



Department of
Primary Industries
Office of Water

AUDIT OF IMPLEMENTATION

NSW Border Rivers regulated river water sharing plan report card

Prepared for the period between 1 July 2009 to 30 June 2014

Publisher: NSW Department of Primary Industries, Office of Water

Title: Audit of Implementation NSW Border Rivers regulated river water sharing plan report card Prepared for the period between 1 July 2009 to 30 June 2014

First published : March 2018

ISBN: 978-1-76058-195-4

More information

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Acknowledgments

Water NSW

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Acronyms and Abbreviations

ACCC	Australian Competition and Consumer Commission
AEW	Adaptive environmental water
AWD	Available water determination
CEWH	Commonwealth Environmental Water Holder / Office
D&S	Domestic and stock (both a basic land holder right and an access licence category)
GS	Regulated river general security access licence sub category
GS 'A'	Regulated river general security 'A' access licence sub category
GS 'B'	Regulated river general security 'B' access licence sub category
HS	Regulated river high security access licence sub category
LTADEL	Long-term average annual extraction limit
LWU	Local Water Utility access licence category
MBD	Murray-Darling Basin
OEH	Office of Environment and Heritage
the Act	<i>Water Management Act 2000</i> (NSW)
the Minister	the Minister for Natural Resources, Lands and Water
WA	<i>Water Act 1912</i> (NSW)
Water NSW	Water NSW, formerly State Water Corporation
WSW	Water supply work

Glossary

Water sharing plan term review refers to the Minister's decision to extend the existing plan or replace it with a new one at the end of its first 10 year term in line with CI 43A provisions of the Act.

Amend water sharing plan refers to changes made to the plan during its 10 year term. These changes may be provided for in the original plan provisions or made by the Minister under s.45(1)(a) of the Act

Introduction

This report card covers the *Water Sharing Plan for the Border Rivers Regulated Water Source 2009* that commenced on 1 July 2009. It is one of 6 report cards (covering regulated rivers, unregulated rivers and inland groundwater) prepared in 2014 by the NSW Office of Water and refined by the Audit Panel appointed by the Minister for Natural Resources, Lands and Water under section 44 of the *Water Management Act 2000*.

The report cards were used by the Audit Panel in its review of whether the water sharing plan provisions of the ten plans covered by the 2014 audit are being given effect to. This is the first audit for five of these plans covering the period 2009-2014 and the second audit for the remaining five groundwater plans covering the period 2010-2014.

The report cards form an attachment to the Audit Panel's final report to the Minister. The report includes details on the audit process and Panel membership, together with the findings and additional measures identified by the Audit Panel that are required to give effect to the current plans, and lessons for future water sharing.

Report cards are aligned with the sections in the water sharing plans. There are no report cards for plan sections that provide context or those that contain only enabling provisions linking the plans to the Act (see Table 1).

Table 1 Water sharing plan sections which do not require report cards

Plan Section	Title
Part 1	Introduction
Part 2	Vision, objectives, strategies and performance indicators
Part 5	Bulk access regime
Part 6	Requirements for water under access licences
Part 13	Monitoring and reporting

Reflecting the requirements of the Act and the Audit Panel's terms of reference, the report cards focus on the implementation of the provisions in the plans. They do not attempt to assess the outcomes or effectiveness of the plan in achieving its objectives.

Assessment of implementation is classified as follows:

- **Always implemented:** Always implemented when required, or not required to be implemented as triggers for action have not been reached, but everything is in place should action be required.
- **Sometimes implemented:** Required to be implemented and sometimes implemented.
- **Not implemented:** Required to be implemented but never implemented.
- **Not required:** Activities not yet scheduled to commence or Minister has not exercised their discretion to act.

The preparation of the report cards has required an examination of each individual clause in each audited plan. Consequently, the level of detail, wording and implementation activities reflects the variations across each plan. Wherever possible, activities that have the same implementation requirements and classification across plans have been grouped together.

The focus on implementation of water sharing plan provisions also means that the report cards do not summarise all of the water management activities that the NSW government is involved in. Activities that complement the implementation of the plans or are undertaken to fulfil NSW requirements under the National Water Initiative, State Plan or other drivers are not reported on.

The considerable NSW Government effort and investment in the establishment, monitoring and review of performance indicators of water source condition changes are also not covered by the report cards. These performance indicators will be used to determine the performance of a plan against its objectives at the end of the 10 year term and so would be classified in the report cards as “Not required” (activities not yet scheduled to commence). Information on ecological and social and economic performance monitoring is available in the progress reports for the relevant water sources and elsewhere on the NSW Office of Water website at www.water.nsw.gov.au.

Part 3 – Environmental water provisions

Table 2: Extraction limit

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	See report card for Part 8 – Limits to the availability of water			

Table 3: Minimum daily flows

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	Minimum release of 10ML/d from Pindari Dam was met at all times	This is a rule that was in place prior to the commencement of the plan. Although the Pindari Dam work approval did not commence until November 2010, the rule was implemented during 2009/10.	

Table 4: Transparency releases

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
2009-2010	Sometimes implemented	Transparency release rules were partially implemented during the first year of the plan	There were several occasions in both the June-August and September – May periods where the transparency rules were not implemented, however the Pindari Dam work approval did not commence until November 2010, in the second year of the plan.	

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
2010-2011 2011-2012 2012-2013 2013-2014	Sometimes implemented	There have been several small breaches of transparency release conditions each year usually in the June – October period. (not reported by Water NSW as non-compliance) In June 2013 transparency releases were not made as the plan indicates. (Water NSW reported this as non-compliance in their water supply work approval annual compliance report)	There are some interpretation issues relating to the implementation of transparency release rules. There have been several technical breaches of transparency release conditions each year usually in June - October that have not been reported by Water NSW as non-compliance. These often occur at low flow where the daily inflow calculation can be naturally sporadic, and constantly changing the release rate in the dam to match the calculation is not practical	Office of Water to discuss the implementation of transparency releases from Pindari Dam with Water NSW with the view to clarifying the rules in the Work Approval

Table 5: Stimulus flow releases

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
Stimulus flow account All years	Always implemented	The stimulus account was created and managed in accordance with the intent of the plan rules.	Although the work approval for Pindari Dam did not commence until November 2010 in the second year of the plan, the account for the Stimulus Flow was established prior to plan commencement. Although the plan specified accounting rules have been implemented, they are not particularly clear and would benefit from amendment to align with current account keeping protocols, specifically establishing an Account Limit of 8,000 ML (rather than an implied limit), allowing Unlimited Carryover, and allowing an Annual Stimulus Credit of up to 4,000 ML.	Consider amending the plan to align the stimulus flow account keeping rules with current accounting practice.

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
Stimulus flow releases All years	Always implemented	The rules for release of the stimulus flow were applied when appropriate with a small timing delay for one flow.	<p>Stimulus flow releases were made in 2012/2013 and 2013/2014 when the inflow trigger of 1200ML/d was reached</p> <p>The stimulus flow in 2012 was released over several days between the 2nd and 6th December, which is just outside the specified period which ends on the 1st December.</p> <p>The flow was delayed due to concerns regarding a platypus breeding event and to enable the stimulus flow volume to be combined with other environmental water.</p> <p>The plan does not establish a formal environmental flows reference group as in other regulated plan areas. Decisions relating to stimulus flow releases are made by Office of Water and OEH in consultation with Water NSW.</p>	

Table 6: Restrictions on extraction of transparency and stimulus releases

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	As minimal extraction occurs between Pindari Dam and Frazers Ck, no formal process has been required to implement this clause to date.		

Table 7: Restrictions on extraction of uncontrolled stream flow

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	A minimum flow of 100ML/d downstream of the plan area measured at the Barwon River at Mungindi was protected between March and September of each water year	These provisions are implemented through the use of river modelling techniques	

Table 8: Adaptive environmental water

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	There are no AEW conditioned access licences in the plan area, but there is a management process available should it be required.	There is no AEW in this water source, although the CEWH has held three access licences since 19/8/2010 that are used for environmental purposes.	

Part 4 – Basic landholder rights

Table 9: Domestic and stock rights

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	Domestic and stock (D&S) rights are available in the plan area and were maintained throughout the audit period.	<p>The plan requires the system be managed so that D&S supplies can be maintained through the worst period of low inflows on record.</p> <p>The wording of these plan rules was amended in Sept 2014 to clarify which dataset this assessment is based on.</p> <p>The Office of Water is developing guidelines for the take and use of water for domestic consumption and stock watering. These will set limits on extraction of water for D&S purposes.</p>	Office of Water to ensure that D&S use is limited in line with the State-wide Reasonable use guidelines once they are finalised and approved.

Table 10: Native title rights

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	No native title rights have been established in the plan area and so native title rights have remained at OML/d.		

Table 11: Replenishment flows

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
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See Part 12 (System operation rules) for details

Note: No report cards have been prepared for Parts 5 or 6 of the plan as they do not contain any provisions requiring action by the government.

Part 7 – Rules for granting access licences

Table 12: Applications for specific purpose access licences

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	The Water Management (General) Regulations 2004 and 2011 set out the specific purpose access licences for which applications can be accepted in line with the plan	The plan has not yet been updated to reference the new regulations	Office of Water to update the plan to reference the new Water Management (General) Regulation 2011.

Table 13: Licence applications

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	Procedures are in place to grant access licences in accordance with the plan rules.	The plan allows only a limited set of application types and those granted have been within these types. Licenced entitlement has not increased during the audit period.	

Part 8 – Limits to the availability of water

Table 14: Compliance with the long term annual average extraction limit (LTAAEL)

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	The annual extraction has been assessed against the LTAAEL each year as required.	Whilst the process has been undertaken annually, there have been issues with obtaining all the data required.	

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	No adjustment to the maximum AWD limit set in the plan has been required		

Table 15: Limits to the volumes that may be taken under or assigned from regulated river (general security A) and (general security B) access licences.

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	Limits are incorporated into the account management system to provide an account maximum limit of 1ML/unit share. Overdrawn accounts are corrected by carrying a deficit forward into the next water year.	<p>There were small numbers of overdrawn GS accounts each year.</p> <p>When assessed as an account type rather than at the individual account level, GS 'A' and 'B' are within allocated limits except for 2009/2010 which carried forward a small debit of 1ML for the GS 'A' licence category.</p> <p>There are still some significant issues in trading between NSW and QLD requiring resolution. In some circumstances QLD deals with trade differently to NSW which results in inconsistencies in trade data.</p> <p><i>Also see Part 9 Rules for managing access licences and Part 11 Mandatory conditions</i></p>	

Table 16: Available water determinations

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	AWDs for all categories of licence specified in the plan were calculated and announced in line with plan provisions during the audit period.	<p>The plan requires the system be managed so that an AWD of 100% for LWU and D&S (all classes) and AWDs of 1ML/unit share for HS can be maintained through the worst period of low inflows on record.</p> <p>The wording of these plan rules was amended in September 2014 to clarify which dataset this assessment is based on.</p>	

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
2009/10 2010/11	Not an auditable provision, only provided for information	GS is not a licence category specified in the plan, however an AWD was required and announced during these years.	Although the plan does not establish GS licences, an AWD was issued in these years so that an incorrectly created access licence of this licence category could access allocations. The anomalous licence has since been corrected, so GS AWDs are no longer required.	

Part 9 – Rules for managing access licences

Table 17: Water allocation account management

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	Accounts have been managed in line with the plan rules via the account management system.	There is a procedure in place to identify any accounting errors and to correct where necessary.	

Table 18: Carryover provisions

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	<p>Rules relating to the ability to carry over balances were complied with in all years.</p> <p>Rules relating to carry over limits for HS, GS 'A' and GS 'B' were not complied with as they were incorrectly included in the plan when made and corrected via amendment in 2013 under s. 45(a) of the Act.</p>	The carryover provisions for HS, GS 'A' and GS 'B' were amended in 2013 to reflect pre plan practice and the intent of the River Management Committee. The amendment also aligns these plan provisions with existing conditions in Plan Parts 13 and 8 and existing account limits.	

Table 19: Extraction conditions

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	General priority of extraction conditions set out in the plan were complied with at all times	Governed by Water NSW operational protocols	

Table 20: Supplementary water

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	Access to water by supplementary water users (when announced) complied with plan rules during these periods.	There were significant periods of supplementary flow access during the audit period particularly in the wetter years 2010/11 and 2011/12. Rules relating to limits on extraction rates and direct water use were implemented via supplementary announcements. They were not applied as mandatory licence conditions as the plan specifies. <i>Also see Part 11 Mandatory conditions.</i>	
All years	Always implemented	Rules relating to restricting access to a supplementary water event in the Macintyre River to allow flow passage into the Barwon-Darling were not required during the audit period.	The plan allows the taking of water under supplementary access licences nominating water supply works on the Macintyre River to be restricted if necessary to ensure the passage to the Barwon-Darling of locally generated uncontrolled flows needed to meet the requirements of the Interim Unregulated Flow Management Plan for the North West. These rules are implemented on a case by case basis and no events occurred during the audit period.	

Part 10 – Access licence dealing rules

Table 21: Minister's dealing principles

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	All dealings have been in line with the Minister's dealing principles		

Table 22: Constraints within water source

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	Trade constraints have been implemented as per plan rules		

Table 23: Change of water source

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Not implemented	Although a change of water source is permitted within the Border Rivers Water Management Area, conversion factors have not been established by the Minister and so conversions are not possible.	Conversion factors in regulated systems are inconsistent with Chapter 12 of the MDB Plan. The Australian Competition and Consumer Commission (ACCC) in their position paper on Water Trading Rules (released in Sept 2009) recommended that conversion factors not be established due to the potential impact on reliability of other licences.	Office of Water to amend plan to remove reference to conversion factors in line with MDB Plan requirements.

Table 24: Conversion of access licence category

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years Conversions <i>not</i> requiring conversion factors to be established	Always implemented	Procedures are in place to convert access licence category should applications be received.	One D&S access licence was converted to a HS access licence as per plan rules. Although not a transfer, a GS licence was issued in error during the licence conversion process from the WA to the Act at the commencement of the plan. This was rectified in 2011. <i>Also see Part 8 Limits to the availability of water</i>	
All years Conversions <i>requiring</i> conversion factors to be established	Not implemented	Although conversions of access licence category are permitted, conversion factors have not been established by the Minister and so conversions are not possible.	Conversion factors in regulated systems are inconsistent with Chapter 12 of the MDB Plan. The Australian Competition and Consumer Commission (ACCC) in their position paper on Water Trading Rules (released in Sept 2009) recommended that conversion factors not be established due to the potential impact on reliability of other licenced entitlements.	Office of Water to amend plan to remove reference to conversion factors in line with MDB Plan requirements.

Table 25: Dealings between water sources (including inter-valley and interstate dealings)

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
Interstate access licence transfers	Always implemented	Interstate access licence transfers have not been allowed in line with plan rules.		
Allocation assignment between water sources	Always implemented	Allocation assignments between water sources have not been allowed in line with plan rules		

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
Interstate assignment between water sources	Always implemented	Interstate trades in water allocation assignments have been allowed in line with plan rules	Most assignments are from NSW to QLD with very few in the reverse direction. There are still some significant issues in trading between NSW and QLD requiring resolution. In some circumstances QLD deals with trade differently to NSW which results in inconsistencies in trade data.	
Nominating interstate WSWs 2009/2010 2010/2011	Not implemented	Tagging of NSW access licences to QLD extraction points was not available for the first two years of the plan because arrangements and procedures were being developed.		
Nominating interstate WSWs 2011/2012 2012/2013 2013/2014	Always implemented	Interstate WSW nominations have been allowed in line with plan rules and are accounted for by tagging entitlements to interstate extraction sites.	Tagging procedures became available in 2011/2012 with most activity occurring during the 2011/2012 and 2012/2013 water years. Tagging of QLD water licences to NSW WSWs is administered through QLD processes, although some of this information is also recorded in the NSW Licencing system. There are still some significant issues in tagged trading between NSW and QLD requiring resolution. In some circumstances QLD deals with trade differently to NSW which results in inconsistencies in trade data.	Office of Water to continue to refine the Licencing system to capture all data

Part 11 – Mandatory conditions

Table 26: Mandatory conditions - licences and work approvals

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
Mandatory conditions on access licences All years	Sometimes implemented	Most mandatory conditions required by the plan were placed on access licences during the licence conversion process from the WA to the Act at plan commencement.	<p>The audit process reviewed a small number of access licences of each category within the plan area. During the audit process a number of anomalies were identified.</p> <p>GS 'A' and GS 'B' access licences are required to have a mandatory condition limiting the volume that can be taken in any water year to 1ML/unit share. This is also implemented in account limits. The licences sampled have a take limit of 1.25ML/unit share and are limited to 3ML/unit share in any consecutive 3 year period.</p> <p>Licences specifying WSWs in QLD are required to have an extra mandatory condition (normally applied to NSW work approvals) which relates to the provision of data. The licences include a provision to supply water data, but not the extra data specified in the plan.</p> <p><i>Also see Part 9 Rules for managing access licences and Part 8 Limits to the availability of water.</i></p>	Further review of mandatory conditions on access licences may be required to ensure they have all been correctly applied.
Mandatory conditions on WSWs approvals All years	Always implemented	Most mandatory conditions required by the plan were placed on work approvals during the licence conversion process from the WA to the Act at plan commencement. One condition was not applied, but was implemented through another mechanism.	<p>The audit process reviewed a small number of work approvals within the plan area. During the audit the following anomaly was identified.</p> <p>Work approvals associated with a small group of licences are required to have a mandatory condition specifying maximum extraction rates and direct water use. These conditions have not been applied to the work approvals sampled. The conditions have been implemented through inclusion in supplementary announcements.</p> <p><i>Also see Part 8 Rules for managing access licences</i></p>	Further review of mandatory conditions on work approvals may be required to ensure they have all been correctly applied.

Part 12 – System operation rules

Table 27: Minimum release

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
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See Part 3 (Environmental water provisions) for details

Table 28: Replenishment flows

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	Replenishment flows were provided when requested.	Replenishment flows were provided in 2009/10 No replenishment flows were required in 2010/2011 or 2011/2012 as they were extremely wet years. Two replenishment flows were provided in 2012/2013 and one in 2013/2014	

Table 29: Water delivery and channel capacity constraints

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Not implemented	No maximum channel capacity or maximum regulated rate has been determined during the audit period.	To assist with the determination of channel capacity constraints Water NSW provided some general information in late 2014 in accordance with their work approval.	Office of Water to consider amending both the plan and the Pindari Dam work approval to clarify the process for determining channel capacity constraints

Table 30: Rates of change to releases from storages

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
2009/2010 2010/2011 2011/2012	Not implemented	No operating protocol covering rates of change of releases was established during the first three years of the plan.	The work approval for Pindari Dam commenced in November 2010 and specified a protocol be developed by 2012.	

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
2012/2013 2013/2014	Sometimes implemented	A draft rate of change to releases operating protocol for Pindari Dam was put in place in Oct 2012.	Further development of the rate of change to releases protocol is required to fully address the plan provisions.	Office of Water to progress the development of the rate of change of releases operating protocol for Pindari Dam with Water NSW.

Table 31: Supply of orders when remaining allocations are low

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	Allocations did not fall low enough to trigger these provisions during the audit period.	Procedures are in place should these provisions be required in the future.	

Table 32: Dam operation during floods and spills

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Always implemented	Protocols were followed for Pindari Dam operations during flood and spill events	<p>Pindari Dam was operated in accordance with regulatory conditions during the audit period.</p> <p>Pindari Dam spilled from Sept 2010 for most of the remainder of the water year and then again intermittently from August 2011 until March 2012. Glenlyon Dam spilled between Dec 2010 and Feb 2011 and again from Oct to Dec 2011.</p> <p><i>Note: The plan specifies both Pindari and Glenlyon Dams in this section. Glenlyon is in QLD and not managed by NSW processes.</i></p>	

Note: No report cards have been prepared for Part 13 of the plan as it does not contain any provisions requiring action by the government.

Part 14 – Plan amendments

Table 33: Changes to the water source

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Not required	There has been no need to amend the plan as the water source boundaries have not changed.		

Table 34: Floodplain harvesting

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Not required	There were no changes to the plan or its relevant provisions to account for floodplain harvesting during the audit period.	The Floodplain Harvesting Policy commenced in May 2013; rollout has not yet reached the stage where WSP amendments are required.	The Office of Water to incorporate floodplain harvesting provisions into the plan as required.

Table 35: Variation of mandatory conditions

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Not required	There have been no amendments to plan provisions to vary mandatory conditions on water access licences or WSW approvals.	See implementation of mandatory conditions (Part 11) for further comments.	

Table 36: Interim Unregulated Flow Management Plan for the North West

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Not required	There have been no changes to the Interim Unregulated Flow Management Plan for the North West		

Table 37: Other plan amendments

Subject of assessment	Assessment	Explanation of assessment	Comment	Recommendation
All years	Not required	Plan amendments are allowed if there are changes to the intergovernmental agreement between NSW and QLD for water management in the Border Rivers. No amendments have been required.		