



Australian Government



Compliance Priorities 2019–20

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GPO Box 1801, Canberra ACT 2601

engagement@mdba.gov.au



1800 230 067



mdba.gov.au

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Acknowledgement of the Traditional Owners of the Murray–Darling Basin

The Murray–Darling Basin Authority pays 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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Background

The Murray–Darling Basin Authority (MDBA) uses an intelligence-led and risk-based approach to set its Compliance Priorities for each water year (June – July). The approach is informed by horizon scans of existing and emerging issues and intelligence the MDBA has discovered in preceding years. A range of factors are taken into account in deciding priorities, including – the potential to impact on achieving the objectives of the *Water Act 2007 (Cth)* (Water Act) and the *Basin Plan 2012* (Basin Plan); the magnitude of the impact across the Murray Darling Basin (Basin); and the prevalence of an issue.

The MDBA has prepared a range of regulatory actions to target these priorities, including audits, reviews, and education and engagement activities.

The [Compliance and Enforcement Policy 2018-2021](#) sets out the MDBA’s regulatory approach and regulatory tools in more detail.

Risk Assessment

The horizon scan undertaken as a part of the prioritisation process revealed the following important issues that could impact the implementation of the Basin Plan and Water Act:

- Extended drought and dry conditions affect water use behaviours, continue to affect water markets, industries and communities, and place additional pressure on the environment of the Basin.
- A lack of uniform confidence in the effectiveness of metering and measurement policies, and uncertainty as a consequence of varied implementation and reform of these policies. This uncertainty affects water user compliance with metering requirements and reporting accurate metering and measurement information.
- Varying degrees of transparency, consistency and effectiveness in compliance and enforcement arrangements across the Basin states continue to fuel the lack of community trust.
- Delay in the development and accreditation of most Basin state water resource plans, and the subsequent commencement of interim arrangements for implementing the Sustainable Diversion Limits (SDL) impacts confidence and clarity around regulatory requirements.
- Ongoing concern about the transparency and fairness of the water markets.

Set out below are the priority areas and actions the MDBA is planning to take to address these issues. While the MDBA has identified these priorities, it retains the option to respond to changing circumstances and emerging issues, and pursue other matters as necessary.

Compliance Priorities 2019–20

Priority	Why it's a priority	What will the MDBA do?
1. Unmeasured take	<p>Unmeasured take refers to water extracted from the Basin that is not accounted for under current Basin state metering, licencing and works approvals, or monitoring arrangements. For example, where water can be extracted without a water access licence via overland flows (also known as floodplain harvesting).</p> <p>Inaccurate management and accounting of unmeasured water take, and the infrastructure used to extract it, has the potential to adversely affect Basin Plan outcomes. It can impact on the ability to detect water theft and ensure compliance with SDLs; and reduce the protection of water for the environment and achievement of environmental outcomes.</p>	<ul style="list-style-type: none"> Review and audit floodplain harvesting infrastructure and policy implementation in the Northern Basin. Monitor state government's progress in developing and implementing floodplain harvesting reforms. Undertake Murray–Darling Basin Compliance Compact reporting and assurance.
2. Metering	<p>Water meters provide the clearest measure of how much water is being used across the Basin. Robust metering arrangements are essential for ensuring compliance with licence conditions and SDLs. Sound water usage data informs operation of the water market, as well as annual water planning by states, environmental water holders, water users and communities. This is particularly important in times of drought.</p> <p>Various reviews and investigations into compliance in 2017 and 2018, including the NSW <i>Ken Matthews Review</i>, the Australian Government <i>Murray–Darling Basin Water Compliance Review</i> and the <i>Independent audit of Queensland's non-urban water measurement and compliance</i> identified issues with the accuracy and coverage of metered water take, which diminished community confidence in water regulation by Basin governments.</p> <p>Under the Basin Compliance Compact, Basin states and the Australian Government have committed to improve metered water use and compliance in the Basin.</p>	<ul style="list-style-type: none"> Undertake site inspections, reviews and audits of metering requirements, meter coverage, data collection and regulation in each Basin state. Work with states to develop and implement the Metrological Assurance Framework (MAF) Modernisation Project. Review state progress in implementing their Basin Compliance Compact commitments.
3. SDL accounting and the SDLAM	<p>Due to the delay of water resource plan completion and accreditation, interim arrangements have been established to implement SDLs across the Basin from July 2019.</p> <p>Critical to implementing and enforcing the SDLs is a strong system of accounts that keep track of how much water is taken each year from the Basin water resources. The Water Act</p>	<ul style="list-style-type: none"> Complete and publish a SDL Health Check, to determine if the SDL accounting frameworks trialled by MDBA are conceptually sound and use best practice water accounting methods. Report and implement recommendations in the SDL Health Check.

Priority	Why it's a priority	What will the MDBA do?
	<p>and Basin Plan therefore require Basin states to provide accurate and timely water accounts to the MDBA annually, and for the MDBA to maintain a public SDL register.</p> <p>The Basin Plan also includes a mechanism to adjust SDLs (SDLAM). Under this mechanism, the Basin states have agreed to implement supply and efficiency measures in the form of projects which allow Basin Plan environmental outcomes to be achieved with less water and the SDL has been adjusted accordingly. If these projects are not implemented as committed the SDL may need to be readjusted in 2024 and the Australian Government may be required to buy back more water for the environment.</p>	<ul style="list-style-type: none"> • Check and audit the integrity of SDL data, including MDBA's processes, and methods for addressing growth in use and interstate trade accounting arrangements. • Monitor and review the progress of SDLAM projects.
<p>4. Improving Water Trade markets</p>	<p>Water trading in the Basin is responsible for an estimated 95% (by volume) of Australia's water market activity, with annual transactions in Basin water markets totalling over \$2 billion. A fair, open and effective water market, informed by accurate information is crucial for water users, particularly in periods of water scarcity, as it provides a mechanism to manage variable seasonal conditions and allows water to move to its most productive use.</p> <p>Basin States and Irrigation Infrastructure Operators (IIOs) are responsible for setting trading rules for their water resources and day to day trade operations. To ensure that they do not unfairly or unnecessarily restrict trade, Basin State and IIO trading rules must be consistent with the Basin Plan.</p> <p>The MDBA has identified over 1500 surface water trade restrictions that may need to be reviewed to ensure they meet Basin Plan requirements and support the equitable and robust operation of the water market.</p>	<ul style="list-style-type: none"> • Use the Water Trade Restriction Assessment Framework to review and assess Trade restrictions. • Review findings and management responses to the 2018/19 Trade Price Audit. • Educate water market users about the water trading rules, including the need to provide information around accurate trade price reporting. • Provide input to the ACCC led review of water markets in the southern basin.
<p>5. Water for the Environment</p>	<p>Delivering and protecting water for the environment is the primary Basin Plan mechanism for improving river health and restoring water dependant ecosystems. Healthy rivers are crucial for communities and businesses, as well as for spiritual and cultural wellbeing (the Basin is home to more than 40 of Australia's Aboriginal nations).</p> <p>The Basin states are responsible for developing and implementing rules, regulations and other measures to protect water for the environment and ensure it is delivered according to plan. Some of these measures are being implemented under the SDLAM projects, Northern Basin Toolkit, or under Prerequisite Policy Measures in the southern Basin. These measures are being incorporated into water resource plans where possible.</p>	<ul style="list-style-type: none"> • Conduct on-ground and satellite monitoring to review or audit compliance with state arrangements for protecting recovered water, delivering water for the environment, and regulating water take during environmental watering events.

Priority	Why it's a priority	What will the MDBA do?
	<p>It is important to ensure that the substantial amount water recovered by the Australian government for the environment is being used in accordance with the Basin Plan.</p>	
<p>6. State Compliance and enforcement arrangements</p>	<p>Consistent, effective and transparent compliance and enforcement arrangements are fundamental to public confidence in the management of the Murray–Darling Basin.</p> <p>In 2017, the <i>Murray–Darling Basin Water Compliance Review</i> and the NSW <i>Ken Matthews Review</i> found that the Basin states had significant variations, and deficiencies in their compliance cultures, resourcing levels, transparency, and policy frameworks.</p> <p>Through the Basin Compliance Compact, Basin states and the Australian Government have committed to reviewing their arrangements, identifying and addressing gaps or areas for improvement, and increasing transparency to improve the effectiveness of water regulation in the Basin.</p>	<ul style="list-style-type: none"> Publically report on Basin state and Australian government progress in implementing the Basin Compliance Compact commitments to improving compliance. Monitor and review Basin state compliance arrangements, including the transparency and effectiveness of their systems for responding to allegations of illegal conduct.

Performance against 2018–19 Compliance Priorities

Compliance area / issue	Why it's a problem	What did the MDBA commit to doing?	What did the MDBA do/find?
Adequacy of compliance and enforcement of unauthorised take in the northern Basin (particularly the Barwon-Darling)	The Matthews Review found significant weaknesses in NSW compliance and enforcement, particularly in relation to the Barwon-Darling. In the wake of the Four Corners program, the findings have resonated deeply with the community and other entitlement holders. Confidence must be restored, and in this the MDBA has an important role.	<ul style="list-style-type: none"> MDBA to audit the compliance and enforcement framework for unauthorised water take in the Barwon-Darling. The findings of the audit and any investigations will be published. 	<p>The MDBA conducted a review of a major environmental flow in the northern Murray–Darling Basin between April and June 2018. During this environmental flow, temporary restrictions on water extraction were imposed by the NSW Government and enforced by the Natural Resources Access Regulator (NRAR).</p> <p>Overall, the review concluded that NRAR established appropriate governance arrangements and operational activities to ensure water access licence holders complied with the temporary water restriction rules and no theft of water was observed. The review also identified opportunities for improvement, particularly in the areas of: formalising processes and procedures (including inter-agency governance arrangements); regulating stock and domestic access; and communication strategies for managing future events.</p>
Protection of water for the environment	Water for the environment in the northern Basin is not adequately protected by the current water sharing rules.	<ul style="list-style-type: none"> Work with NSW to ensure that the Barwon-Darling WRP incorporates effective rules to protect water for the environment. Publish a register of measures to protect water for the environment Investigate the use of real time usage reporting. 	<p>Since early 2018, the MDBA provided advice to NSW on measures to protect water for the environment through Water Sharing Plans and water resource plans through the WRP assessment process and as a member of Intergovernmental Working Group under the NSW Better management of water for the environment project.</p> <p>In June 2018, the MDBA published an Interim register of measures to protect water for the environment, which summarises the existing state laws, instruments, and policies that currently protect water for the environment across the Basin. The register will be updated as new regulations and rules are implemented and water resource plans are accredited. As it is updated, the register will indicate whether arrangements are sufficient to protect water for the environment.</p> <p>Throughout 2018-2019, the MDBA worked with testing laboratories and meter manufacturers to set a timetable for delivering a range of meters which are approved by the National Measurement Institute of Australia against the Australian standards. This standard recognises that the meters are capable of</p>

			<p>real-time usage reporting. To support water users to be able to identify and access pattern approved meters, the MDBA maintains an online list of available approved meters.</p>
<p>WRP assessment and development</p>	<p>Water Resource Plans (WRPs) are the primary vehicle for the MDBA to exercise its compliance powers. A delay in meeting the June 2019 WRP accreditation deadline will result in a delay in the MDBA's ability to exercise its powers to protect water for the environment, ensure compliance with the sustainable diversion limits (SDLs) and act against unauthorised water take.</p>	<ul style="list-style-type: none"> • MDBA provides assistance and advice to ensure that Basin States understand WRP requirements. • Publish assessment guidance documents. • Adopt a streamlined accreditation framework. • Increase accountability through public WRP Progress Register. 	<p>In 2018-2019, the MDBA continued to assist Basin states during the preparation of state WRPs by providing advice, assessment guidance and adopting an effective assessment framework.</p> <p>To increase transparency around WRP development progress and issues, during 2018-19, the MDBA continued publishing WRP quarterly reports and all WRP material formally submitted to the MDBA for assessment.</p> <p>In early 2019 a regulation was made under the <i>Water Act 2007 – Water Amendment (Water Resource Plan accreditation) Regulations 2018</i> that enables the Australian Government Minister responsible for Water to consider extensions for the submission of WRPs up to the 31 December 2019. Basin states have taken the opportunity to apply for extensions using this regulation. Information on all extensions is available on the Department of Agriculture website.</p> <p>In December 2019, the Murray–Darling Basin Ministerial Council were updated on WRP progress and agreed that the key WRP commitments will be in place from 1 July 2019, including entering into agreements with the Australian Government to give effect to these commitments. The MDBA has entered into bilateral agreements with the Basin states which require the states to implement key WRP commitments from 1 July 2019. This includes provisions around the protection of environmental water and measures to enable SDL accounting and compliance to commence from 1 July 2019 irrespective of when WRPs are accredited.</p>
<p>Water trade – accurate reporting of trade prices</p>	<p>Under the Basin Plan Water Trading Rules, water trading prices must be made available to relevant authorities. In the 2016-2017 water year, 68 percent of trades were reported at zero value. Access to price</p>	<ul style="list-style-type: none"> • Audit of compliance with the requirement to report prices of all trades, focusing on water sellers and water brokers. 	<p>From July 2018 to January 2019, the MDBA conducted an audit of Basin State processes and procedures to collect, validate, record and report water trade price information. The audit found that no Basin government had robust arrangements in place to gather comprehensive price information. For example, price reporting was not compulsory in all jurisdictions, some trades were processed without price information and there was no validation of the information reported.</p>

	<p>information is fundamental to a competitive market, so increasing price disclosure is important.</p>		<p>As a consequence, some of the data reported by the states and published in consolidated form by the Bureau of Meteorology is incomplete and inaccurate.</p> <p>Basin states and the MDBA will develop management responses to plan actions in light of the findings and recommendations of the audit. The MDBA will review the implementation of the management responses within twelve months of the audit.</p>
<p>Accurate measurement and better metering of water take and use</p>	<p>The accuracy of water measurement and metering of water take is critical for regulators to be able to monitor Basin Plan compliance.</p>	<ul style="list-style-type: none"> • Work with Basin States to develop the Basin Compliance Compact, and establish reporting arrangements to check progress with implementation. • Implement relevant MDBA commitments from Basin wide Compliance Review and proposed Compliance Compact including: <ul style="list-style-type: none"> ○ Guidelines on hydrometric networks and hydrological models ○ Guidelines on measurement of floodplain or overland flow harvesting ○ Develop remote sensing capabilities and other technologies to monitor water use. 	<p>The Basin Compliance Compact was agreed to in principle by Basin state Ministers in June 2018, and endorsed by the Coalition of Australian Governments in December 2018. Through the Compact, governments committed to improving metering, measurement, reporting and transparency and compliance frameworks across the Basin.</p> <p>In December 2018, the MDBA published a Progress Report into the implementation of the Compact. The Report found that while there had been real improvement in compliance and enforcement since the Compact was agreed in June 2018, there were still varying degrees of transparency and activity by Basin governments around implementing the Compact commitments.</p> <p>During 2018-2019, the MDBA published, in consultation with the Basin states, four practice notes which include guidance for incorporating and accounting for floodplain harvesting in hydrological models. The MDBA also published a Model Improvement Program which outlines components and timeframes for three models used to support Basin Plan implementation: the Source Murray Model, the Integrated Modelling Framework, and Hydrodynamic Models.</p> <p>In June 2019, the MDBA published its position statement on floodplain harvesting. The MDBA expects any floodplain harvesting in the Basin would be within the limits in the Basin Plan.</p> <p>In 2018-2019, the MDBA has been building capability and applying remote sensing data for compliance, for example developing the ability to identify structures on a floodplain that impede, divert and/or store water. In June 2018, the MDBA used satellite imagery to monitor environmental flows during the Northern Connectivity Event as a case study for compliance monitoring using satellite imagery.</p>

Office locations

Adelaide

Albury–Wodonga

Canberra

Goondiwindi

Toowoomba

 mdba.gov.au

 1800 230 067

 engagement@mdba.gov.au