

# Basin Plan Water Resource Plan Requirements Position Statement 2A Accredited WRP and evidence

<b>POLICY ISSUE</b>	<b>What parts of the submitted documentation are included in the accredited WRP?</b>
<b>REFERENCES</b>	Basin Plan s10.04, Water Act s4

<b>MDBA POSITION STATEMENT</b>
<p>Documentation submitted for the purposes of seeking accreditation of a water resource plan can be classified into three categories:</p> <ol style="list-style-type: none"> <li>1. <u>Documentation comprising the proposed water resource plan.</u> Only those parts of the submitted documentation that make provision in relation to the matters that the Basin Plan requires a water resource plan to include are part of the proposed water resource plan, and will comprise the accredited water resource plan. Documentation will make provision in relation to such a matter if it meets a Basin Plan requirement for a water resource plan to <i>identify, specify, describe, contain, set out, require, account for, include, explain, provide for, ensure, list, assess, or define</i> something.</li> <li>2. <u>Supporting evidence.</u> Supporting evidence is those parts of the submitted documentation that are required to determine whether a water resource plan requirement has been met and is fit-for-purpose, but that are not required by the Basin Plan to be included in the accredited water resource plan.</li> <li>3. <u>Additional documentation.</u> Additional documentation that is not part of the accredited water resource plan or supporting evidence may be included with the submitted documentation to provide necessary context, as required.</li> </ol>

## Rationale

A water resource plan (WRP) under the Water Act is a plan that provides for the management of the WRP area that is either accredited or adopted by the Minister. However, a plan is only a WRP to the extent that it relates to Basin water resources and makes provision in relation to the matters that the Basin Plan requires a WRP to include (see definition of WRP in s4 of the *Water Act 2007*).

The matters that the Basin Plan requires a WRP to include are identifiable by language that requires the water resource plan to *identify, specify, describe, contain, set out, require, account for, include, explain, provide for, ensure, list, assess, or define* something.

<b>MDBA Reference</b>	D15/14974	<i>Accessed:</i>
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Subsection 10.04(4) requires a WRP to include a list specifying each WRP requirement, and the part of the plan that addresses each requirement. This list, or index, will clearly identify documentation that directly meets the WRP requirements. Subsection 10.04(5) requires that if a WRP includes material (for example, a statutory instrument) that contains within it other material that is not part of the WRP, that other material must also be identified. This will also help to ensure that the precise provisions of a WRP are clear.

Where additional information is provided which does not directly meet the WRP requirements but is intended to support the way in which the requirement has been met, it would be useful to clearly identify this documentation in the list, or index.

Supporting evidence will not be part of the accredited WRP, but is still of critical importance in ensuring that the MDBA can assess that a WRP requirement has been satisfied.

Examples of supporting evidence is material that provides:

- context, technical support or documentation beyond what is directly required by the provision, and
- information about the way in which a requirement has been met, including justification of a particular approach.

An amendment to an accredited WRP will only have effect under the *Water Act 2007* if that amendment is subsequently accredited (see s66 of the *Water Act 2007*). Clarity about what forms the accredited WRP will reduce administrative burden associated with consideration of amendments.

Material forming the accredited WRP may include a wide variety of instruments or texts, including Acts, regulations and other statutory or legislative instruments as well as descriptive and policy documents or hydrologic model runs. The types of instruments or texts used to meet particular requirements inform consideration of whether a WRP is fit-for-purpose. This is particularly relevant where a WRP must impose an obligation. In this circumstance the enforceability of the WRP under state law should be considered.

Different kinds of documents will be more suitable for meeting particular requirements. For example, some provisions have clear obligations that need to be met (e.g. where the WRP must ensure, require or provide for something), and in these cases statutory or legislative instruments that have effect under state law may be the most suitable type of document to meet the requirement. Other provisions are more concerned with understanding the information and analysis informing the WRP (e.g. where a WRP must identify, describe, list or explain something), and in these cases policies, technical reports or consultation reports may be more suitable.

The Commonwealth Minister's accreditation decision has the effect of making the relevant documents, or the identified relevant parts of them, part of the accredited WRP, which means the sections of the *Water Act 2007* relevant to WRPs will apply (e.g. s58 & s59 regarding acting consistently with the WRP, s65 regarding the accreditation of amendments). Including documents (including state legislative instruments) in an accredited WRP does not result in them becoming legislative instruments under the *Water Act 2007*.

MDBA Reference	D15/14974
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