



MDBA / NSW Bilateral agreement implementation

MDBA's assessment of progress

September 2020

NSW Action	Authority action	Timeframe	MDBA Assessment of Progress as at 30 June 2020
<p>Overall NSW has submitted reports against the bilateral agreement with the MDBA. This interagency bilateral agreement is in place to ensure that key Basin Plan commitments are able to be given effect by 1 July 2020 despite the delays in delivery and accreditation of water resource plans (WRPs).</p>			
<p>1 1.1 For each WRP area, for each water accounting period, NSW will report to the Authority:</p> <ul style="list-style-type: none"> 1.1.1 the quantity of water permitted to be taken from each SDL resource unit of the WRP area for consumptive use; and 1.1.2 the quantity of water actually taken from each SDL resource unit: and 1.1.3 and assessment of compliance with the SDL of each SDL resource unit: and 1.1.4 if there has been non-compliance with the SDL of an SDL resource unit – details of any claim for reasonable excuse for the excess and the actions NSW will take to ensure that the limit is complied with in the future. <p>1.2 The quantity permitted to be taken, and the quantity actually taken, must be determined in accordance with the methods specified in relation to the requirements of sections 10.10, 10.12 and 10.15 of the Basin Plan:</p> <ul style="list-style-type: none"> 1.2.1 in the proposed WRP for the area; or 1.2.2 if material has been submitted in accordance with action 2 for the period – in that material. <p>1.3 Compliance with the SDL must be assessed in accordance with the method specified in the Basin Plan Chapter 6 Part 4, and as if:</p> <ul style="list-style-type: none"> 1.3.1 the quantity reported in paragraph 1.1.1 was annual permitted take for s 6.10(1) (surface water) of 6.12B(1) (groundwater) of the Basin Plan; and 1.3.2 the quantity reported in paragraph 1.1.2 was annual actual take for s 6.10(2) (surface water) of 6.12B(2) (groundwater) of the Basin Plan; and 1.3.3 for s 6.12(4)(a) (surface water) or s 6.12C(4)(a) (groundwater) of the Basin Plan, ‘the operation of the WRP’ means the application of: <ul style="list-style-type: none"> 1.3.3.1 the methods referred to in paragraph 1.2, and 1.3.3.2 rules set out in the proposed WRP in relation to the requirement in s 10.11 of the Basin Plan or, if material has been submitted in accordance with action 2 for the period, material which addresses the matters set out in s 10.11 of the Basin Plan. <p>1.4 Consistent with the requirements of the Authority's <i>SDL Reporting and Compliance Framework 2018</i>, where methods referred to in paragraph 1.2 have been updated from the previous water accounting period, NSW will include in the report updated estimates of the quantity of water permitted to be taken from each SDL resource unit of the WRP area for consumptive use using the new methods from 1 July 2019.</p>	<p>The Authority will use the report provided under this action as equivalent to the report required by s 71(1) (g) and (h) of the Act to track NSW performance in meeting Basin Plan expectations, including in relation to compliance with SDLS.</p> <p>The Authority will publish on its website content provided from this report.</p>	<p>NSW will provide the report within 4 months after the end of each water accounting period.</p>	<p>Action 1: No action required</p> <p>NSW has submitted WRPs for all of its WRP areas by 30 June 2020. The timeframe for reporting against this action is four months after the end of the water accounting period of 30 June 2020.</p>

<p>1.5 A report for this action will be prepared consistently with s 71 of the Act, Basin Plan Chapter 6 Part 4, and the Authority's associated <i>SDL Reporting and Compliance Framework 2018</i>.</p>			
<p>2 2.1 For each WRP area, for each water accounting period in which there is not a proposed WRP, or a proposed WRP has been submitted but withdrawn before 30 June in that period, NSW must submit to the Authority material which addresses:</p> <p>2.1.1 all matters set out in sections 10.10, 10.11, 10.12, 10.13, 10.15 of the Basin Plan; and</p> <p>2.1.2 where interception has been assessed as having a significant impact in any WRP, all matters set out in sections 10.23, 10.24 and 10.25, of the Basin Plan; and</p> <p>2.1.3 any proposed amended estimates of the surface water BDL (as currently specified in Column 2 of Schedule 3 of the Basin Plan) for SDL resource units in the WRP area as at 30 June in that period, based on best available information supported by documented evidence; and</p> <p>2.1.4 supporting documented evidence of the basis for the proposed amended estimates.</p> <p><i>Note: it is expected that NSW would draw on the most up-to-date draft methods that have been prepared in consultation with the Authority (pursuant to its functions under s 67 of the Act) for this Action, or reference suitable content that is available publicly.</i></p>	<p>The Authority will publish on its website content provided from this material.</p>	<p>NSW will provide the material on or before 30 June each year.</p>	<p>Action 2: No action required</p> <p>NSW has submitted WRPs for all of its WRP areas by 30 June 2020. Therefore, NSW has not reported against Action 2. The MDBA is currently assessing the WRPs for consistency with the Basin Plan including those matters listed at Action 2.</p>
<p>3 3.1 For the Barwon-Darling Watercourse, Gwydir and Macquarie-Castlereagh WRP areas, for each water accounting period in which there is not a proposed WRP for all three WRP areas, or a proposed WRP for one or more areas has been submitted but withdrawn before 30 June in that period, NSW will provide to the Authority a report which includes:</p> <p>3.1.1 a progress report on delivery against the <i>Better management of environmental water work program</i>. (NSW Government, April 2019); and</p> <p>3.1.2 the draft rules proposed to improve the management and protection of environmental water in the Barwon-Darling Watercourse, Gwydir and Macquarie-Castlereagh WRP areas.</p> <p>3.2 If any part of the delivery of the <i>Better management environmental water work program</i> is not complete, or draft rules referred to in paragraph 3.1.2 are not complete, NSW will provide, in addition to the report required by paragraph 3.1, a report explaining the reasons for non-completion.</p>	<p>The Authority will publish on its website content provided from these reports.</p>	<p>NSW will provide the reports on or before 30 June each year.</p>	<p>Action 3: No action required</p> <p>NSW has submitted WRPs for all of its WRP areas by 30 June 2020. Therefore, NSW has not reported against Action 3. The MDBA is currently assessing the WRPs for consistency with the Basin Plan including those matters listed at Action 3.</p>
<p>4 4.1 NSW will provide to the Authority a report on delivery of the <i>Floodplain Harvesting Action Plan</i> (NSW Government, September 2019).</p> <p>4.2 If any part of the delivery of the <i>Floodplain Harvesting Action Plan</i> is not complete, NSW will provide, in addition to the report required by paragraph 4.1, a report explaining the reasons for non-completion.</p>	<p>The Authority will publish on its website content provided from these reports.</p>	<p>NSW will provide the reports on or before 30 June each year.</p>	<p>Action 4: Partially met</p> <p>4.1 Report provided 15 July 2020</p>

<p>4.3 This reporting requirement will continue until all floodplain harvesting licences have been issued and there are WRPs for the New South Wales Border Rivers, Barwon- Darling Watercourse, Gwydir, Namoi and Macquarie-Castlereagh WRP areas incorporating floodplain harvesting management policy.</p>			<p>4.2 Commentary provided in above report. NSW has committed significant resources to progress this issue and the MDBA welcomes this work. MDBA note a number of milestones have been rescheduled.</p> <p>The following actions are identified as delayed:</p> <ul style="list-style-type: none"> - Write to individuals to explain the parameters that we will use to work out their licence entitlements - Publish valley-based model build and model scenario reports - Publish valley-based environmental benefit reports - Hold workshops with stakeholders to explain the model build, model scenario and environmental assessment reports on a valley-by-valley basis - Release proposed water sharing plan and water resource plan rule changes for floodplain harvesting - Hold workshops with stakeholders about proposed water sharing plan and water resource plan rule changes <p>The finalisation of floodplain harvesting licensing arrangements in NSW water sharing plans and WRPs relies on the delivery of some the actions in the Floodplain Harvesting Action Plan. Therefore, any delays, for example to valley-based model build and model scenario reports, may impact the finalisation of water sharing plans and WRPs.</p> <p>Discussion with NSW officials has indicated that the Floodplain Harvesting Action Plan is being progressed. However, NSW has not provided a report explaining the reasons for non-completion of these items as required by this action. The report notes only that some targets have been revised.</p> <p>The MDBA also notes that, although it was delayed, NSW has achieved an important milestone in releasing its final <u>Floodplain Harvesting Measurement Policy</u> (July 2020).</p> <p>4.3 No specific action.</p>
<p>5 5.1 For the Murrumbidgee WRP area, NSW will:</p> <p>5.1.1 work with the ACT Government to develop a process for enabling two-way interjurisdictional water trading between NSW and the ACT; and</p> <p>5.1.2 provide to the Authority a report on progress against the NSW/ACT agreed workplan.</p> <p>5.2 NSW will engage with the Authority on the possible implications of the approach on interstate trade and any amendments that would be required to either Schedule 1 of the Act or its protocols.</p> <p><i>Note: NSW acknowledges the Ministerial Council agreement on 14 December 2018 to enable two-way interjurisdictional water trading between NSW and the ACT.</i></p>	<p>The Authority will publish on its website content provided from these reports.</p>	<p>NSW will provide the reports on or before 30 June each year.</p>	<p>Action 5: At risk of delay</p> <p>5.1.1 NSW has engaged with the MDBA and the ACT to enable water trade between the ACT and NSW. However, as at 30 June 2020, agreement on a trading mechanism has not been reached between the ACT and NSW. This has stalled discussions and at this time the MDBA believes there is a tangible risk of failing to reach an agreement on a trading mechanism. Both jurisdictions will need to fully invest in further engagement to agree to a trade mechanism and progress this agreement.</p> <p>5.1.2 NSW has provided the Authority a report on the progression of the agreed workplan which outlines the key issues related to the stalled implementation of the workplan to enable ACT/NSW water trading.</p>

			<p>5.2 Due to the lack of agreement on a trading mechanism, NSW has not yet engaged with the Authority on the implications for the Water Act 2007 or its Protocols under Schedule D of the Murray-Darling Basin Agreement.</p> <p>Once a trade mechanism is agreed, NSW (and the ACT) will need to then engage with the Authority to assess any changes needed to the <i>Water Act 2007</i> to facilitate trade between the ACT and NSW.</p>
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