



Australian Government



MURRAY-DARLING
BASIN AUTHORITY

Water resource plan assessment framework

The why, who and how of the MDBA's
assessment process

May 2018

Published by the Murray–Darling Basin Authority
MDBA publication no: 36/18
ISBN (online): 978-1-925762-05-1



GPO Box 1801, Canberra ACT 2601
engagement@mdba.gov.au



1800 230 067
mdba.gov.au

© Murray–Darling Basin Authority 2018

Ownership of intellectual property rights



With the exception of the Commonwealth Coat of Arms, the MDBA logo, trademarks and any exempt photographs and graphics (these are identified), this publication is provided under a *Creative Commons Attribution 4.0* licence. (<https://creativecommons.org/licenses/by/4.0>)

The Australian Government acting through the Murray–Darling Basin Authority has exercised due care and skill in preparing and compiling the information and data in this publication. Notwithstanding, the Murray–Darling Basin Authority, its employees and advisers disclaim all liability, including liability for negligence and for any loss, damage, injury, expense or cost incurred by any person as a result of accessing, using or relying upon any of the information or data in this publication to the maximum extent permitted by law.

The Murray–Darling Basin Authority's preference is that you attribute this publication (and any Murray–Darling Basin Authority material sourced from it) using the following wording within your work:

Cataloguing data

Title: Water resource plan assessment framework, Murray–Darling Basin Authority Canberra, 2018. CC BY 4.0

Accessibility

The Murray–Darling Basin Authority makes its documents and information available in accessible formats. On some occasions the highly technical nature of the document means that we cannot make some sections fully accessible. If you encounter accessibility problems or the document is in a format that you cannot access, please contact us.

Acknowledgement of the Traditional Owners of the Murray–Darling Basin

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.

Contents

1	Introduction.....	1
1.1	Purpose and scope	1
1.2	Context of assessment	2
1.3	Outcomes	2
1.4	Roles and responsibilities.....	2
1.4.1	MDBA.....	2
1.4.2	The Authority.....	3
1.4.3	The Basin states.....	3
1.4.4	The Australian Government Minister.....	3
1.5	Critical timeframes	3
2	WRP assessment approach	4
2.1	The assist phase.....	4
2.2	The assess phase	5
2.2.1	Assessment criteria	5
2.2.2	Failure to meet Basin Plan requirements.....	6
2.3	The accredit phase	6
2.4	Legislative risk	6
3	Communication and consultation	7
3.1	MDBA response timeframes during the assist phase	7
	Glossary	9
	References.....	10

1 Introduction

Water Resource Plans (WRPs) are one of the main tools for implementing the Basin Plan by specifying how water will be shared and managed through sustainable diversion limits. Generally Basin states develop WRPs. To ensure they are consistent with the Basin Plan, the Murray–Darling Basin Authority (MDBA) must assess them and recommend to the Minister whether or not a WRP should be accredited in accordance with the *Water Act 2007 (Cwlth)* (the ‘Act’).

Hence the MDBA has developed an assessment framework comprising of guidelines, position statements and assessment criteria. The framework sets out the information the MDBA is seeking from a Basin state to determine that a WRP meets the Basin Plan requirements and is based on the legal requirements of the Act and the Basin Plan. The framework also describes the process that the MDBA follows when forming its recommendation on the WRP under sections 63 and 65 of the Act.

This framework aims to:

- set out the MDBA’s role in the process leading to the Minister’s accreditation decision
- show when the MDBA can assist Basin states in developing a WRP that meets Basin Plan requirements, and
- explain how the MDBA’s recommendations are the result of a transparent, systematic and repeatable process.

1.1 Purpose and scope

The MDBA will assess each WRP in a systematic way, supported by sufficient and appropriate evidence to ensure they are consistent with the Basin Plan, including the requirements for WRPs in Chapter 10 of the Basin Plan.

The MDBA will look for a WRP that:

- clearly addresses all of the WRP requirements in Chapter 10
- is consistent with all Basin Plan requirements
- ensures that Sustainable Diversion Limits (SDL) are given consistent effect across the Basin
- provides fit-for-purpose management of all Basin water resources
- promotes greater coordination of water planning across state boundaries, and
- increases recognition of indigenous values and uses in water management.

The MDBA’s assessment will consider all of the documents the Basin state submits when seeking accreditation as well as the Basin state’s legislative framework. Basin states may submit additional supporting material that’s not to be assessed but to help the MDBA understand the WRP and how it operates (supporting material is not assessed for consistency with the Basin Plan).

1.2 Context of assessment

Historically, the Basin states have been solely responsible for managing water in the Murray-Darling Basin, including through catchment based water planning arrangements such as water sharing plans

When the Basin Plan was made in 2012, it included a chapter on requirements for WRPs in order to make sure that WRPs, once operational, cover a consistent range of factors and are consistent with the Basin Plan.

Once accredited WRPs give effect to the Basin Plan. Most importantly, WRPs are the main mechanism for giving effect to SDLs. As SDLs come into effect on 1 July 2019, accredited WRPs should be in place by that date.

A WRP can be a single document or made up of a number of different documents. Some of the WRPs may be subordinate to or include state government water management legislation. Basin states may use existing instruments, or may make new ones. Either way they will have to follow their own processes to do so.

A WRP can also include a range of explanatory documents that discuss issues specific to the area, and technical documents that set out the scientific information and analysis on which water management arrangements for that area are based. For many surface water areas the WRP will also incorporate a detailed hydrological model.

State water planners will need to meet their Basin states' own requirements, as well as address the Basin Plan WRP requirements when developing WRPs. In many cases existing state documents or processes could meet both Basin state and Basin Plan requirements.

To confirm that a WRP is consistent with the Basin Plan, it will be assessed by the MDBA and accredited by the Minister. The MDBA can also assist Basin states to develop WRPs that will meet the requirements for accreditation.

1.3 Outcomes

This process aims to support Basin states to develop WRPs for areas that are consistent with the Basin Plan and can be accredited by the Australian Government Minister for Water Resources.

The MDBA aims to provide clear, consistent and robust advice to Basin states that will assist them to develop WRPs that meet the accreditation requirements. The MDBA also aims to undertake a systematic assessment and subsequently provide a recommendation to the Minister.

1.4 Roles and responsibilities

1.4.1 MDBA

Under the Act, our role is to prepare the draft recommendation to the Minister on whether or not the WRP is consistent with the Basin Plan and should be accredited.

Under the Basin Plan Implementation Agreement, the MDBA will work with Basin states as they develop the WRP to help ensure it meets Basin Plan requirements.

The MDBA provides guidance and will be in regular contact with Basin states while they develop WRPs to ensure plans are consistent with the Basin Plan.

The MDBA can assist by:

- reviewing documents from the Basin state while a WRP is being developed and providing preliminary views to help ensure it meets accreditation requirements
- liaising with Basin state water planning staff to resolve technical issues that may prevent the WRP meeting specific Basin Plan requirements
- keeping the Basin state informed of progress and issues arising with the WRP
- assessing the WRP for consistency with the Basin Plan, and
- maintaining records of the WRP assessment.

The MDBA has monitoring and compliance responsibilities for WRPs under s. 58 of the Act.

The [regulatory statement](#)¹ explains the MDBA's WRP compliance framework and approach. This helps clarify the MDBA's role for Basin states, infrastructure operators and other water users on how the MDBA will exercise its WRP compliance role.

1.4.2 The Authority

The Authority is responsible for recommending to the Minister whether to accredit or not accredit a WRP.

1.4.3 The Basin states

Historically state governments had sole responsibility for water planning in their own jurisdictions. Since federation there has been an increasing amount of agreement between Basin states to coordinate use of Murray–Darling water resources while at the same time maintaining state management. With the introduction of the Basin Plan, Basin states have committed to developing WRPs consistent with the Basin Plan for accreditation. One or more state government agencies may have responsibility for developing WRPs, including responsibilities for water policy, hydrologic modelling, environmental water requirements, community consultation, water management, water quality and salinity, mining and plantation forestry.

1.4.4 The Australian Government Minister

The Australian Government Minister for Water is responsible for accrediting WRPs. The Minister receives from the Authority the proposed WRP and the Authority's recommendation whether to accredit, or not accredit, the proposed WRP. The Minister's decision on accreditation must be made in writing and is laid before Parliament.

1.5 Critical timeframes

WRPs are the main instruments to give effect to the SDLs set in the Basin Plan and which come into effect on 1 July 2019. Noting the critical importance of WRPs, the MDBA intends to give full effect to SDLs by ensuring all WRPs are operational by 1 July 2019.

¹ <https://www.mdba.gov.au/publications/policies-guidelines/water-resource-plans-what-they-are-how-they-are-developed>

2 WRP assessment approach

The MDBA, in consultation with the Basin states, has designed a three stage process comprising the:

1. assist phase
2. assess phase
3. accredit phase

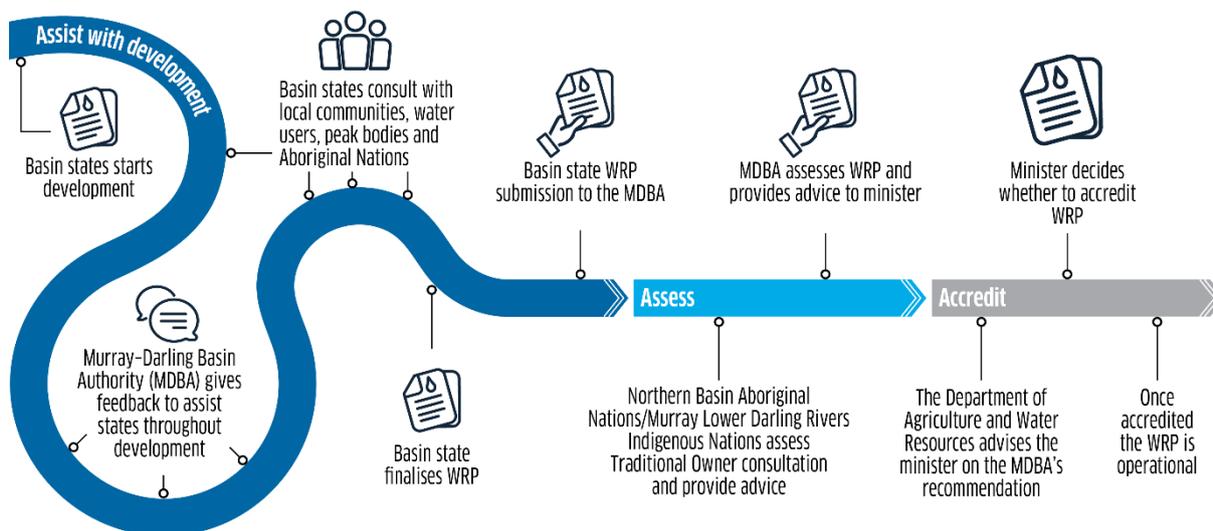


Figure 1: Process to accredit a new water resource plan

2.1 The assist phase

The assist phase begins when a Basin state starts to develop a WRP and engages the MDBA.

Collaboration between Basin states and the MDBA gives all parties confidence that all issues have been resolved before the WRP is formally assessed.

A Basin state may need to change an existing legal instrument to ensure consistency with the Basin Plan, so it is important that this work is done early. As the draft water resource plan develops, the assist phase focuses on ensuring plan provisions are clear and logical.

The MDBA may give Basin states preliminary advice on which requirements appear to have been met and which need further work, and this advice may change as the WRP evolves. No advice can be final until the MDBA has considered all of the documents the Basin state submits as part of its WRP package when seeking accreditation.

To explain how the MDBA interprets some requirements, the MDBA has published [Position Statements](#)² on the MDBA website and developed assessment criteria for each provision in Chapter 10 of the Basin Plan. As part of best practice guidance for states, the MDBA has published guidelines

² <https://www.mdba.gov.au/publications/policies-guidelines/water-resource-plans-what-they-are-how-they-are-developed>

on how to meet specific requirements in Chapter 10 (and may publish more in the future), and provided a handbook that guides water planners in developing WRPs.

The assist phase ideally finishes when the MDBA has fully reviewed and provided comment on all of the material the Basin state intends to submit as part of its WRP package. There should be no more outstanding issues or changes required within the draft WRP so that the Basin state and the MDBA can then be confident that the proposed WRP is consistent with the Basin Plan before it proceeds to the assess phase.

The approach the MDBA uses to assess a WRP depends on the material in the proposed WRP and the nature of the Basin Plan Chapter 10 requirement. Where the WRP satisfies a requirement using an approach the MDBA has already considered as consistent with the Basin Plan, it may be possible for the MDBA to assess that requirement more quickly. The specific situations when a quicker or streamlined assessment could be undertaken by the MDBA have been provided to the Basin States.

2.2 The assess phase

The assess phase begins when a Basin state formally gives the Authority a proposed water resource plan for accreditation under s. 63 of the Act.

The MDBA assesses the content of the WRP package, as submitted by the Basin state, against each and every requirement in Chapter 10, and assesses how the WRP meets those requirements. To make this possible, s. 10.04 of Chapter 10 of the Basin Plan requires the WRP to include a list that indicates which part of the WRP package satisfies each requirement. The MDBA also considers the WRP's consistency with the Basin Plan as a whole and, under s. 55 of the Act, the MDBA must have regard to the legislative framework within which the WRP operates.

2.2.1 Assessment criteria

Chapter 10 of the Basin Plan sets out all the requirements that a WRP has to fulfil for it to achieve accreditation. A total of 55 sections (most with a number of subsections) must be addressed by provisions in a WRP. Many sections and subsections are multi-faceted, interlinked and highly complex, so the MDBA has broken these down into clear assessment criteria for each of the requirements.

In determining if a WRP is consistent with the Basin Plan, MDBA assessors must formally assess if each provision fulfils the corresponding requirements in Chapter 10. The information provided by a Basin state in the WRP and supporting evidence must be of a nature and form that enables assessment. For WRP assessment to be fair, robust and efficient, the assessment must be transparent, systematic and based on logic and reason. An assessment decision must directly address the formal requirements, and must be based on evidence. From time to time, MDBA assessors may need to exercise judgement by weighing up aspects of evidence. Where assessors have to weigh up evidence to come to a decision, how that weighting is made also needs to be transparent, systematic and logically reasoned. Logical reasoning typically includes a consideration for the specific context of a WRP as well as the intent of the requirement. The assessment criteria provide detailed guidance on how the MDBA undertakes this assessment.

2.2.2 Failure to meet Basin Plan requirements

If the MDBA finds that a proposed WRP has an inconsistency with the Basin Plan it must recommend the Minister not accredit the WRP. If the MDBA identifies an inconsistency during the assist phase, the MDBA will advise the Basin state of this and work in good faith with the relevant state officials to resolve the inconsistency. If the possible inconsistency remains when the plan is formally submitted for assessment, the MDBA will write to the relevant state to advise of its intention to recommend against accreditation, and the reasons for that recommendation. The Basin state will then have at least 14 days to respond and the MDBA will consider that response before sending its recommendation to the Minister in accordance with s. 65(4) of the Act.

If a Basin state wishes to change a WRP after submitting it for accreditation, the Basin state will need to revoke its original request for accreditation and resubmit an amended proposed WRP for accreditation.

2.3 The accredit phase

The accredit phase is when the MDBA provides a proposed WRP and an accreditation recommendation to the Minister. The Minister considers the recommendation and then makes a decision to accredit or not accredit the proposed WRP. The Minister's decision is a legislative instrument under s. 63(7) of the Water Act.

During the accredit phase, the Minister may seek further information or clarification from MDBA if required.

Once accredited, the WRP is published on the MDBA's website under the heading [Accredited water resource plans](#)³. After accreditation, the decision to accredit the WRP is entered on the Federal Register of Legislation.

2.4 Legislative risk

This is the risk that the MDBA may not comply fully with relevant legislation or that the assessment process is unfair or not followed correctly.

The risk is realised if the MDBA's assessment, or (on the basis of this assessment) the Minister's consequential accreditation decision, is overturned in the courts.

Legislative risk is best managed by being aware of and adhering to statutory requirements. Strategies to help achieve this include but are not limited to:

1. ensuring adequate information is available before making a recommendation
2. recording evidence and the basis for the recommendation about whether or not each requirement has been met in the assessment template
3. adhering to the due process set out in the Act, and
4. publishing the assessment recommendation once the Minister's decision on whether to accredit has been made.

³ <https://www.mdba.gov.au/basin-plan-roll-out/water-resource-plans>

3 Communication and consultation

The interaction between the MDBA and the Basin state officials is central to these processes. The MDBA is in regular contact with Basin state representatives. Regular meetings and engagement provide an opportunity for the MDBA to help Basin states to develop the WRP and track progress and for the MDBA to gain a better understanding of State legislation and planning processes. In this way issues can be identified early and surprises avoided. The MDBA will record the progress of the assist and assess phase processes and report that information to the Basin Plan Implementation Committee.

3.1 MDBA response timeframes during the assist phase

Based on experience to date and to facilitate a prompt reply to queries, the MDBA has developed the following response timeframes.

Type of request	Timeframe for response
Simple question. (Straightforward, information readily available)	1–2 days
Moderate question. (Multi-faceted requiring input from others across the MDBA and/or requires some analysis or interpretation relevant to the circumstances)	2 weeks
Complex question. (Detailed technical analysis required and/or significant internal consideration and research needed)	6 weeks
Pilot water resource plan: The first water resource plan to be developed in each Basin state is expected to involve a number of activities that will result in the response timeframes being longer than those for subsequent plans, including: <ul style="list-style-type: none"> • resolving issues in a Basin state’s general approach to WRPs to ensure submitted plans can be accredited • determining new policy positions by the MDBA⁴ • building sufficient understanding of a Basin state’s water management arrangements • describing the first time how a Basin state’s water management arrangements meet each water resource plan requirement (as required for the MDBA’s recommendation to Minister) 	As required

⁴ <https://www.mdba.gov.au/publications/policies-guidelines/water-resource-plans-what-they-are-how-they-are-developed>

Type of request	Timeframe for response
<p>Subsequent water resource plans (following completion of pilot): Draft water resource plan package (the MDBA is able to check against all plan requirements once a full draft water resource plan package is provided). <i>Core Chapter 10 Parts (particularly Parts 3, 6, 9 and 14).</i></p>	6–8 weeks
<p>Subsequent water resource plans (following completion of pilot): Draft water resource plan package (the MDBA is able to check against all plan requirements once a full draft water resource plan package is provided). <i>Chapter 10 Parts of significance/risk/priority for a particular water resource plan.</i></p>	6 weeks
<p>Subsequent water resource plan (following completion of pilot): Draft water resource plan package (the MDBA is able to check against all plan requirements once a full draft water resource plan package is provided). <i>Administrative Chapter 10 Parts.</i></p>	4 weeks

Glossary

A range of technical terms used throughout this document are defined in the Basin Plan 2012 and the *Water Act 2007* (Commonwealth).

Assist, assess and accredit phases

The development and submission processes for WRPs during which the MDBA has specific roles

Basin states

Queensland, Australian Capital Territory, New South Wales, Victoria, South Australia

Detailed assessment

A process that requires the MDBA to examine a part of a WRP in detail to ensure it meets the relevant requirements of the Basin Plan. Most likely to apply to technically complex matters, or where there is a high degree of uncertainty associated with risk.

Environmental watering

Release and delivery of water for environmental sustainability

Position statements

A series of published statements setting out how Basin states, in the MDBA's view, can fulfil obligations in the Basin Plan and the Water Act (Commonwealth) in relation to WRPs. Position statements have not-statutory status. Basin states have opportunities to provide feedback on the position statements.

SDL

Sustainable diversion limits

WRP

Water resource plan, as set out in Chapter 10 of the Basin Plan. May be one or more documents, or parts of documents (see position statement 2A for more information)

WRP assessment

A process to prepare a recommendation to the Minister on a water resource plan

WRP Handbook for Practitioners

Guidance document developed by the MDBA for Basin state water resource planners.

References

How we work as individuals and with each other, Basin states and other stakeholders is shaped by legislation, intergovernmental arrangements and policies. These include, but are not limited to, the following documents.

Legislation

- *Administrative Decisions (Judicial Review) Act 1977 (Cwlth)*
- *Basin Plan 2012*
- *Criminal Code Act 1995 (Cwlth)*
- *Freedom of Information Act 1982 (Cwlth)*
- *Legislative Instruments Act 2003 (Cwlth)*
- *Privacy Act 1988 (Cwlth)*
- *Public Service Act 1999 (Cwlth)*
- Revised Explanatory Memorandum to the Water Bill 2007
- *Water Act 2007 (Cwlth)*

Intergovernmental arrangements:

- [Basin Plan Implementation Agreement⁵](#) – August 2013

Policy

- [Guidelines on part 9 and part 14⁶](#) of Chapter 10 of the Basin Plan
- WRP Streamlined assessment
- WRP detailed assessment criteria
- [WRP Position Statements⁷](#)
- [Water resource plan requirements Handbook for Practitioners⁸](#)

⁵ <https://www.mdba.gov.au/publications/policies-guidelines/basin-plan-implementation-agreement>

⁶ <https://www.mdba.gov.au/publications/policies-guidelines/water-resource-plans-what-they-are-how-they-are-developed>

⁷ <https://www.mdba.gov.au/publications/policies-guidelines/water-resource-plans-what-they-are-how-they-are-developed>

⁸ <https://www.mdba.gov.au/publications/policies-guidelines/water-resource-plans-what-they-are-how-they-are-developed>

Office locations

Adelaide

Albury–Wodonga

Canberra

Goondiwindi

Toowoomba

 mdba.gov.au

 1800 230 067

 engagement@mdba.gov.au