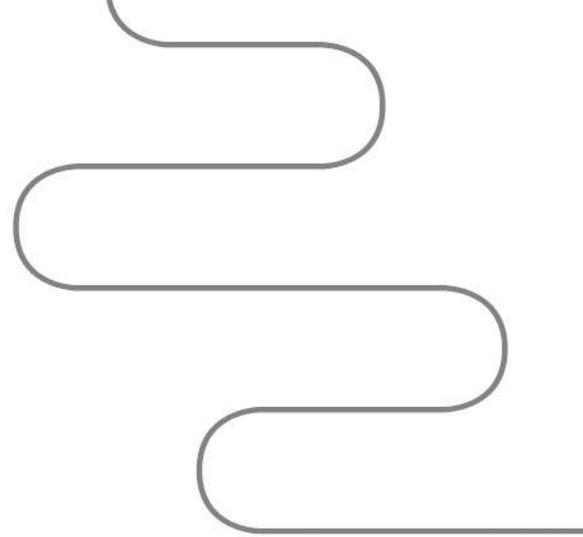


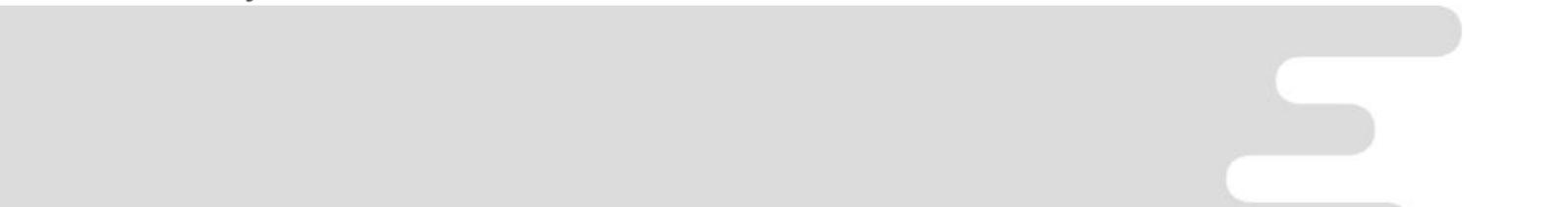


Australian Government



Guideline on the triggers and processes for moving between water sharing tiers

2 May 2013



Disclaimer: The provisions in the Water Act 2007, including the Murray–Darling Basin Agreement and the Basin Plan 2012, govern critical human water needs. These guidelines deal with the interpretation of these laws and have no statutory force. While decisions about critical human water needs may consider these guidelines, they will be based on the aforementioned laws. While reasonable care has been taken in compiling these guidelines, the Murray–Darling Basin Authority does not accept responsibility for their accuracy or completeness, and shall not be liable for any loss or damage occasioned directly or indirectly through the use of, or reliance on, these guidelines. The information in this guideline is accurate as at 2 May 2013.

Purpose of guideline

1. This guideline provides clarification to state and Australian Government agencies on the triggers and communication process when moving, or potentially moving, between water sharing tiers (as detailed in Schedule H to the Murray-Darling Basin Agreement and Chapter 11 of the Basin Plan) to meet critical human water needs (CHWN).

Background

2. Schedule H to the Murray-Darling Basin Agreement (the Agreement) and Chapter 11 of the Basin Plan detail the process to enact water sharing tiers in the River Murray system.
3. Movement between water sharing tiers is dependent on the ability to supply water of a suitable quality and/or quantity to meet CHWN, current conveyance water or the conveyance reserve.
4. Tier 1 arrangements exist under 'normal' water resources availability where there is no risk to conveyance water and the quality and/or quantity of water for CHWN.
5. Tier 2 represents 'low' water resources availability, where there is insufficient water to supply current conveyance and/or for states to make their contribution to the conveyance reserve. Contingency measures are used in Tier 2, but are not considered when making the declaration to commence Tier 2.
6. Tier 3 arrangements can exist under two separate scenarios:
 - a. under 'unprecedented dry' conditions (ie drier than the worst recorded drought), where there is a significant risk to the supply of a state's CHWN volume over the next 12 months — even with the use of contingency measures, and/or
 - b. at any time where the quality of water supplied to a Basin state is unusable for CHWN as it breaches — and is forecast to continue to breach — agreed salinity and water quality trigger values.
7. The term 'critical human water needs' is defined in clause 86A (2) of the *Water Act 2007* (the Act), and conveyance water is defined in clause 86A (4) of the Act.
8. In Chapter 11, water quality is only addressed in relation to potential risk to CHWN. Chapter 9 of the Basin Plan addresses water quality more broadly, including objectives for raw water treatment for human consumption.

9. Monitoring and evaluation of Chapter 11 is addressed in Chapter 13 and Schedule 12 of the Basin Plan. Guidelines have been prepared for matter 13 (implementation, where necessary, of CHWN emergency response process) and item 20 (prioritisation of CHWN).

Relevant legislative framework

10. The basis for this guideline in the Basin Plan is as follows:
 - a. Sections 11.03 and 11.04 outline agreed volumes for CHWN for New South Wales, Victoria and South Australia, and the conveyance water needed to deliver those CHWN volumes.
 - b. Section 11.05 establishes triggers for when water quality becomes unsuitable for CHWN and an emergency response is required under clause 86F of the Act. The Basin Officials Committee (the Committee) is responsible for the emergency response under clause 86F, and for managing periods of Tier 3 water sharing arrangements. To ensure an effective response, the water quality and salinity triggers for an emergency response are the same as those that trigger Tier 3 water sharing arrangements.
 - c. Sections 11.09 to 11.10 and 11.15 to 11.16 of the Basin Plan detail the triggers, communication arrangements and other requirements when transitioning between water sharing tiers.
 - d. Section 11.12 specifies the conveyance reserve volume that must be reserved to ensure sufficient conveyance water in the following water year.
11. The basis for this guideline in the Agreement is as follows:
 - a. Parts 2, 3 and 4 of Schedule H outline the provisions for water sharing arrangements under Tier 2 and Tier 3 conditions.
 - b. Clause 102A requires the Murray–Darling Basin Authority (the MDBA) to determine an initial requirement to meet CHWN.
 - c. Clause 102B requires New South Wales, Victoria and South Australia to each specify, and the MDBA to confirm, the volume and location of water set aside for CHWN in the following water year.
 - d. Clause 102C sets out the specific information the MDBA must provide to the Committee if it determines a southern Basin state does not have sufficient water to allocate at least the agreed volume of CHWN each water year. It also outlines a process to meet any shortfalls, via the administration of advances.
 - e. Clause 102D sets out a process for determining the conveyance reserve volume to be held at the end of the water accounting period.

The role of the MDBA

12. Parts 4 and 5 of Chapter 11 of the Basin Plan set out the triggers to change water sharing arrangements, and how any change is to be communicated. In particular, the MDBA may, by a notice published on its website:

- a. declare which tier has been or is to be ceased, and which tier is to enter into effect
 - b. under what conditions the tier has been declared (eg insufficient water to provide conveyance water in the current water accounting period)
 - c. on what date the change is to take place.
13. Clauses 6, 7, 8 and 9 of Schedule H, and clause 102C of the Agreement require the MDBA to advise the Committee:
- a. if there is unlikely to be sufficient water available to a state in the current water year to:
 - i. meet any required contribution to the conveyance reserve
 - ii. to meet its contribution to current conveyance, or
 - iii. to allocate at least the volume set aside by it for CHWN in the previous water year.
 - b. whether an advance of water from another state could remedy such a shortfall, including which state should make the advance and the volume of the advance.

The role of the Basin Officials' Committee

14. Section 11.05 of the Basin Plan requires the state, via its committee member, to advise the MDBA that one or both of the water quality and salinity trigger points has been reached, and of the need to enact Tier 3 water sharing arrangements.
15. If the MDBA has enacted section 11.09 (1) of the Basin Plan and declared Tier 2 water sharing arrangements, the Committee is then required to determine if any remedial action is required — in the form of advances or otherwise — through clauses 7, 8, 9 and 10 of Schedule H and clause 102C of the Agreement.
16. If the MDBA notifies the Committee, under clause 9 (1) of Schedule H, that section 11.09 (2) of the Basin Plan applies, the Committee must consider the MDBA's view that there may be insufficient water to meet the current conveyance requirements. If the Committee agrees, it must make a declaration to that effect and enact clause 10 of Schedule H.
17. If the Committee disagrees that there is insufficient water, the MDBA may decide to review its declaration of Tier 2 water sharing arrangements.
18. If the MDBA has enacted section 11.15 (1) of the Basin Plan and declared Tier 3 water sharing arrangements, the Committee must, under clause 13 of Schedule H, meet at least once every two months to consider and recommend actions pursuant to this clause, and if applicable, to clause 86F of the Act.

The role of the Ministerial Council

19. If the MDBA has enacted section 11.15 (1) of the Basin Plan and declared Tier 3 water sharing arrangements, the Ministerial Council must, under clause 14 of Schedule H, meet at least once every four months to consider recommendations or reports proposed by the Committee and take appropriate action.

Guideline details

20. This guideline applies to the southern Basin states (Victoria, New South Wales and South Australia), the MDBA, Water liaison working group (WLWG) and the Committee.
21. Communications between the WLWG and the MDBA, unless otherwise stated in this guideline, will be via existing meeting arrangements at agreed intervals (usually monthly).

Moving from Tier 1 to Tier 2 water sharing arrangements

Insufficient current conveyance water:

22. If it is between the period 1 June and 31 August of the same water accounting period, and the MDBA's worst case water resource assessment indicates that there will be insufficient water in the system to supply the balance of conveyance.
23. If the Committee considers there is insufficient water available to meet the current conveyance requirements, then under clause 9 (3), the Committee must make a declaration to that effect and enact clause 10 of Schedule H.
24. Clause 10 (1) of Schedule H requires that within one month of the Committee declaring there is insufficient water available to meet the current conveyance water requirements, it must advise the MDBA of:
 - a. proposed remedial action to ensure current conveyance water can be met
 - b. the responsibilities of the contracting governments and the MDBA in implementing the remedial action
 - c. when the Committee expects water to be available as a result of remedial action.
25. Under clause 10 (5), unless the Committee determines otherwise, the proposed remedial action must set out how the water attributed to the remedial action will be made available, including information about how any possible environmental or other consequences of the proposed action will be averted or remedied, and either the circumstances in which, or date by which, the proposed remedial action will cease.
26. If the Committee determines that proposed remedial action requires approval from the Ministerial Council, the Committee or the MDBA under the Agreement, it must gain the required approvals before executing remedial action, under clause 10 (6) of Schedule H.

Insufficient water to meet conveyance reserve:

27. If it is between the period 1 September and the 31 May of the same water accounting period, and the worst case planning water resource assessment indicates that the amount of water required to be reserved under subsection 11.12 (2) of the Basin Plan cannot be set aside by the end of that water accounting period, the MDBA will:
 - a. provide the Committee and the WLWG with the water resource assessment and advise of its intention to declare Tier 2 water sharing arrangements
 - b. advise the Committee via formal advice that section 11.09 (3) applies, of the need to enact clause 7 and/or 8 of Schedule H, and of the MDBA's intentions to declare Tier 2 water sharing arrangements
 - c. publish a notice on its website declaring section 11.09 (3) applies and that Tier 1 water sharing arrangements will cease, and Tier 2 water sharing arrangements will begin, from the date specified in the notice.

Moving from Tier 2 to Tier 1 water sharing arrangements

28. If the MDBA's worst case water resource assessment indicates that there is enough water in the system to meet current conveyance, and the conveyance reserve requirements for the remainder of the water accounting period, without the need for and advances or remedial actions enacted under clause 7, 8 or 10 of Schedule H, then the MDBA will:
- a. provide the Committee and the WLWG with the water resource assessment and tell them of its intention to declare a transition back to Tier 1 water sharing arrangements
 - b. notify the Committee via formal advice that section 11.10 (2) of the Basin Plan applies, of the need to enact clause 10 (11) of Schedule H, and of its intentions to declare Tier 1 water sharing arrangements
 - c. publish a notice on its website declaring section 11.10 (2) of the plan applies and that Tier 2 water sharing arrangements will cease, and Tier 1 water sharing will begin, from the date specified in the notice.
29. When the MDBA notifies the Committee and the Committee is satisfied that current conveyance water will be available in the current water year, clause 10 (11) of Schedule H states the Committee must revoke its declaration under clause 9 (3) of Schedule H and report the revoke to Ministerial Council at the next meeting.

Moving into Tier 3 water sharing arrangements

30. If:
- a. there is an extremely high risk that water will not be available to meet CHWN in the next 12 months
 - b. unprecedented or extreme circumstances of low water availability are experienced, and the MDBA's worst case planning water resource assessment indicates that:
 - i. the CHWN of any southern Basin state cannot be supplied by the end of the current water accounting period; or
 - ii. conveyance water cannot be supplied for the remainder of the water accounting period, even if the use of any advances under clause 102C of the Agreement and the use of any remedial action enacted under clause 10 of Schedule H is taken into account;

and/or

31. If a member of the Committee advises the MDBA that a water quality or salinity trigger point specified in subsection 11.05 (2) or (3) of the Basin Plan is reached, the MDBA will:
- a. provide the Committee and the WLWG with the information provided by the relevant Committee member and advise of its intention to declare Tier 3 water sharing arrangements
 - b. notify the Committee via formal advice that section 11.15 (2) or 11.15 (3) of the Basin Plan applies, of the need to enact clause 13 of Schedule H, and of its intention to declare Tier 3 water sharing arrangements

- c. publish a notice on its website declaring which circumstance has occurred and of a transition into Tier 3 water sharing arrangements effective from the date specified in the notice.

Moving out of Tier 3 water sharing arrangements

32. If the MDBA's worst case water resource assessment indicates that:

- a. there is enough water in the system to meet CHWN
- b. there is enough water in the system to meet the required conveyance water (taking into account the use of any advances under clause 102C of the Agreement any remedial actions enacted under clause 10 Schedule H) by the end of the current accounting period, then the MDBA will:
- c. provide the Committee and the WLWG with the water resource assessment and tell them of its intention to transition from Tier 3 to 2 water sharing arrangements
- d. publish a notice on its website that declares there is sufficient water available, under the worst case scenario, to meet current conveyance water requirements (taking into account remedial actions and advances to meet CHWN), and that a transition from Tier 3 to Tier 2 water sharing arrangements is effective from the date specified in the notice.

33. If the MDBA is satisfied:

- a. MDBA's worst case planning water resource assessment indicates that there is enough water in the system to meet CHWN by the end of the current water accounting period, and current conveyance water can be supplied without the need for advances under clause 102C of the Agreement and any remedial actions taken under clause 10 of Schedule H to the Agreement
- b. the water quality of water to meet CHWN is less than 1,400 EC ($\mu\text{S}/\text{cm}$), and is of a standard for human consumption, practical to treat for the foreseeable future
- c. the conveyance reserve is met.

Then the MDBA will:

- d. provide the Committee and the WLWG with the water resource assessment and tell them of its intention to transition from Tier 3 to 1 water sharing arrangements
- e. notify the Committee via formal advice of the need to enact clause 10 (11) of Schedule H and to cease enacting clause 13 of Schedule H
- f. publish a notice on its website that declares the circumstances have occurred, and that a transition from Tier 3 to Tier 1 water sharing arrangements is effective from the date specified in the notice.

Contact

For further information, please contact the MDBA's River Management team on (02) 6279 0100.