

Independent Assurance Committee

Report to the Authority on the first meeting of the Independent Assurance Committee (16 March 2018)

This Report

The Independent Assurance Committee (IAC) met formally for the first time on Friday 16 March 2018. Following each meeting, the IAC will provide a concise report to the Authority on its deliberations. This is the first report from the IAC.

Meeting Overview

As this was the first meeting, the IAC concentrated on the foundational elements of the MDBA's compliance work – the compliance policy, risk assessment, the annual compliance priorities, audit, and the office of compliance work program. The Basin Compliance Compact was also an important agenda item because of its significance as an accountability mechanism in the implementation of the recommendations of the compliance review.

Much of the benefit of the IAC is expected to come from the discussions with staff and Authority members during the meetings, and out of session. Authority members, George Warne and Phillip Glyde attend the meeting, along with key compliance staff from the MDBA.

The Basin Compliance Compact

Wendy Craik, independent reviewer, and her advisor, Megan Dyson, attended the meeting for the discussion of the compact. Two substantial matters arose in these discussions. The first, was the challenge of writing a compact that was appropriate for COAG ministers to adopt – a document that provided the right strategic emphasis and direction, especially signalling a commitment to the essential cultural and behavioural change required to get compliance on track. After significant discussion about the appropriate balance between a short, concise document and the need to include sufficient detail to clarify obligations on all parties, it was agreed that the detailed schedules were required to ensure accountability but these would be best attached to a concise and powerful compact.

Other main points included the compact emphasising the delivery of outcomes as well as adopting processes and technologies that provide real time access to information. The second matter was the urgency of finalising the compact by 30 June 2018. The IAC expressed its concern that the public's trust would be further damaged if the deadline was not met.

MDBA Compliance Policy and Plan, including risk assessment and an effective audit program

The draft policy is a very early version requiring considerable revision. It needs a clearer rationale, consistent terminology and a better explanation of roles and the MDBA's governance framework. The policy must draw from the National Framework agreement and provide the basis for the public's understanding and scrutiny of the MDBA's compliance work. It is essential that the policy explain how each regulatory function will be implemented – the legislative authority, the compliance approach to be taken, the tools available, and the pathways or decision trees to support decision making. The IAC supported the MDBA advice that a separate and complementary enforcement policy will also be prepared.

The policy will need to explain how a risk analysis methodology will be used to determine annual compliance priorities and contribute to the work program for the Office of Compliance. A priority for inclusion in the 2018/19 plan will be progression of the states' Water Resource Plans. The nature of the regulatory functions will mean that there will be a routine work program relating to recurring requirements of the MDB plan (for example, SDLs and salinity). This routine program will be supplemented by the annual compliance priorities that arise from the risk assessment. Audit is a tool for compliance and audit will be an integral part of the work program. It is not a separate function. The IAC highlighted the importance of a "line of sight" showing the clear linkages between the compliance plan, risk assessment, annual compliance priorities, an audit program and the Office of Compliance annual work program.

Work Program

Material was presented on the progress with implementing the Murray Darling Basin Water Compliance Review. The MDBA's actions will form part of the Office of Compliance work program but are not the program. The Office will, as part of its work program, have to monitor and report on the implementation of the compliance review recommendations and actions. The MDBA is directly accountable for its actions in the Compliance Review, but can only report progress on those recommendations that are the responsibilities of other parties. This reporting and the provision of public transparency is a crucial role for the Office.

Verbal briefings on protecting environmental water and on water resource plan assessment processes

These briefings were noted. The IAC was encouraged by reported improvements in focus and collaboration with the States in delivering on these elements, which will require significant emphasis for effective delivery.

Agenda for April 2018 meeting of the IAC

Reiterating the urgency of settling the foundational elements of the Office of Compliance, the next meeting will consider advanced or near final versions of the compliance plan; annual priorities for compliance; a rolling work plan for 2018 and 2019; and some thoughts on how the MDBA should approach compliance for water resource plan preparation and approval. The enforcement policy also warrants early consideration.

Communication of the work of the IAC

This report to the Authority will be available on the MDBA website and consideration will be given to whether a press release on the IAC's deliberations is warranted.

The IAC emphasised the following points –

- the COAG compact is a vital accountability mechanism for implementation of the compliance review recommendations and must not be delayed (30 June 2018 deadline).
- the MDBA and the NSW government have responded positively to the review with considerable action from both since the report was tabled.
- finalising water resource plans by the 2019 deadline is an important precursor to basin plan compliance and despite government commitments, there is concern about whether NSW and Victoria will meet the deadline.

Allan Holmes

Chair

Independent Assurance Committee

19 March 2018