

Basin Plan Water Resource Plan Requirements Position Statement 4C - Consistency with 10.19 (Groundwater and surface water connections)

POLICY ISSUE	How will the MDBA assess whether the requirements of s10.19 (Groundwater and surface water connections) have been met?
REFERENCES	Basin Plan s6.14, s10.05, s10.19, s10.22, s10.41 and s10.43

MDBA POSITION STATEMENT	
	<ol style="list-style-type: none"> 1. In preparing a WRP regard must be had to whether it is necessary to include rules that ensure that, for groundwater that has a significant hydrological connection to surface water, the operation of the WRP does not compromise the meeting of environmental watering requirements. (Detail about the meaning of 'having regard to' is contained in Position Statement 1B. Detail about 'significant hydrological connection' is in Position Statement 2B.) 2. In having regard to the need for rules, if the risk assessment (under s10.41) for a WRP determines that the level of risk to the capacity to meet such environmental watering requirements (10.41(2)(a)) is medium or high, the MDBA will expect that the WRP will include rules to address the identified risks. The WRP must also explain why, if any risks to the condition and continued availability of the water resources have been identified, WRP rules addressing such risks have or have not been included (s10.22(b)). 3. Where there are existing rules in an interim or transitional water resource plan or under State water management law that manage risks to such environmental watering requirements, the rules should be continued into the WRP in the existing form, or in an improved way. A WRP may also include additional or improved rules. 4. If a WRP omits an existing rule (point 3), the MDBA will seek supporting evidence that demonstrates why the rule was not required. 5. The WRP or supporting evidence must demonstrate that in considering the need for rules and developing the rules, regard was had to whether rules should be included to specify: <ol style="list-style-type: none"> a. the times, places and rates at which groundwater is permitted to be taken b. resource condition limits (for example cease to pump trigger levels and bore offset distances) c. restrictions on the water permitted to be taken. 6. The MDBA will assess whether rules are required, and the adequacy of rules that are included, by referring to: <ol style="list-style-type: none"> a. the <i>Approaches to achieve sustainable groundwater management in the Murray Darling Basin</i> report,

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- b. expert judgement, or
 - c. comparing with rules in comparable systems elsewhere.
7. The requirements for describing how regard was had to the matters are addressed in Position Statement 4F Description of how requirements have been met (s10.22). Additionally, in having regard to the need for any rules to be included, and in developing such rules, reference should be made to Position Statement 1H Potential Reliability Changes.

Rationale

If a WRP area does not contain areas where there is significant hydrological connection between surface and groundwater resources the Basin State should make a statement to this effect.

The MDBA will assess whether regard has been appropriately had for the purposes of s10.19 in the way described in Position Statement 1B (interpreting ‘have regard to’).

The identification of significant hydrological connection carried out under s10.05 and the associated risk assessment for potential groundwater and surface water connections can be used to contribute to meeting the ‘have regard to’ requirements of s10.19(1). To ensure that this is clear, the WRP index may reference the same material for the purposes of meeting the requirements of s10.05 and s10.19(1).

The MDBA will apply Position Statement 4F to assess how the WRP or supporting evidence describes what was done to comply with the requirements for s10.19. Where rules could be included in a WRP, MDBA will consider:

- a. the times, places and rates at which groundwater is permitted to be taken
- b. resource condition limits
- c. restrictions on the water permitted to be taken.

If a risk to the capacity to meet environmental watering requirements is identified by the WRP risk assessment as medium or high, the MDBA will also assess any explanation that such a risk cannot be addressed by the water resource plan in a manner commensurate with the level of risk (s10.43(1)(b)).

The MDBA has produced a report, *Approaches to achieve sustainable groundwater management in the Murray Darling Basin*, which provides guidance on selecting of appropriate rules in different circumstances to address the risks to meeting: environmental watering requirements (s10.18), groundwater and surface water connections (s10.19), productive base (s10.20) and water quality (s10.21). This report is available at: [http://mdba.gov.au/kid/files/Approaches to achieve sustainable groundwater management in the Murray Darling Basin.PDF](http://mdba.gov.au/kid/files/Approaches_to_achieve_sustainable_groundwater_management_in_the_Murray_Darling_Basin.PDF).

The report provides guidance in developing rules for inclusion in the WRPs. It is designed to assist WRP preparation and a state may choose different rules or methods to those included in the report. The MDBA will use the report as one source of information when assessing the adequacy of rules to address the risks to meeting environmental watering requirement (10.41(2)(a)). Other sources of information for assessing the adequacy of rules include:

- a. comparing the rules with rules applied in other areas in the Basin State,
- b. comparing rules with rules used in other jurisdictions,
- c. referring the rules to internal or external experts for their judgement.

Under s6.14 of the Basin Plan: ‘Nothing in the Basin Plan requires a change in the reliability of water allocations of a kind that would trigger Subdivision B of Division 4 of Part 2 of the

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Water Act 2007. Therefore if any rules are required that are in addition to those already applying under the relevant transitional or interim water resource plan, a Basin State may either:

- develop and include in the WRP rules that do not change the reliability of water allocations, or
- if it is not possible to include rules that do not change reliability - not include rules in the WRP.

If through the process of applying s 10.19 it is clear that rules are necessary, but a Basin State determines that it is not possible to include rules that do not change reliability, the MDBA will seek evidence to support that determination.

A Basin State may choose to include in a WRP rules that change the reliability of water allocations, however it must be made clear that the Basin State has chosen to include the rules for its own reasons, and not in order to meet any requirement of the Basin Plan. Position Statement 1H sets out the MDBA's policy on potential reliability changes.

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