

MEMORANDUM OF UNDERSTANDING

in relation to shepherding of water for the environment

This is a Memorandum of Understanding (MOU) between

the **MINISTER FOR WATER FOR AND ON BEHALF OF THE CROWN IN RIGHT OF THE STATE OF NEW SOUTH WALES ACTING THROUGH THE NSW OFFICE OF WATER (DEPARTMENT OF ENVIRONMENT, CLIMATE CHANGE AND WATER)**

and

the **COMMONWEALTH OF AUSTRALIA.**

INTRODUCTION

- 1) The parties recognise that many environmental assets in the Murray-Darling Basin are under significant stress due to both river regulation and a lack of available water resulting from many factors including climate change. Consistent with the National Water Initiative and the Intergovernmental Agreement on Murray-Darling Basin Reform, both parties are committed to restoring the health of rivers and wetlands in the Murray-Darling Basin.
- 2) The parties recognise the commitments made by both parties to environmental watering to rebalance the Murray-Darling Basin, in the context of:
 - a) an exchange of letters between the Commonwealth and State Water Ministers providing in-principle support for the development of a bilateral agreement to ensure the protection of entitlements purchased for the environment;
 - b) the Memorandum of Understanding between the Commonwealth Environmental Water Holder (CEWH) and the NSW Department of Environment, Climate Change and Water on the cooperative use of environmental water, first agreed in 2008 (**Environmental Water Use MOU**);
 - c) the New South Wales purchase of Toorale station, with substantial funding assistance from the Commonwealth in September 2008, and the use of the water from the property for environmental watering purposes at the direction of the CEWH;
 - d) the commitment of both parties to the development of the Murray-Darling Basin Plan, including sustainable diversion limits to limit the amount of water that can be taken from the Basin's water resources, and the development of an environmental watering plan;
 - e) the support of both parties for the development of statutory water resource plans (giving effect to the Basin Plan) to manage water in New South Wales; and
 - f) the Memorandum of Understanding entered into by the New South Wales Government and the Commonwealth of Australia on 23 September 2009 in relation to water for the environment (**Environmental Water Purchase MOU**).

- 3) As part of the Environmental Water Purchase MOU the parties agreed to negotiate a bilateral agreement for consideration by Ministers by 30 November 2009 that provides for water shepherding in NSW to ensure that water for the environment can be protected from access by downstream consumptive users.
- 4) This Memorandum of Understanding sets out principles and processes which the parties have agreed to facilitate shepherding of environmental water.

EFFECT AND OPERATION OF THE MOU

- 5) This MOU:
 - a) commences on the date on which the Implementation Plan (Stage 1) is signed by the last party to do so; and
 - b) will remain in place until such time as one or both parties determine otherwise;however, if one party determines that it wishes to terminate this MOU, it will provide 3 months written notice to the other party.
- 6) The parties agree that a review of this MOU will be completed within three months of the commencement of the Basin Plan by the Water Shepherding Taskforce.
- 7) NSW will perform its requirements under this MOU and the Implementation Plan in accordance with:
 - a) State and Commonwealth legislation, including the Basin Plan when it comes into effect; and
 - b) existing commitments under the National Water Initiative (NWI) and the Agreement on Murray-Darling Basin Reform.
- 8) Nothing in this MOU shall be taken to require that, in implementing the agreed shepherding arrangements, NSW will act knowingly in contravention of NSW law.
- 9) Where the Implementation Plan requires amendment to intergovernmental agreements, NSW legislation or statutory instruments, NSW will use its best endeavours to achieve such amendments within a reasonable period of time but NSW is not required to implement those elements of the agreed arrangements until such amendments are made.
- 10) The parties agree to this document being publicly available once both parties have signed.
- 11) The NSW Water Shepherding Team will report annually on the volumes of CEW shepherded under this MOU.
- 12) Under this MOU, the parties agree to:
 - a) effect the Implementation Plan (Stage 1);
 - b) develop and effect Implementation Plan (Stage 2); and
 - c) facilitate the ongoing delivery of water shepherding arrangements consistent with the Implementation Plan and this MOU;

subject to:

- d) Commonwealth funding in accordance with clauses 22, 33 and 34; and
- e) compliance with the requirements of this MOU, including the guiding principles and State and Commonwealth legislation.

INTERPRETATION

13) In this MOU:

Commonwealth Environmental Water (CEW) means:

- a) Commonwealth environmental water holdings as defined in s108 of the *Water Act 2007* (Cth);
- b) water licences held by NSW in relation to Toorale station on behalf of the CEWH; and
- c) other water licences as agreed;

Event Management means the management of extraction and monitoring, during each flow event, of the passage of waters to be protected from extraction to ensure that the volumes of water relating to licences that may be shepherded consistent with this MOU are delivered at an agreed location;

Implementation Plan means the entire set of commitments defined under Implementation Plan Stage 1 and Stage 2 below;

Implementation Plan (Stage 1) means the Implementation Plan under the National Partnership Agreement of Water for the Future, to investigate issues, and develop and agree a workplan for Stage 2 below, attached to this MOU at Schedule 3;

Implementation Plan (Stage 2) means a plan to take the actions set out by Stage 1 to introduce all necessary changes to NSW water management to give effect to the MOU;

Menindee Lakes Project means the proposed project to improve operational efficiency at Menindee Lakes, to be agreed between the Commonwealth and NSW through a memorandum of understanding for the cooperative investigation and subsequent implementation of key water reform initiatives, including Broken Hill Urban Water Supply and Menindee Lakes Operational Arrangements in New South Wales;

Reach means a defined section of a water course; and

Shepherding means the delivery of a calculated volume of water that was created by the non-activation/reduced extraction at a nominated licence location to a more downstream location, after consideration of losses, where it will be made available for extraction or use for the environment.

OBJECTIVE

- 14) The objective of this MOU is to optimise the use of all water for the environment, to provide the capacity to deliver water to high priority environmental assets, and, in the case of in-stream environmental watering, to provide protection for environmental flows to pass through the system as far as transmission losses allow.

GUIDING PRINCIPLES

- 15) The parties agree to the following guiding principles for shepherding of environmental water, as the foundation for this MOU and the future action envisaged by this MOU:
- a) **The reliability and access characteristics of licensed entitlements for water shepherded under this MOU will be retained;**
 - b) **It is acknowledged that there is potential for climate change to influence anticipated long term flows and for climate variability to influence water availability both seasonally and annually;**
 - c) **Water that has been the subject of water shepherding actions cannot be subsequently traded for consumption;**
 - d) **Water sharing plans will include rules to facilitate trading consistent with clause 15(c);**
 - e) **Entitlements and allocations held by water users in NSW will not be enhanced nor diminished as a result of environmental watering actions and shepherding of environmental water under this MOU;**
 - f) **Any administrative arrangements or other restrictions imposed by NSW on licensed entitlements for such purposes as cap management or socio-economic reasons will apply to licensed entitlements that may be shepherded under this MOU;**
 - g) **Any growth or similar management action restricting access, including that required under the Basin Plan in a valley will apply equally to licensed entitlements that may be shepherded under this MOU as to other licensed entitlements;**
 - h) **As a result of the variability of rivers in flow times, models and data, event management may be required to shepherd water. So as to provide certainty and transparency, rules based water shepherding arrangements will be implemented in favour of event-based water management where practical;**
 - i) **Where it is practical, water shepherding arrangements will be incorporated in water sharing plans so as to provide certainty and transparency. Where water shepherding arrangements are not part of a water sharing plan, the NSW Water Shepherding Team will publicly report annually on all arrangements and actions taken to shepherd water in accordance with this MOU; and**
 - j) **The parties note that the Commonwealth Department of Environment, Water, Heritage and the Arts, and the NSW Department of Climate Change, Environment and Water, jointly commissioned an independent assessment of shepherding methodologies for river flows below Toorale station to the influence of the Menindee Lakes. The parties commit to build on the joint work conducted through that independent assessment by ensuring that, where appropriate the Implementation Plan developed under clause 23 is consistent with the recommendations of the report of the independent assessors.**
- 16) In respect of water shepherding for CEW, the following additional guiding principles apply:
- a) **The NSW Office of Water will ensure the delivery of CEW to meet the environmental objectives of the Commonwealth consistent with State and Commonwealth legislation and subject to this MOU;**

- b) The CEWH will consult with the NSW Department of Climate Change, Environment and Water, including the NSW Office of Water, on where CEW shepherded under this MOU is to be delivered;
- c) The Commonwealth is responsible for payment of all fixed and usage water charges for all CEW for which it is liable;
- d) CEW may be managed to give effect to the objectives of this agreement using:
 - i) water trading, which is open to all water users and which will be used in preference to water shepherding; or
 - ii) specific arrangements that provide for the management of CEW for the environment in accordance with the objectives of the MOU.
- e) Volumes may not be extracted from a downstream water source in anticipation of CEW being available from a shepherding event in an upstream water source.

Scope of application of Water Shepherding MOU

17) The parties agree that this MOU applies:

- a) Only in respect of the Murray-Darling Basin; and
- b) Other than in respect of the guiding principles in clause 15 above, only to CEW.

18) The parties agree that:

- a) Water shepherding will be implemented in the Barwon Darling Unregulated River and intersecting streams as shown in the map at Schedule 1 and, if required, other unregulated rivers as agreed between the parties;
- b) Subject to the operation of the Murray-Darling Basin Agreement (and where necessary following consultation with all affected Contracting Governments):
 - i) in the circumstance where the water stored in the Menindee Lakes is under NSW control, water shepherding arrangements will provide for recognition of CEW as it flows into or past the Menindee Lakes and make this water (less agreed transmission losses) available for use at the direction of the CEWH; and
 - ii) in the circumstance where the water stored in the Menindee Lakes is not under NSW control, water shepherding arrangements will provide for recognition of CEW as it flows into or past the Menindee Lakes and make this water (less agreed transmission losses) available for use at the direction of the CEWH, subject to all affected Contracting Governments agreeing to shepherd water consistently with their proportion of inflows;
- c) Any proposal to transfer CEW from a river system to another river system, where the transfer of this water cannot be effected through other means such as trading, will be determined and managed in accordance with the water delivery procedure developed as part of the Implementation Plan under clause 40, unless otherwise agreed between the parties during the period prior to this procedure being developed.
- d) No shepherding arrangements will be considered for groundwater as part of this MOU;

- e) Shepherding will not apply to Floodplain Harvesting for the period of this MOU, unless otherwise agreed between the parties; and
- f) The provisions of this MOU will apply to all water entitlements issued in each river valley under the Resource Operations Plans first adopted by the Queensland Government in that river valley and published in the Queensland Gazette, however;
 - i) the provisions of this MOU will not apply to the following water allocations gifted to the CEWH under the *Water (Commonwealth Powers) Act 2008 (Qld)*:
 - (1) 1000ML – Nebine
 - (2) 1100ML – Moonie; and
 - (3) 500 ML – Border Rivers.
- 19) The Commonwealth agrees that NSW water users will not be adversely impacted by shepherding the Warrego water gifted to the Commonwealth by the Queensland Government.
- 20) The Warrego water gifted to the Commonwealth by the Queensland Government will be used to provide environmental benefit between the NSW/Queensland border and the upstream reaches of the Menindee Lakes.

Scope of operation of Water Shepherding MOU

- 21) The parties agree that:
 - a) Where a regulated parcel of water moves from a regulated water source to an unregulated water source as part of shepherding arrangements, that CEW:
 - i. will be subject to the unregulated shepherding arrangements of that water source; and
 - ii. the CEW will not retain any of the characteristics of the entitlement relevant to the regulated river;
 - b) Once accounting arrangements are agreed, the CEWH will consult with the NSW Office of Water, as to where CEW is to be delivered;
 - c) Consistent with clause 22, 33 and 34, the costs of managing licences that may be shepherded consistent with this MOU, and costs relating to future water shepherding, will be borne by the Commonwealth for the term of this MOU unless otherwise agreed by the parties. However, it may be expected that cost recovery and cost sharing arrangements will be considered under future water charge determinations;
 - d) Best endeavours will be applied to management and accounting of CEW. Appropriate treatment of uncertainty and errors in shepherding of water will be considered under the Implementation Plan (Stage 2) but it is not intended that any error from previous events will be credited or debited from future events;
 - e) Shepherding of cross-border flows will be assessed at, and managed from the NSW/Queensland border; and

- f) The CEWH may nominate the extent of shepherding along the system, subject to this MOU, but the parties agree that the Warrego water referred to in clause 20 above will only be shepherded to the upstream influence of the Menindee Lakes.

22) In the period before permanent arrangements are agreed, NSW will use best endeavours to:

- a) shepherd CEW consistent with this MOU and subject to; the water management principles in the *Water Management Act 2000*, and the *Water Act 1912*;
- b) ensure that shepherding of cross-border flows will be assessed at, and managed from, the NSW/Queensland border;
- c) subject to (a), continue the current arrangements for the recognition of water from Toorale station as it flows into or past the Menindee Lakes and making this water (less agreed transmission losses) available for use at the direction of the CEWH, until relevant replacement arrangements are agreed; and
- d) where possible, amend existing water sharing plans to facilitate the shepherding of CEW;

subject to appropriate Commonwealth funding for reasonable costs incurred on an event basis in excess of costs funded under the Implementation Plan; and incurred by NSW in meeting its statutory obligations to manage water in NSW.

The costs will be agreed in advance.

Implementation Plan

23) The Implementation Plan will investigate and agree an approach to give effect to the objective of this MOU including treatment of:

- a) Water Shepherding Methodology;
- b) Legal;
- c) Licensing;
- d) Accounting;
- e) Water Delivery;
- f) Modelling and Monitoring;
- g) Trading;
- h) Interstate water sharing arrangements;
- i) Cap Management; and
- j) Floods and overbank flows.

Water Shepherding Taskforce

- 24) The Water Shepherding Taskforce will consist of the NSW Commissioner for Water and the Deputy Secretary of the Water Group of the Commonwealth Department of Environment, Water, Heritage and the Arts.
- 25) The Water Shepherding Taskforce will:
- a) determine the preferred options for the issues to be addressed in the Project Reports prepared under Implementation Plan (Stage 1);
 - b) approve the draft Implementation Plan (Stage 2), including milestones and dates by which such milestones must be achieved.

Water Shepherding Working Group

- 26) The Water Shepherding Working Group will consist of:
- a) 3 nominees of the NSW Office of Water;
 - b) 3 nominees of the Commonwealth Department of Environment, Water, Heritage and the Arts;
 - c) 1 nominee of the CEWH; and
 - d) 1 nominee of the NSW Department of Environment, Climate Change and Water (as the holder of environmental water in NSW).
- 27) A representative of the Queensland Department of Environment and Resource Management may be invited to attend meetings of the Water Shepherding Working Group when issues relating to interstate water sharing arrangements are to be discussed.
- 28) The Water Shepherding Working Group will report to the Water Shepherding Taskforce.
- 29) The Water Shepherding Working Group will:
- a) review Project Reports prepared under the Implementation Plan (Stage 1) and provide recommendations to the Water Shepherding Task Force; and
 - b) provide advice to the NSW Water Shepherding Team as required.

NSW Water Shepherding Team

- 30) A Water Shepherding Team will be created within the NSW Office of Water to:
- a) carry out Implementation Plan (Stage 1);
 - b) effect Implementation Plan (Stage 2) in accordance with the milestones, and dates by which such milestones must be achieved, set out in Implementation Plan (Stage 2); and
 - c) as agreed, facilitate the ongoing delivery of water shepherding arrangements consistent with the Implementation Plan for the term of this MOU.
- 31) The agreed structure and annual costings for the NSW Water Shepherding Team are set out at Schedule 2.

32) The NSW Office of Water will provide additional support to the Water Shepherding Team where required.

Funding

33) Through the Implementation Plan, the Commonwealth has agreed to provide the funding necessary to:

- a) effect Implementation Plan (Stage 1) (including the establishment of the NSW Water Shepherding Team); and
- b) meet costs incurred by NSW in developing and effecting Implementation Plan (Stage 2) once agreed by the Taskforce, including to facilitate ongoing delivery of water shepherding arrangements, for the term of this MOU.

34) For the purposes of clause 33, costs may include:

- a) additional flow monitoring, including additional gauging stations;
- b) enhanced access management, including flow forecasting, bulk water and usage charges, costs of temporary transfers and licences, monitoring and reporting; and
- c) costs related to operational, licensing, legal and compliance issues.

Legal Issues

35) The Implementation Plan will identify:

- a) an appropriate mechanism for legal recognition of:
 - i) licences that may be shepherded consistent with this MOU; and
 - ii) water to be shepherded under this MOU; and
- b) amendments required to intergovernmental agreements (including the Murray-Darling Basin Agreement), NSW legislation and statutory instruments (including water sharing plans, access licence dealing principles and conditions on water licences and approvals) to facilitate water shepherding.

Licensing

36) The parties acknowledge that:

- a) Licences managed under the *Water Act 1912 (NSW)* are attached to the area of land specified in the licence under conditions specified on the licence;
- b) Licences under the *Water Act 1912 (NSW)* in unregulated rivers typically include conditions that allow diversion through a work when specified flow triggers at one or more flow gauging stations have been exceeded. Unless there are changes to current access rules in the implementation of water sharing plans including any agreed changes necessary to give effect to this agreement, or for cap management purposes, it may be expected that existing access conditions will remain;
- c) Currently, licence accounts are managed by:

- i) crediting a licence through an available water determination (for licences under the *Water Management Act 2000 (NSW)*) or an allocation (for licences under the *Water Act 1912 (NSW)*) and trade to that licence; and
 - ii) debiting accounts to reflect usage for that licence and trade out from that licence; and
- d) Water delivered to any remote location, particularly downstream of Menindee Lakes, pursuant to a licence that may be shepherded consistent with this MOU must be accounted as a debit on that licence, even though no water may have been extracted by a work nominated by that licence.

37) The Implementation Plan will address the development of a licensing methodology that is compatible with the non-extraction of water through works and gives effect to this MOU, including by examining whether shepherding of environmental water might be best facilitated with the creation of a new type or category of licence under the *Water Management Act 2000*.

Accounting

- 38) The parties acknowledge that the shepherding of licensed entitlements for CEW will be subject to the normal accounting rules attached to the category of licence, where possible.
- 39) The Implementation Plan will include the development of an accounting model which gives effect to this MOU.

Water Delivery

- 40) The Implementation Plan will address the adoption of a water delivery procedure that:
- a) documents operational rules for transferring CEW from a river system to another river system; and
 - b) determines a methodology for the calculation and apportionment of transmission losses which gives effect to this MOU.

Monitoring and Modelling

- 41) The parties acknowledge that:
- a) Any option that requires estimates to be made of real time flows will require the development of a more sophisticated forecasting platform than is currently available;
 - b) Additional gauging stations may be required to more satisfactorily measure inflows and flow changes and manage access by other licences;
 - c) Current hydrologic models that forecast flows:
 - i) were designed for long-term planning applications and are calibrated to achieve good flow and usage correlation on average; and
 - ii) are not designed to forecast real time flows where the calibration factors are much more variable;

- d) The models to be developed need to be accurate over a wide range of flows from cease-to-flow to minor flood levels; and
 - e) Model operators will require a high level of proficiency in operating the flow model, interpreting the flow model and in managing the expectations of the environment and consumer stakeholders.
- 42) The Implementation Plan will address the need for considerable model development, extensive operator training, stakeholder consultation and education.

Trading

- 43) The parties acknowledge that:
- a) Given the nature of development and the re-issuing of entitlements as Cap shares, existing trade rules were designed for relatively small movements of water to be used for irrigation, mainly to improve the viability of existing infrastructure; and
 - b) CEW can be traded consistent with the rules in the water sharing plan that applies where the water was purchased, but cannot otherwise be traded for consumptive use outside of the area for trade specified within that water sharing plan.
- 44) The Implementation Plan will:
- a) address the need for trading rules to be finalised and adopted; and
 - b) develop arrangements for the treatment of water shepherding and trade that allows the use of water in another Reach in the same water source.

Interstate water sharing arrangements

- 45) The parties acknowledge that:
- a) An agreed methodology for the determination of the volume of flows at the Queensland border is required;
 - b) Water management in NSW is subject to the Murray-Darling Basin Agreement and is required to be consistent with the Basin Plan when it comes into effect;
 - c) When the Menindee Lakes are under the control of the Murray-Darling Basin Authority:
 - i) inflow to the lakes are generally shared 50:50 between New South Wales and Victoria;
 - ii) releases from the lakes are then accounted against the respective State accounts.
- 46) Additional water entering the lakes as CEW will incur transmission losses within the lakes and in the Lower Darling, in particular from evaporation, and the volume of CEW entering the River Murray will be reduced to account for these losses.
- 47) The Implementation Plan will:

- a) ensure the implementation of an agreed methodology for the determination of the volume of flows at the Queensland border; and
- b) identify appropriate amendments to the Murray-Darling Basin Agreement that would be required to give effect to this MOU.

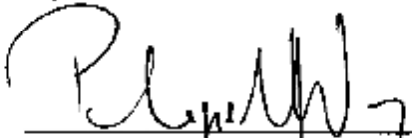
Cap Management

- 48) The parties acknowledge that CEW will be accounted consistent with Schedule E of the Murray Darling Basin Agreement.
- 49) The Implementation Plan will address how non-extracted water accounted as CEW affects Cap and growth in use in the source and downstream valleys. This approach will be consistent with the Murray Darling Basin Agreement and decisions of the Ministerial Council.

Floods and overbank flows

- 50) The Implementation Plan will address the availability of CEW for shepherding during floods and the treatment of overbank flows, consistent with the recommendations of the report of the independent assessment of shepherding methodologies for river flows below Toorale station to the influence of the Menindee Lakes, where appropriate.

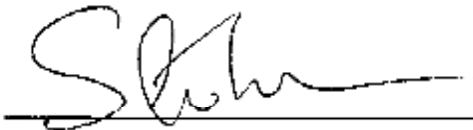
Signed for and on behalf of the Commonwealth of Australia by



Senator the Honourable Penny Wong
Minister for Climate Change, Energy Efficiency and Water

13 July 2010

Signed for and on behalf of the Crown in right of the State of New South Wales



The Honourable Steve Whan MP

Acting Minister for Water

14 July 2010

Schedule 2 – NSW Water Shepherding Team

Structure and annual costing

Staff	Activities	Cost
Project Manager A&C Grade 12 (1 FTE)	oversight the assessment of the shepherding legal, administrative, licensing accounting, cap management requirements, report to Water Shepherding Taskforce and prepare strategy	\$263,000
Project officer A&C Grade 9/10 (1 FTE)	undertake the detailed and technical assessment of the hydrologic operation and implementation of shepherding events and advise on measures for event management	\$215,000
Senior Legal Officer (1 FTEs)	Provide advice on current legal framework, assess and report on the possible options for legislative and water sharing plan changes required to implement water shepherding arrangements, provide advice on changes to intergovernmental agreements, conditions and other instruments	\$211,000
Senior Modellers (1.5 EFTS)	update and upgrade existing unregulated river and regulated river models to provide for water shepherding requirements and enable flow forecasting	\$395,000
Licensing Officer (0.5 FTE)	assess the impacts on existing licences and whether changes are required to licensing conditions	\$108,000
Support Expertise (equivalent to 0.5 FTEs)	provide a range of specialist support skills covering hydrometric advice, communications, financial management, administration and GIS	\$108,000
TOTAL ANNUAL COST		\$1,300,000*

* These figures are based on staff salaries in 2010. The annual costings will increase in line with CPI.

Schedule 3

Implementation Plan for Water Shepherding in NSW (Stage 1)

National Partnership Agreement on Water for the Future

Preliminaries

1. This Implementation Plan is created subject to the provisions of the National Partnership agreement on Water for the Future and should be read in conjunction with that Agreement. The objective in the National Partnership is to secure water supplies and to assist with climate change adaptation.
2. This Implementation Plan should be read in conjunction with the Memorandum of Understanding between New South Wales (NSW) and the Commonwealth in relation to shepherding water for the environment (the Water Shepherding MOU).
3. As part of the Water for the Future initiative, the Australian Government has committed to be a financial partner in optimising the use of all water for the environment, to provide the capacity to deliver water to high priority environmental assets, and, in the case of in-stream environmental watering, to provide protection for environmental flows to pass through the system as far as transmission losses allow.

Terms of this Implementation Plan

4. This Implementation Plan will commence as soon as it is agreed between the Commonwealth of Australia, represented by the Honourable Senator Penny Wong, Minister for Climate Change, Energy Efficiency and Water, and the State of New South Wales, represented by the Honourable Steve Whan MP, Acting Minister for Water.
5. This Implementation Plan will cease on completion of the project as specified in this Implementation Plan, including the acceptance of final performance reporting and processing of final payments against performance benchmarks specified in this Implementation Plan.
6. This Implementation Plan may be varied by written agreement between the Ministers.
7. Either Party may terminate this agreement by providing 3 months notice in writing. Where this Implementation Plan is terminated, the Commonwealth's liability to make payments to the State is limited to payments associated with performance benchmarks achieved by the State by the date of effect of termination of this Implementation Plan.
8. The Parties to this Implementation Plan do not intend any of the provisions to be legally enforceable. However, that does not lessen the Parties' commitment to this Implementation Plan.

Interpretation

Water Shepherding Memorandum of Understanding (MoU) means the formal Agreement between the Commonwealth Government and the Government of New South Wales of which this Implementation Plan forms Schedule 3;

Water Shepherding Taskforce means the Taskforce established under clause 24 of the Water Shepherding MoU;

Water Shepherding Working Group means the Working Group established under clause 26 of the Water Shepherding MoU; and

Water Shepherding Team means the Team established under clause 30 of the Water Shepherding MoU.

Project Objective

9. The objective of this project is to develop a detailed plan for introducing water shepherding in New South Wales in a manner consistent with the Water Shepherding MoU and implement interim arrangements for shepherding Commonwealth environmental water.

Roles and Responsibilities

Role of the Commonwealth

10. The Commonwealth is responsible for reviewing the State's performance against the project milestones specified in this Implementation Plan and providing any consequential financial contribution to the State for that performance.

Role of New South Wales

11. New South Wales is responsible for all aspects of project implementation, including:
 - (a) fully funding the project, after accounting for financial contributions from the Commonwealth and any third party, for the term of this MOU;
 - (b) completing the project in a timely and professional manner in accordance with this Implementation Plan;
 - (c) meeting all conditions including providing project reports in accordance with this Implementation Plan;
 - (d) maintaining a detailed project management plan, including but not limited to, a procurement strategy, communication, risk and stakeholder plans.

Shared roles and responsibilities

12. The Parties agree to establish:
 - (a) the Water Shepherding Taskforce;
 - (b) the Water Shepherding Working Group; and
 - (c) the New South Wales Water Shepherding Team (which will incorporate the role of the Project Management Committee to monitor and oversee the implementation of the Project);

to be composed as specified under the Water Shepherding MoU.

Performance milestones and financial arrangements

13. The maximum financial contribution to be provided by the Commonwealth for the project is \$1,950,000 payable in accordance with milestones set out in Table 1, plus any increase in annual costings due to CPI as referred to in Schedule 2. All payments are exclusive of GST.

Table 1: Milestones and associated payments

No.	Milestone	Due date	Amount
1.	a) Finalise the recruitment of staff for the New South Wales Water Shepherding Team as outlined under the Water Shepherding MOU; b) The Taskforce agrees a project management plan provided by New South Wales.	30 November 2010	\$500,000
2.	a) The Taskforce considers Progress Report 1, provided by New South Wales, addressing each of the following issues: <ul style="list-style-type: none"> 1) shepherding methodology 2) accounting models for implementing shepherding 3) legal constraints on shepherding 4) consultation strategy and agrees an approach to addressing them.	February 2011	\$300,000
3.	a) The Taskforce considers Progress Report 2, provided by New South Wales, addressing each of the following issues outlined: <ul style="list-style-type: none"> 1) licensing arrangements 2) water trading 3) cap management 4) treatment of overland flows and agrees an approach to addressing them.	June 2011	\$350,000

4.	<p>a) The Taskforce considers Progress Report 3, provided by New South Wales, addressing each of the following issues:</p> <ol style="list-style-type: none"> 1) environmental water delivery 2) modelling 3) monitoring 4) interstate water sharing 5) appropriate funding for ongoing costs (including the Implementation Plan (Stage 2)) <p>and agrees an approach to addressing them.</p>	Sept 2011	\$300,000
5.	<p>a) New South Wales provides the draft Implementation Plan (Stage 2) for introducing water shepherding in New South Wales to the Taskforce for consideration;</p> <p>b) The Taskforce approves the draft Implementation Plan (Stage 2); and</p> <p>c) the Barwon-Darling Water Sharing Plan is commenced, which includes permanent shepherding arrangements for Commonwealth environmental water (including for water from Queensland and intersecting tributaries)</p>	<p>30 Nov. 2011</p> <p>31 Jan. 2012</p>	\$500,000

14. Should the draft Implementation Plan (Stage 2) not have been approved in accordance with the milestone timing set out in Table 1, the Taskforce will endeavour to resolve any outstanding issues.
15. If these issues have not been resolved by 31 January 2012 the draft, noting any provisions yet to be agreed by the Taskforce, must be provided to the respective Ministers.
16. If the Implementation Plan (Stage 2) remains unsigned on 31 March 2012 and the Barwon-Darling Water Sharing Plan has commenced, Milestone 5 will be taken to have been met.
17. If the Implementation Plan (Stage 2) remains unsigned on 31 March 2012 and the Barwon-Darling Water Sharing Plan has not commenced, Milestone 5 will be taken to have been met on the date on which the Water Sharing Plan commences.
18. Any Commonwealth financial contribution payable will be processed by the Commonwealth Treasury and paid to the State Treasury in accordance with the payment arrangements set out in Schedule D of the *Intergovernmental Agreement on Federal Financial Relations*.

Budget

19. The overall project budget (exclusive of GST) is set out in Table 2.

Table 2: Overall project budget

	Cwth amount	State amount	Other amount	Total
New South Wales Water Shepherding Team	\$1,950,000			\$1,950,000

Reporting Arrangements

20. The State will provide project reports to the Commonwealth to demonstrate its achievement of performance benchmarks set out in Table 1.
21. Each Progress Report is to contain the following information:
 - (a) a description of actual performance of the Project to date against the project milestones and budget; and
 - (b) promotional activities undertaken in relation to, and media coverage of, the project during the last reporting period.
22. The final project report is due within 60 Business Days of the completion of the project or termination of this Implementation Plan or the project. The final project report will be a stand-alone document that can be used for public information dissemination purposes regarding the project and must:
 - (a) describe the conduct, benefits and outcomes of the project as a whole;
 - (b) evaluate the project, including assessing the extent to which the objective in this Implementation Plan has been achieved and explaining why any aspects were not achieved; and
 - (c) include a discussion of any other matters relating to the project, which the Commonwealth notifies the State should be included in the final project report at least 30 days before it is due.

Requests for Reports and Information

23. The State agrees to meet any reasonable request by the Commonwealth to provide other reports, or access to information, sites or assets, to enable assessment or review of the implementation of the Project.

Notice of details for this project

24. A notice relating to this Project, rather than the Agreement generally, is to be in writing and dealt with as follows:

25. If given by the State to the Commonwealth:

Director
Water Holding and Shepherding Section
Environmental Water Branch
Water Governance Division
Department of Environment, Water, Heritage and the Arts
GPO Box 787
Canberra ACT 2601

Ph. 02 6274 1476
Fax. 02 6274 2086
Email: james.tregurtha@environment.gov.au

26. If given by the Commonwealth to the State:

Manager,
Surface Water Management
New South Wales Office of Water
PO Box 3720
Parramatta NSW 2124

Ph. 02 9895 7974
Fax. 02 9895 9550
Email: derek.everson@water.nsw.gov.au