

SCHEDULE D — APPLICATION OF AGREEMENT TO QUEENSLAND

Queensland to be a Contracting Party

1. The State of Queensland shall become a party to the *Agreement* on the terms set out in this Schedule.

Application of *Agreement* to Queensland

2. The provisions of the *Agreement* apply to the State of Queensland except:
 - (a) for those provisions declared not to apply by this Schedule; and
 - (b) to the extent that provisions are modified by this Schedule; and
 - (c) where the Ministerial Council or the Commission determines that a provision does not apply pursuant to clause 4.

Provisions Not Applying to Queensland

3. (1) Parts X, XI and XII of the *Agreement* do not apply to the State of Queensland.
(1A) Sub-clauses 38(1) and (38(3) of the Agreement only apply to the State of Queensland in respect of an act, omission or loss incurred, in relation to the bona fide execution of powers –
 - (a) in or related to the State of Queensland: or
 - (b) under a provision of the Agreement as it applies to the State of Queensland.
- (2) Schedule C of the *Agreement* does not apply to the State of Queensland unless and until the Ministerial Council decides otherwise.
- (3) Insofar as any provision of the *Agreement* bears on a matter set out in clause 3(4), that provision does not apply to the State of Queensland.
- (4) Clause 3(3) applies to:
 - (a) any issue concerning the design, execution, construction, funding, operation, maintenance, alteration or replacement of any works, measures, policies or strategies solely associated with the management of the upper River Murray and the River Murray in South Australia;
 - (b) any liability of the Commission, any Commissioner or Deputy Commissioner, any officer of the Commission, any Contracting Government or any Constructing Authority in respect of -
 - (i) any matter referred to in clause 3(4)(a), or
 - (ii) any matter arising under a provision of the *Agreement* which the Ministerial Council or Commission has determined does not apply to the State of Queensland under clause 4.
- (5) Nothing in the Agreement requires the State of Queensland.

(a) to contribute to the costs of, or associated with, remedying any actual or anticipated damage referred to in paragraph 51(1)(c) of the Agreement: or

(b) to meet any compensation for damage paid under clause 83 of the Agreement.

except where the State of Queensland has contributed to the construction, maintenance or operation expenses of the works to which the costs or compensation relate.

Powers of Ministerial Council and Commission to make Determinations

4. (1) The Ministerial Council or the Commission, as the case may be, may:
 - (a) determine that a provision of the *Agreement* does not apply to the State of Queensland, either generally or in relation to a particular matter or class of matters; and
 - (b) revoke any such determination made by it.
- (2) The Ministerial Council may, at any time, direct that any determination made by the Commission under sub-clause 4(1) is to be deemed to have been:
 - (a) revoked; or
 - (b) altered in any way directed by the Ministerial Council.
- (3) The Commission must give effect to any determination made by the Ministerial Council under sub-clause 4(1).

Factors to be Considered by Ministerial Council or Commission

5. (1) In making a determination under sub-clause 4(1)(a), the Ministerial Council or the Commission must apply the guidelines set out in this clause, unless the Ministerial Council or the Commission, as the case may be, determines otherwise.
- (2) A provision should apply to the State of Queensland if:
 - (a) issues arising under that provision are likely to cause a significant benefit or a significant detriment to Queensland;
 - (b) any decisions or actions taken within Queensland without reference to that provision might cause significant benefit or significant detriment to any part of the Murray-Darling Basin within Queensland;
 - (c) the Government of Queensland has incurred or may incur any financial obligation as a result of that provision.
- (3) A provision should not apply to the State of Queensland if issues arising under that provision are only likely to concern that portion of the Murray-Darling Basin delineated in red in the plan comprising the Annexure to this Schedule.

Quorum Where Provisions Do Not Apply to Queensland

6. (1) The quorum of the Ministerial Council for:
 - (a) debating any issue; or

(b) considering or making any resolution on an issue,

related to any provision which does not apply, in whole or in part, to Queensland by virtue of this Schedule does not include any Minister from the Government of Queensland.

(2) The text of any resolution relating to such an issue and for which approval is sought under clause 13 of the *Agreement* need not be referred to or approved by any Minister from the Government of Queensland.

(3) The quorum of the Commission for:

(a) debating any issue; or

(b) considering or making any resolution on an issue,

related to any provision which does not apply, in whole or in part, to Queensland by virtue of this Schedule does not include any Commissioner from the State of Queensland.

(4) The text of any resolution relating to such an issue and for which approval is sought under clause 33 of the *Agreement* need not be referred to or approved by any Commissioner from the State of Queensland before the resolution is made.

Application of Previous Ministerial Council Decisions to Queensland

7. (1) The Ministerial Council may affirm that any policy, determination or decision of the Ministerial Council applies to the State of Queensland.

(2) Any such policy, determination or decision shall apply to the State of Queensland in whole or in part, or with such modification, as the Ministerial Council decides.

(3) This clause applies only to policies, determinations or decisions made by the Ministerial Council between 27 August 1986 and the first meeting of the Ministerial Council after this Schedule comes into force.

(4) Any policy, determination or decision referred to in clause 7(3) which is not affirmed by the Ministerial Council under clause 7(1) does not apply to Queensland.