

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture and Water Resources

Water Act 2007

Water (Indigenous Values and Uses) Direction 2018

The *Water Act 2007* (the Act) makes provision for the management of the water resources of the Murray-Darling Basin, and makes provision for other matters of national interest in relation to water and water information, and for related purposes.

The *Water (Indigenous Values and Uses) Direction 2018* (Direction) is made under section 175 of the Act.

Under subsection 175(1) of the Act, the Minister may give directions, which must be consistent with the objects of the Act (which are set out in section 3 of the Act), to the Murray-Darling Basin Authority (the Authority) about the performance of the Authority's functions.

The Direction directs the Authority to report publicly each year on how, when planning for environmental watering, the holders of held environmental water have considered Indigenous values and Indigenous uses and involved Indigenous people. This is consistent with the objects of the Act, including to provide for the collection, collation, analysis and dissemination of information about Australia's water resources and the use and management of water in Australia (paragraph 3(h) of the Act).

Subsection 175(4) provides that a direction made under subsection 175(1) is a legislative instrument, but neither section 42 (disallowance) nor Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* applies to the direction.

Overview

In the Direction, the Minister is directing the Authority to report publicly each year on how, when planning for environmental watering, the holders of held environmental water have considered Indigenous values and Indigenous uses and involved Indigenous people. The Direction also requires that the Authority publish the report on its website within six months after the end of the water accounting period. The Authority will be required to provide the first report by 31 December 2019 which will be for the water accounting period commencing after 30 June 2018.

Purpose

The purpose of the Direction is to allow the Minister to direct the Authority, for each water accounting period, to report on how, when planning for environmental watering, holders of held environmental water have considered Indigenous values and Indigenous uses and involved Indigenous people.

Consultation

The Authority and Commonwealth Environmental Water Holder were consulted prior to the Direction being made by the Minister.

Regulation Impact Statement

There is no regulatory impact from this Direction because the Authority is not a regulated entity.

Details of the *Water (Indigenous Values and Uses) Direction) 2018*

Section 1 Provides that the name of the Direction is *Water (Indigenous Values and Use) Direction 2018*.

Section 2 Provides that the Direction commences on 1 July 2018.

Section 3 Provides that the Direction is made under section 175 of the Act.

Section 4 Provides that a number of expressions used in the instrument are defined in section 4 of the Act, including “Authority”, “Basin Plan”, “environmental watering”, “held environmental water”, “Indigenous Person” and “Murray-Darling Basin”. The section further provides that “Indigenous uses” has the meaning given by section 10.52 of the Basin Plan, that “Indigenous values” has the meaning given by section 10.52 of the Basin Plan and that “water accounting period” has the meaning given by section 3.08 of the Basin Plan. The definitions are provided below.

Authority has the meaning given by section 18A. Section 18A of the Act provides that the Authority means the Murray-Darling Basin Authority established by section 171 of the Act.

Basin Plan means the Basin Plan adopted by the Minister under section 44 (as amended from time to time).

environmental watering means the delivery or use of environmental water to achieve environmental outcomes. The terms ‘environmental water’ and ‘environmental outcomes’ are defined in section 4 of the Act.

held environmental water means water available under:

- (a) a water access right; or
- (b) a water delivery right; or
- (c) an irrigation right

for the purposes of achieving environmental outcomes (including water that is specified in a water access right to be for environmental use)

Indigenous person means a person who is:

- (a) a member of the Aboriginal race of Australia; or
- (b) a descendant of an Indigenous inhabitant of the Torres Strait Islands.

Indigenous uses means the social, spiritual and cultural uses of the water resources of the water resource plan area by Indigenous people

Indigenous values means the social, spiritual and cultural values of Indigenous people that relate to the water resources of the water resource plan area

Murray-Darling Basin has the meaning given by section 18A. Section 18A of the Act provides that the Murray-Darling Basin means the area falling within the boundary described in a particular dataset that is held by the Commonwealth.

water accounting period under s 3.08 of the Basin Plan is defined in the following way: ‘The *water accounting period* for each water resource plan area is a financial year.’

Section 5 Subsection 5(1) provides that for each water accounting period, the Authority must report on how, when planning for environmental watering in the Murray-Darling Basin, holders of held environmental water considered Indigenous values and Indigenous uses, and involved Indigenous people. Subsection 5(2) provides that the Authority must publish the report on its website within six months after the end of the water accounting period. Subsection 5(3) provides that the Direction applies to each water accounting period that commences after the water accounting period ending 30 June 2018.