

WATER AMENDMENT BILL 2018

CORRECTION FROM THE DEPARTMENT OF AGRICULTURE AND WATER RESOURCES

The Senate Rural and Regional Affairs and Transport Legislation Committee's report on the Water Amendment Bill 2018 contains an error (underlined below) in paragraphs 3.49 to 3.52. Specifically, paragraph 3.49 incorrectly states that:

The bill provides that while a new amendment to the Basin Plan made under section 49AA will be a legislative instrument, it will not be subject to disallowance.

In fact, a new Basin Plan amendment made under section 49AA **is subject to disallowance.**

To clarify, there are two legislative instruments that can be made pursuant to the proposed section 49AA:

1. The new Basin Plan amendment made pursuant to a section 49AA direction – this legislative instrument is subject to the usual requirements of section 42 of the Legislation Act **and is subject to disallowance.**

Note the Bill is silent regarding whether the new Basin Plan amendment prepared by the MDBA is disallowable, but in this case the provisions of the Legislation Act will apply to the legislative instrument, which includes section 42 (disallowance).

2. The direction to the Murray-Darling Basin Authority to prepare a new Basin Plan amendment – this legislative instrument **is not subject to disallowance.**

Note that subsection 49AA(5) of the Bill states that:

A direction under subsection (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.