

# Independent Assurance Committee on Compliance

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## Report to the Authority of the fourteenth meeting, 18 March 2021

### 1. Meeting Overview

The Independent Assurance Committee (IAC) met in Canberra on the 18 March 2021 with Tim Goodes, Daniel Blacker, Grace Mang and relevant staff.

The IAC noted that the uncertainty created by the impending structural changes was being well managed in the circumstances. Forging effective relationships with the interim Inspector-General is clearly a priority and it seems good progress has been made this far. The creation of this office alone will not fix the problems of loss of trust and low public confidence. What will be critical is clarity of roles and responsibilities as well as effective working relationships between the main Commonwealth parties – the Murray Darling Basin Authority (MDBA), the Inspector-General, the Department, and the Commonwealth Environmental Water Holder.

The evolution of the Compliance Compact through the review process looks likely to result in agreement to progress two critical matters – metering and compliance benchmarks – a very important development given the limitations of the first Compact. The work with the NSW regulator on benchmarking is most promising.

The Register of Take for the water year 2019/2020 and compliance with Sustainable Diversion Limits (SDLs) will need to be handled carefully in the current climate especially in relation to the Barwon-Darling. Transparency of reporting is essential, as is the clear explanation of the complexities of SDL accounting, especially the concept of reasonable excuse for exceedance of limits. The IAC has agreed to provide a limited assurance role in the current reconciliation process.

### 2. General update from the Murray-Darling Basin Authority

The IAC received verbal updates from Daniel Blacker and Tim Goodes covering the Compliance Compact review and assessment – and associated benchmarking, metering policies, standards and related audits. The IAC was encouraged by the progress being made in working collaboratively with the States and Territories in these areas which will enhance transparency and consistency in application. The IAC acknowledged the importance of continuing to work on emerging issues arising from audits and on the needed reforms that may be achieved through a renewed Compact. The IAC was brought up to date on the

emphasis of the Office of Compliance's work plan and its broader audit program. The IAC endorsed this emphasis.

### 3. Water Compliance Benchmarking Tool

The IAC reviewed the first stage of the process for benchmarking compliance across the Murray-Darling Basin. The methodology is being developed collaboratively between the NSW Natural Resources Access Regulator and the MDBA's Office of Compliance. The IAC provided comment on the overall logic in the framework including the need for clarity of language and simplification where possible. It endorsed the work so far and the intention of progressing to the next phase (including considering measurement of community confidence) through a workshop with the regulators' community of practice and for further development with the other jurisdictions.

### 4. Machinery of Government update

Daniel Blacker briefed the Committee on status of the move to establish the office of the Inspector-General and the development of the enabling legislation. It was clear that the MDBA was participating fully in the work to ensure the best possible arrangements. The success of the new arrangements will depend heavily on the effectiveness of relationships between the MDBA, the Office of the Inspector-General and the Department. The Inspector-General will rely heavily on others for expertise and technical data.

### 5. Inspector General of Water Compliance

The IAC met with the Interim Inspector-General, Troy Grant, to brief him on the committee's evolution and work.

Mr. Grant expressed strong views about past failings, especially his conclusion that the MDBA had failed to engage community well enough and to communicate in a way that the public could readily understand. Mr. Grant indicated that he had not settled on the most appropriate advisory arrangements and had some questions about the make-up of the IAC. Perhaps, we did not convey well enough that the IAC fulfilled an expert assurance role as well as providing expert advice on management of regulation and compliance.

### 6. 2019-2020 Register of Take and Sustainable Diversion Limit (SDL) Compliance

SDL compliance commenced from 1 July 2019. MDBA staff briefed the committee on the work undertaken to develop the first register of take and the SDL compliance assessment. There are a number of issues and ambiguities that needed to be worked through in relation to the interpretation of some elements of the NSW assessment. This further highlighted the importance of finalising the NSW Water Resource Plans, which is expected to resolve any inconsistencies in the methods for estimating permitted take and related matters.

Following discussions on the importance of ensuring confidence in the SDL compliance assessment, the IAC also agreed to undertake an independent review of the MDBA's compliance assessment for the 2019/2020 water year.

## 7. ACCC Water Markets Inquiry

Daniel Blacker briefed the IAC on the work the MDBA has done in engaging the ACCC on critical matters so that it is better informed when finalising its report. Clearly, the ACCC final report is likely to have significant consequences for the government's policy setting on water markets. The IAC shares the concerns expressed by the MDBA regarding structural options for market oversight.

## 8. Water Markets and Trade

The IAC noted the consultancy on insider trading. In relation to the Border Rivers Audit, the IAC expressed concern about the past practices in recording interstate transfers as it considered they breached Basin Plan trade rules and had the potential to impact the SDL accounts. Action needs to be taken to remedy these deficient practices.

## 9. Water Resource Plan (WRP) Update

There has been good progress with Water Resource Plan accreditation for most jurisdictions, with final WRPs now operational for the ACT, Qld, SA and Victoria. However, it was reported that no NSW plans have been accredited yet. The MDBA is currently assessing a number of plans and is also continuing to work with NSW as they revise several plans that have been withdrawn for amendment.

WRPs are an essential component of ensuring sustainable water sharing across the Basin and the lack of finalised WRPs in NSW is a matter of concern. The IAC supports the efforts to finalise these plans as soon as possible.

## 10. Concluding Remarks

The meeting was strategic and targeted. Assurance and advice was provided on a number of important matters. It seems likely that the IAC's work will conclude when the Inspector-General is legally in place. Until that occurs, the IAC will continue to work with the MDBA to fulfil its charter.

Allan Holmes  
Chair, Independent Assurance Committee  
22 March 2021