

## **SCHEDULE C—BASIN SALINITY MANAGEMENT**

**This document is not current law. For current law see the [Water Act 2007 \(Cwlth\)](#).**

Final Version approved by MDBMC Meeting 32 - 1 November 2002

BASIN SALINITY MANAGEMENT STRATEGY 2001-2015

MINISTERIAL COUNCIL RESOLUTION

At Meeting 32 - 1 November 2002, the Murray-Darling Basin Ministerial Council:

- a) **noted** that on 28 August 2001, the Ministerial Council agreed to release the *Basin Salinity Management Strategy 2001-2015* (the "**Strategy**") as an appropriate measure under the Agreement to respond to threats which salinity poses to water quality, environmental values, regional infrastructure and productive agricultural land;
- b) **noted** its wish to provide for elements of the Strategy to be implemented through measures set out in a Schedule to the Agreement;
- c) accordingly, **resolved** under sub-clause 50(6) of the Agreement:
  - i. to amend Schedule C of the Agreement by omitting the heading "Salinity and Drainage Strategy" and clauses 1 to 20 and including in their place the heading and clauses set out in Attachment A; and
  - ii. to amend Schedule E of the Agreement by omitting the heading "Salinity and Drainage Strategy" immediately before clause 9 and including in its place the heading "Basin Salinity Management Strategy";
- d) **agreed** under sub-clause 3(2) of Schedule D, that Schedule C, as amended by item c(i) of this resolution, applies to the State of Queensland to the extent set out in the latter Schedule; and
- e) **noted** the obligation imposed on Contracting Governments by paragraph 6(b) of the Agreement to lay before the Houses of their respective Parliaments any Schedule to this Agreement approved by the Ministerial Council from time to time.

## ATTACHMENT A

### BASIN SALINITY MANAGEMENT

#### PART 1 - PRELIMINARY

##### Purpose

1. The purpose of this Schedule is to implement certain aspects of the *Basin Salinity Management Strategy 2001-2015*, or any subsequent strategy approved by the Ministerial Council to manage salinity:
  - (a) by promoting joint works, measures and other action to reduce or limit the rate at which salinity increases within the Murray-Darling Basin;
  - (b) by providing for the adoption of salinity targets;
  - (c) by establishing Registers to record such salinity impacts and to allocate salinity credits and salinity debits to Contracting Governments; and
  - (d) by providing for monitoring, assessing, auditing and reporting on matters set out in this Schedule and on progress in implementing the Strategy.

##### Definitions

2. (1) In this Schedule, unless the contrary intention appears:
  - (a) "**Accountable Action**" means an action that:
    - (i) is undertaken after a relevant Baseline Date; and
    - (ii) the Commission has decided will have a Significant Effect under paragraph 18(1)(b); and
    - (iii) the Commission has entered in a Register.

"**action**" means:

- (i) any work or measure; and
- (ii) any alteration to, or cessation of, any work or measure,

relevant to the purposes of this Schedule.

"**average salinity**" means the average daily salinity of the River Murray calculated in accordance with protocols made by the Commission under clause 40;

"**average salinity costs**" means the average costs to users of water from the upper River Murray and the River Murray in South Australia incurred

because of the salinity of the water used, as calculated in accordance with protocols made by the Commission under clause 40;

"**Baseline Conditions**" means the baseline conditions adopted by the Commission under clause 5;

"**Baseline Date**" means:

- (i) with respect to New South Wales, Victoria and South Australia – 1 January 1988; and
- (ii) with respect to Queensland – 1 January 2000;

"**Basin Salinity Target**" means the target referred to in clause 7;

"**Benchmark Period**" means the period from 1 May 1975 to 30 April 2000, or such other period as the Commission may from time to time determine;

"**Delayed salinity impact**" means a salinity impact which occurs after 1 January 2000, but which:

- (i) in the case of New South Wales, Victoria or South Australia, is attributable to an action taken or decision made in that State before 1 January 1988; and
- (ii) in the case of Queensland, is attributable to an action taken or decision made in that State before 1 January 2000;

"**End-of-Valley Target**" means a target adopted by the Ministerial Council under clause 8 and includes a reference to the site at which the degree to which the relevant Government achieves that target is to be measured;

"**Former salinity and drainage work**" means any work or measure:

- (i) entered on the Register maintained under the former Schedule, immediately before this Schedule took effect; or
- (ii) completed under sub-clause 49(4).

"**former Schedule**" means Schedule C as it existed immediately before this Schedule took effect;

"**Joint work or measure**" means a work or measure authorised under clause 50 of the Agreement for the purposes of this Schedule;

"**Joint Program**" means the program of Joint works or measures referred to in sub-clause 10(1);

"**Program of actions**" means a Program of actions referred to in clause 6;

"**Proposal**" means any proposal relevant to the subject-matter of this Schedule, for any action.

"**Register A**" means the register referred to in sub-clause 15(2);

"**Register B**" means the register referred to in sub-clause 15(3);

"**salinity cost effect**" means a change in average salinity costs resulting from an action, as calculated by the Commission;

"**salinity credit**" means the reduction in average salinity costs estimated by the Commission in accordance with clause 20;

"**salinity debit**" means an increase in average salinity costs estimated by the Commission in accordance with clause 20;

"**salinity effect**" means a change in the average salinity at Morgan resulting from any action, as estimated by the Commission;

"**salinity impact**" means both the salinity effect and the salinity cost effect;

"**Significant Effect**" has the meaning set out in sub-clause 18(3);

"**State Action**" means any Accountable Action that is not a Joint work or measure;

"**Strategy**" means the *Basin Salinity Management Strategy 2001-2015* as adopted and amended by the Ministerial Council from time to time;

"**undertake**", in relation to:

(i) a work, includes investigating, designing, constructing, operating and maintaining that work; and

(ii) a measure, includes investigating, developing and implementing that measure;

"**valley**" means a valley or other geographic area specified in the first column of Appendix 1.

(b) a reference to a Part, clause, sub-clause, paragraph, or Appendix is a reference to a Part, clause, sub-clause, paragraph or Appendix of this Schedule.

(2) When a Contracting Government informs the Commission of a Proposal under sub-clause 17(1), it must be taken also to have informed the Commission under paragraph 46(1)(a) of the Agreement.

### **Application to Queensland**

3. (1) Subject to sub-clause 3(2), the whole of this Schedule applies to Queensland.

(2) If a provision of this Schedule states that it:

(a) does not apply to Queensland; or

(b) applies to Queensland only in part, or subject to specified conditions,

that provision takes effect according to its terms.

- (3) Unless otherwise indicated, a reference to a State Contracting Government includes a reference to the Government of the State of Queensland.
- (4) The Government of the State of Queensland will share equally with other Contracting Governments such costs referred to in sub-clause 65(2) of the Agreement as are attributable to implementing this Schedule, except:
  - (a) where the Ministerial Council determines otherwise, under sub-clause 65(1) of the Agreement; or
  - (b) to the extent that this Schedule provides otherwise in clauses 13 and 48; or
  - (c) for those costs referred to in paragraphs 65(2)(a), (e) and (j) of the Agreement; or
  - (d) where the cost is attributable to a matter set out in sub-clause 3(4) of Schedule D to the Agreement.

## **PART II - ACCOUNTABILITY FOR SALINITY IMPACTS**

### **Accountability for Salinity Impacts**

4. (1) A Contracting Government must not, and must ensure that any public authority responsible to it does not undertake, alter or cease, or permit the undertaking, alteration or cessation of, any action that may have a Significant Effect except in accordance with this Schedule.
- (2) Each State Contracting Government must undertake actions in accordance with this Schedule necessary to meet that Government's End-of-Valley Targets.

### **Determining Baseline Conditions**

5. (1) This clause establishes the process for determining the baseline conditions contributing to the movement of salt through land and water upstream of:
  - (a) an End-of-Valley Target site determined under this clause; and
  - (b) the Basin Salinity Target site at Morgan,but does not refer to the baseline conditions defined in clause 2 of Schedule F of the Agreement.
- (2) Each State Contracting Government must, by 31 March 2004, prepare and give to the Commission estimated baseline conditions relating to the salinity, salt load and flow regime at each site at which it proposes to measure that Government's compliance with an End-of-Valley Target (if adopted) for the portion of the Murray-Darling Basin within that State, as at 1 January 2000.
- (3) The Commission must, by 31 March 2003, prepare estimated baseline conditions relating to the salinity, salt load and flow regime at the Basin Salinity Target site at Morgan, as at 1 January 2000.

- (4) The Commission must appoint an appropriately qualified panel, which shall include at least one representative from each State Contracting Government, to review and advise the Commission about any estimate of baseline conditions made by a State Contracting Government or the Commission.
- (5) After considering the advice of the panel, the Commission may:
  - (a) approve an estimate of baseline conditions; or
  - (b) approve that estimate, subject to the relevant Government modifying it in any way agreed between the Commission and the relevant Government; or
  - (c) refuse to approve the estimate.
- (6) Within 6 months after the Commission and the relevant Government agree on a modification under paragraph 5(5)(b), the relevant Government must:
  - (a) modify the estimate in accordance with that agreement; and
  - (b) give the Commission a copy of the modified estimate.
- (7) An estimate of baseline conditions, in the form initially given to the Commission, may be used temporarily for the purposes of this Schedule until the relevant Government has complied with sub-clause 5(6).
- (8) A State Contracting Government or the Commission (as the case requires) may, from time to time, propose an amendment to any estimate of a baseline condition prepared under sub-clause 5(2) or 5(3) and approved by the Commission under sub-clause 5(5), using the best information available to the State Contracting Government or the Commission at the time the amendment is proposed.
- (9) Sub-clauses 5(4), (5), (6) and (8) apply to any amendment proposed under sub-clause 5(8), as if it were an estimate prepared under sub-clause 5(2) or 5(3).

### **Meeting End-of-Valley Targets**

6. (1) Each State Contracting Government must, by 31 March 2004 and thereafter at intervals of not more than 5 years, give the Commission its proposed Program of actions to meet End-of-Valley Targets adopted for that State.
- (2) A proposed Program of actions must include the following information about the salinity, salt load and, where relevant, the flow regime at each site at which compliance with an End-of-Valley Target is to be measured:
  - (a) the Baseline Conditions; and
  - (b) the Government's estimate of Delayed salinity impacts in each of 2015, 2050 and 2100 if no action were taken to reduce or limit such salinity impacts; and
  - (c) the relevant End-of-Valley Target adopted under clause 8(3); and

- (d) the predicted effect of implementing the proposed Program of actions in each of 2015, 2050 and 2100.
- (3) The Commission must estimate (using the best information available to the Commission at the time the estimate is made) whether a proposed Program of actions, if undertaken in accordance with its terms, is reasonably certain to meet each End-of-Valley Target for the relevant State.
- (4) A State Contracting Government must give the Commission sufficient information about its proposed Program of actions:
  - (a) to enable the Commission to make the estimate referred to in sub-clause 6(3); and
  - (b) in sufficient time to allow the Commission, having made that estimate, to make representations to that Contracting Government before the Contracting Government decides whether to proceed with the proposed Program of actions.
- (5) A State Contracting Government may, from time to time, propose an amendment to a Program of actions to meet End-of-Valley Targets adopted for that State
- (6) Sub-clauses 6(3), and (4) apply to any amendment proposed under sub-clause 6(6) as if it were a Program of actions referred to in sub-clause 6(1).
- (7) A State Contracting Government must prepare reports about undertaking a Program of actions, as set out in clause 30.

### **PART III - SALINITY TARGETS**

#### **Basin Salinity Target**

- 7. (1) The Basin Salinity Target is to maintain the average daily salinity at Morgan at a simulated level of less than 800 E.C. for at least 95% of the time, during the Benchmark Period.
- (2) Achievement of the Basin Salinity Target must be assessed by the Commission from time to time, using one or more of the models developed under clause 36, adapted to simulate the land and water management conditions at the time the assessment is made.

#### **End-of-Valley Targets**

- 8. (1) Each State Contracting Government must, by 31 March 2004, nominate to the Commission an End-of-Valley Target for each valley within the State designated as requiring such a target in Appendix 1
- (2) The Commission must refer each nominated End-of-Valley Target to the Ministerial Council, together with:
  - (a) the Commission's estimate of the likely effects of meeting the nominated target on:

- (i) significant environmental, economic, social and other characteristics in the upper River Murray and the River Murray in South Australia; and
    - (ii) meeting the Basin Target;
  - (b) the Commission's advice about whether the nominated target is contributing adequately to achieving the objectives of the Strategy; and
  - (c) the Commission's opinion on what, if any, additional works or measures are necessary, desirable or convenient to meet the Basin Target.
- (3) The Ministerial Council:
- (a) after considering the matters referred to it by the Commission, may adopt an End-of-Valley Target; and
  - (b) must resolve to amend Appendix 1 to include any target which it adopts.

### **Reviewing and amending End-of-Valley Targets**

9. (1) The Commission must, at intervals of not more than 5 years, review the adequacy and appropriateness of each End-of-Valley Target adopted by the Ministerial Council under clause 8.
- (2) The Commission, or the relevant State Contracting Government which nominated an End-of-Valley Target, may request the Ministerial Council to amend that target.
- (3) Where a State Contracting Government requests the Ministerial Council to amend an End-of-Valley Target, the Commission must consult that Government before the Commission makes any recommendation under sub-clause 9(4).
- (4) The Commission must recommend to the Ministerial Council whether or not the Ministerial Council should adopt a request made under sub-clause 9(2).
- (5) In any recommendation made under sub-clause 9(4), the Commission must set out:
- (a) the matters referred to in sub-clause 8(2); and
  - (b) any new information about any of those matters which has become available to the Commission, since the relevant End-of-Valley Target was adopted by the Ministerial Council.
- (6) The Ministerial Council:
- (a) may, after considering the matters set out in any recommendation made to it by the Commission, amend an End-of-Valley Target; and
  - (b) must resolve to amend Appendix 1 to include any amended End-of-Valley Target.

## PART IV - JOINT WORKS AND MEASURES

### Joint Program

10. (1) Subject to clause 50 of the Agreement, the Contracting Governments must implement a Joint Program of Joint works and measures under this Schedule:
- (a) to maintain the quality of the upper River Murray and the River Murray in South Australia for agricultural, environmental, urban, industrial and recreational uses; and
  - (b) which is sufficient to have the cumulative effect of offsetting predicted future increases in average daily salinity at Morgan, arising from Accountable Actions and Delayed salinity impacts, by 61 E.C. (or by such other figure determined by the Ministerial Council from time to time) before 31 December 2007.
- (2) After 31 December 2007, the Ministerial Council must authorise, and the Contracting Governments must undertake, any further Joint works or measures that the Ministerial Council decides are necessary, desirable or convenient to maintain salinity at or below the Basin Salinity Target.
- (3) The Commission must enter any Joint work or measure undertaken under this clause on a Register as an Accountable Action, in accordance with Part V.

### Attribution of salinity credits or salinity debits for Joint works or measures

11. Subject to clause 13, unless the Ministerial Council decides otherwise, any salinity credits or salinity debits arising from any Joint work or measure undertaken under clause 10 will be attributed to a Contracting Government to offset salinity debits due to:
- (a) Accountable Actions entered on Register A; and
  - (b) Delayed salinity impacts entered on Register B,

according to the following formula:

#### Register A

New South Wales	16.39%
South Australia	16.39%
Victoria	16.39%

#### Register B

New South Wales	8.61%
South Australia	8.61%
Victoria	8.61%
Commonwealth	25.00%

### Authorised Joint works and measures

12. (1) The Ministerial Council must:

- (a) set out in Appendix 2 a list of Joint works and measures authorised for the purposes of each of the former Schedule and this Schedule; and
  - (b) amend Appendix 2 whenever a new Joint work or measure is authorised.
- (2) Any work or measure from time to time included in Appendix 2 must be taken:
- (a) to have been authorised under clause 50 of the Agreement; and
  - (b) to have been declared effective under clause 58 of the Agreement; and
  - (c) to be a Joint work or measure for the purposes of this Schedule.
- (3) If a Joint work or measure included in Appendix 2 was completed before this Schedule came into force, it is a Former salinity and drainage work for the purposes of this Schedule.
- (4) The Commission may declare the whole or part of any Joint works or measures to be ineffective, pursuant to sub-clause 64(1) of the Agreement.
- (5) The Ministerial Council may, upon the recommendation of the Commission:
- (a) declare that any Joint works or measures must be treated as a State Action, in whole or in part; and
  - (b) amend Appendix 2 to the extent necessary to implement any declaration made under sub-clause 12(4) or paragraph 12(5)(a).

### **Participation by Queensland**

13. (1) The Government of Queensland is not required to contribute to the costs of, nor will salinity credits or salinity debits be attributed to that Government in relation to:
- (a) any Joint work or measure undertaken under the Joint Program; or
  - (b) any Former salinity and drainage work.
- (2) The Ministerial Council may determine whether, and if so what:
- (a) costs; or
  - (b) salinity credits or salinity debits,
- relating to a Joint work or measure undertaken after 1 January 2008 must be contributed by, or will be attributed to, the Government of Queensland; and
- (c) consequential adjustment may be necessary to the formula set out in paragraph 11(a).

### **Co-ordinating Joint Works and Measures**

14. The Commission must co-ordinate the activities of each State Contracting Government and its relevant Constructing Authority in undertaking a Joint work or measure.

## PART V - THE REGISTERS

### Establishing the Registers

15. (1) The Commission must establish and maintain Register A and Register B in accordance with this Schedule and any protocols made by the Commission under clause 40.
- (2) The Commission must include the following matters on Register A:
  - (a) all Former salinity and drainage works; and
  - (b) except as provided in paragraph 15(3)(b), any action undertaken after a relevant Baseline Date that the Commission has declared has had, or may have, a Significant Effect.
- (3) The Commission must include the following matters on Register B:
  - (a) every Delayed salinity impact which the Commission considers may have a Significant Effect; and
  - (b) any action undertaken under this Schedule, expressly for the purpose of off-setting a Delayed salinity impact which the Commission determines may otherwise occur, in accordance with any protocols made by the Commission under clause 40.

### Obligations of State Contracting Governments

16. (1) A State Contracting Government must take whatever action may be necessary:
  - (a) to keep the total of any salinity credits in excess of, or equal to, the total of any salinity debits, attributed to it in Register A; and
  - (b) to keep the cumulative total of all salinity credits in excess of, or equal to, the cumulative total of all salinity debits, attributed to it in both Register A and Register B.
- (2) For the purpose of calculating the total of any salinity credits under sub-clause 16(1), any salinity credits which may in future be attributed to a State Contracting Government must not be included in the calculation, unless the Commission determines otherwise.
- (3) Despite sub-clause 16(2) and any provision in clause 20 or 22, for the purposes of any calculation under sub-clause 16(1) and on the application of a State Contracting Government, the Commission may decide:
  - (a) to postpone the attribution of any salinity debit which might otherwise be attributed to that Government in Register A or Register B, in respect of an Accountable Action that the Government proposes to undertake; or
  - (b) to allow any salinity credit which might otherwise be attributed to that Government in Register A or Register B, in respect of an Accountable Action after it is declared effective or complete in accordance with

sub-clause 22(1) or 22(3) to be used in the calculation to off-set any salinity debit already attributed to that Government in Register A or Register B.

- (4) The Commission:
  - (a) must only make a decision under sub-clause 16(3); and
  - (b) may attach any condition to such a decision,in accordance with any relevant protocols made by the Commission under clause 40.

### **Operating Registers**

- 17. (1) A Contracting Government must inform the Commission of any Proposal which the Government, acting reasonably, considers is likely to have a Significant Effect.
- (2) The Commission must decide, in accordance with any relevant protocols made by the Commission under clause 40, whether the Proposal:
  - (a) is to be entered on either or both of Register A and Register B, or neither of them; and
  - (b) must be treated in whole or in part as either or both of a State Action and a Joint work or measure .
- (3) The Commission must:
  - (a) estimate the salinity impacts of an Accountable Action; and
  - (b) determine any salinity credits or salinity debits arising from that Accountable Action; and
  - (c) attribute those salinity credits or salinity debits to one or more of the Contracting Governments in the relevant Register, in accordance with clause 11 and any protocols adopted by the Commission under clause 40.
- (4) The Commission must review and amend each item on Register A and Register B in accordance with clause 24.

### **Determining whether a Proposal has a Significant Effect**

- 18. (1) If a Contracting Government informs the Commission of a Proposal, the Commission must:
  - (a) investigate that Proposal; and
  - (b) decide whether the Proposal, either on its own or cumulatively with similar past actions or projected similar future actions, may have a Significant Effect.
- (2) If the Commission becomes aware of an action undertaken within a State after the relevant Baseline Date, of which the Commission has not previously been

informed as a Proposal, but which the Commission considers has had or may have a Significant Effect, either on its own or cumulatively with similar past actions or projected similar future actions, it may direct the relevant State Contracting Government to inform the Commission of the action as a Proposal under sub-clause 17(1).

- (3) A Significant Effect is:
  - (a) a change in average daily salinity at Morgan which the Commission estimates will be at least 0.1 E.C. within 100 years after the estimate is made; or
  - (b) a salinity impact which the Commission estimates will be significant.
- (4) To make an estimate referred to in sub-clause 18(3), the Commission must use any relevant method for making that estimate set out in any protocols made by the Commission under clause 40.

### **Assessing Salinity Impacts**

19. (1) If the Commission decides that:
  - (a) a Proposal referred to in sub-clause 18(1); or
  - (b) an action referred to in sub-clause 18(2),has or may have a Significant Effect, the Commission must:
  - (c) declare the Proposal or action to be an Accountable Action; and
  - (d) provisionally designate the Accountable Action to be in whole or in part either or both of a Joint work or measure and a State Action; and
  - (e) estimate the salinity impacts of the Accountable Action, using any relevant method for assessing salinity impacts set out in any protocols made by the Commission under clause 40.
- (2) If the Commission declares a Proposal or action to be an Accountable Action, the relevant Contracting Government must give to the Commission:
  - (a) all relevant information about the Accountable Action which may assist the Commission accurately to assess its salinity impacts;
  - (b) in such form as the Commission may require.

### **Estimating Salinity Credits and Salinity Debits**

20. (1) After the Commission has estimated the salinity impacts of an action which the Commission considers may be an Accountable Action under clause 19, it must:
  - (a) subject to sub-clause 20(2), estimate the prospective salinity credits or salinity debits arising from that action; and

- (b) designate that action to be either a Joint work or measure or a State Action; and
  - (c) determine whether the prospective salinity credits or salinity debits will be entered in Register A or Register B; and
  - (d) enter the action in the relevant Register.
- (2) If the action referred to in sub-clause 20(1) is a permanent transfer of an entitlement within the meaning of Schedule E of this Agreement, the Commission must estimate any prospective salinity credits or salinity debits arising from that action in accordance with clause 13 of that Schedule.
- (3) The Commission must make an estimate referred to in paragraph 20(1)(a) or sub-clause 20(2) by reference either:
- (a) to the average annual salinity impacts over the 30 years following the date of the estimate; or
  - (b) some other basis for estimating salinity impacts adopted by the Commission from time to time.

#### **Attributing Salinity Credits or Salinity Debts**

21. (1) The Commission must attribute salinity credits or salinity debits:
- (a) arising from a Joint work or measure, in accordance with clause 11; or
  - (b) arising from a State Action, to the State Contracting Government which undertakes that action, subject to sub-clause 21(2).
- (2) Despite paragraph 21(1)(b), where:
- (a) there is an agreement referred to in clause 23, the Commission must attribute any salinity credits or salinity debits in accordance with that agreement;
  - (b) two or more Contracting Governments together undertake the relevant State Action, the Commission must attribute any salinity credits or salinity debits arising from that action in the manner agreed between those Contracting Governments;
  - (c) the relevant State Action is a permanent transfer of an entitlement within the meaning of Schedule E of this Agreement, the Commission must attribute any salinity credits or salinity debits arising from that action in Register A and in accordance with clause 13 of that Schedule.

## When Salinity Credits and Salinity Debits must be entered on a Register

22. (1) Subject to sub-clause 16(3), when the Commission has estimated that a salinity credit will arise from an Accountable Action and either:
- (a) the Commission declares that Accountable Action to be effective under clause 58 of the Agreement; or
  - (b) if the Accountable Action is to be undertaken in stages, the Commission declares a stage to be effective under clause 58 of the Agreement,
- the Commission must:
- (c) attribute salinity credits arising from the Accountable Action to one or more Contracting Government, in accordance with clause 21; and
  - (d) enter the salinity credits on the relevant Register,
- in accordance with any relevant protocols made by the Commission under clause 40.
- (2) Subject to sub-clause 16(3), when the Commission has estimated that salinity debits will arise from an Accountable Action, before any Contracting Government:
- (a) commences to undertake the Accountable Action; or
  - (b) if the Accountable Action is to be undertaken in stages, commences to undertake any stage,
- the Commission must:
- (c) attribute the prospective salinity debits arising from the Accountable Action or stage to one or more Contracting Governments in accordance with clause 21; and
  - (d) enter the salinity debits on the relevant Register,
- in accordance with any relevant protocols made by the Commission under clause 40.
- (3) Despite sub-clauses 22(1) and 22(2), if an Accountable Action is a State Action:
- (a) which is not required to be declared effective under clause 58 of the Agreement, the Commission must:
    - (i) attribute any salinity credits arising from that State Action at the time when the Commission considers that the Accountable Action is substantially complete; and
    - (ii) enter the salinity credits on the relevant Register; or
  - (b) which comprises one or more permanent transfers of an entitlement within the meaning of Schedule E of this Agreement, the Commission must

attribute any salinity credits or salinity debits arising from that Accountable Action:

- (i) in the case of the permanent transfer of one entitlement, at the time when the transfer occurs; or
- (ii) in the case of the permanent transfer of more than one entitlement, in such proportions and at such times determined by the Commission,

in accordance with any relevant protocols made by the Commission under clause 40.

### **Trading and Transfers between Registers**

23. (1) A Contracting Government may agree to assign any or all of the salinity credits or salinity debits attributed to that Government in Register A, to one or more of the other Contracting Governments.
- (2) When the parties to an agreement referred to in sub-clause 23(1) inform the Commission in writing of that agreement and its effect, the Commission must:
- (a) attribute salinity credits or salinity debits in accordance with the agreement; and
  - (b) amend Register A accordingly.
- (3) A Contracting Government, with the prior written approval of the Commission, may agree to assign any or all of the salinity credits or salinity debits attributed to that Government in Register B, to one or more of the other Contracting Governments.
- (4) The Commission must:
- (a) attribute salinity credits and salinity debits in accordance with any agreement approved by the Commission under sub-clause 23(3); and
  - (b) amend Register B accordingly.
- (5) The Commission may give effect to any written request by a Contracting Government to transfer a salinity credit attributed to that Government:
- (a) in Register A, to Register B; or
  - (b) in Register B, to Register A,
- in accordance with any relevant protocols made by the Commission under clause 40.

### **Review and amendment of Register entries**

24. (1) The Commission:

- (a) must, at intervals of no more than 5 years, and may at any other time, re-estimate the salinity impacts of each Accountable Action; and
  - (b) if the re-estimated salinity impacts differ from the Commission's most recent previous estimate of the salinity impacts, must:
    - (i) alter the calculation and attribution of either or both of the salinity credits and salinity debits; and
    - (ii) make any consequential amendment to a Register, to reflect the re-estimated salinity impacts.
- (2) The Commission may, at any time:
- (a) designate a Joint work or measure to be a State Action; or
  - (b) designate a State Action to be Joint work or measure; or
  - (c) remove an Accountable Action from a Register; or
  - (d) determine that an Accountable Action must, in future, be treated as more than one Accountable Action.
- (3) Whenever the Commission takes any action referred to in sub-clause 24(1) or 24(2) it must:
- (a) review the calculation and attribution of salinity credits or salinity debits arising from the relevant Accountable Action; and
  - (b) make any consequential amendment to a Register,
- in accordance with any relevant protocols made by the Commission under clause 40.

## **PART VI - MONITORING**

### **Monitoring obligations**

25. (1) The Commission and each State Contracting Government must carry out such monitoring as it is required to undertake:
- (a) to fulfil its respective reporting obligations under Part VII; and
  - (b) by this Part,
- in accordance with any relevant protocols made by the Commission under clause 40.
- (2) A State Contracting Government must give the Commission the results of monitoring carried out by it:
- (a) since it last gave such results to the Commission, at any time reasonably requested by the Commission; and

- (b) during a financial year, by 30 November of the following financial year.

### **End-of-Valley Targets**

- 26. A State Contracting Government must monitor:
  - (a) the degree to which it is achieving an End-of-Valley Target;
  - (b) at the relevant site at which compliance with that target is to be measured, in accordance with any protocols adopted by the Commission under clause 40.

### **Program to monitor Accountable Actions**

- 27. (1) A State Contracting Government nominated under sub-clause 50(5) of the Agreement, in respect of a Joint work or measure that is an Accountable Action, must give the Commission a proposed program to monitor the salinity impacts of that Accountable Action within 3 months after the Government is nominated.
- (2) A Contracting Government must give to the Commission a proposed program to monitor the salinity impacts of any State Action undertaken by that Government within 3 months after the State Action has been completed.
- (3) The Commission may:
  - (a) accept a program given to it under sub-clause 27(1) or 27(2); or
  - (b) accept that program with any amendment made by the Commission; or
  - (c) decline to accept the program, setting out its reasons.
- (4) The Commission may, from time to time, either:
  - (a) give directions to a Constructing Authority under paragraph 55(1)(a) of the Agreement; or
  - (b) make protocols under clause 40,to ensure that any Joint work or measure or any Former salinity and drainage work is monitored efficiently and effectively.

### **Monitoring Accountable Actions**

- 28. (1) A Contracting Government nominated under sub-clause 50(5) of the Agreement in respect of a Joint work or measure must monitor the salinity impacts of that Joint work or measure in accordance with a program accepted by the Commission under clause 27.
- (2) A State Contracting Government must monitor the salinity impacts of a State Action in the relevant State, in accordance with a program accepted by the Commission under clause 27.

## PART VII - REPORTING, AUDIT AND REVIEW

### State Contracting Governments

29. (1) A State Contracting Government must prepare and give to the Commission a Report under this clause in respect of each financial year, as soon as practicable after the end of that financial year and, in any case, by 30 November in the following financial year.
- (2) A Report under sub-clause 29(1) must include:
- (a) information about the progress of the relevant Government in undertaking:
    - (i) any Accountable Action; and
    - (ii) any Proposal of which the Commission has been informed; and
    - (iii) any Joint work or measure; and
    - (iv) any other element of the Strategy,  
for which that Government is responsible; and
  - (b) a report about each valley in the State for which an End-of-Valley Target has been adopted, which sets out the information required by clause 30; and
  - (c) a report on the reviews undertaken in the financial year of:
    - (i) any valley referred to in paragraph 29(2)(b); and
    - (ii) any State Action undertaken by the relevant Government,  
as required by clause 33.

### Valley Reports

30. (1) A report about a valley referred to in paragraph 29(2)(b) must:
- (a) explain how the relevant Government is implementing the Program to meet the End-of-Valley Target for that valley; and
  - (b) describe the effect which:
    - (i) implementing that Program; and
    - (ii) undertaking any other existing or proposed significant action in the valley,  
has had, or will have on the salinity, salt load and, where relevant, flow regime at each site at which compliance with the End-of-Valley Target is to be measured.

- (2) A Government must comply with any relevant protocols made by the Commission under clause 40 when preparing a valley report under paragraph 29(2)(b).

### **Commonwealth**

31. The Commonwealth Government must prepare and give to the Commission a report in respect of each financial year, as soon as practicable after the end of that financial year, and in any case by 30 November in the following financial year, which includes information about the progress of the Commonwealth in undertaking any work or measure for the purposes of this Schedule, for which it has been nominated as the responsible Government under sub-clause 50(5) of the Agreement.

### **Commission**

32. As soon as practicable after it receives a report from each State Contracting Government made under sub-clause 29(1) and where required by clause 31, from the Commonwealth Government, and in any case by 31 March in any year, the Commission must give to the Ministerial Council a report which includes:
- (a) a copy of each report made by a Government; and
  - (b) a consolidated summary of all valley reports referred to in paragraph 29(2)(b); and
  - (c) a consolidated summary of the results of, and any recommendations made in the report of, an audit conducted under clause 34; and
  - (d) a program setting out the matters to be reviewed and reported on pursuant to sub-clause 33(1) in the next financial year; and
  - (e) a copy of the contents of Register A and Register B as at 30 November in the preceding calendar year; and
  - (f) details of other activities which have been taken to meet the objectives of the Strategy since the Commission's last report made under this clause; and
  - (g) a report on:
    - (i) the operation and implementation of existing Joint works and measures; and
    - (ii) the progress of any proposed new Joint works or measures; and
  - (h) the results of each review carried out by a State Contracting Government or the Commission in the preceding financial year under clause 34; and
  - (i) a list of each report made by the Commission under clause 44 or 45 in the preceding financial year.

### **Rolling Five-Year Reviews**

33. (1) A State Contracting Government must adopt and implement a program to review and report upon each:

- (a) valley for which an End-of-Valley Target has been adopted under sub-clause 8(3); and
  - (b) State Action undertaken by that Government, at least once in every five years.
- (2) A report prepared under sub-clause 33(1)(a) must:
- (a) be based on the best information available to the State Contracting Government at the time the report is prepared, about the salinity, salt load and, where relevant, the flow regime at each site at which compliance with an End-of-Valley Target is to be measured; and
  - (b) include:
    - (i) a current estimate of Delayed salinity impacts in each of 2015, 2050 and 2100 if no further action were taken to reduce or limit such salinity impacts;
    - (ii) an estimate of the effect that the already completed elements of the Program of actions will have in the current year and in each of 2015, 2050 and 2100; and
  - (c) the predicted effect that further implementing the Program of actions will have in each of 2015, 2050 and 2100; and
  - (d) the current End-of-Valley Target for that valley.
- (3) A report prepared under sub-clause 33(1)(b) must include the Commission's estimate (based on the best information available to the Commission at the time the report is prepared) of the cumulative effect of the State Action on the salinity, salt load and, where relevant, the flow regime in the upper River Murray and the River Murray in South Australia in the current year and in each of 2015, 2050 and 2100.
- (4) The Commission must adopt and implement a program to review and report upon each Joint work and measure at least once in every five years.
- (5) A report prepared under sub-clause 33(4) must include the Commission's estimate (based on the best information available to the Commission at the time the report is prepared) of the cumulative effect of the Joint Work on the salinity, salt load and, where relevant, the flow regime in the upper River Murray and the River Murray in South Australia in the current year and in each of 2015, 2050 and 2100.
- (6) Any review conducted and any report prepared under this clause must comply with any relevant protocols adopted by the Commission under clause 40.

#### **Audit**

34. (1) The Commission must appoint independent auditors for the purpose of carrying out an annual audit under this clause.

- (2) A person who is appointed as one of the independent auditors referred to in sub-clause 34(1):
  - (a) is appointed for such period and on such terms as are set out in that person's instrument of appointment; and
  - (b) may resign by written notice addressed to the President; and
  - (c) may only be removed from office during the period of that person's appointment by the Ministerial Council, on the recommendation of the Commission.
- (3) The independent auditors must together carry out an annual audit of:
  - (a) the report of each review conducted in the preceding financial year by each State Contracting Government and by the Commission under sub-clause 33(1) and 33(3), respectively; and
  - (b) Register A and Register B.
- (4) The independent auditors must, in each audit, reach a view by consensus about:
  - (a) the performance of each State Contracting Government and of the Commission in implementing the provisions of this Schedule in the relevant year; and
  - (b) whether the Commission has fairly and accurately recorded the salinity impacts of each action entered in Register A or Register B during the relevant year.
- (5) The independent auditors must prepare a report setting out:
  - (a) the findings of each audit; and
  - (b) any recommendations made by the independent auditors arising from that audit.
- (6) Without limiting sub-clause 34(5), a report:
  - (a) must set out the view reached on each of the matters referred to in sub-clause 34(4); and
  - (b) may recommend to the Commission that the salinity impacts entered in Register A or Register B for an Accountable Action be varied; and
  - (c) may set out a finding that the total salinity credits are not equal to, or do not exceed, the total salinity debits attributed to a State Contracting Government in Register A, contrary to paragraph 16(1)(a).

## **Review of Schedule**

35. (1) The Commission must, by 31 December 2007 and at intervals of no more than 7 years thereafter, prepare and give to the Ministerial Council and the Community Advisory Committee, a report upon:
- (a) the operation of this Schedule; and
  - (b) its usefulness and effectiveness in implementing aspects of the Strategy.
- (2) Without limiting the contents of any report prepared under sub-clause 35(1), the Commission must include:
- (a) a summary of:
    - (i) the Delayed salinity impacts; and
    - (ii) the salinity impacts of every Accountable Action undertaken before the date of the report,
 

within the Murray-Darling Basin, based on the reports prepared under clause 33 during the preceding 5 years; and
  - (b) a description of any additions to, or alterations of, the Joint Program proposed to ensure that the Basin Salinity Target is met, since the Commission's last report made under sub-clause 35(1).
- (3) A report prepared under sub-clause 35(1) may conclude that a State Contracting Government has not complied with one or more of its obligations under this Schedule.

## PART VIII - MODELS

### Models to be developed by the Commission

36. (1) Using the relevant Benchmark Period, the Commission must develop one or more models to simulate:
- (a) the salinity, salt load and flow regime, each on a daily basis; and
  - (b) the economic effects on water users of the simulated salinity, salt load and flow regime,
- in the Upper River Murray and the River Murray in South Australia.
- (2) Any model developed under sub-clause 36(1) must be capable of predicting:
- (a) any salinity impacts of Joint works and measures and State Actions; and
  - (b) any Delayed salinity impacts,
- at Morgan and such other relevant locations as the Commission may determine.
- (3) A State Contracting Government must give the Commission such data about Joint works and measures, State Actions and Delayed salinity impacts, within that State,

and in such form, as the Commission may from time to time request, to assist it in developing a model referred to in sub-clause 36(1).

- (4) The Commission may, from time to time, alter a model developed under sub-clause 36(1).

### **Models developed by State Contracting Governments**

37. (1) Each State Contracting Government must develop one or more models to simulate, under Baseline Conditions, the daily salinity, salt load and flow regime, over the Benchmark Period, at each site at which compliance with an End-of-Valley Target is to be measured.
- (2) A model developed by a State Contracting Government must be capable of predicting the effect of:
  - (a) all Accountable Actions undertaken in the State ; and
  - (b) any Delayed salinity impacts,on the salinity, salt load and flow regime at each site at which compliance with an End-of-Valley Target is to be measured in each of 2015, 2050, 2100 and in such other years as the Commission may determine.
- (3) A State Contracting Government may, from time to time, alter a model developed under sub-clause 37(1).

### **Assessment and Approval of Certain Models**

38. (1) A model, or any alteration to that model, developed to help the Commission or a State Contracting Government meet reporting obligations under this Schedule, must be assessed in accordance with this clause and any relevant protocols made by the Commission under clause 40.
- (2) The Commission must assess any model, or any alteration to a model, made by a State Contracting Government.
- (3) The Commission must appoint an appropriately qualified panel to assess any model, or alteration to a model, made by the Commission.
- (4) An assessment of any alteration to a model must set out the assessor's prediction of the consequences of the alteration on salinity, salt load and the flow regime, each on a daily basis, at each site at which compliance with an End-of-Valley Target is to be measured, which may be affected by the alteration.
- (5) After considering the assessment made by the panel, the Commission may:
  - (a) approve the model or alteration; or
  - (b) approve that model or alteration, subject to:

- (i) in the case of a model or alteration prepared by a Government, the relevant Government modifying the model or alteration in a way agreed between it and the Commission; or
  - (ii) in the case of a model prepared by the Commission, the Commission modifying the model or alteration in a way it determines; or
- (c) decline to approve the model or alteration, setting out its reasons.
- (6) Within 3 months after the Commission approves a model or alteration under paragraph 38(5)(b):
  - (a) the relevant Government or the Commission must modify the model, or alteration to a model, as required under that paragraph; and
  - (b) in the case of a State Contracting Government, give a copy of the modified model, or alteration to a model, to the Commission.
- (7) A model in the form initially assessed under this clause may be used temporarily for the purposes of this Schedule until any modification to the model agreed upon or determined under paragraph 38(5)(b) (as the case requires) has been:
  - (a) made by the Commission or the relevant Government; and
  - (b) approved by the Commission.
- (8) When an alteration to a model:
  - (a) is approved under paragraph 38(5)(a); or
  - (b) modified under sub-clause 38(6),
 the relevant model is altered accordingly.

## **Review of Models**

39. A State Contracting Government and the Commission must respectively:
- (a) review any model, and any amended model, developed by it and approved by the Commission, before 31 December 2007 and thereafter at intervals of not more than 7 years; and
  - (b) propose any amendment to a model, or amended model, which that review identifies as appropriate.

## **PART IX - PROTOCOLS**

### **Commission's power to make protocols**

40. (1) The Commission may, from time to time, make, amend or revoke such protocols as it considers necessary, desirable or convenient to give effect to this Schedule.
- (2) The Commission must notify each Contracting Government:

- (a) whenever it is considering making, amending or revoking a protocol; and
  - (b) of the subject matter of the proposed protocol or amendment.
- (3) A Contracting Government may nominate a person with relevant expertise and experience to give advice to the Commission in developing the proposed protocol or amendment.
- (4) The Commission must consider any advice given by any person nominated under sub-clause 40(3), before it adopts the proposed protocol or amendment.
- (5) Protocols made under this clause must not be inconsistent with any provision of the Agreement (including its Schedules) and are void to the extent of any inconsistency.
- (6) Despite sub-clause 34(1) of the Agreement, the Commission may not delegate any power conferred on it by sub-clause 40(1) or clause 41.

### **Examples of possible protocols**

41. Without limiting sub-clause 40(1), the Commission may make protocols:
- (a) about assessing Proposals;
  - (b) about the nature and form of information which a State Contracting Government must give to the Commission to enable it to estimate salinity impacts;
  - (c) establishing a common method to be used to estimate the salinity impacts of both any Proposal and any Accountable Action;
  - (d) establishing a method, using Baseline Conditions, to estimate Delayed salinity impacts;
  - (e) establishing a method to determine any salinity credits or salinity debits arising from a salinity impact;
  - (f) for administering Register A and Register B, including:
    - (i) deciding whether an Accountable Action should be entered on Register A or Register B;
    - (ii) how to estimate the salinity impact of an action, for the purposes of Register B;
    - (iii) how any salinity credits or salinity debits are to be apportioned between, and attributed to, Contracting Governments;
  - (g) about monitoring:
    - (i) the salinity impacts of an Accountable Action;

- (ii) progress made under this Schedule in meeting the Basin Salinity Target;
- (iii) progress made by a State Contracting Government in meeting any End-of-Valley Target within that State;
- (h) about developing and assessing models referred to in Part VIII and using those models;
- (i) about preparing, presenting and the required content of a valley report referred to in paragraph 29(2)(b);
- (j) about preparing a program for, conducting, preparing and the required content of, a report on a review of valleys, State Actions and Joint works and measures, referred to in clause 33;
- (k) about making sure that reporting obligations and the nature and content of reports prepared under this Schedule are consistent with the reporting requirements of other national or regional resource management strategies relevant to the Strategy.

## **PART X - DEFAULT**

### **Relationship with Part IX of the Agreement**

42. The provisions of this Part are in addition to, and do not derogate from, any provision in clause 85 of the Agreement.

### **Default by a State Contracting Government**

43. (1) The Commission must determine that a State Contracting Government is in default for the purpose of this clause if the Commission:
- (a) decides; or
  - (b) receives a report of an audit under sub-clause 34(5) which finds, that the total salinity credits do not exceed, or are not equal to, the total salinity debits attributed to that Government in Register A, contrary to paragraph 16(1)(a).
- (2) If the Commission determines that a State Contracting Government is in default, the Commission must:
- (a) forthwith declare that the State is in default of its obligations under this Schedule; and
  - (b) report the matter to the next meeting of the Ministerial Council.

### **Exception Reports**

44. (1) The Commission may determine:

- (a) that the combined total of all salinity credits does not exceed the combined total of all salinity debits attributed to a State Contracting Government in both Register A and Register B, contrary to paragraph 16(1)(b);
  - (b) that a State Contracting Government has not met, or is unlikely to meet, any End-of-Valley Target adopted under sub-clause 8(2);
  - (c) that a State Contracting Government has not complied with one or more of its obligations under this Schedule, on the basis of a conclusion in a review report, referred to in sub-clause 35(3).
- (2) If the Commission makes a determination under sub-clause 44(1) it must report that fact to the next meeting of the Ministerial Council.
  - (3) The Commission may revoke a determination made under sub-clause 44 (1) if it is satisfied that the circumstances which led to the determination no longer exist.

### **Proposal for remedial action**

45. The Commission must:

- (a) upon making a determination under sub-clause 43(1) or 44(1), consult with the relevant State Contracting Government, with a view to remedying the situation leading to that determination; and
- (b) include in the relevant report to the Ministerial Council, the Commission's proposal for remedying that situation.

### **Action by a State Contracting Government**

46. A State Contracting Government which has been the subject of a report made by the Commission to the Ministerial Council under either paragraph 43(2)(b) or sub-clause 44(2), must:

- (a) give a report to the next meeting of the Ministerial Council, setting out:
  - (i) an explanation of the circumstances leading to the Commission's determination; and
  - (ii) what action the Government has taken, or proposes to take, to remedy that situation; and
  - (iii) if the circumstances leading to the Commission's determination were a situation referred to in paragraph 44(1)(a), how long the Government predicts it will be before that Government complies with paragraph 16(1)(b); and
- (b) report annually thereafter to the Ministerial Council on the action it has taken, or proposes to take, to remedy the situation, until:
  - (i) in the case of a determination made under sub-clause 43(1), the Commission is satisfied that the Government once more complies

with paragraph 16(1)(a) and reports that fact to the Ministerial Council; or

- (ii) in the case of a determination made under sub-clause 44(1), the Commission revokes that determination.

## **PART XI - FINANCE**

### **State Actions**

- 47. (1) Subject to sub-clause 47(2), the cost of undertaking and monitoring a State Action must either:
  - (a) be met by the Contracting Government which undertakes it; or
  - (b) if the State Action is undertaken by more than one Contracting Government, be met by them in such proportions as they may agree.
- (2) Where a Contracting Government agrees to assign to another Contracting Government any salinity credits or salinity debits under clause 23, any financial obligation of the Government making the assignment under sub-clause 47(1) will be allocated between the parties to the agreement, in such proportions as they may agree.

### **Joint works or measures**

- 48. (1) Subject to sub-clause 48(2), the provisions of sub-clause 65(1) and paragraphs 65(2)(f) and (i) and 65(3)(d) of the Agreement apply to every Joint work or measure undertaken under this Schedule.
- (2) The share of the cost of any Joint work or measure attributable to a Contracting Government under sub-clause 48(1) may be varied by an agreement made under clause 23.

## **PART XII - TRANSITIONAL PROVISIONS**

### **Former salinity and drainage works**

- 49. (1) When this Schedule comes into effect, the Commission must:
  - (a) enter each Former salinity and drainage work on Register A as an Accountable Action;
  - (b) enter on Register A, and attribute to a State Contracting Government any salinity credit or salinity debit with respect to a Former salinity and drainage work that was attributed to that Government in the Register maintained under the former Schedule; and
  - (c) recalculate salinity credits and salinity debits attributed under the former Schedule, in accordance with sub-clause 20(3).

- (2) A monitoring program approved for a Former salinity and drainage work under clause 12 of the former Schedule must be carried out according to its terms, unless and until the Commission alters it.
- (3) A Contracting Government nominated under sub-clause 50(5) of the Agreement with respect to a Former salinity and drainage work must meet the cost of operating, maintaining and monitoring that work, unless an agreement made by that Government under clause 23 provides otherwise.
- (4) If a Joint work:
  - (a) has been authorised under the former Schedule; but
  - (b) has not been declared effective under clause 58 of the Agreement,when this Schedule comes into effect, it must be constructed and the costs of investigating, designing and constructing it met, in accordance with the provisions of the former Schedule.
- (5) When a work referred to in sub-clause 49(4) is declared effective under clause 58 of the Agreement:
  - (a) it must be considered to be a Former salinity and drainage work for the purposes of this Schedule; and
  - (b) the Commission must enter the work in Register A as an Accountable Action.