

Basin Plan Water Resource Plan Requirements Position Statement 3G - Identifying characteristics of classes of water access rights

POLICY ISSUE	What classes of water access rights must be identified, and what characteristics of those classes need to be listed, to satisfy the requirements of s10.08(1)(b) and (c).
REFERENCES	Basin Plan s10.08(1)(b) and (c), <i>Water Act 2007</i> (Cwth) s.4

MDBA POSITION STATEMENT	
	<p>1. A water resource plan (WRP) must list all classes of water access rights for each form of take from each SDL resource unit in the WRP area, as at the time the WRP is submitted for accreditation.</p> <p style="margin-left: 20px;">a. The <i>Water Act 2007</i> defines water access rights under s.4 – definitions (see below).</p> <p style="margin-left: 20px;">b. The forms of take are defined in the Basin Plan under s1.07 – definitions (see below). Water rights should only be accounted for in one form of take, as required under s1.11 (see position statement 3B – double counting).</p> <p>2. Any classes of water access right that apply to the forms of take identified in Item 1 above must be identified by name and listed in the WRP e.g. entitlements with different levels of security, licences (e.g. supplemented and unsupplemented licences), stock and domestic rights, permits or authorisations including for mining use and for interception) . Forms of take where a water access right has not been issued should be identified explicitly.</p> <p>3. The characteristics of each class of water access right must also be identified. The Authority will require a WRP to include the following characteristics, where appropriate:</p> <p style="margin-left: 20px;">a. the number of water access rights in each class for each of the forms of take,</p> <p style="margin-left: 20px;">b. an estimate of the total volume of water access rights, by class, issued for each of the forms of take at the time the WRP is submitted for accreditation. This can be in GL, unless the total volume is < 0.1GL in which case it should be provided in ML, or alternatively in unit shares. If unit shares are provided, a description of the volumetric amounts generally associated with such shares should also be provided, and</p> <p style="margin-left: 20px;">c. any rules or conditions that apply to a class, or a description of how rights under a class are exercised. Where a class of water access rights are not managed using a system of licensing the WRP should include an explanation of how these rights are managed e.g. commercial plantations. The WRP must include the rules, conditions or descriptions, whether they are applied at an individual licence level,</p>

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by way of government notice or regulation, or prescribed in relevant State legislation.

4. Section 10.08(1) does not require a WRP to list every individual water access right and its characteristics. The section only requires the WRP to identify the classes of water access right that apply to each form of take, and the characteristics of each of those classes. Where the characteristics of a class of water access rights differ within the class, the range of characteristics should be identified (e.g. unregulated entitlements that refer to different river gauges within the one WRP area).
5. This position statement should be read in conjunction with the following Position Statement:

Policy Position Statement 3K – Take not included in a Water Resource Plan

Rationale

The Basin Plan defines the **forms of take** in s1.07, as any of the following forms of take:

- (a) *take from a watercourse;*
- (b) *take from a regulated river;*
- (c) *take by floodplain harvesting;*
- (d) *take by runoff dams;*
- (e) *net take by commercial plantations;*
- (f) *take from groundwater;*
- (g) *take under basic rights.*

Under the Water Act, **water access right**:

- (a) *means any right conferred by or under a law of a State to do either or both of the following:*
 - (i) *to hold water from a water resource;*
 - (ii) *to take water from a water resource; and*
- (b) *without limiting paragraph (a), includes the following rights of the kind referred to in that paragraph:*
 - (i) *stock and domestic rights;*
 - (ii) *riparian rights;*
 - (iii) *a water access entitlement;*
 - (iv) *a water allocation; and*
- (c) *includes any other right in relation to the taking or use of water that is prescribed by the regulations for the purposes of this paragraph. (NB: currently no regulations have been made)*

The Basin Plan requires a WRP to identify the classes of water access rights that apply to all forms of take for both groundwater and surface water.

Information provided to fulfil the requirements of s10.08 also provides an overview of use of the water resources covered by the WRP, and is helpful in assessing other aspects of a WRP, for example:

- identifying whether rules apply to certain forms of take or all forms of take,
- understanding whether the WRP manages many different forms of entitlement or authorisations, and the relative sizes of water holdings (eg, whether there are 5 water access rights of 100 ML each, or 500 rights of only 1 ML each)
- understanding the complexity of the rules for take under s10.11 and how they apply to the range of water access rights,

POSITION STATEMENT 3G - Characteristics of water access rights

- understanding how any conditions on the water access right reflect the risks or other rules nominated in the WRP,
- determining permitted take under s10.10,
- accounting under s10.12.

An example of how a WRP could present the information as a table is shown below:

<i>Basin Plan requirement for s10.08(1)(a),(b)</i>		<i>Basin Plan requirement s10.08(1)(c)</i> Characteristics of each class of right (where appropriate)		
<i>Form of Take</i>	<i>Class of Water Access Right</i>	<i>Number of Water Access Rights in the class</i>	<i>Total Volume issued to the class (GL, < 0.1GL and then in ML, or Unit Shares) (as at date of WRP accreditation)</i>	<i>Any Conditions on the exercise of the rights; volumes generally associated with unit shares; etc</i>
<i>Take from a regulated river</i>	<i>Regulated river licence</i>	X	XGL	<i>Allocations announced ...</i>
<i>Take from a watercourse</i>	<i>Unregulated river licence</i>	X	XGL	<i>Take of watermust not be taken when flows are xxx</i>
<i>Take by farm dams</i>	<i>Authorisation</i>	X	XGL	<i>Subject to section XX of the Act 2000 managed through permits to construct farm dams</i>
<i>Take by basic rights</i>	<i>General right to take water</i>	X	XGL	<i>Water can only be taken at a point in time, at a location XX as per Part 3 of the Water Act 200X</i>
<i>Net take by commercial plantations</i>	<i>No water access right issued</i>	X	XGL	<i>Subject to section XX of the Act</i>

The above table has been developed as an example of how a state WRP could present the requirements under s10.08.

The handbook for practitioners (pp 25 – 27) outlines further information on the requirement for s10.08(1).

Position Statement 3K – Take not included in a Water Resource Plan - outlines the take that is not required to be included in a Water Resource Plan, please ensure this position statement is read in conjunction with 3K.

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