

# Independent Assurance Committee on Compliance

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## Report to the Authority from the fifth meeting of the Independent Assurance Committee – 21 November 2018

### 1. This Report

The Independent Assurance Committee (IAC) met for the fifth time on Wednesday, 21 November 2018. Authority member, George Warne, represented the Authority at the meeting. Phillip Glyde (Chief Executive of the Murray-Darling Basin Authority (MDBA)), Russell James and Brent Williams along with a number of MDBA staff participated as well.

### 2. Office of Compliance Update – workplan

The IAC received updates from the MDBA on upcoming Authority and Ministerial Council meetings in December and the updated Office of Compliance workplan. The IAC acknowledged the effort to progress such a comprehensive workplan. The IAC emphasised the importance of the culture of compliance, including the need to incorporate reporting on measures to assess the culture into the annual reporting element of the workplan. In relation to complaint and allegation handling, the IAC highlighted the need to be clear on the distinction between allegations and progressive investigations. It also requested a future agenda item on Pattern Approved Meters to better understand the issues around water measurement and implementation of Australian standards for water metering.

The IAC considered a draft of the MDBA Basin Plan Report Card. It supported the concept and overall approach but identified the need for more precision in backing up the conclusions with relevant facts. The IAC suggested clarifying the basis for the colour coded rating of the themes and improving the characterisation of the Water Recovery - Bridging the Gap analysis and of the stakeholder views.

### 3. Presentation by Grant Barnes, Chief Regulatory Officer, NSW Natural Resources Access Regulator (NRAR)

Mr Barnes explained to the IAC how the NRAR was approaching its task of establishing a fair, transparent and enforceable water compliance system to prevent water theft and ensure equitable water use in New South Wales. He drew attention to the role of the NRAR board in maintaining the independence of the NRAR and in making decisions about the NRAR's compliance and enforcement functions.

Mr Barnes also laid out how the NRAR was acquiring the people necessary to carrying out the NRAR's functions and the progress that had already been made in dealing with a backlog of investigations into alleged breaches.

The IAC noted Mr Barnes's presentation and agreed that the establishment of the NRAR had led to a significant increase in the focus and quality of compliance and enforcement activities in NSW.

#### 4. Water Resource Plan update

The MDBA provided an update on the current status of Water Resource Plan (WRP) development. The IAC noted that current levels of activity are high in all jurisdictions, and the MDBA has increased resources for assessment of plans. MDBA staff also briefed the IAC on the strategies in place to undertake quality assurance on WRPs as they are developed and submitted, and to ensure they comply with the legal requirements set out in the Basin Plan.

The MDBA also briefed the IAC on the contingency plans being developed in the event that some plans may not be completed by the June 2019 target date. The IAC's view is that the MDBA is taking a range of reasonable steps to ensure that effective WRPs are developed as soon as possible in all jurisdictions. The MDBA has also indicated that it will consult the IAC to seek advice on implementing risk management or contingency actions if required.

#### 5. Compact Reporting and Assurance

The IAC met the day before the formal meeting to review and finalise the IAC's assurance report on the MDBA's self-assessment of the MDBA's Murray–Darling Basin Water Compliance Compact (Compact) obligations. The IAC's report will form part of the MDBA's interim 2018 assurance report on the Compact (an obligation under the Compact). The IAC will also include a brief critique of the MDBA's assurance report on the other jurisdictions.

These reports will be the subject of another Authority agenda paper.

The IAC found that there were four important MDBA listed actions - all involving joint action with Basin states - that had not been progressed sufficiently. The IAC concluded that these matters should be brought before the Ministerial Council for consideration and direction to complete the outstanding actions in a timely manner.

The IAC's critique of the MDBA's assurance report was somewhat limited by the lateness of Queensland's self-assessment, and Victoria's cursory self-assessment, which it argued was restricted by the obligations of the "caretaker convention" during the election period. The IAC's critique indicates that the MDBA's assurance report is sound but limited because of how Queensland and Victoria chose to respond.

Fruitful discussion with MDBA staff provided valuable information that has allowed the IAC to clarify and improve its own assurance report.

#### 6. Audit Update

MDBA staff provided an update to the IAC on progress with its audit of water trade price reporting. The audit has already found indications of problems with the way water price data

and information is collected, validated and recorded across the Basin. The audit is moving to assess the seller's obligation to provide accurate trade prices. The IAC noted the positive progress of the audit.

The IAC also considered and endorsed the proposed scope of and approach to an upcoming assurance review the MDBA is planning for early 2019.

## 7. Water Trade – compliance role and assessment framework

The IAC reviewed proposals presented by the MDBA in relation to how it will address its responsibilities to ensure state water trading rules are consistent with the requirements. It was noted that a large number of trading rules and limits have been developed incrementally by the jurisdictions as they have developed and expanded water markets in the basin since the late 1980s. Water trading rules address a range of matters, including complex hydrologic connectivity issues and measures to protect third parties from unacceptable impacts. To date the MDBA has only been able to assess a handful of rules to test their compliance with the Basin Plan trading rules.

The IAC reviewed and provided feedback on the MDBAs proposed framework for assessing water trade rules. The framework is a risk-based approach, which will help the MDBA focus its resources on the trading rules which are likely to be most critical in ensuring that the overall objectives for water trading set out in the Basin Plan are achieved. The framework will also see the MDBA compile trade rules into groups of similar rules and review rules in each group as a batch.

The IAC endorsed the general approach set out in the framework as a way to make progress in an area that has had struggled to date. The broad objective of applying the framework to assess trade rules and thereby improve the consistency and equity of water trade rules across the Basin was supported. Given that the assessment of trade rules will require the exercise of varying degrees of judgement, the MDBA proposes setting out guidance for assessment of trade rules and then refining and improving this guidance as experience is gained in the assessment process. The IAC supported the proposed "learning by doing" approach, which reflects the adaptive management philosophy of the Basin Plan, but also emphasised the importance of putting in place a structured process to guide the capture of any learnings and their incorporation into the guidelines.

The IAC also noted that many rules have been in place for some time and water users may have made business decisions based on the current rules. The MDBA advised that a transition plan may also be developed where appropriate to help manage these issues in the event that any existing rule is found to be incompatible with Basin Plan requirements and needs to be amended by the relevant jurisdiction.

The IAC also agreed to provide ongoing advice and guidance on the processes being developed for assessment of trade rules, and to review the MDBA's application of the framework as required.

## 8. Agenda for the next meeting of the IAC, 20 February 2019

Prior to the first meeting in 2019, the IAC will complete a review of its performance in 2018 and consider how it would best serve the Authority in the new year. The reflection of the meeting was that it should continue for at least another year in a form similar to how it has operated. The review will provide more substantial advice to the Authority on the IAC's future.

The Committee will also examine more closely the four outstanding Compact actions, especially the three around metering and floodplain measurement. It may well also be a good time to meet with the Northern Basin Commissioner. The IAC has also asked for a briefing on Pattern Approved meters.

## 9. Communication of the work of the IAC

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

Allan Holmes

Chair

Independent Assurance Committee – 28 November 2018