

**Basin Plan  
Water Resource Plan Requirements  
Position Statement 4A  
Consistency with s 10.17 on priority  
environmental assets and priority ecosystem  
functions**

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| <b>POLICY ISSUE</b> | How the MDBA will assess whether the requirements of s 10.17 of the Basin Plan have been met. |
| <b>REFERENCES</b>   | Water Act ss 80-86 and Basin Plan s 6.14, chapter 8, s 10.17, s 10.22, ss 10.40-10.43         |

**MDBA POSITION STATEMENT**

1. A water resource plan (WRP) must be prepared having regard to whether it is necessary for it to include rules which ensure that the operation of the plan does not compromise the meeting of environmental watering requirements of priority environmental assets and priority ecosystem functions – and include those rules where it is concluded to be necessary (s 10.17 of the Basin Plan). A description of how this was done is required by s 10.22(a) of the Basin Plan.
2. In preparing the WRP, consideration must be given to the environmental watering requirements of priority environmental assets and priority ecosystem functions in the WRP area and in those areas that have a significant hydrological connection (see Position Statement 2B). These watering requirements are set out in long-term watering plans and may also be set out in the Basin-wide environmental watering strategy. If long-term watering plans have not yet been made, an assessment consistent with the methods in Part 5 of Chapter 8 of the Basin Plan will need to be undertaken and provided as supporting evidence. The WRP should indicate where the environmental watering requirements of the priority assets and functions are described.
3. The WRP should describe the matters considered in determining whether rules are necessary to ensure the watering requirements of priority assets and functions are not compromised. Reference should be made in the WRP to relevant evidence.
4. The WRP should describe how regard was had to whether it is necessary for the rules to prescribe the matters set out in s 10.17(2) of the Basin Plan.
5. The WRP should expressly identify the rules that are included in the WRP to satisfy the requirements of s 10.17(3) of the Basin Plan. This may include rules that are carried forward from an interim or transitional plan, changed rules and new rules.
6. The need to include rules will be informed by the risk assessment undertaken under Part 9 of Chapter 10 of the Basin Plan and may also be informed by other matters including long-term watering plans.

POSITION STATEMENT 4A: Consistency with s 10.17 on priority environmental assets and priority ecosystem functions.

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| <ol style="list-style-type: none"><li>7. In addressing the requirements of s 10.17 of the Basin Plan, Basin States should be aware that s 6.14 of the Basin Plan applies (see Position Statement 1H - Potential reliability changes).</li><li>8. A flowchart is provided for guidance about how to give effect to the requirements of s 10.17 of the Basin Plan.</li></ol> |
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## **Rationale**

Section 10.17 of the Basin Plan requires Basin States to consider whether rules are necessary to ensure watering of environmentally important places and functions is not compromised. As described in the *Handbook for Practitioners – Water Resource Plan Requirements*, the rules could include, for example, cease-to-pump arrangements that operate to protect important waterholes under low-flow conditions in an unregulated system. The rules may alternatively include having a ‘winter take’ rule (i.e. only taking water when there are higher flows) on licences to protect priority assets and functions during summer low-flow periods.

Priority environmental assets and priority ecosystem functions, and their environmental watering requirements are to be set out in long-term watering plans for the relevant WRP areas. For this reason, it is preferable for the long-term watering plans to be finalised before, or developed concurrently with, WRPs to avoid duplication of effort.

A Basin State should demonstrate how they have considered the environmental watering requirements of priority assets and functions in water resources with a significant hydrological connection to the WRP area. This could include demonstrating any changes to the pattern and volume of end-of-system flows from the WRP area that could affect the ability to achieve environmental watering requirements as specified in a long-term watering plan for the connected water resource. It could also include describing any arrangements to support the environmental watering requirements in the hydrologically connected area, whether that be within the same state or across state borders.

The Explanatory Statement for the Basin Plan makes it clear that the need to include rules under s 10.17 will, in part, be informed by the risk assessment undertaken under Part 9 of Chapter 10 of the Basin Plan (ss 10.40-10.43) (see Position Statements 9A and 9B). This however is not the only way of assessing the need for rules. For example, a Basin State may take the advice of its science agency or a regional catchment body that rules are necessary, or rules may be identified in long-term watering plans. The WRP should indicate where this advice and supporting evidence is documented, including any relevant risk assessment.

Ideally, Basin States should determine whether rules are necessary by first assessing whether the operation of an interim or transitional WRP is likely to compromise the watering requirements of priority assets and functions. This analysis, along with the results of the risk assessment, may highlight particular elements of an interim or transitional WRP that would warrant further consideration to ensure s 10.17 of the Basin Plan is satisfied.

There may be instances where an assessment by a Basin State concludes that certain rules could meet the watering requirements of priority assets and functions, but the rules are not included in the WRP because of a reliability impact of the kind specified in s 6.14 of the Basin Plan. In reaching this decision, it is expected that a Basin State has examined alternatives to the rules which would achieve the same effect but do not affect reliability.

A Basin State may include rules to meet environmental watering requirements that also have a reliability impact of the kind referred to in s 6.14 of the Basin Plan. This can only be done if the WRP also includes an express statement that the Basin State is doing this of its own volition rather than to meet a WRP requirement (see Position Statement 1H).

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| <b>MDBA Reference</b> | D16/37790 |
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**POSITION STATEMENT 4A: Consistency with s 10.17 on priority environmental assets and priority ecosystem functions.**

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It should be noted that a WRP can include rules that address the requirements of s 10.17 even though the operation of the WRP compromises the watering requirements of priority assets and functions. This could happen, for example, where a Basin State identifies rules that ensure the watering requirements of assets and functions are met but that a subset of those rules are determined not to be necessary because of a constraint that cannot be overcome.

Information to support a Basin State meeting the requirements of s 10.17 of the Basin Plan may include:

- a. long-term watering plans
- b. the Basin-significant assets for native vegetation, waterbirds and native fish relevant to the WRP area (these are listed in Appendix 3, 4 and 7 of the *Basin-wide environmental watering strategy*)
- c. the water management strategies listed in chapter 3 of the *Basin-wide environmental watering strategy* to the operation of the WRP, and
- d. whether the plans and water management strategies are or should be addressed as rules in the WRP.

Other sources of information for assessing the adequacy of rules may include:

- a. comparing the rules with rules applied in other areas in the Basin State
- b. comparing rules with rules used in other Basin State jurisdictions
- c. referring the rules to internal or external experts for advice
- d. technical assessments of the effects of rules (e.g. eco-hydrology assessments).

The MDBA will apply Position Statements 1B (interpreting 'have regard to'), 2A (Accredited WRP and evidence), 2B (Interpreting 'significant hydrological connection'), 4F (How have Part 4 requirements been met) and 12A (Best available information) to assist in assessing how the WRP or supporting documentation describes what was done to comply with the requirements of s 10.17 of the Basin Plan. Explanations and descriptions should demonstrate how genuine consideration has been given to the matters required by s10.17 and that proper regard was had to the information base.

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| <b>MDBA Reference</b> | D16/37790 |
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**Steps in considering the requirements of s 10.17 of the Basin Plan**

This flowchart provides guidance on how to address the requirements of s 10.17 of the Basin Plan and identifies the supporting information required. As set out in Position Statement 1H (potential reliability changes), a Basin State may decide if and when the provisions of s 6.14 are considered.

