-kind Other Contributions agreed with Irrigators during the assessment, and verifies final cash and/or in-kind contributions on completion of the Project;
 - c. the Project Funds are held in a separate interest-bearing bank account in GBCMA's name, and which GBCMA solely controls, with an authorised deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia (the Bank Account);
 - d. GBCMA must ensure that the Bank Account referred to in E.4.4.c is:
 - i. established solely for the purposes of accounting for, and administering, any Funding and interest earned on Funding provided by the State to GBCMA under this Project Schedule; and
 - ii. separate from the GBCMA's other operational accounts;
 - e. GBCMA must ensure that the Bank Account is established and maintained in a manner which will allow all payments of Funds (including debits and credits to the account) as well as any interest earned to be clearly identified separately to GBCMA's other operational and administrative activities;
 - f. GBCMA acquires Water Shares from Irrigators, consolidates those Water Shares and then Transfers the consolidated and unencumbered Water Shares to the Commonwealth in accordance with the requirements of this Project Schedule;
 - g. GBCMA's Water Transfer Contracts with the Irrigators include provisions as set out in this Project Schedule relating to the characteristics of Water Shares to be Transferred to the GBCMA for consolidation and subsequent Transfer to the Commonwealth;

- h. Works Contracts must stipulate that no more than 50% of the Funds are paid to Irrigators at the commencement of Works, and in any event, only after the Transfer of the Commonwealth's Proportion of Agreed Water Savings from the relevant Irrigator to GBCMA. The final 50% payment of Funding may be further spilt into progress payments upon completion of a section of verified Works that achieves Water Savings. Not less than 30% of the Commonwealth funding for any individual Works Contract must be retained for the final payment of Funds, or as otherwise negotiated with the Commonwealth on a case by case basis;
- i. the GBCMA makes no payments to an Irrigator for on-farm Works until and unless the Transfer of Agreed Water Savings to GBCMA has occurred and then only after the Irrigator has signed a valid Works Contract with GBCMA;
- j. Irrigators participating in the Project enter into Works Contracts and Water Transfer Contracts with GBCMA that, among other things, requires the Irrigator to agree that it will not make a claim against GBCMA, the State or the Commonwealth in respect of any liability arising out of any injury suffered by, or death of, an Irrigator or its employees, agents or contractors as a result of performing the Irrigator's Works;
- k. GBCMA calculate final payments to Irrigators on actual costs of Works verified by invoices/receipts and Works Inspection. Any underspend of the water and works Budget component may fund further projects, either in the current tranche in which the underspend occurred, or in the subsequent tranche if it is more efficient to do so;
- l. to ensure that the GBCMA consolidates and Transfers the Commonwealth's Proportion of the Agreed Water Savings to the Commonwealth in accordance with section 33Z and 33S respectively of the *Water Act 1989* (Vic) and in accordance with this Project Schedule;
- m. as provided for in Item E.3.1, the progressive Transfer of the Commonwealth Proportion of the Agreed Water Shares will be in accordance with Item C.1.3;
- n. GBCMA will validate the design and feasibility of each Works proposal, by requiring each Irrigator to submit a Whole Farm Plan (WFP) as part of their Funding application and inspecting the WFP that is submitted to ensure it meets current best practice standards; and
- o. GBCMA will use the current version of the farm Water Savings Calculator that has been designed for the express use of GBCMA for similar projects and peer reviewed in 2010 or updated later as necessary, to validate Irrigators estimated Water Savings.

D.4.5. The State and the Commonwealth agree to follow the key approval and water Transfer processes for this Project specified in the detailed process diagrams at **Attachment 3 and Attachment 4**.

E. Reserved

F. Reserved

G. Indemnity

G.1.1. Notwithstanding any other provision of this Project Schedule, 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; or
- b. in respect of 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 the State or its Personnel in connection with the Project specified in this Project Schedule.

G.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 expense. In this Item H.1.2, 'fault' means any reckless, negligent or unlawful act or omission **or** wilful misconduct.

G.1.3. The indemnity in this Item H is in addition to, and not exclusive of, any other 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.

H. Project Reports

H.1. Progress Project Reports

H.1.1. Each Progress Report must demonstrate evidence of Project management and contract management activities, progress and performance of the Project, and financial management, and must contain the following:

- a. a description of actual performance of the Project to date against the outcomes of the Project (as specified in Item B.2 of this Project Schedule), including summary information and evidence to demonstrate the State's completion of the Project Milestones that were due for completion during the period that is the subject of the Progress Report, according to the Project Milestones of this Project Schedule, including Other contributions (whether cash or in-kind);
- b. summary information about the number of farms and types of Works that are to be, and have been, undertaken for this Project and their progress of Works;
- c. a statement of the Water Shares that have been Transferred by Irrigators to the GBCMA and the Water Shares that are expected to be Transferred to it in the next Reporting Period;
- d. an income and expenditure statement of the Funding for the Project to date against the Project Cost specified in Item D.1 of this Project Schedule. This

statement must include and separately identify both the State's and GBCMA's receipt and expenditure of Funds for the Project;

- e. a statement of the interest earned by GBCMA to date on the Funds provided to them for the Project;
- f. any promotional activities undertaken by the State or GBCMA in relation to, and media coverage of, the Project during the period and any such proposed promotional activities during the next period; and
- g. any other items that are agreed by the State and the Commonwealth to be included in the Progress Report, where it can reasonably be expected that such information has been collected, or may be collected in the future.

H.2. Final Project Report

H.2.1. The Final Project Report must be a stand-alone document that can be used for public information dissemination purposes regarding this Project. The Final Project Report for the Project is due at the earliest of:

- a. 31 May 2018, or 31 May 2019 if the third tranche is confirmed; or
- b. three months after the completion of the Project; or
- c. two months after the termination of this Project Schedule.

H.2.2. The Final Project Report will contain information that:

- a. describes the conduct, benefits and outcomes of the Project as a whole;
- b. evaluates the Project, including assessing the extent to which the outcomes of the Project have been achieved and, if applicable, explaining why any aspect of the Project was not achieved;
- c. provides detailed financial information regarding the total Project Cost and key components, Funding, and State Contributions (including Other Contributions) for the Project;
- d. summarises all promotional activities undertaken in relation to, and media coverage of the Project;
- e. includes a discussion of any other reasonable matters, relating to the Project, which the Commonwealth notifies the State should be included in the Final Project Report at least 30 Business Days before it is due; and
- f. any other items that are agreed by the State and the Commonwealth will be included in the Final Project Report, where it can reasonably be expected that such information has been collected, or may be collected during the Project duration.

H.2.3. The Final Project Report should be accompanied by a certified income and expenditure statement signed by the Chief Financial Officers (CFOs) of both the Department of Environment and Primary Industries (DEPI) and GBCMA respectively that clearly identifies:

- a. confirmation that all Funding paid to the State and the GBCMA (and any interest earned by the GBCMA on the Funds) was spent by the State and GBCMA in accordance with this Project Schedule;
- b. any financial or in-kind State Contributions;
- c. any Other Contributions;
- d. any cost savings or cost overruns for the Project; and
- e. advice on the amount of any Funds paid to the State, GBCMA or an Irrigator that is to be returned by the State to the Commonwealth in accordance with this Project Schedule, including Item E.4.1.

H.3. Prompt Dealing with Reports

I.3.1. The Commonwealth agrees to assess Reports within a timely manner in accordance with the following timeframes:

- a. within 10 Business Days (20 Business Days for the Final Report) of a Report being first received (note that, if additional information, clarification or amended reports are required a proportionate additional amount of time will be added to the assessment period); and
- b. within 5 Business Days of an amended Report (10 Business Days for the amended Final Report) being submitted if clarifications are required to meet the Commonwealth's reasonable expectation.

I.3.2. The State agrees to submit an amended Report if clarifications are required to meet the Commonwealth's reasonable expectation.

- a. within 10 Business Days (20 Business Days for the Final report) of a clarification being first requested by the Commonwealth; and
- b. within 5 Business Days (10 Business Days for the Final Report) of a subsequent clarification being requested by the Commonwealth.

H.4. Annual Financial Audit Report

H.4.1. Within 90 Business Days after:

- a. the completion of each financial year in which a payment of Funds is made or used by the State or a Proponent, or the State contributes State Contributions or receives or collects any Other Contributions under this Project, except the financial year in which subparagraph b, below, applies; and
- b. the completion of the Project or the termination or expiry of this Project Schedule, whichever is the earlier,

the State agrees to provide to the Commonwealth:

- c. audited financial income and expenditure statements in respect of the Funding, State Contributions and Other Contributions received, which:

- i. separately identifies the Funding (including any interest the GBCMA has earned on the Funds), State Contributions and Other Contributions received by the State for the Project;
 - ii. includes a statement as to whether the financial information in those statements represents the financial transactions fairly and is based on proper accounts and records; and
 - iii. a definitive statement as to whether the Funding (and any Other Contributions, State's Contributions and Project Generated Income) was spent for the Project and in accordance with this Project Schedule;
- d. the confirmation specified in Item I.4.2; and
- e. a copy of a letter to the State from the Auditor, or a report from the Auditor, including specific comment on:
 - i. the adequacy of financial controls being maintained by the State; and
 - ii. where there are any qualifications or limitations on the audit, an outline of the reason(s) for the qualifications or limitations and the remedial action recommended.
- f. Where the State provides Funding to the GBCMA, the audited financial reports specified in Item I.3.1 are required to clearly show how the State and the GBCMA spent the Funds (including any interest the GBCMA has earned on the Funds), the State Contributions and any Other Contributions received by the State.

H.4.2. Confirmation

The Chief Financial Officers of the Department of Environment and Primary Industries and GBCMA are required to provide letters in support of the Annual Audit Financial Report confirming that:

- a. all Funds and State Contributions and Other Contributions that have been received and expended were spent in accordance with this Project Schedule; and
- b. the State has complied with this Project Schedule; and
- c. any unspent portion of Funds for the Project is available for the State to use to complete the next Project Milestone(s) for the Project.

H.4.3. Audit and financial statement requirements

I.4.3.1 The financial statements referred to in Item I.4 are required to be:

- a. prepared in accordance with Australian Accounting Standards; and
- b. audited by an Auditor in accordance with Australian Auditing Standards.

I.4.4 The State must keep financial accounts and records relating to the Project so as to enable:

- a. all receipts and payments related to the Project to be identified (and all receipts and expenditure of the Funds to be separately identified) in the State's accounts and reported in accordance with this Project Schedule;
- b. unless notified by the Commonwealth, the preparation of financial statements in accordance with Australian Accounting Standards including:
 - i. an income and expenditure statement for the Financial Year(s) to date compared with the Budget; and
 - ii. a schedule of the assets acquired, sold, written-off or otherwise disposed of during the Financial Year(s) to date compared with the Budget; and
 - iii. the audit of those Records in accordance with Australian Auditing Standards.

The State must ensure that each Proponent keeps financial accounts and records in a manner that enables the Proponent to satisfy the above requirements in relation to the Sub-project that is to be undertaken by the Proponent.

J. Payment Schedule for Funding for Project

- J.1.1. Consistent with Item B.1.7. the maximum amount of Funds payable by the Commonwealth to the State in respect of this Project is \$100,000,000 shall be paid in instalments, as specified at Item C.1.3, and on the completion of the Payment Preconditions. Each payment of Funds is due within 30 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 the Commonwealth with a Milestone report to the satisfaction of the Commonwealth.
- J.1.2. The Payment Preconditions for each payment of Funds under this Project Schedule are:
 - a. conformance with all the requirements for the Project specified in this Project Schedule, including the completion of the Milestone(s) specified in this Project Schedule for that payment of Funds.
 - b. the receipt and acceptance by the Commonwealth of the relevant Progress Report as per this Project Schedule and all previous Reports required under this Project Schedule.
 - c. for the avoidance of doubt, where there is delayed achievement of Milestones, subject to the continuing availability of appropriation funding for this purpose in the relevant financial period, the Commonwealth may make payments of Funds in relation to delayed achievements of relevant Milestones.

K. Definitions

- K.1.1. For the purpose of this Project Schedule only, the terms specified in this Item K.1.1 have the following meaning:

“Agreed Water Savings” means the amount and the characteristics (including the reliability) of the water that the parties agree is expected to be saved (as specified in Item E.1) as a result of the completion of the Project;

“Auditor” means a person who is:

employed as an auditor by the Victorian Auditor-General as established under the *Audit Act 1994* (Vic); or

registered as a company auditor under the *Corporations Act 2001* (Cth) or an appropriately qualified member of the Institute of Chartered Accountants in Australia or of CPA Australia; and

whose firm or organisation did not prepare the financial statements that are the subject of the audit;

“Australian Accounting Standards” means the accounting standards made by the Australian Accounting Standards Board under section 334 of the *Corporations Act 2001* (Cth);

“Australian Auditing Standards” means the auditing standards made by the Auditing and Assurance Standards Board under section 336 of the *Corporations Act 2001* (Cth);

“Budget” refers to a budget for expenditure of the Funding any State Contribution or Other Contribution for the purposes of conducting the Project and performing obligations under this Project Schedule;

“Business Case” means the documents submitted by the State to the Commonwealth on 19 April 2013, to enable the Commonwealth to conduct a Due Diligence assessment of this Project in accordance with clause 5.1.2.a of the WMPA;

“Business Day” means in relation to the doing of any action in a place, any day other than a Saturday, Sunday or public holiday in that place;

“Commonwealth” means the Commonwealth of Australia, as represented by the Department of the Environment (or any other Department with responsibility for administering this Project Schedule from time to time);

“Commonwealth's Proportion” means, in relation to a Priority Project, the percentage of any Agreed Water Savings from that Priority Project that is to be transferred to the Commonwealth Environmental Water Holder as specified in Item E.2 of the Project Schedule for the Priority Project;

“Cumulative Water Share” means the aggregate volume of Water Share Transferred from GBCMA to the Commonwealth under this Project;

“DEPI” means Department of Environment and Primary Industries;

“Due Diligence” means the assessment process that is undertaken by the Commonwealth to determine whether to Fund a Proposed Project under this Project Schedule;

“Final Project Report” means the Project Report required to be provided under Item I.2 of this Project Schedule;

“Funds or Funding” means the amount payable by the Commonwealth to the State to complete the Project and includes any interest the GBCMA or the State earns on that amount but excludes any Reimbursement Payment;

“GBCMA” means the Goulburn-Broken Catchment Management Authority, the delivery partner engaged by the State to deliver this Project. The GBCMA was

established in 1997 as the peak natural resource management body in the Goulburn-Broken catchment to develop and oversee the implementation of the Regional Catchment Strategy;

“GL” means gigalitre which is 1,000,000,000 litres;

“GMID” means the Goulburn Murray Irrigation District in Victoria, including the irrigation supply system operated by Goulburn-Murray Rural Water Corporation;

Goulburn-Murray Water Connections Project means the Priority Project VIC-02 funded under the Sustainable Rural Water Use and Infrastructure Program, aimed at improving water efficiency in both the delivery system and user connections in the Goulburn-Murray Irrigation District.

“GST” has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

“HRWS” means high reliability Water Share, having the highest reliability of take legally recognised in the State;

“Irrigator” means the individual farmers in the GMID who are approved by GBCMA for Funding in order to undertake Works as part of this Project;

“Item” refers to an item in this Project Schedule;

“Long Term Average Annual Yield” or “LTAAAY” means the long term annual average quantity of water that can be taken in respect of a Water Share (calculated on a basis consistent with the Basin Plan 2012 (Cth));

“Milestones” means a stage of completion of the Project or a Sub-project (as the case may be) set out in a Milestone Schedule;

“ML” means megalitre which is 1,000,000 litres;

“Murray Darling Basin Authority” or “MDBA” was established under the *Water Act 2007* (Cth) as an independent, expertise based statutory agency. The MDBA undertakes activities that support the sustainable and integrated management of the water resources of the Murray-Darling Basin in a way that best meets the social, economic and environmental needs of the Basin and its communities;

“National Code of Practice for the Construction Industry” means the National Code of Practice for the Construction Industry available at www.employment.gov.au/building;

“National Framework for Non-Urban Water Metering” refers to www.environment.gov.au/water/policy-programs/srwui/metering/framework.html;

“OFIEP” means the On-farm Irrigation Efficiency Program, a part of the Sustainable Rural Water Use and Infrastructure Program, an Australian Government initiative aimed at assisting irrigators in the Lachlan and southern connected system of the Murray-Darling Basin to modernise their on-farm irrigation infrastructure while returning water savings to the environment;

“Other Contributions” means the financial or in-kind resources (with in-kind resources valued at cost) for the Project (other than the Funds, the State Contributions and any Reimbursement Payments), which the State is required to ensure are provided for the Project and which are specified in Item D of this Project Schedule;

“Parties” means the parties to this Project Schedule (the Commonwealth and the State);

“Payment Preconditions” means, in respect of a payment of Funds for the Project, the requirements (including the Milestone(s)) that are specified in this Project Schedule as being a pre-condition for that payment of Funds;

“Personnel” means a party’s officers, employees, agents, contractor staff or professional advisers engaged in the performance or management of this Project Schedule and, in the case of the State, includes its subcontractors and any Proponents;

“Progress Report” means a report of the Works that is provided to the Commonwealth for reporting purposes on matters as stipulated in the Project Schedule;

“Project” as described in this Project Schedule refers to the Victorian Farm Modernisation Project **and** it means the irrigation efficiency project that the State is required to undertake which includes the management and delivery of Sub-projects in the Sub-project types contemplated by this Project Schedule for which Proponents are required to Transfer to the Commonwealth the Commonwealth Share of the Agreed Water Saving;

“Project Cost” means the total expenditure of the Funding, the State Contributions and Other Contributions for that Priority Project as set out in this Project Schedule;

“Project Milestone” means, a stage in the completion of the Project as specified in Item C of this Project Schedule;

“Project Report” means a Report regarding the State's implementation of this Project that is required to be provided at the time, and to contain the information specified in this Project Schedule;

“Project Schedule” means this document;

"Proponent" includes GBCMA and the individual Irrigators;

“Report” means each document and item of information that the State is required to provide to the Commonwealth for reporting purposes under Item I;

“Schedule” refers to a schedule to this Project Schedule and includes the Project Schedules and any annexures or attachments to a schedule;

“State” means the State of Victoria;

“State Contributions” means the financial or in-kind resources (with in-kind resources valued at cost) for the Project (other than the Funding, or Other Contributions), which the State is required to provide for the Project under this Project Schedule;

“Sub-contractors” means the individuals or organisations engaged under contract by the State or a Proponent to assist in the delivery of the Project, for example, field officers;

“Sub-project” means all projects undertaken by the Proponent under this Project Schedule;

“Transferred”, “Transfer” means, in respect of a Water Share, to transfer all right, title and interest in that Water Share;

“Victorian State Implementation Plan” refers to the state plan that is under the National standards for non-urban water metering

“Water Act” means the *Water Act 1989 (Vic)*;

“Water Management Partnership Agreement” or “WMPA” means bi-lateral agreement made between the Commonwealth of Australia and the State of Victoria which provides for the Basin States to undertake one or more Priority Projects that will substantially contribute to improved water use efficiency and enhance the sustainability of rural water use in the Murray-Darling Basin. More information is available at: www.environment.gov.au/water/publications/action/agreements/vic-bilateral-agreement.html;

“Water Savings” means the water savings that are to be generated as a result of Works;

“Water Savings Calculator” means a matrix tool developed by GBCMA and used to calculate water savings from a mix of irrigation technology, soil types and crop types;

“Water Share” means a water share issued under Division 2 of Part 3A of the Water Act;

"Water Transfer Contract" means the contract under which an Irrigator provides Water Shares to the GBCMA as part consideration for the GBCMA Funding the Irrigator's Works;

“Whole Farm Plans” means a plan which provides detailed layout and design information of the proposed change in farm irrigation systems;

"Works" means the replacement, upgrade or modification of an Irrigator's privately-owned on-farm irrigation assets and which includes approvals, construction, commissioning and any other activities directly necessary for the completion of that replacement, upgrade or modification;

"Works Contract" means the contract under which the GBCMA provides an Irrigator with Funding to complete the Irrigator's Works as part of this Project;

“Works Inspection” means a critical appraisal to determine if the Works are in proper quantity and condition, and if it conforms to the applicable or specified requirements outlined in the Works Contract; and

“Works Program” means the all the Works undertaken for this Project.

By signing this document, the parties to the Project Schedule agree that this document will be a Project Schedule on and from the date the Commonwealth signs this document.

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

Date: November 2013

)
SIGNED for and on behalf of the State of)
Victoria by:)

Name of signatory

Signature

In the presence of:

Name of witness

Signature of witness

ATTACHMENT 1: Requirements relating to the National Code of Practice for the Construction Industry

1.1. Interpretation

A.2. In this Attachment 1:

- Code** means the National Code of Practice for the Construction Industry, Building Code 2013, a copy of which can be downloaded from <http://employment.gov.au/building-code-2013>
- Guidelines** means the Australian Government Implementation Guidelines for National Code of Practice for the Construction Industry, February 2013, a copy of which can be downloaded from <http://employment.gov.au/building-code-2013>
- Project Parties** means all Proponents, contractors, subcontractors, consultants and employees who perform on-site work in relation to this Project, including the Works.

B. Compliance with Code

B.1. The State is required to comply and ensure that the Project Parties comply with the Code and Guidelines.

B.2. 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 Project made by it or any of the Project Parties contain the commitment to apply the Code and Guidelines as set out in the model tender documents available at: <http://www.deewr.gov.au/WorkplaceRelations/Policies/BuildingandConstruction/Pages/default.aspx>; and
- b. all agreements and contracts entered into in relation to the Project by it or any of the Project Parties contain the commitment to apply the Code and Guidelines as set out in the model contract clauses available at: <http://www.deewr.gov.au/WorkplaceRelations/Policies/BuildingandConstruction/Pages/default.aspx>.

C. Recipient must maintain Records and permit access

C.1. The State is required to maintain adequate records of compliance by it and each of the Project Parties with the Code and the Guidelines. The State is required to permit the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Office of the Australian Building and Construction Commissioner, 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 Project and Works governed by this Agreement;
- c. interview any person,

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

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 Office of the Australian Building and Construction Commissioner, to produce a specified document within a specified period, in person, by fax, or by post.

- C.2. 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 is required to obtain the consent of the Project Parties to the publication or disclosure of information under this clause.

D. Appointment of sub-contractors

- D.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.

- D.2. The State agrees not to appoint a Proponent, contractor, subcontractor or consultant in relation to the Project where:

- a. the appointment would breach a sanction imposed by the Commonwealth Minister for Employment and Workplace Relations; or
- b. the Proponent, contractor, subcontractor or consultant has had a judicial decision against them relation 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. Definitions

In this Attachment 2:

- (a) **the Act** means the *Fair Work (Building Industry) Act 2012* (Cth);
- (b) **Builder** has the same meaning as it has in section 35 of the Act;
- (c) **Building Work** has the same meaning as it has in section 5 of the Act;
- (d) **Regulations** means the *Fair Work (Building Industry - Accreditation Scheme) Regulations 2005*; and
- (e) **Scheme** means the Australian Government Building and Construction OHS Accreditation Scheme established under the Act.

2. Application

- (a) Subject to exclusions specified in the Regulations, construction projects that use funds provided under this Agreement are bound by the application of the Scheme.
- (b) The State must ensure that all head contracts it enters into for Building Work as part of the Project that are valued at \$3 million or more:
 - (i) are notified to the Office of the Federal Safety Commissioner at the earliest possible opportunity (that is, when approaching the market); and
 - (ii) contain a requirement that the Builder:
 - (A) is accredited under the Scheme;
 - (B) maintains Scheme accreditation for the life of that contract; and
 - (C) must comply with all conditions of the Scheme accreditation.
- (c) The State agrees to notify the Department immediately if that Builder has ceased, or is likely to cease, to meet the accreditation requirements in item 1(b)(ii) of this Schedule.
- (d) The State must maintain adequate records of its compliance with the Scheme.

Attachment 3: Overview of The Victorian Farm Modernisation Project



