



Australian Government



# Regulator Performance Framework Self-assessment 2018-2019

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The Murray–Darling Basin Authority pays respect to the Traditional Owners and their Nations of the Murray–Darling Basin. We acknowledge their deep cultural, social, environmental, spiritual and economic connection to their lands and waters.

The guidance and support received from the Murray Lower Darling Rivers Indigenous Nations, the Northern Basin Aboriginal Nations and our many Traditional Owner friends and colleagues is very much valued and appreciated.

Aboriginal people should be aware that this publication may contain images, names or quotations of deceased persons.

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# Executive Summary

The Regulator Performance Framework (RPF) was released by the Australian Government in 2014. It requires Australian Government agencies with regulatory functions to complete an annual self-assessment of their performance in regulating individuals, communities and businesses. This is the Murray–Darling Basin Authority’s (MDBA) fourth annual self-assessment under the RPF; it covers the 2018-2019 financial year.

The MDBA was established under the *Water Act 2007* (Cth) (Water Act) as an independent, expert body responsible for developing the *Basin Plan 2012* (Cth) (Basin Plan) regulatory framework, and regulating compliance with Part 2 of the Water Act, which requires compliance with the Basin Plan, as well as compliance with Basin state<sup>1</sup> water resource plans (WRPs) that have been accredited by the Australian Government Minister for Water.

The RPF and the self-assessment process have a limited application to the MDBA’s regulatory functions. This is because the MDBA is primarily a regulator of state regulators, and has only a minor role in directly regulating individuals, communities, and businesses (non-government entities). This is due to a combination of factors, including that:

- Basin state governments have the primary responsibility for enforcing water compliance with their state water legislation.
- The majority of compliance obligations in the Water Act and the Basin Plan are on the Basin states. The MDBA’s primary regulatory activities relate to providing assurance about Basin state water management and compliance arrangements, rather than undertaking direct enforcement action against individual water users.
- Once Basin state WRPs are accredited, the MDBA will regulate compliance with the obligations and rules contained in WRPs. As at 30 June 2019, 1 out of 33 WRPs had been accredited by the Australian Government Minister for Water.

Consequently, as with the MDBA’s 2017-2018 self-assessment, this self-assessment focuses on the three areas of the MDBA’s regulatory activity subject to the RPF:

1. regulation of the Basin Plan water trading rules;
2. reforms to regulatory frameworks for the management of Basin water resources (Water compliance reform); and
3. management of allegations of non-compliance with Part 2 of the Water Act, with respect to the Basin Plan, accredited WRPs, and the *Water Regulations 2008* (Cth).

Part 1 of this self-assessment provides context about the MDBA’s regulatory role and the three areas of the MDBA’s regulatory operations subject to the RPF, and includes case studies of key activities in 2018-2019 in these areas. Part 2 of this self-assessment assesses the MDBA’s performance against a set of RPF metrics developed by the MDBA and endorsed by the Australian Government Minister for Water.

The MDBA is currently working towards further reforms to its regulatory policy and legislative frameworks throughout 2019-2021, and plans to conduct stakeholder engagement activities to support and explain these changes. However, even as the MDBA’s regulatory role evolves the RPF and the self-assessment process will continue to be of limited application to the MDBA.

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<sup>1</sup> “Basin states” refers to the state and territory governments of New South Wales, Queensland, Victoria, South Australia, and the Australian Capital Territory.

# Part 1: Outline of MDBA regulatory functions subject to the RPF

## The Regulator Performance Framework

The [Australian Government's Regulator Performance Framework](#) (the RPF) was released in October 2014. The RPF aims to improve performance by encouraging regulators to undertake their functions with the minimum impact on individuals, business and community organisations to achieve regulatory objectives.

The RPF comprises six outcomes-based key performance indicators (KPIs) to articulate the Australian Government's overarching expectations of regulator performance:

**Figure 1: Regulator Performance Framework key performance indicators.**



The RPF requires regulatory agencies to annually self-assess their performance regulating individuals, business and community organisations against the six KPIs listed above.

## Areas of the MDBA's regulatory role subject to the Regulator Performance Framework

At a high level, the MDBA's regulatory role has had three discrete phases over the past 10 years: from developing the Basin Plan regulatory framework in 2008-2012, including developing the Basin Plan itself; to supporting the implementation of the Basin Plan, for example through assisting Basin States to develop Basin Plan compliant WRPs for accreditation by the Australian Government Minister for Water; to regulating compliance with the Basin Plan and accredited WRPs, largely from 2020 onwards (see diagram below).<sup>2</sup>

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<sup>2</sup> Note: The MDBA has had a water trade rule compliance role since July 2014 when the Basin Plan water trading rules commenced, and a minor WRP compliance role since June 2017 when the first Basin Plan compliant WRP was accredited by the Australian Government Minister for Water.

**Figure 2: High level summary of changes to the MDBA’s regulatory role since 2008.**



In line with these phases, the MDBA has had a limited regulatory compliance role to date. The MDBA’s regulatory function has been confined largely to developing, and advising regulated entities on, the implementation of the Basin Plan regulatory framework. For example, by providing advice to Basin states on how to develop Basin Plan compliant WRPs and water trading rules.

As the final Basin state WRPs are accredited (expected by the end of 2020), regulating WRP compliance will become one of the MDBA’s primary regulatory functions. The MDBA’s regulatory role will be to monitor and report on compliance with the requirements and obligations in the Basin Plan and accredited WRPs. More broadly, it will provide assurance on compliance with the water management arrangements by Basin state governments, and that those arrangements are effective.

The entities primarily regulated by the MDBA are the Basin state governments. This is due to the nature of the regulatory obligations under the Basin Plan and WRPs, which mostly require compliance by Basin state governments who, in turn, regulate non-government entities (individuals, businesses, and community organisations), in their respective states. Only a minor portion of the MDBA’s regulatory work involves direct regulation of non-government entities, and this is mostly in the area of water trade.

Given that the focus of the RPF is on the impact of regulation on non-government entities, only a small portion of the MDBA’s regulatory work is directly subject to the RPF. However, some of the MDBA’s work regulating Basin state regulators is intended to ultimately impact non-government entities, and so is used as evidence in this self-assessment. For example, the MDBA may audit Basin state policies and practices for metering water take by water users, and make findings and recommendations that could impact on water users should states act upon them.

The three areas of the MDBA’s work in 2018-2019 subject to the RPF are the:

1. regulation of the Basin Plan water trading rules;
2. reforms to regulatory frameworks for the management of Basin water resources (Water compliance reform); and
3. management of allegations of non-compliance with Part 2 of the Water Act, with respect to the Basin Plan, accredited WRPs, and the *Water Regulations 2008* (Cth).

Each of these areas are described in more detail below.

## Water trade

Of all the MDBA’s regulatory functions, managing compliance with the Basin Plan water trading rules (the Rules) is the most established. The Rules commenced on 1 July 2014, and operate in parallel with Basin state water trading rules and irrigation infrastructure operator (IIO) water trading rules.

The Rules apply to the Basin state governments, IIOs, and individual market participants. Basin state governments are responsible for managing their state water markets. The majority of the Rules only

apply to State government agencies and IIOs, who are responsible for processing trades by water users, and developing and implementing their water trading rules in line with the Rules.

The objectives of the Rules are to ensure restrictions on trade are appropriate, improve transparency and access to information, and improve market confidence.

The MDBA's role is to enforce compliance with the Rules. This is focused on ensuring:

- Basin state and IIO restrictions on trade are compliant with the Rules;
- water announcements are disclosed appropriately;
- Basin states and IIOs are compliant with the information and reporting requirements;
- accurate reporting of water trade prices; and
- compliant use of exchange rates.

The MDBA uses a risk-based approach to assess compliance with the Rules and prioritise its regulatory activities, as outlined in the MDBA's [Strategic Priorities: Basin Plan water trading rules](#). Administering the Rules is a relatively small component of the MDBA's overall work and imposes a minor regulatory burden. The majority of this work is focused on monitoring and reviewing Basin state water trade rules and arrangements to ensure they are consistent with the Rules.

For example, in 2018-2019 the MDBA undertook an audit into Basin state arrangements to facilitate the accurate reporting of water trade prices by water users, and found that the current reporting platforms provided by the Basin states do not consistently enable or promote individual compliance with the Basin Plan reporting requirements. This is described in more detail below in **Case Study 1**. As a result, the MDBA is working with Basin states to improve their reporting platforms.

To support compliance with the Rules, the MDBA has published [Guidelines for the Water Trade Rules](#) to help water managers and users understand the rules in the Basin and give them improved access to market information. The MDBA also undertakes regular formal and informal consultation with state government trade administrators and river operators, for example through the Trading Rules Working Group, to support the co-operative, consistent and compliant application of trade rules across the Basin.

### **Murray–Darling Basin water markets inquiry**

Under the Water Act, the Australian Competition and Consumer Commission (ACCC) is responsible for developing, monitoring, advising on certain water market and charging arrangements in the Murray–Darling Basin. The MDBA is responsible for making and regulating the Rules, and receives advice from the ACCC on the Rules. The ACCC is also the enforcement agency for the water market rules and water charge rules under the Water Act.

In response to the unprecedented drought conditions and public concern about the fairness and transparency of the water market, in August 2019, the Australian Government requested the ACCC to conduct an inquiry into markets for tradeable water rights in the Murray–Darling Basin. The final report is due to be provided to the Treasurer by 30 November 2020.

The MDBA will contribute to the ACCC's Murray–Darling Basin water markets inquiry where relevant and appropriate.

## Case study 1: Trade Price Reporting Audit

Audits are a key tool used by the MDBA to monitor and assess compliance with the Basin Plan.

From July 2018 to January 2019, the MDBA conducted an [audit of Basin State processes and procedures](#) to collect, validate, record, and report water trade price information in 2017-2018.

Water markets and trade are one of the key mechanisms for managing water scarcity in the Basin.. In the 12 months to 30 June 2019, the total turnover of surface water allocation and entitlement trade across the Basin grew to \$3.97 billion.

Ensuring access to accurate and timely price information is critical to the operation of a sophisticated, sustainable water market.

Section 12.48 of the Basin Plan water trading rules requires that all water trade transaction prices be reported by a seller to the relevant Basin state government agency overseeing water trade. This information is then provided to the Bureau of Meteorology (BoM) for public reporting. This information can be used to monitor market patterns and to inform trade decisions by market participants.

The audit found that no Basin government had robust arrangements in place to gather comprehensive price information. Key findings included that:

- in 2017-2018, 44% of all Basin trades were priced at zero;
- price reporting was not compulsory in all Basin states;
- where a trade price information was reported there was no validation of its accuracy; and
- some trades were processed without price information.

As a consequence, much of the data reported by the states and published in consolidated form by the BoM is incomplete and inaccurate, and market participants are at risk of making misinformed decisions or not complying with the obligation under the Basin Plan to report trade prices.

In addition to the MDBA's audit of Basin state processes, a separate audit was undertaken by Deloitte to examine the behaviour and compliance by market participants with regards to the obligation to report their trade prices under section 12.48. Although based on a limited sample, the audit found that the reporting and accuracy of trade prices by market participants was an issue for a range of reasons, including that the regulatory environments provided by the states do not communicate the importance of trade reporting or, in some instances, provide an option to report trade prices.

Since the audit report was released in May 2019, the MDBA has continued to engage with Basin states about the implementation of the audit recommendations through the Trading Rules Working Group.

## Water Compliance Reform

Since 2017, the MDBA has undertaken a significant volume of work to review and mature its regulatory processes, policies, and capabilities, as well as to support the Basin states to improve their respective compliance and enforcement arrangements.

This work is being primarily undertaken in response to the 2017 MDBA Compliance Review and in line with the [Murray–Darling Basin Compliance Compact](#) (Compact), which was agreed to in principle by the Murray–Darling Basin Ministerial Council in June 2018, and endorsed by the Coalition of Australian Governments (COAG) in December 2018.

The Compact was developed in response to the findings and recommendations of the various reviews and investigations into water compliance and management from 2017 to 2018.

Through the Compact, the Australian Government and Basin state governments committed to undertaking actions to review and reform their water compliance and enforcement arrangements under five themes:

1. Transparency and accountability
2. Compliance and enforcement frameworks
3. Metering and measurement
4. Finalising water resource plans
5. Protecting and managing environmental water.

Since committing to the Compact in June 2018, the MDBA has completed a significant volume of work to review and enhance its regulatory processes and capabilities, and to support the Basin states to meet their commitments under the Compact. Much of this work relates to the MDBA's role as a regulator of Basin state government entities, so it is not strictly subject to the RPF. However, it is intended that this work will ultimately benefit individuals, communities, and businesses by improving the management and regulation of the Basin, and increasing water user confidence in the government agencies responsible for doing so.

For example, under the Compact, the MDBA is working with Basin state governments to increase public reporting to improve transparency and accountability, and driving improvements in state compliance and enforcement frameworks.

Another significant component of this work is in improving metering and measurement of water take, for example by reviewing and strengthening metering requirements and practices. While meeting the strengthened metering requirements may lead to an increased burden on water users in the short term, the purpose of these changes is to ensure the integrity of water allocations and water markets. Actions the MDBA undertook to support metering reform in the Basin in 2018-2019 are discussed further in **Case Study 2**, below.

The MDBA prepares an annual report on progress with implementing the commitments of the Compact. These [reports](#) are provided to the COAG and the Murray–Darling Basin Ministerial Council, and are published on the MDBA website by 31 December of each year.

## Case study 2: Supporting metering reform

Accurate measurement of water use and extraction is fundamental for water planning, management, and regulation.

In 2017, the MDBA and an Independent Panel conducted a [Basin-wide Compliance Review](#) at the request of the Australian Government, to assess the legislative, policy and practical implementation of compliance in water management across the Basin.

The review identified significant variations in the coverage, accuracy, and regulation of water meters across the Basin, and the availability of meters that comply with the Australian Standard (AS4747). For example, in one Basin state it was estimated that over 60% of meters were unable to measure water extraction at the accuracy required by the Australian Standard.

Through the Compact, Basin governments agreed to review and reform their metering arrangements to ensure water is extracted from the Basin in a consistent, accurate, and compliant manner. In 2018-2019 the MDBA contributed to this metering reform by:

- Publishing best practice [guidelines](#) for minimum metering thresholds.
- Working with meter manufacturers and the National Measurement Institute to maintain a [list](#) of pattern approved water meters to enable water users to locate a compliant water meter.
- Chairing a national Water Community of Practice group made up of state and commonwealth officials focused on water metering, innovation and compliance operations.
- Working with Basin States and the Australian Government to commence the Meteorological Assurance Framework Modernisation project, which will make it easier and cheaper for water users to comply, in particular with post-installation requirements.
- Conducting [reviews](#) of meter measurement, monitoring, and compliance arrangements in NSW and Queensland.

The MDBA will continue to work with other Australian and state government agencies, manufacturers, industry, and testing laboratories with the ultimate aim of achieving comprehensive coverage of compliant meters across the Basin by 2025.

## Allegations of non-compliance

While there are circumstances in which MDBA may directly regulate the compliance of individual water users with relevant provisions of the Basin Plan and accredited WRPs, Basin states remain the primary regulators for water compliance. The MDBA receives low levels of allegations of non-compliance from the public primarily due to:

- the role of Basin states as the frontline regulators of non-compliance in their jurisdictions;
- the historic lack of clarity around the MDBA's compliance role and what constitutes non-compliance with the Basin Plan or the Water Act;
- the limited offence provisions in the Water Act and Basin Plan; and
- the lack of accredited WRPs, which means the MDBA's compliance role is limited.

Where the MDBA receives an allegation of non-compliance, in line with the MDBA's Escalation Pathway, the allegation is initially assessed to determine whether the MDBA is the appropriate regulatory agency to respond to the allegation, or if the allegation should be referred to a state government agency.

A statement of the MDBA's compliance activities in 2018-2019 was published on the MDBA website in August 2019.

It is the MDBA's view that it can better contribute to improving the management of non-compliance in the Basin by providing assurance of, and driving improvement in, state compliance and enforcement frameworks. For example, the MDBA undertakes an annual audit and assurance program that includes reviewing Basin state compliance and enforcement processes or arrangements, including water metering and measurement practices, and make recommendations for how they can be improved, as demonstrated in **Case Study 3**, below.

### Case study 3: Review of the Northern Connectivity Event

Effective protection and management of environmental watering events is fundamental for a healthy and productive Basin, as environmental watering is a critical for maintaining river connectivity, water quality, and Basin ecosystems.

In October 2018, the MDBA published a report of a [review](#) the MDBA conducted of a major environmental flow in the northern Murray–Darling Basin between April and June 2018 (Northern Connectivity Event). During the Northern Connectivity Event, temporary restrictions on water extraction were imposed by the NSW Government and enforced by the Natural Resources Access Regulator (NRAR).

Following the Northern Connectivity Event, the MDBA and NRAR agreed to undertake this joint review to assess the effectiveness of the arrangements the NRAR had in place to oversee compliance with the temporary water restriction.

The MDBA's review concluded that the NRAR had appropriate governance arrangements and operational practices to ensure water access licence holders complied with the temporary water restriction rules and no theft of water was observed.

The MDBA's review also identified opportunities for improvement for the NRAR, particularly in the areas of:

- formalising processes and procedures (including inter-agency governance arrangements);
- regulating stock and domestic access; and
- communication strategies for managing future events.

During the Northern Connectivity Event, the MDBA also trialled the use of [satellite imagery](#) to track the flow of the environmental water through the system, and develop the MDBA's capacity to use satellite images to monitor compliance.

The MDBA analysed over 100 satellite images covering 70 different dates between April and July 2018 to assess whether the volumes present in dams and water storages appeared to increase during the Northern Connectivity Event.

The analysis found that there were no significant or enduring increases in dams and water storages during the event for further investigation and analysis.

# Part 2: 2018-2019 Self-assessment

## Methodology

### Metrics and ratings

This self-assessment covers the period of 1 July 2018 to 30 June 2019. The MDBA's performance in the three areas subject to the RPF during the reporting period was assessed in line with the KPIs defined in the RPF using a set of revised metrics.

Following the 2017-2018 RPF self-assessment, the metrics were reviewed to reduce duplication, align better with the overarching RPF KPIs, and more usefully reflect and assess the MDBA's evolving regulatory role, operating environment, and regulated entities. The new metrics were approved by the Australian Government Minister for Water in August 2019.

The MDBA self-assessed its performance for each of the metrics using the following ratings:

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<b>Met</b>	<b>In transition</b>	<b>Not Met</b>
Strong performance against the metric.	Demonstrated focus and activities to improve performance against the metric.	Poor performance against the metric.

The ratings are supported by evidence of relevant activities undertaken by the MDBA during 2018-2019. Evidence was drawn from:

- The Murray–Darling Compliance Compact Interim Assurance Report 2018
- Murray–Darling Basin Authority Compliance Activity Reports in 2017-2018 and 2018-19
- Publicly accessible materials such as guidelines, policies, strategies, media and engagement activities, and web content.
- The MDBA's previous Regulator Performance Framework reports.

### Validation

In August 2019, the Australian Government Minister for Water endorsed for the Independent Assurance Committee (IAC) to validate the MDBA's RPF self-assessment.

The IAC were appointed in February 2018 under the Water Act to provide expert advice on the design, implementation and adequacy of the MDBA's Basin Plan compliance program.

The draft self-assessment was provided to the IAC and the Interim Inspector General of the Murray–Darling Basin for comment in April 2020. The IAC and the Interim Inspector General of the Murray–Darling Basin provided comments on areas for clarification or expansion in the draft self-assessment in April 2020. A revised self-assessment was subsequently provided to the IAC for validation using the above rating scale in May 2020.

# 2018-2019 MDBA RPF self-assessment

## KPI 1 – Regulators do not unnecessarily impede the efficient operation of regulated entities

Metric	MDBA rating	Contributing activities in 2018-2019	Validator rating
<p><b>Demonstrated understanding of the operating environment for the regulated entities and emerging issues that affect the sector.</b></p>	In transition	<ul style="list-style-type: none"> <li>- To maintain its understanding of the Basin regulatory operating environment and develop its annual Compliance Priorities and workplan, the MDBA undertakes an annual detailed, and regular high-level, assessments of risks to Basin Plan compliance. Inputs to the risk assessments include:               <ul style="list-style-type: none"> <li>o horizon scans of emerging risks and issues in the Basin and for regulated entities.</li> <li>o intelligence, complaints, and allegations of non-compliance the MDBA has gathered or received.</li> <li>o the findings and recommendations of audits and reviews conducted by the MDBA and other entities.</li> </ul> </li> <li>- The MDBA undertook cooperative compliance reviews into Basin state water metering arrangements, and monitored water extraction and compliance during environmental watering events.</li> <li>- In May 2019, the MDBA reviewed its internal regulatory risk assessment and decision-making framework to ensure they are effective and appropriate for the MDBA’s regulatory operating environment and regulated entities.</li> <li>- The MDBA considers stakeholder views and concerns in the development and review of the MDBA’s regulatory approach and policies. This feedback is provided through insights provided by, and analysis commissioned by, the MDBA’s Media, Communication and Engagement teams, and the MDBA’s Regional Engagement Officers.</li> <li>- In November 2018, the MDBA established the Water Compliance Community of Practice; a platform for government regulatory officers across Australia to share best practice information, insights about water compliance arrangements in each state, and emerging issues and risks.</li> </ul>	In transition

- The MDBA The MDBA coordinates the Trade Rules Working Group (TRWG) to share information, emerging issues and solve problems. The TRWG is made up of officers from Australian Government and Basin state agencies regulated by the MDBA, and the ACCC.
- The MDBA maintained a public list of pattern approved meters to enable water users to locate a compliant water meter.

# KPI 2 – Communication with regulated entities is clear, targeted and effective

Metric	MDBA rating	Contributing activities in 2018-2019	Validator rating
<p><b>Timely, clear and accessible guidance and information on regulatory matters is provided to stakeholders.</b></p>	In transition	<ul style="list-style-type: none"> <li>- The MDBA held regular bilateral meetings with Basin state water regulators to discuss its Compliance Priorities, audit topics, and share updates on compliance activities and reforms.</li> <li>- The MDBA published 12 media releases and 9 Authority Board Communiqués about compliance in the Basin.</li> <li>- MDBA spokespeople conducted 16 radio interviews and were quoted in 55 news articles about compliance.</li> <li>- The MDBA maintained a public register of allegations of non-compliance received, and signed Collaboration Protocols with the NSW and Queensland governments, which outline arrangements for referrals, joint investigations and information sharing.</li> <li>- The MDBA published multiple audit reports and reviews into compliance in the Basin, including the Trade Price Reporting Audit (<b>Case study 1</b>), two reviews of metering arrangements, and the review of the Northern Connectivity Event (<b>Case study 3</b>).</li> <li>- In May 2019, the MDBA consulted with the Basin states on the proposed 2018-2019 Compliance Priorities, which were published in June 2019 with a statement of performance against its 2017-2018 Compliance Priorities.</li> <li>- In December 2018, the MDBA published the Compact Interim Assurance Report which reported on the performance of the MDBA and the Basin states strengthening their regulatory frameworks in line with their Compact commitments.</li> <li>- The MDBA provided technical advice about compliance obligations to the Basin states during the drafting of WRPs.</li> </ul>	In transition
<p><b>Communication mechanisms with regulated entities for engagement and receiving complaints are in place.</b></p>	Met	<ul style="list-style-type: none"> <li>- Information and complaints are received from regulated through:               <ul style="list-style-type: none"> <li>o the online ‘Report a Breach’ webpage;</li> <li>o the <a href="mailto:compliance@mdba.gov.au">compliance@mdba.gov.au</a> and <a href="mailto:watermarkets@mdba.com">watermarkets@mdba.com</a> inboxes;</li> <li>o the MDBA Engagement hotline; and</li> <li>o Meetings with Basin state officials, scientists and communities.</li> </ul> </li> </ul>	Met

- Information is received and shared with regulated entities through regionally located staff and Regional Engagement Officers, who report to the MDBA about community concerns and issues and brief communities about MDBA activities and news.
- The MDBA received 24 allegations of non-compliance in 2018-2019..

## KPI 3 – Actions undertaken by regulators are proportionate to the regulatory risk being managed

Metric	MDBA rating	Contributing activities in 2018-2019	Validator rating
<p><b>Regulatory strategies and activities are risk-based and proportionate, reflecting findings of regular environmental scans of new and evolving regulatory threats.</b></p>	Met	<ul style="list-style-type: none"> <li>- The Compliance and Enforcement Policy 2018-2021 (Policy) outlines the MDBA’s risk-based approach undertaking its regulatory functions. The Policy is scheduled for review in 2021, however it may be amended at any time in response to significant changes in the regulatory environment or the MDBA’s regulatory approach. No changes to the Policy were made in 2018-2019.</li> <li>- The MDBA regularly reviews and updates its risk assessment of Basin Plan non-compliance, and uses these to inform the MDBA’s annual Compliance Priorities and audit program. The MDBA can also undertake reactive audits in response to emerging regulatory threats or new information.</li> </ul>	Met

## KPI 4 – Compliance and monitoring approaches are streamlined and coordinated

Metric	MDBA rating	Contributing activities in 2018-2019	Validator rating
Information requested from regulated entities is necessary to meet regulatory objectives.	In transition	<ul style="list-style-type: none"> <li>- The MDBA uses a risk-based approach to conduct its regulatory activities and tries to streamline all information requests, which are largely to the Basin states.</li> <li>- Prior to an audit or review, the MDBA and the regulated entity being audited agree to its scope, objectives, and information being requested and examined.</li> <li>- Information was requested from regulated entities such as Basin state government agencies and water trade brokers for auditing compliance with the Basin Plan, and to report on progress meeting Compact commitments.</li> <li>- The MDBA entered into Collaboration Protocols with the NSW Government Department of Industry, the NSW Natural Resources Access Regulator, and the Queensland Department of Natural Resources, Mines and Energy. The protocols outline the approach for conducting audits and joint activities, and referring allegations. As at 30 June 2019, the MDBA was still seeking to finalise protocols with the Victorian, South Australian and ACT governments.</li> <li>- In 2018-2019, the MDBA referred 11 allegations to Basin state water agencies, and requested regular updates from the agencies on the referred allegations.</li> </ul>	In transition
Information requested from regulated entities is re-used or shared with other regulators, where possible.	In transition	<ul style="list-style-type: none"> <li>- The Collaboration Protocols outline how compliance information will be shared between agencies.</li> <li>- Since establishing the Water Compliance Community of Practice in November 2018, the MDBA coordinated a two-day forum and eight teleconferences to facilitate state regulators to share information regarding best practice.</li> </ul>	In transition
Compliance monitoring activities are risk-based and the possibility of joint of coordinated activities with other regulators, where possible, is considered.	In transition	<ul style="list-style-type: none"> <li>- The Collaboration Protocols between the MDBA and Basin state governments include provisions for joint activities.</li> <li>- The MDBA and NSW Natural Resource Access Regulator undertook a <a href="#">2018-2019 Joint Work Program</a>, which included coordinated activities to monitor the Northern Connectivity Event from April – July 2018 (<b>Case Study 3</b>).</li> </ul>	In transition

## KPI 5 – Regulators are open and transparent in their dealings with regulated entities

Metric	MDBA Rating	Contributing activities in 2018-2019	Validator rating
Regulatory strategies and/or information are published and include a risk-based approach.	Met	<ul style="list-style-type: none"> <li>- The <a href="#">Compliance and Enforcement Policy</a> 2018-2021 (Policy) outlines the MDBA’s risk-based approach undertaking its regulatory functions and was published in June 2018.</li> <li>- The MDBA prepares an annual statement of <a href="#">Compliance Priorities</a>, identifying key areas and activities the MDBA will focus on to regulate compliance in the Basin. The Compliance Priorities are informed by an annual environmental scan and risk assessment.</li> <li>- In June 2019, the MDBA published its 2019-2020 Compliance Priorities, which included information about the MDBA’s performance against its 2018-2019 Compliance Priorities.</li> </ul>	Met
Feedback mechanisms are in place and provide stakeholder input into continuous improvement.	Met	<ul style="list-style-type: none"> <li>- In 2018-2019, the MDBA received feedback to inform continuous improvements on its regulatory functions and approach through: <ul style="list-style-type: none"> <li>o Meetings with Basin state officials, peak representatives and the Basin Community Committee.</li> <li>o Quarterly meetings with the Independent Assurance Committee.</li> <li>o Establishing and taking part in the Water Compliance Community of Practice.</li> <li>o Engaging with Basin states, the ACCC, and the Commonwealth Environmental Water Office during the development of the 2019-2020 Compliance Priorities or regarding emerging issues.</li> <li>o The ‘Report a Breach’ online portal.</li> <li>o The Compliance email and Engagement hotline.</li> <li>o Regional Engagement Officers who provide updates to the Office of Compliance about compliance related concerns they have received.</li> <li>o Targeted recruitment of Office of Compliance staff in offices outside of Canberra providing more regional focus and increased opportunities to receive stakeholder feedback.</li> </ul> </li> </ul>	Met

## KPI 6 – Regulators actively contribute to the continuous improvement of regulatory frameworks

Metric	MDBA Rating	Contributing activities in 2018-2019	Validator rating
<b>Demonstrated efforts to establish and use cooperative and collaborative relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework.</b>	Met	<ul style="list-style-type: none"> <li>- The MDBA coordinates the TRWG and the Water Compliance Community of Practice, which are comprised of officials from agencies regulated by the MDBA.</li> <li>- The IAC met four times in 2018-2019 to provide feedback on the MDBA’s regulatory framework. Reports of their meetings were provided to the Authority board and published on the MDBA website.</li> <li>- The MDBA worked with the Basin states, laboratories, manufactures and industry to canvas current metering and measurement capabilities and drive improvements – see <b>Case Study 2</b>.</li> <li>- Through the Compact, the MDBA worked with the Basin states to drive improvements in, and increased stakeholder trust and confidence in, the regulation of the Basin.</li> <li>- The MDBA entered into Collaboration Protocols with NSW and Queensland government agencies.</li> <li>- The MDBA undertook briefings and engagement with the Department of Agriculture, CEWO, ACCC, and Basin states for relevant activities, including during development of policies and Compliance Priorities, and in response to emerging issues.</li> </ul>	Met
<b>Regulatory frameworks or approaches are regularly reviewed and improved.</b>	Met	<ul style="list-style-type: none"> <li>- In June 2018, the MDBA published the Compliance and Enforcement Policy 2018-2021 to replace the Compliance Strategy (2014). The policy will be reviewed in 2020.</li> <li>- In May 2019, the MDBA revised its internal regulatory risk assessment and decision-making framework.</li> <li>- The IAC met four times in 2018-2019 to provide feedback on the MDBA’s regulatory framework.</li> </ul>	Met

# Validator statement

In February 2018, the Murray Darling Basin Authority established the Independent Assurance Committee (IAC) to provide external assurance over the MDBA's Basin Plan compliance role through the provision of independent expert advice to the Authority on the design, implementation and adequacy of the MDBA's compliance program.

The IAC has reviewed the MDBA's self-assessment for 2018-2019, under the Australian Government's Regulatory Performance Framework, and provides this statement of validation to assist the Minister's consideration of the self-assessment.

The IAC reviewed a draft of the self-assessment and provided feedback to the MDBA. The MDBA subsequently revised and finalised its self-assessment.

The IAC can validate the final self-assessment ratings for each of the metrics under the six KPIs. They are an accurate assessment of performance in 2018-2019.

The MDBA has built on its 2017-2018 work and made further improvements to its compliance program in 2018-2019. It continues to pursue excellence through review and external scrutiny.

The MDBA has a unique role as a regulator of regulators as well as having some regulatory roles in its own right. The IAC notes that the MDBA is still in a period of transition as the Murray Darling Basin Plan arrangements are fully implemented.

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