



NSW AND MDBA INTERAGENCY AGREEMENT

Surface Water Final Report

Attachment A

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Surface Water final report (16 June 2019)

The MDBA and former NSW Department of Industry (now Department of Planning, Industry & Environment) signed an agreement on the 28 February 2019 relating to specified measures in anticipation of water resource plans coming into effect (the Agreement).

The Agreement requires reporting against these measures on 16 April 2019 (progress report) and 16 June 2019 (final report). Reporting requirements are set out in the Agreement.

In regard to reporting requirements:

1. This report provides the evidence to meet the implementation commitments specified in Schedule 2 by 16 June.
2. The report describes how the actions 1-5 and 7-10 of Schedule 2¹ will be met.

¹ Actions 1 to 5 and 7 to 10 relate to surface water

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1. The implementation commitment

Certain matters in the Agreement relate the management of the NSW surface water resources of the Murray-Darling Basin. Broadly, NSW must, by 16 June 2019, 'provide a mechanism to resolve key elements contemplated by Part 3 of Chapter 10 of the Basin Plan, and to report on compliance with the Sustainable Diversion Limits (SDLs) for the 2019/20 water year consistent with the arrangements contemplated by s 71 of the Act'. NSW must carry out the actions in Schedule 2 to the Agreement within the specified timeframes. The Schedule 2 actions relevant to surface water are shown in Table 1.

Table 1. Schedule 2 surface water actions

Schedule 2 actions relevant to surface water

Action Item 1:

Specify for each form of take within each SDL resource unit in the WRP area, a method for determining the maximum quantity of water that NSW will permit to be taken for consumptive use during a water accounting period after 30 June 2019 for the WRP area.

Note: a method must be one that is consistent with requirements of s10.10 of the Basin Plan, including requirements relating to accounting in s10.12, and with the Authority's SDL Reporting and Compliance Framework

Action Item 2:

For each SDL Resource unit in the WRP area, set out a demonstration that the method referred to in Action 1 relates to the SDL of that unit in such a way that, if applied over a repeat of the historical climate conditions, it would result in meeting the SDL for the resource unit, including as amended under s23B of the Act.

Action Item 3:

For each SDL Resource unit in the WRP area, specify rules that will be applied by NSW after 30 June 2019 to ensure, as far as practicable, that the quantity of water actually taken for consumptive use in a water accounting period for the SDL resource unit does not (after making any adjustments for the disposal or acquisitions of held environmental water) exceed the unit's annual permitted take for the period.

For this action, 'annual permitted take' means the sum of the maximum quantity of water permitted to be taken by each form of take for consumptive use from the SDL resource unit, determined in accordance with the method specified in Action 1.

Schedule 2 actions relevant to surface water

Action Item 4:

1. Subject to (3), for each surface water SDL resource unit in a WRP area, specify the limits that will be placed on take for consumptive use by:
 - (a) take under basic rights; or
 - (b) take by runoff dams; or
 - (c) net take by commercial plantations.

so that take does not exceed the level specified in column 2 of Schedule 3 to the Basin Plan, for that form of take in that SDL resource unit.
2. Subject to (3), for the SDL resource units in the Barwon-Darling, Border Rivers, Gwydir, Namoi and Macquarie-Castlereagh WRP areas, specify the limits that will be placed on take for consumptive use by floodplain harvesting so that take does not exceed the level:
 - (a) estimated by the Authority to be taken under BDL conditions when the Basin Plan was made, or
 - (b) estimated under a revised estimate presented to meet action 7 of this Schedule.
3. Limits placed on a form of take specified in (1) or (2) may be increased above the specified limits, if:
 - (a) reductions are specified in another form of take in that SDL resource unit that ensures there is no overall change in the long-term annual average quantity of water that can be taken, and
 - (b) take by the forms of take affected by the changes are capable of being accurately measured, or, if such measurement is not currently possible, being reasonably estimated using the best available method, and
 - (c) the changes are not expected to result in take from the SDL resource unit ceasing to be an environmentally sustainable level of take.

Action Item 5:

For each SDL resource unit in the WRP area, specify how the quantity of water actually taken for consumptive use by each form of take will be determined after the end of the water accounting period using the best information available at the time.

Note: the specification must be consistent with the requirements of s10.15(2), (3) and (4) of the Basin Plan.

Action item 7:

Propose amended estimates of BDL for each SDL resource unit in the WRP area.

For this action, 'estimates of BDL' are estimates set out as Notes to the description of BDL in Column 2 of Schedule 3 to the Basin Plan.

Action item 8:

For each of the following WRP areas:

- Murrumbidgee (item 8 in Schedule 1) and
 - NSW Murray and Lower Darling (item 9 in Schedule 1)
- 1) Demonstrate that appropriate policy settings are in place for the implementation of the measures described in the Basin Plan as unimplemented policy measures (see s 7.15), by 30 June 2019.
 - 2) Develop and agree a timetable with the Authority for NSW delivery of PPM implementation evidence and Authority comments.

Schedule 2 actions relevant to surface water

Action item 9:

For each of the following WRP areas:

- Barwon-Darling Watercourse (item 2 in Schedule 1)
- Gwydir (item 4 in Schedule 1) and
- Macquarie-Castlereagh (item 6 in Schedule 1)

- 1) Provide a clear work plan setting out a pathway including milestones for progressing solutions to better manage environmental water where relevant under NSW law

Solutions include, but are not limited to nor prescribed as:

- better understand northern connectivity
 - managing resumption of flows in the Barwon-Darling after an extended dry period
 - limiting daily water take in the Barwon-Darling
 - actively managing environmental water in stream in the Barwon-Darling, and relevant water sources in the Gwydir and Macquarie-Bogan unregulated water sharing plans where regulated held environmental water is delivered.
- 2) Publish a progress report on delivery of the roadmap for Better management of environmental water— Interim Solutions Package (NSW Government, June 2018).
 - 3) Share the draft rules to improve the management and protection of environmental water in the Barwon-Darling, Gwydir and Macquarie-Bogan catchments with the MDBA, noting that these will be publically released as part of the draft WRP public exhibition process.

Note: The Natural Resources Commission review of the Water Sharing Plan for the Barwon-Darling Unregulated and Alluvial Water Sources 2012 under section 43A of the Water Management Act 2000 has commenced. The timing, process and recommendations of this review may influence the content and timing of the deliverables specified in this action. Notwithstanding this, it is anticipated that public exhibition may commence in June 2019.

Action item 10:

For the Murrumbidgee WRP area (item 8 in Schedule 1):

- 1) Work with the ACT to develop a process for enabling two-way inter-jurisdictional water trading between NSW and the ACT,
- 2) Provide a workplan to establish the required arrangements, including principles, milestones, and timing.

Note: NSW acknowledges the Ministerial Council agreement on 14 December 2018 to enable two-way inter-jurisdictional water trading between NSW and the ACT.

Under the agreement, NSW must conduct public consultation and engagement, where appropriate, in developing the final outputs specified in Schedule 2.

For surface water this has been undertaken as part of the public exhibition of the draft water resource plans (WRPs) as per Table 2 below.

Table 2. WRP public exhibition details

Water Resource Plan	Public exhibition dates
Gwydir Surface Water WRP	18 October to 29 November 2018
Macquarie – Castlereagh WRP	22 November to 1 February 2019
Lachlan Surface Water WRP	27 November to 1 February 2019
Border Rivers Surface Water WRP	5 December to 1 February 2019
Murrumbidgee Surface Water WRP	6 June 2019 to 14 July 2019

Public exhibition of the remaining four surface water WRPs is proposed for July to September 2019.

For the purpose of this report, a reference to a regulated surface water WRP applies to the following surface water WRPs:

- Murray – Lower Darling
- Murrumbidgee
- Lachlan
- Macquarie – Castlereagh
- Namoi
- Gwydir
- Border Rivers

The unregulated Barwon Darling in the main is treated as a regulated surface water WRP for the purposes of this report, as the WRP includes a both Baseline Diversion Limit (BDL) and annual permitted take models. The unregulated Intersecting Streams WRP does not include a numerical model and is treated in a slightly different manner to the other WRP areas.

In this report the Gwydir WRP is used to demonstrate the methods used. The NSW WRP template ensures consistency across the WRPs. Apart from variations to address identified risks, the methods used are essentially be the same across WRPs. NSW continues to work with the MDBA to ensure all of provisions in the WRP template are accepted as nominally meeting MDBA's requirements.

2. Reporting and assurance

The Agreement requires reporting against these measures on the 16 April 2019 (**progress report**) and 16 June 2019 (**final report**). Reporting requirements are set out in the Agreement. In relation to surface water, the final report must include:

- a) evidence verifying that the implementation commitments in Schedule 2, specified as due by 16 June 2019, are complete,
- b) a description of the way the obligation in clause 2.3 was carried out,
- c) final outputs from actions 1 to 5, 7 and 9 of Schedule 2,
- d) verification that measures are in place to enable the report required by action 6 of Schedule 2 to be generated and provided to the Authority by the required date,
- e) an explanation of how PPMs will be implemented from 1 July 2019, for action 8 of Schedule 2, and
- f) the progress report for action 10 of Schedule 2.

The SDL models will be applied at the end of each water accounting period to determine the APT by undertaking the following steps:

- extending the SDL Model input data (inflows, rainfall, evaporation, demands) to 30 June, being the end of the last water accounting year;
- running the SDL Model from 1 July 2019 to end of the last water accounting year by initialising the simulation with recorded storage volumes and account limits at 30 June 2019;
- determining the annual permitted take using the consumptive diversions calculated by the SDL Model plus the unmodelled estimates of take.

NSW will provide updated APT models and reports that will enable the MDBA to undertake an assessment. NSW continues to work with the MDBA to ensure that the revised estimates of BDL are based on best available information.

The most up to date APT models and supporting documents are provided to the MDBA through Confluence at: <https://nswwmmi.atlassian.net/wiki/spaces/BSU/overview>

2.1.2. Additional information to meet the Basin Plan requirements

The Basin Plan requires additional information to determine APT for each SDL resource unit. NSW has provided this in the following tables in this report:

- Table 3 provides a greater level of detail of how the volume for each of the APT parameters is determined and additional information that will be used by the MDBA to inform their assessment.
- Table 4 demonstrates how NSW has met the requirements of section 10.12 of the Basin Plan. It explains how the APT considers a range of different matters that are relevant to or could have an influence on the determination of the APT.

Note these tables are provide in Schedule F of the WRP as referred to below.

2.1.3. Intersecting Streams WRP

The Intersecting Streams WRP does not include a modelled component. The text provided above and associated tables will be modified to reflect the lack of a numeric model for determining annual permitted take.

10.12 sub-clause	10.12 sub-sub-clause	How this is accounted for in the method for 10.10	Supporting information (not for accreditation)
	(h) Great Artesian Basin (GAB)	N/A	No water is sourced from the Great Artesian Basin and released into the Gwydir SDL resource unit.
	(i) Managed aquifer recharge	MAR does not occur in the Gwydir SDL resource unit as it is a surface water resource and this is a groundwater provision	This requirement is not applicable to surface water WRPs.
(2)	N/A	N/A	Not a requirement that needs to be demonstrated as being met.
(3)	disposal and acquisition of held environmental water	Accounting for the disposal and acquisition of HEW will be undertaken after the SDL method has been processed. This does not affect the method as it is undertaken after the method has been completed	

2.2. Meeting the requirements Action item 2

2.2.1. Demonstrating the annual permitted take method relates to the SDL

Action item 2

For each SDL Resource unit in the WRP area, set out a demonstration that the method referred to in Action 1 relates to the SDL of that unit in such a way that, if applied over a repeat of the historical climate conditions, it would result in meeting the SDL for the resource unit, including as amended under s23B of the Act.

The relationship between the volumetric outputs and parameters of the annual permitted take method and the SDL method is demonstrated in Table 5. It displays the take parameters derived from the SDL model plus the other forms of take and the same parameters as determined by the APT method.

The changes in the APT methods for the modelled components (General Security and supplementary access entitlements) demonstrate a better understanding of the take behaviour of water users in the system. It also demonstrates changes in this behaviour due to water availability and other factors since 2009.

The volumes for floodplain harvesting are yet to be finalised in the NSW WRP areas where this will be managed under the entitlement system. A separate process is being undertaken to determine the volume. To improve transparency and stakeholder confidence in this process, NSW Department of Planning, Industry & Environment - Water and MDBA jointly commissioned an Independent Review of the implementation of the Floodplain Harvesting Policy in northern NSW. A draft peer review report was released for public comment from 8 May 2019 until 22 May 2019.

The draft peer review's findings verify progress to date and validate the significant investment made by the NSW and Commonwealth Governments. The review includes draft recommendations that NSW Department of Planning, Industry & Environment - Water is currently developing into an action plan for implementation. A key recommendation relates to the publication of documents explaining the modelling process used to determine licence entitlement and a need for workshops to be held to field questions on the modelling methodology.

Table 5. WRP Table F-3 Demonstration of APT method with the SDL

Form of Take	Sustainable Diversion Limit (GL/year)	Annual average permitted take, applied over a repeat of the historical climate conditions 1895–2009 (GL/year)
High Security ¹	9.3	9.3
General Security ²	197.6	190.5
Supplementary access	81.6	84.2
Local Water Utilities	3.8	3.8
Floodplain Harvesting ³	TBC	TBC
Unmodelled (MDBA estimates)		
Unregulated (excluding Basic Rights)	11.0	11.0
Runoff Dams	124.0	124.0
Commercial plantations	1.0	1.0
Other	11.1	11.1
TOTAL	439.3	434.8

The scenario includes ongoing development of a new method to estimate FPH that uses more detailed and up to date information to make a direct representation of FPH activities. This new model feature is incomplete as at the date of this report and the previous estimate of FPH take prepared by MDBA will continue to be used until the Healthy Floodplains Project is complete.

¹ Includes 400 ML of S&D piped entitlement issued Basin Pipe Project

² Includes S&D diversions modelled together with GS entitlements, which are estimated at 1.1 GL/y in both scenarios

³ Floodplain harvesting APT to be finalised

2.3. Meeting the requirements Action Item 3

2.3.1. Ensuring SDL compliance – rules for take

Action item 3

For each SDL Resource unit in the WRP specify rules that will be applied by NSW after 30 June 2019 to ensure, as far as practicable, that the quantity of water actually taken for consumptive use in a water accounting period for the SDL resource unit does not (after making any adjustments for the disposal or acquisitions of held environmental water) exceed the unit's annual permitted take for the period.

For this action, 'annual permitted take' means the sum of the maximum quantity of water permitted to be taken by each form of take for consumptive use from the SDL resource unit, determined in accordance with the method specified in Action 1.

The rules for that manage the quantity of water taken from rivers are included in the NSW regulated and unregulated water sharing plans.

In the regulated rivers for example, the rules that limit how much water can be taken in the *Water Sharing Plan for the Gwydir Regulated River Water Source 2016* are under Part 7, Part 8, Part 10 Division 2, and Part 11 Division 2.

In the unregulated rivers, the rules that limit how much water can be taken in the *Water Sharing Plan for the Gwydir Unregulated River Water Sources 2012* are under Part 6 Division 2, Part 8 and Part 11 Division 2.

Take by run off dams is controlled under Sections 53 and 54 of the *Water Management Act 2000* (NSW). The method for estimating annual permitted take and annual actual take is an identical long term average annual figure method. Therefore, by definition, the annual actual take can never exceed annual permitted take.

Take by basic rights is managed under Division 2 of the regulated and unregulated water sharing plans. For example, basic rights are managed under Part 4 Division 2 of the *Water Sharing Plan for the Gwydir Regulated River Water Source 2016* and Part 5 Division 2 of *Water Sharing Plan for the Gwydir Unregulated River Water Sources 2012*. It is also managed under Sections 52 and 55 *Water Management Act 2000* (NSW). The method for estimating annual permitted take and annual actual take is an identical long term average annual figure method. Therefore, by definition, the annual actual take can never exceed to annual permitted take.

Take by commercial plantations is not currently included in the NSW water management framework. In all SDL resource units the risk to water availability from net growth in commercial plantations is low. The method for estimating annual permitted take and annual actual take is an identical long term average annual figure method. Therefore, by definition, the annual actual take can never exceed to annual permitted take.

Floodplain harvesting is currently not included under the NSW water management framework. NSW is implementing a floodplain management system and floodplain harvesting licencing through the Healthy Floodplains project. The implementation of floodplain harvesting entitlements and account management rules will result in rules that ensure that, as far as practicable, annual actual take does not exceed annual permitted take. Until the entitlements are issued and water sharing plans amended, interception by floodplain harvesting and potential growth in use under the SDL accounting framework will be met through the existing mechanisms in the NSW water sharing plans.

NSW has established clauses in the regulated and unregulated water sharing plans to manage any non-compliance with the Basin Plan SDLs. For example in the Gwydir WRP area, clauses 30, 33 and 34 of the *Water Sharing Plan for the Gwydir Regulated River 2016*, and clauses 28, 29 and 30

of the *Water Sharing Plan for Gwydir Unregulated River Water Sources 2012* establish the rules for compliance with a long-term annual diversion limit for the Gwydir SDL resource unit in a water accounting period. Similar rules will be included in all the NSW surface water resources in the Murray-Darling Basin.

2.4. Meeting the requirements Action Item 4

2.4.1. Limits on take for consumptive use

Action item 4

1. Subject to (3), for each surface water SDL resource unit in a WRP area, specify the limits that will be placed on take for consumptive use by:
 - (a) take under basic rights; or
 - (b) take by runoff dams; or
 - (c) net take by commercial plantations.

so that take does not exceed the level specified in column 2 of Schedule 3 to the Basin Plan, for that form of take in that SDL resource unit.
2. Subject to (3), for the SDL resource units in the Barwon-Darling, Border Rivers, Gwydir, Namoi and Macquarie-Castlereagh WRP areas, specify the limits that will be placed on take for consumptive use by floodplain harvesting so that take does not exceed the level:
 - (a) estimated by the Authority to be taken under BDL conditions when the Basin Plan was made, or
 - (b) estimated under a revised estimate presented to meet action 7 of this Schedule.
3. Limits placed on a form of take specified in (1) or (2) may be increased above the specified limits, if:
 - (a) reductions are specified in another form of take in that SDL resource unit that ensures there is no overall change in the long-term annual average quantity of water that can be taken, and
 - (b) take by the forms of take affected by the changes are capable of being accurately measured, or, if such measurement is not currently possible, being reasonably estimated using the best available method, and

the changes are not expected to result in take from the SDL resource unit ceasing to be an environmentally sustainable level of take.

The risk of growth in take by basic rights and the interceptions by run off dams and commercial plantations is low in NSW. NSW Department of Planning, Industry & Environment - Water, in consultation with the MDBA, has determined that the limits included in the Basin Plan for these forms of take will be deemed to remain the same for the purposes of SDL accounting. The risk these forms of take pose to other water sources and any potential growth will be reviewed when the NSW water sharing plans are reviewed.

For take by basic rights and the interceptions by run off dams and commercial plantations any growth in use will be managed through the rules for operating water accounts and managing access licences in the *Water Sharing Plan for the Gwydir Regulated River Water Source 2016* (Part 8) and the *Water Sharing Plan for the Gwydir Unregulated River Water Sources 2012* (Part 6). Consistent with the requirements of section 10.13(2) of the Basin Plan, any form of take that would be offset using this mechanism would be able to be measured or reasonably estimated.

2.4.2. Floodplain Harvesting

The purpose of the NSW Floodplain Harvesting Policy is to manage floodplain water extractions more effectively in order to protect the environment and the reliability of water supply for downstream water users, ensure compliance with the requirements of the WMA 2000, and meet the objectives of the National Water Initiative. Effective management of floodplain harvesting activities can only be achieved if there is a licensing system established that clearly articulates the access and sharing arrangements for these extractions.

There have been a number of complex issues raised in the process of developing the Floodplain Harvesting program. To improve stakeholder confidence, NSW Department of Planning, Industry & Environment - Water and the MDBA commissioned an independent peer review of the implementation of the Floodplain Harvesting Policy in northern NSW.

The key objective of the review is to provide transparency around the technical information and to also provide stakeholders with the confidence that the technical rigour and supporting processes are suitable to support policy implementation. The review findings will improve the process around the establishment of a robust floodplain harvesting licencing and management system.

As part of the implementation of the Floodplain Harvesting Policy, NSW Department of Planning, Industry & Environment - Water will work with the MDBA to amend relevant WRPs to incorporate floodplain harvesting entitlements and the rules for the management of floodplain harvesting. This is expected to happen during stages 4 and 5 of the Floodplain Harvesting Policy implementation.

Monitoring Floodplain Harvesting

The methods to estimate the volume of floodplain take stated in relevant WRPs include but are not limited to:

- estimate of take based on knowledge gained during the Healthy Floodplains event,
- remote sensing information,
- an assumption of full utilisation.

To improve the understanding and quantification of floodplain harvesting, NSW released a draft monitoring and auditing strategy in February 2019. (<https://www.industry.nsw.gov.au/water/plans-programs/healthy-floodplains-project/monitoring-and-auditing-strategy>)

The strategy outlines the initial methods that will be used to quantify, report and assess compliance for floodplain harvesting take and then how this will be improved. As part of the amendments this WRP to include the floodplain harvesting entitlements and the rules, the methods of monitoring floodplain harvesting will also be included.

NSW is further developing the analytical models that will be used to determine the baseline diversion limit of floodplain harvesting in the Barwon-Darling, Border Rivers, Gwydir, Namoi and Macquarie-Castlereagh WRP areas. These volumes are expected to be greater than the BDL volumes specified in the Basin Plan. They represent the current best available information and most up to date determination of the volumes of water taken under floodplain harvesting.

When floodplain harvesting entitlements are in place, any growth in use will be managed through floodplain harvesting. Until the entitlements are issued and water sharing plans amended, interception by floodplain harvesting and potential growth in use under the SDL accounting framework will be met through the existing mechanisms in the NSW water sharing plans.

2.6. Meeting the requirements Action Item 7

2.6.1. Estimates of BDL

Action item 7

Propose amended estimates of BDL for each SDL resource unit in the WRP area.

For this action, 'estimates of BDL' are estimates set out as Notes to the description of BDL in Column 2 of Schedule 3 to the Basin Plan.

To meet these requirements NSW will provide updated BDL models and reports that will enable the MDBA to undertake an assessment. NSW has previously provided updated BDL models to the MDBA and continues to work with the MDBA to ensure that the revised estimates of BDL are based on best available information.

The most up to date BDL models and supporting documents are provided to the MDBA through Confluence at: <https://nswwmmi.atlassian.net/wiki/spaces/BSU/overview>

Appendix 1 of this report provides a list of the outstanding issues for each BDL model.

The Basin Plan and the NSW water management framework provide for adjustments to the SDL as a result of changes to the BDL arising from, but not limited to:

- improvements in the BDL model for the regulated river
- extension of the climate sequence used in the BDL model for the regulated river
- improvements in information about, and modelling of, floodplain harvesting take
- better information on baseline diversions for BDL components that are estimated.

2.7. Meeting the requirements Action Item 8

2.7.1. Prerequisite policy measures

Action item 8

For each of the following WRP areas:

— Murrumbidgee (item 8 in Schedule 1) and

— NSW Murray and Lower Darling (item 9 in Schedule 1)

- 1) Demonstrate that appropriate policy settings are in place for the implementation of the measures described in the Basin Plan as unimplemented policy measures (see s 7.15), by 30 June 2019.
- 2) Develop and agree a timetable with the Authority for NSW delivery of PPM implementation evidence and Authority comments.

NSW has submitted all Prerequisite Policy Measures documentation for the Murrumbidgee and Murray Lower Darling WRP areas to the MDBA for final assessment.

MDBA is assessing and has provided the documents to the independent assessors for their recommendations.

