

Compliance Compact Review

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Review by Parties for the Murray–Darling Basin Compliance
Compact

May 21

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Acknowledgement of the Traditional Owners of the Murray–Darling Basin

Basin governments pay 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.

Aboriginal people should be aware that this publication may contain images, names or quotations of deceased persons.

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Executive Summary

In 2018, New South Wales, Victoria, Queensland, South Australia, the Australian Capital Territory and the Australian Government (Basin governments) entered into the Murray–Darling Basin Compliance Compact (the Compact). The Compact sought to ‘restore public confidence in water resource management in the Basin by increasing transparency and accountability of surface and ground water management and regulation across the Basin.’

The Compact is a non-binding agreement that contains the joint and individual commitments of the Basin governments to reform and improve water compliance and was endorsed by Murray–Darling Basin First Ministers at a meeting of the Council of Australian Governments. By the Compact’s very nature, Basin governments are therefore held to account by the mutual commitments they have made to one another.

This review has been undertaken by Basin governments to examine whether the Compact is achieving the intended outcomes and identify any further work necessary to achieve these outcomes. It is not intended as a comprehensive review and evaluation of effectiveness.

Findings of the review

In the three years since the Compact’s inception, the Basin has seen water compliance improve in many areas and metering become more widespread and accurate. The Compact has played a vital role in leading this reform alongside State-led initiatives such as the establishment of an independent regulator in NSW and other policy changes pre-dating the Compact.

The Compact has achieved a major uplift in the availability of compliance information to communities and in doing so, has laid the foundation for governments to build community trust. The Compact has overseen a substantial review of governance arrangements by all Basin governments, which has improved and increased consistency in regulatory arrangements across the Basin. Furthermore, significant pieces of work have been carried out under the Compact and independently by Basin governments to increase transparency and accountability.

Notwithstanding these improvements, some water users, as well as community representatives through the Basin Community Committee (BCC), identified complex and impenetrable water compliance arrangements as a material impediment to building trust and confidence in water management. Consultation with the BCC representatives found that differences between Basin governments’ on when a meter is required continue to be one of a number of factors that feed into perceptions that the water rules are unfair. The best practice guidelines for minimum metering thresholds agreed by all Basin governments provide some clarity and consistency as to when a meter is required, but still results in significant differences due to the different risk approaches adopted by each Basin state. Public confidence in water compliance will continue to suffer without a minimum Basin-wide threshold for when a meter is required in order to take water.

Similarly, increased transparency within each Basin government alone has not been enough to increase trust in water compliance across the Basin. The annual cycle of Compact reporting has focused on whether activity-based commitments and obligations have been discharged, rather than reporting the effectiveness and pace of water compliance reforms. While the increase in the available quantity of water compliance information is a step in the right direction, it remains difficult to compare the compliance systems in different States. To build trust, communities need access to information on the effectiveness and performance of water compliance regulators that is presented consistently across the Basin.

Overall, the Compact remains relevant as a set of principles to guide reform and improvement in water compliance, and as a framework for mutual accountability. However, it will be challenging for the Compact to improve public confidence in water management without addressing these shortfalls.

The future of the Compact

While a significant proportion of the activities committed to by Basin governments under the Compact have been achieved, the Compact still serves as an important accountability framework for significant reforms in metering and measurement including the roll out of telemetry until 2025.

To be successful in realising the Compact's objectives, Basin governments will need to use the existing principles and build on current activities to set Basin-wide standards for meter thresholds and establish improved and refined Basin-wide public reporting on the performance of water compliance systems. Further detail on how this can be achieved is set out in Part 4 of this review report.

Evolving the Compact in this way ensures that it can continue to serve as a key pillar in rebuilding public confidence in the management of the Murray–Darling Basin's water resources.

Part 1. Context for the review

An overview of the Compact

Following the Four Corners Program 'Pumped', televised in July 2017, there is a growing public expectation for governments to be more effective in water compliance. As part of this, communities expect that all forms of water take are to be metered and that there are timely compliance decisions and enforcement actions when water users take more than the law allows. For communities, it is not enough that justice is done; it must also be seen to be done.

Basin governments developed the Compact as a collective commitment to respond to recommendations from the reviews that followed the Four Corners program.

Through the Compact, Basin governments demonstrate the importance of acting together on governance, enforcement and metering compliance, to restore public confidence in compliance and enforcement of water regulation across the Murray–Darling Basin.

The commitments in the Compact are divided into two parts – the first is a set of principles and priority actions viewed as critical for compliance and enforcement by all Basin governments. The second part is made up of individual Basin government work programs to improve compliance and enforcement.

The Compact contains commitments under five priority areas for effective water compliance and management in the Basin:

- A compliance culture of transparency and accountability in decision-making.
- Effective compliance and enforcement frameworks.
- Metering and measurement of water take.
- Finalising water resource plans.
- Protecting and managing environmental water.

These commitments were translated by Basin governments into work plans and activities for joint action and for each jurisdiction. There was considerable variation in jurisdictional workplans reflecting differences in water compliance arrangements and resourcing within each jurisdiction at the time the Compact was put in place.

Basin governments agreed to annual independent assurance of progress against the commitments made under the Compact. While the Basin governments were required to review the Compact by 30 June 2020, it was delayed so that the findings of the 2020 assurance process could be incorporated into the review as an important line of evidence.

How this review was conducted

The review was led by the Murray–Darling Basin Authority on behalf of all Basin governments. It was carried out in order to:

- (1) Assess whether the Compact framework and commitments are achieving the intended outcomes of the Compact.
- (2) Identify further work necessary to achieve the intended outcomes of the Compact.

The review examined whether the desired outcomes under each of these five priority areas were achieved and whether these were effective in restoring public confidence in water management in the Murray–Darling Basin.

The review was informed by the following sources of information and analysis:

- A survey of Basin states and the Australian Government (including the Murray–Darling Basin Authority (MDBA)), reflecting on the Compact outcomes and providing further insight into the overall efficacy of the Compact.
- Detailed interviews were conducted with community representatives from the MDBA’s Basin Community Committee (BCC) to understand the key drivers of change in community confidence that have occurred over the lifespan of the Compact. The BCC was chosen for this purpose as it is an independent advisory committee with a high level of independence and wide-ranging membership from across the Basin.
- A submission provided by the Independent Assurance Committee to the MDBA, to provide an independent perspective of the effectiveness of the Compact.
- Conclusions from relevant independent reviews and assessments of community confidence in water management in the Murray–Darling Basin.
- Documented and published frameworks, assurance reports, compliance activity reporting and compliance data, reported by Basin governments with primary enforcement responsibilities.

Part 2. What has the Compact achieved?

As a result of the Compact, and combined with other initiatives, water compliance has improved, more information is available to the community and metering is more accurate within Basin governments.

The Compact has been successful and remains relevant as a set of principles to guide reform and improvement in water compliance, and as a framework for mutual accountability.

For continued progress, Basin governments can build on the principles and actions already committed to through the Compact, to ensure that the Basin’s compliance systems are ones that Australians have faith and trust in.

The following sections cover the Compact outcomes in each of the key themes in detail.

A. Transparency and accountability

The Compact establishes transparency and accountability as essential elements of a compliance culture. Together they build public confidence in both the legitimacy and fairness of water sharing and extraction arrangements, and the consistent application of those arrangements.

The Compact committed Basin governments to a range of actions to improve the regulatory culture within water compliance agencies. These actions were aimed at increasing the transparency of decision-making frameworks and water extraction arrangements, as well as the development of water information systems to improve access to information.

What has been achieved?

All jurisdictions examined their governance arrangements. This has resulted in an improvement in governance at all levels, from the highest intergovernmental committees such as the Basin Officials

Committee (BOC) to internal state frameworks, as well as a greater alignment with the Murray–Darling Basin Ministerial Council.

The Compact has resulted in an increase in the quantity of information on water management and water compliance rules. Basin governments have made available a wide range of materials aimed at helping water users to understand the water rules and how to comply with them.

Nine new platforms and dashboards have been developed across the Basin to enable the public to access real-time information on water take, rules and environmental watering activity. Water information dashboards showing water usage, allocation, restrictions, trade and compliance activity are now available in NSW, Victoria and South Australia.

Have the desired outcomes been achieved?

Increased transparency and improvements to governance under the Compact have increased the level of confidence and trust between state water managers.

However, despite an increase in the quantity of available information, the review was unable to determine the effectiveness of compliance arrangements across the Basin due to differences between jurisdictions in both the compliance arrangements and how they are communicated and reported.

Similarly, while communities are becoming more informed, the volume and complexity of information is a challenge. Water management reviews led by Mick Keelty and Robbie Sefton in 2020 concluded that, to be transparent, information needs to be presented in a way that is easy to understand.

New initiatives now complement and go beyond the Compact’s reforms on transparency and accountability. The review noted several changes and new government investments since the Compact was made, such as the \$35 million Enhanced Water Monitoring and Information, designed to increase public accessibility to water information and that the establishment of an Australian Government Inspector-General of Water Compliance, with an oversight and water compliance functions, will also increase transparency and accountability of water compliance regulators. The review also noted the water information initiative expected to be delivered in 2021 under the Murray–Darling Communities Investment Package. This initiative addresses a key recommendation of the Sefton review by aiming to provide a one-stop-shop platform for water storage, in-stream flows and trade information.

Transparency and accountability in water compliance have both improved since 2018. New investments and improvements will take time to deliver on their intended benefits and outcomes. Basin governments will still need to continue to make information available to the public and improve how they publish information as communities are still having difficulty accessing and comparing information. However, the activities in this part of the Compact are now largely complete or have been superseded and are unlikely to drive further transparency and accountability improvements.

B. Compliance and enforcement frameworks

The Compact sought consistency and improvements in water compliance frameworks in order to provide assurance of the management of the Basin’s water resources.

The Compact commits Basin governments to publish policies outlining how they will approach compliance and enforcement. These policies play a critical role in indicating to the community the regulator’s intention on how they will respond to water theft.

The Compact also requires Basin governments to report annually on compliance and enforcement activity. Such reporting is important for building public confidence in compliance and enforcement arrangements.

What has been achieved?

Basin governments have reviewed their compliance frameworks and policies. Compliance and enforcement activity has generally increased within jurisdictions, although there remain differences in compliance approaches and reporting across jurisdictions. Table 1 (below) presents a summary of Basin governments’ approach to water non-compliance.

Jurisdictions are becoming more proactive in detecting non-compliance. Audits, inspections and monitoring activities, use of remote sensing and automated data matching of water-use and water entitlement data, are now in place across much of the Basin, leading to the conclusion by Basin governments that non-compliance is now more likely to be detected, compared to two years ago. At this early stage there is insufficient data to determine whether this is leading to more effective enforcement activity.

There is now more consistency in the penalty frameworks for non-compliance across jurisdictions although the maximum penalty amounts still vary significantly. However, there is limited consistency across jurisdictions in the enforcement approaches that determine when and how these penalties are pursued. For example, there remains considerable variation between Basin governments in the mandatory response to non-compliance (see Table 1). The data available is also insufficient to compare the relative effectiveness of these different enforcement approaches.

Prosecution activity has increased in some jurisdictions, noting that prosecutions alone is not a good indicator of the effectiveness of a regulator. Figure 1 (below) shows water compliance prosecution activity. There was a relatively high number of prosecutions commenced following establishment of the NSW Natural Resources Access Regulator (NRAR). Prosecution activity in Victoria has increased reflecting a zero-tolerance approach to water theft. The ACT, Queensland and the Australian Government (MDBA) did not commence any prosecutions during the activity period.

Have the desired outcomes been achieved?

There have been significant improvements to compliance and enforcement frameworks, approaches and reporting in jurisdictions. Although, the differences in regulatory approaches and reporting between Basin governments prevent a holistic comparison of compliance outcomes across the Basin. In many cases, the underlying definitions of compliance components and activities are significantly different and therefore the data is not comparable.

To further deliver on the intended outcomes of the Compact, a common set of measures must now be developed to track and publicly report the effectiveness of water compliance arrangements. Consistent standards and benchmarks are now necessary for progress to be assessed and outcomes evaluated. The Compact should evolve to incorporate standards which set the expectation of State regulators and benchmarks which demonstrate the relative performance of regulators against those standards.

Table 1: Summary of Basin governments' approaches to respond to unauthorised water take

Basin State	Mandatory response	Discretionary compliance options – decision based on ‘discretionary’ factors or circumstances of case				
		Penalty infringement/expiation notices.	Direction letters	Suspension, cancellation variation of licence.	Prosecution.	Other compliance options.
SA	Administrative penalties.	Expiation notice (set amount).	Directives.	Cancellation, suspension or variation.	Prosecution with applicable maximum penalties upon conviction.	Formal Caution.
NSW	No mandatory response. NRAR applies a graduated and proportionate response to situations where licence or approval holders are not in strict compliance with regulatory requirements. NRAR’s approach to compliance and prosecution is set out in the Regulatory Policy and Prosecution on NRAR’s website: https://www.industry.nsw.gov.au/natural-resources-access-regulator .	Penalty infringement notices (set amount).	Direction to stop taking water until specified measures have been completed.	Suspension or cancellation.	Prosecutions with higher penalty amounts if intentional or negligent.	Debit of water user’s allocation amount or charge, for value of water illegally taken.
QLD	Where compliance is not achieved, a risk-based approach to decide how best to respond is taken.	Penalty infringement notice (set amount).	Direction letter or notice to take certain actions – penalty upon failure to comply.	Amendment or cancellation.	Prosecution with applicable maximum penalty.	Education to build the capacity and capability of the community, or warning.

Basin State	Mandatory response	Discretionary compliance options – decision based on ‘discretionary’ factors or circumstances of case				
		Penalty infringement/expiation notices.	Direction letters	Suspension, cancellation variation of licence.	Prosecution.	Other compliance options.
VIC	No mandatory response. Note that excess use does not reset at end of start of water year, but rather continues as a debit until the account is balanced.	Penalty Infringement notices for small volumes (set amount).	Authority (water corporation) may reduce, restrict or discontinue delivery of water. Authority may issue direction to balance the account.	Suspension, revocation or cancellation.	Prosecution, with distinction between offences carried out knowingly, recklessly or otherwise.	
ACT	No response supplied.					

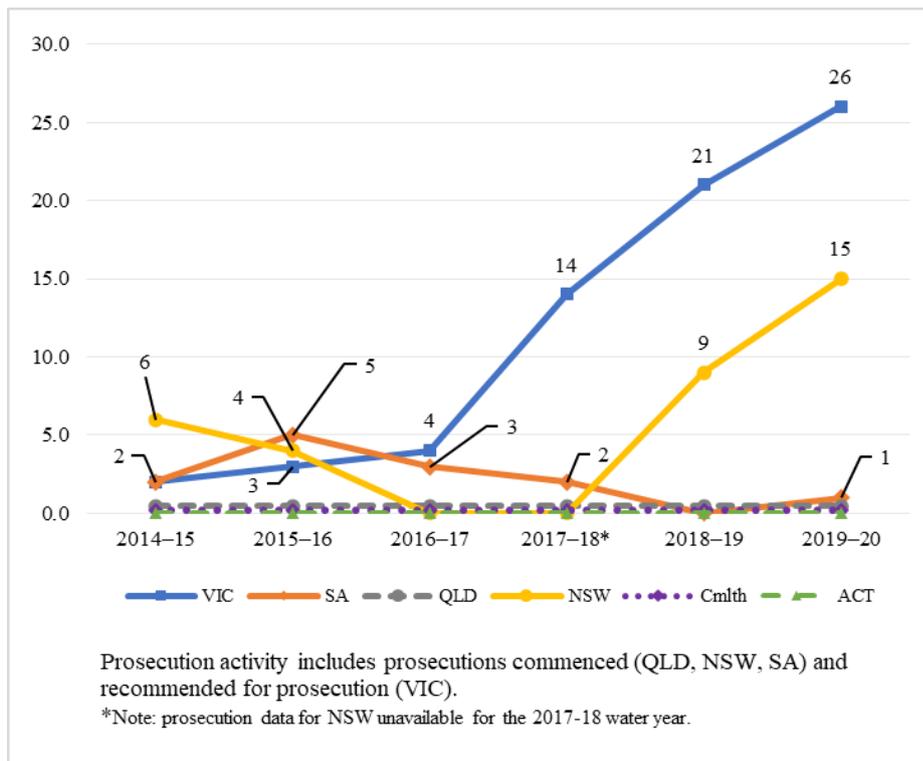


Figure 1: Prosecution activity.

C. Metering and measurement

Accurate metering and measurement of water take is fundamental to water management. Under the Compact, Basin governments committed to the effective measurement of non-urban water users’ diversions (metering in-stream take and measuring overland flow diversions), and of the water resources themselves (hydrometrics and models). Basin governments agreed to review and publish revised metering policies and implementation plans to improve accuracy, coverage and transmission of data. The Compact also committed Basin governments to incorporate the Australian Standard for non-urban water meters (AS 4747) into their metering policies and requires all new and replacement meters to be AS 4747 compliant.

The Compact requires Basin governments to commence metering of all take under water entitlements by June 2025 and to develop a program to roll out the automation of reporting of water take (telemetry). Basin governments have discretion under the Compact to make exceptions to this program, as long as the rationale is clearly articulated and published. Revisions to metering policies are to be accompanied by an implementation plan and progress must be reported annually.

What has been achieved?

Basin governments are generally in a better position to monitor, measure and account for water take, compared to two years ago. As a result of the collective reforms by Basin governments, the market constraints on meter availability and accuracy have been overcome. For example, the number of pattern-approved meters have almost doubled over the duration of the Compact. At the same time, the number of certified meter installers has grown from 30 to 140 in New South Wales in the past two years alone.

South Australia and Victoria had good metering frameworks prior to the Compact. They have continued to improve these frameworks by for example incorporating AS 4747 and better reporting.

The Australian Capital Territory (ACT) did not commit to further work on metering as existing policies were held by the ACT to be fit for purpose and viewed as consistent with the Compact. The requirements

to meet AS 4747 metering standards are set out in the ACT's *Water Meter Installation, Maintenance and Replacement Guideline*. The outcome is due to be tested in 2021 through a planned MDBA audit to review the ACT's implementation of the AS 4747 metering standards.

New South Wales (NSW) has substantially improved its ability to detect and respond to water theft. NSW has revised its metering policy and has published a detailed implementation plan. NSW expects to see a rapid improvement in the proportion of take that is metered as it moves through staged implementation of its metering policy. As of 1 December 2020, all large surface water pumps were required to be compliant with the new metering policy and from 1 December 2021, all parts of the NSW Northern Basin will be subject to this requirement. The outcome is due to be tested in 2020–21 through audits which will focus on the specific commitment to ensure that highest risk take, including large users in the Barwon–Darling will be accurately metered and telemetered by December 2020 (delayed from the original date of 2019 due to the drought).

Queensland is progressing with its review of existing metering policies. Queensland's interim metering standard is partially consistent with the AS 4747. Queensland has policy proposals to increase meter coverage, telemetry and meter accuracy. It has conducted extensive stakeholder consultation, although is yet to publish its final metering policy.

The costs and practicality of developing new metering policies and implementing new metering requirements have been significant for both NSW and Queensland in particular. These are difficult reforms for governments and for water users. For these jurisdictions and farmers, the benefits of improvements to metering are yet to be fully realised. Likewise, for communities, the promise of metering is yet to be achieved.

Have the Compact outcomes been achieved?

The task is far from done. Whilst policies have been developed and implementation plans are rolling out, increased meter accuracy and its benefits to communities, landowners and regulators is still some years away.

All jurisdictions have demonstrated good faith as they implement the Compact's commitments on metering. Despite this, inconsistencies in the metering approaches adopted by Basin governments remain (see Table 2 which summarises differences between Basin governments). These differences, including different metering thresholds for when a meter is required to be installed, perpetuate and reinforce views that the system is unfair. This perception is contrary to the desired outcome of the Compact.

The Compact does not set a minimum standard for when a meter or telemetry is required. The Compact requirement is for consistency in the metering approach, allowing each Basin government to make risk-based exceptions. By not addressing consistency in metering and telemetry thresholds, perceptions of inconsistency in metering requirements prevail and detrimentally affect community confidence. Failure to respond to these findings will undermine the Compact's efforts to improve trust on an ongoing basis.

The outcomes are planned to be achieved across the Basin by 2025. To ensure the outcomes are achieved, the metering elements in the Compact must remain live and visible until that time. Emerging issues around consistency in approach will take time to resolve and must be done well ahead of 2025 to enable the outcomes as anticipated.

Table 2: Summary of relevant commitments contained in Basin governments metering policies

	By 2025, all take other than for stock and domestic will be licensed (including floodplain harvesting in New South Wales and Queensland)	All licensed take is metered	All new and replacement meters will be AS 4747 compliant	All existing meters will be checked to ensure +/- 5% accuracy
South Australia	✓	✓	✓	✓
Victoria	✓	Extractions above 10 ML (surface)/ 20 ML (groundwater) are required to be metered	✓	✓
New South Wales	✓	All licensed take except surface water pumps less than 100mm in diameter and groundwater bores less than 200mm in diameter.	✓	✓
ACT	✓	✓	✓	✓
Queensland	✓	✓	<i>If the size of the works is more than 400mm, AS4747 is optional</i>	✓

D. Basin scale actions on Water Resource Plans and the Protection of Environmental Water

Development of legislation, policies, plans and rules for the management of water necessarily occur before compliance and enforcement. While they are absolutely essential to compliance, and indeed compliance practice offers an important feedback loop to their development, some of these commitments sit uncomfortably within the Compact, which is focussed on water compliance. This reflects the situation in 2018 where the absence of clear rules at the Basin-level prevented effective compliance and enforcement.

The Compact includes specific accountability measures for the management of water resources at the Basin scale. These measures have had limited effectiveness because the main drivers for the development of water management rules and environmental water protection measures predate the Compact and because accountability for outcomes resides outside the Compact.

Have the Compact outcomes been achieved?

Parties committed to additional effort to ensure the accreditation of Water Resource Plans (WRPs) to enable Basin Plan outcomes to be achieved. The Compact requires the submission of WRPs by Basin states however this is not the final step in the WRP process. All Basin governments submitted WRPs to the MDBA for accreditation by 30 June 2020 (noting this was later than committed).

In spite of the considerable effort of all Parties, the Compact’s objective of having accredited WRPs in place across the Basin by 1 July 2019 has not been achieved. There are 33 WRPs however only 13 are currently accredited and in place (see Table 3 for a summary of WRP accreditation dates).

At the time of this review 20 NSW WRPs remain with the MDBA for assessment and the MDBA is currently conducting a detailed assessment against the requirements set out in the Basin Plan. The MDBA and NSW have ensured key elements of the Basin Plan are in place in lieu of accredited WRPs. A bilateral agreement with NSW is in place to ensure water use is compliant, including with Sustainable Diversion Limits.

WRPs in some parts of the Basin have been accredited and in place for some time. The first WRP to be accredited was in the Warrego-Paroo-Nebine region in Queensland in 2017. Now that some plans have been in place for a period of time and able to demonstrate compliance within real operations and events, the MDBA has commenced its WRP audit program. This becomes a new key driver for continuous improvement in Basin Plan compliance.

Table 3: Summary Water Resource Plan accreditation dates

Jurisdiction	Year all WRPs were accredited
South Australia	2019
Queensland	2019
Australian Capital Territory	2020
Victoria	2020
New South Wales	(submitted in 2020, not yet accredited)

The Compact includes measures to recognise and enable the protection of environmental water. Jurisdictions have implemented operational systems to account and report on the protection of environmental water and there remains room for improvement. NSW has finalised event-based rules to protect flow events, addressing a priority area of the Compact (see case study below). Remote sensing capability has been jointly developed by NSW and the MDBA to monitor compliance over a large area. Independent assurance of the use of embargoes and proactive compliance monitoring during flow events were critical to improving public confidence.

Case Study: The Northern Connectivity Event case-study – using rules to protect and manage environmental water (Compact action 5.3)

In January 2018, over 1,000 kilometres (km) of the Barwon–Darling River downstream of Brewarrina in the northern Murray–Darling Basin ceased to flow. Water quality deteriorated in waterholes and native fish and other aquatic life experienced significant stress. In response to this, the Commonwealth Environmental Water Office partnered with the NSW Office of Environment and Heritage (now known as the NSW Department of Planning, Industry and Environment – Environment, Energy and Science Division) to deliver up to 31 gigalitres (GL) of environmental water to connect over 2,000 km of river channels, including the northern tributaries and the full length of the Barwon–Darling River to the Menindee Lakes. This was comprised of up to 23.8 GL of Commonwealth Held Environmental Water (HEW) and up to 7.2 GL of NSW HEW.

The release enhanced natural inflows to generate connectivity across multiple river systems and provide opportunities for native fish and waterbirds to feed and breed, plants to grow and set seed, and for floodplains to release essential nutrients into the food chain. The event was also an opportunity to further develop coordination and collaboration processes between Basin governments involved in large-scale environmental watering activities in this system. Temporary water restrictions under the NSW *Water Management Act 2000* were in place to ensure the HEW flowing in-stream was protected to benefit the environment and communities along the river.

The NSW Natural Resources Access Regulator tracked the environmental flows through the system and undertook a compliance auditing operation focused on unauthorised take of water and licence compliance breaches along the Barwon–Darling River. The event involved extensive and targeted consultation with local landholders, irrigators, shire councils, traditional owners and various interest groups.

Water for the environment is a valuable public asset and this event demonstrated that coordinated releases combined with temporary water restrictions and proactive compliance can be successfully applied to the Barwon–Darling unregulated river systems to better protect and manage environmental water. This event has now informed future policy, planning and operational decision-making.

Since the event, NSW has introduced Water Sharing Plan (WSP) rules to actively manage HEW in the Barwon–Darling and some unregulated sections of the Gwydir and Macquarie–Bogan water sources so that it can remain in-stream to be used for its intended environmental purpose. In December 2020 the NSW Government published procedure manuals for the Barwon–Darling, Macquarie–Bogan and Gwydir systems. These procedure manuals are required under WSPs and define rules and parameters to guide river operators in implementing active management.

E. Assurance and public reporting

Independent assurance processes are an important tool to ensure transparency and accountability and for restoring public confidence. Independent assurance of Compact commitments and activities has been undertaken annually for the past three years. The public reporting of assurance findings has resulted in an unprecedented quantity of independently validated information on the Basin's water compliance reforms, being made available to the public.

Just having an independent assurance process and public reporting has ensured that commitments made by Parties in 2018 continue to be front of mind in planning and delivery in 2021.

Has the desired outcome been achieved?

Compact parties have reflected that the assurance process would be improved if it were more outcome-focused and with a clearer articulation of expectations as well as allowances for Basin governments with more mature compliance systems. Due to inconsistencies in risk, current arrangements and approaches, a one-size-fits-all assessment has not been experienced by Basin governments as a fair assessment.

The effectiveness of independent assurance is perceived as being limited by the approaches taken to assurance. For example, pursuing committed activities is rewarded with a positive scorecard whilst on occasions, pursuing good outcomes at the expense of committed activities is not recognised. In some cases, this approach favours jurisdictions with less mature compliance systems and disadvantages those with mature systems, and in other cases it is the inverse.

Future assurance processes would improve if they focused on tracking the achievement of a select number of critical outcomes. However, how these outcomes are measured must be developed and agreed with all Parties to address findings that assurance and public reporting expectations were not clear from the outset.

Part 3: What impact did the Compact have on improving public confidence in water management?

Public confidence in water management in the Murray–Darling Basin remains low. Analysis of water management reviews between 2017 and 2020 was undertaken to support the review's inquiry into changes in public confidence. Figure 2 summarises the overall trend in public confidence drawn from the findings and conclusions on community confidence in the reviews concluded during the period of Compact implementation. While there was slight increase in confidence in 2018, likely due to the increase in activity to strengthen compliance, this improvement is not sustained.

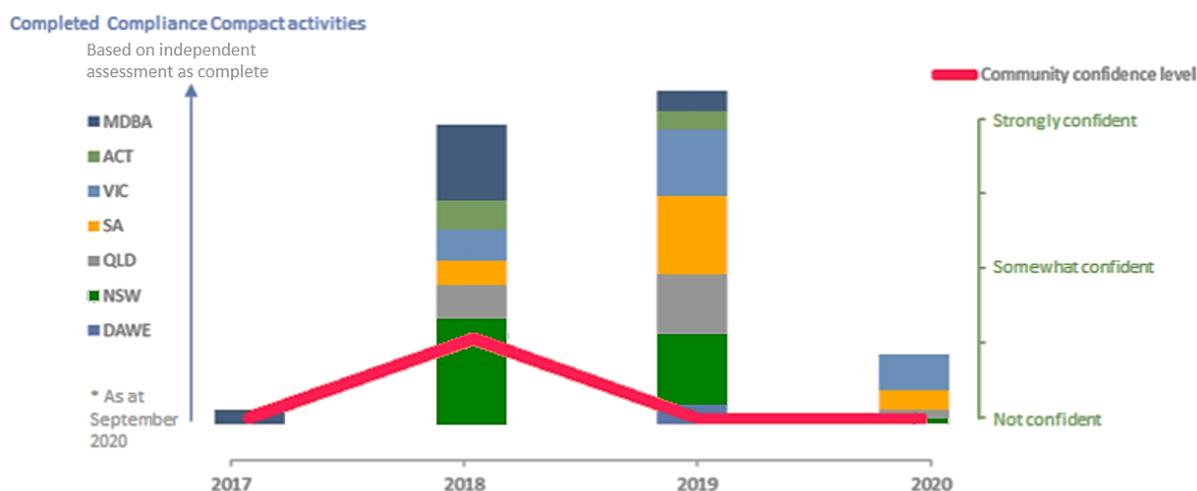


Figure 2: Overall trend in public confidence.

Interviews with representatives of the BCC indicate that water compliance is not the only driver of community trust and confidence and in fact may not be the biggest driver. Other drivers that can impact public confidence include water extraction rules and their complexity, as well as climate change, drought and concerns about ‘mismanagement’. If trust and confidence is to be improved, action is required on all of the drivers, including compliance. Parties recognise that the methodology used to capture community sentiment may skew towards irrigators and other consumptive water users. Parties acknowledge this as a limitation of the analysis but consider it to offer valuable insights.

The feedback from BCC representatives indicates that it is unlikely that community confidence will improve without greater effort to build trust in the integrity of water compliance across the Basin and communicate more consistently to show what is being done. The review noted that the Australian Government has announced the establishment of a dedicated Inspector-General of Water Compliance for this purpose.

Insights from the BCC on the drivers of public confidence in water management in relation to water compliance are clear, common and consistent. They highlight the need to:

- Build trust in governments and governance
- Increase visibility in water compliance across the Basin
- Improve information and understanding
- Demonstrate fairness, equity and consistency
- Develop an improved culture of compliance while being seen to hold water users to account, and
- Provide information about the things that matter to communities.

The interviews also pointed to a shift towards a compliance culture since 2017. BCC members noted that their communities are far more focussed on ‘cheaters’ now, rather than on the regulatory arrangements.

The lack of public confidence in water management is not necessarily directly related to the effectiveness of individual regulators. Several BCC representatives cited the excellent job that their state water compliance officers were doing locally. However, visibility of regulators and water users across the Basin is lacking. This could detrimentally affect confidence levels and could undermine the efforts of individual governments and regulators.

Part 4: Looking forward

In summary, the Compact has contributed to a series of reforms and plans to increase meter accuracy, transparency of compliance frameworks and enhance enforcement activity. This section examines how the findings, including the shortcomings of the Compact, can be addressed. Key findings include:

- Of the five priority areas set in 2018, metering and measurement of water take remains the most significant outcome still to be delivered. While policies have been updated and significant advancements have been made by some Basin governments, most of the work program of policy implementation remains ahead.
- Differences between Basin governments' risk-based approach to when a meter is required is perpetuating perceptions that the water rules are unfair.
- Increased transparency alone is not enough to increase trust in water compliance and water management.
- To build public confidence, water compliance information needs to be accompanied by reporting on the effectiveness and performance of water compliance regulators presented in a consistent way across the Basin.

Continued assurance and public reporting focussed on outstanding commitments

The Compact has created a culture of accountability and transparency in the Basin's water compliance efforts. It is critical that Basin governments continue to deliver on key outstanding and ongoing commitments. Independent assurance on outstanding commitments should continue to play a role between now and 2025, when the final Compact deadlines fall.

The Compact must now evolve if it is to continue to drive improved water compliance outcomes. The creation of the new Inspector-General of Water Compliance provides an opportunity for the Compact and its public reporting to be updated in accordance with the findings of this review. It must have greater focus in the continued pursuit of meaningful outcomes. Progress and outcomes must be refined and more clearly presented to the public.

Development of Basin-wide meter thresholds

The Compact's original intentions to restore public confidence remains relevant. Specifically, the Compact contains key principles under each of the themes of transparency and accountability, compliance and enforcement frameworks and metering and measurement that remain relevant as a foundation for future work to address the shortcomings identified by the review.

The Compact provides a sound launching pad, as a framework and a set of principles, to address the gaps in metering and measuring outcomes. The Compact's principles and actions can be extended to enable the development of minimum Basin-wide thresholds for metering and telemetry (see Box 1).

The development of a Basin-wide standard for meter thresholds, coupled with the implementation of the current tranche of metering reforms (aimed at improving meter accuracy) would leave no doubt when a meter is required or the standard of that meter, wherever that take occurs in the Basin. This additional work would afford water users the confidence that there are no double standards in the Basin when it comes to metering of water take.

Box 1: Relevant principles from the Compact to shape the development of Basin-wide standards for meter thresholds

To ensure there is a basis for community confidence, Basin-wide standards that set minimum thresholds, for when a meter is required to take water, need to be developed and observed by all Basin governments.

The identification of minimum Basin-wide thresholds should be based on the minimum standards identified in current state metering policies

The Compact provides the useful foundation for the development of these standards in the following ways:

- The objectives and activities of Basin Compliance Compact 2018, Part C, Section 3 – Metering and Measurement, including adoption of Australian Standard 4747, the Metrological Assurance Framework (MAF), need for transparency on metering exemptions grant and annual progress reporting on meter improvement programs, continue to be relevant and supported.
- The Best Practice Guidelines for Minimum Metering Thresholds, which was developed under the Compact (Compact action 3.3 iv), which continue to be referred to by Basin States.

Development of outcomes and performance reporting for water compliance

The Compact should evolve from an annual cycle of activity and commitment reporting by using the principles contained in the Compact as the basis for developing refined performance and outcomes reporting on the Basin's water compliance systems (see Box 2).

By maturing the Compact in this way, the community will be able to see where further improvement is required and have clear sight of any emerging problems. Using this information, governments will also be well-placed to target existing resources and make new investments in water compliance.

Box 2: Relevant principles from the Compact to shape the development of Basin-wide performance metrics on water compliance

Basin governments have committed to 'continuous improvement, transparency, accountability, collaboration and consistency across the Basin' – Part B, Roles and Responsibilities.

- The Compact encourages governments to provide clear and accessible information to enable the community and stakeholders (including other governments) to have certainty around water compliance arrangements (Part C, section 1 – transparency and accountability).
- Basin governments are publishing annual compliance activity reports (Joint Action 1.2. c). Any outcome metrics is a natural evolution and refinement of the work already underway.

The review noted that an iterative approach with a commitment to continuous improvement would enable performance reporting to commence promptly using a small number of data points and progress to more detail over time. This will meet community expectations initially and progressively provide more valuable information. Ideally, the performance reporting metrics will be developed collaboratively.