

2019

Water Reform Action Plan Independent Review

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Executive Summary

In December 2017, the NSW Government released the Water Reform Action Plan (WRAP) in response to the Independent investigation into NSW water management and compliance, conducted by Ken Matthews, AO and the Murray–Darling Basin Water Compliance Review. The WRAP contains forty (40) discrete actions that the NSW Government has undertaken to ensure delivery of its responsibility to ensure that NSW has an equitable and transparent approach to the management of water.

The Water Renewal Taskforce was established on 15 January 2018, in the Lands and Water Division, for a 2-year period to drive these reforms within the Department of Industry, with oversight by the Water Renewal Oversight Committee.

An action item within the WRAP is to *‘Commission an annual, independent review of progress on this plan and publish the results’*. The annual independent review has been conducted by Risk-e Business Consultants Pty Ltd and the following represents an accurate record of that review of the progress of the actions in the WRAP.

The Water Reform Action Plan is divided into four sections, each of these sections is addressed below.

Introduce best practice for water management (Actions 1-9):

There were nine actions required relating to the establishment of the new Lands and Water Division within the Department of Industry, new regulatory framework for water management; including the introduction of new legislation to establish the Natural Resources Access Regulator (NRAR), and appointment of a Board and Chief Regulatory Officer. A comprehensive Establishment plan was also developed and implemented.

Clarity was given to the accountabilities of departments through the introduction of the Natural Resource Access Regulator Act 2017 No 64 and publishing of a document titled ‘Roles of Water Management Agencies in NSW’.

Actions 1-9 were all completed within this section.

Build a compliance and enforcement regime that ensures strong and certain regulation (Actions 10-23):

The capacity to undertake compliance and enforcement was significantly increased under the establishment of NRAR. Recruitment and training of these officers has been undertaken as business as usual with NRAR clearly the lead in all compliance matters. Interim arrangements were put in place for the mandatory reporting to NRAR by WaterNSW of suspected breaches. These have now been formalised in a Memorandum of Understanding.

NRAR have produced and published a significant number of policies and processes on the Department of Industry webpage. These are clearly written and comprehensive. Community consultation on a metering and water discussion paper was circulated with community submissions placed onto the webpage along with information on the timetable for implementation the new metering requirements. A Water Pilot Technology Program was introduced where grants of up to \$150,000 each could be awarded. There were four successful grants.

NRAR was to *'invest in case management technology, databases and analytics to more effectively target compliance activity'* (action 13). NRAR entered into contractual arrangements to continue use of CIRaM as a case management system. Significant work has been undertaken with the CIRaM vendor to identify and implement specific NRAR needs. CIRaM SR6 is anticipated to be released in April 2019 along with associated training. Proactive targeted compliance commenced with the Northern Connectivity Event & environmental flow in the Macquarie and Gwydir valleys. This will continue with permanent operational teams in the East and West of the State to exclusively pursue proactive targeted compliance.

Actions 10-12 and 15-18 and 19-22 were all completed. Actions 14 & 23 were not subject of this review. Action 13 was not completed within this section.

Ensure transparency in how we share, allocate and manage water (Actions 24-36):

Transparency has been increased through the publishing of consultation papers (and subsequent stakeholder feedback), compliance and enforcement activities along with quarterly update reports on the implementation of the WRAP. The Department of Industry/NRAR webpage is easily accessible and consumer friendly with mechanisms to report alleged breaches. Stakeholders are considered an integral part of the process with feedback being sought and future engagement advertised on the webpage.

The protection and management of environmental water is highlighted through the publishing of information and consultation papers and the establishment of an interagency working group to develop solutions.

Actions 24-29 and 31-34 were all completed. Actions 30, 35 & 36 were not subject of this review.

Build capacity to support implementation of water reforms (Action 37-40):

The ethical culture of any organisation is extremely important and can only come from the top. Ethical frameworks have been developed for the Department of Industry and NRAR and they complement each other. These are supported by the introduction of an online and face to face induction process or 'onboarding' by NRAR. Professional standards and ethics training has been implemented in a variety of formats to actively encourage ethical behaviours and change management within Industry. The Executive has clearly taken on a leading role in this area.

Actions 37-40 were all completed.

The actions that were not subject to this review had compliance dates outside or post this review. Overall, the NSW Government, through the Department of Industry and NRAR has responded very positively to the implementation of the WRAP. There have been some delays in the implementation of some actions, however this was due to the large volume of rewriting of policies and procedures and a change in the processes and procedures of how the Department undertook business as usual. The Department has embraced the concept of transparency, through publishing of papers and information on their webpage and stakeholder consultation. Only two actions were not completed within the review timeframe.

David Owens APM
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February 2019

Table of actions summarised:

Number	Action	Progress (as at February 2019)
Introduce best practice for water management		
1	Create a division solely focused on the management of land and water resources (Q4 2017)	Completed
2	Legislate to establish an independent regulator – Natural Resources Access Regulator (NRAR) (Q4 2017)	Completed
3	Appoint an interim chief regulatory officer (Q4 2017)	Completed
4	Appoint an independent board to oversee the NRAR (Q4 2017)	Completed
5	Appoint a chief regulatory officer (Q2 2018)	Completed
6	Develop and publish the Natural Resource Access Regulator Establishment Plan (Q2 2018)	Completed
7	Clarify the accountabilities of departments and agencies with water management responsibilities in NSW (Q2 2018)	Completed
8	Create clear functional separation between those who provide and sell water to customers and those who oversee and regulate water as a public resource (Q2 2018)	Completed
9	Make information on accountability and roles publicly available (Q2 2018)	Completed
Build a compliance and enforcement regime that ensures strong and certain regulation		
10	Increase compliance and enforcement resourcing by \$9.5 million per year (Q4 2017)	Completed
11	Recruit additional compliance and enforcement officers (Q2 2018)	Completed
12	Conduct additional training for all compliance and enforcement staff including investigation techniques (Q3 2018)	Completed
13	Invest in case management technology, database and analytics to more effectively target compliance activity (Q3 2018)	Not Completed
14	Report annually on compliance and enforcement activities and publish on the Department of Industry website (Q3 2019)	Not subject of Review
15	Natural Resources Access Regulator to lead on compliance matters (Q2 2018)	Completed
16	NRAR to take appropriate enforcement action, including penalty infringement notices and prosecutions (Q2 2018)	Completed
17	WaterNSW to implement mandatory immediate reporting to the NRAR of suspected breaches (Q2 2018)	Completed
18	NRAR to produce and publish clear and effective policies and processes for compliance that also address the recommendations of the Matthews and NSW ombudsman reports and the MDBA's water compliance review (Q2 2018)	Completed

19	NRAR to undertake proactive targeted compliance operations (Q4 2018)	Completed
20	Consult on a metering and water discussion paper for public consultation incorporating: (Q2 2018) <ul style="list-style-type: none"> • an approach to implementing 'no meter, no pump' objectives • identification of any necessary legislative reforms to support these changes • how we monitor metering of water consumption • policy on self-reporting and random checks 	Completed
21	Finalise a timetable for implementing new metering requirements following consultation (Q4 2018)	Completed
22	Seek proposals to pilot the use of technology for water monitoring and compliance activities, which could include remote sensing of on-farm water storages and indicators such as crop growth and telemetry (Q2 2018)	Completed
23	Develop a water monitoring technology plan (Q1 2019)	Not subject of Review
Ensure transparency in how we share, allocate and manage water		
24	Release a discussion paper on creating a public register of water information that could cover water entitlements, water licences and water work approvals (Q2 2018)	Completed
25	Publish compliance and enforcement activities (Q3 2018)	Completed
26	Publish information on the Department of Industry's website about activities in protecting environmental water (Q4 2018)	Completed
27	Regularly report on progress implementing water inquiry reforms (Q1 2018 onwards)	Completed
28	Have NRAR establish mechanisms for the public to report alleged breaches, including a state-wide hotline and email channel (Q3 2019)	Completed
29	Commission an annual, independent review of progress on this plan and publish the results (Q1 2019)	Completed
30	Redesign the Department of Industry website to provide updated and more accessible information on water management (Q1 2019)	Not subject of Review
31	Implement a new stakeholder engagement framework (Q1 2018)	Completed
32	Develop and publish a schedule of stakeholder engagement activities (Q1 2018)	Completed
33	Establish an interagency working group to develop solutions to improve the management of environmental water (Q1 2018)	Completed
34	Have the working group present interim solutions within 90 days of commencement (Q2 2018)	Completed
35	Publish explanatory materials to inform the public on how environmental water is managed (Q1 2019)	Not subject of Review
36	Have all NSW water resource plans accredited by the MDBA (Q3 2019)	Not subject of Review

Build capacity to support implementation of water reforms		
37	Update staff induction processes to emphasise ethical and conduct obligations of staff (Q1 2018)	Completed
38	Roll out department-wide ethics and professional standards training (Q1 2018)	Completed
39	Commence a 'speak-up' service to enable anonymous reporting of suspected unsatisfactory conduct (Q1 2018)	Completed
40	Develop the Department of Industry ethical framework to connect all training, systems and activities to embed ethical behaviour into departmental culture (Q3 2018)	Completed



Introduce best practice for water management

Establish a new Lands and Water division

1. Create a division solely focused on the management of land and water resources (Q4 2017)

On the 19th September 2017, the new Division within the Department of Industry commenced, known as Crown Lands and Water. In a message to all Department of Industry staff, former Secretary Smith announced the creation of the new Division, along with the principal purpose and executive reporting lines. The Manager HR, People and Culture confirmed that the new structure was created on the 25th August 2017 in preparation for the announcement on the 19th September 2017. The name has been subsequently changed to Land and Water, however the structure remains the same.

Organisational Charts for May 2018 and February 2019 were provided for the new structure under a Deputy Secretary, breaking down all divisions and reporting lines. There were minor changes to the Organisational Structure which is a normal process post implementation.

This action is completed.

Establishing a new regulatory framework for water management

2. Legislate to establish an independent regulator – Natural Resources Access Regulator (NRAR) (Q4 2017)

The Natural Resources Access Regulator Act 2017, No 64 was assented to on the 30th November 2017¹, which set in place the legislative framework for a new independent regulator, the Natural Resources Access Regulator (NRAR). While the new NRAR sits administratively within the NSW Department of Industry, the Board is independent of direction by the Minister² or Secretary in the execution of its statutory functions³. The objectives and functions of the newly formed Regulator are clearly articulated within the Act along with reporting functions, exchange of information with other agencies and duties of the Board.

This action is completed

¹ <https://www.legislation.nsw.gov.au/acts/2017-64.pdf>

² Section 4(3) of the Natural Resources Access Regulator Act 2017 provides that The Regulator is not subject to the control and direction of the Minister except to the extent specifically provided for under this or any other Act.

³ https://www.industry.nsw.gov.au/data/assets/pdf_file/0007/145546/NRAR-Establishment-Plan-2018.pdf

3. Appoint an interim Chief Regulatory Officer (Q4 2017)

The Natural Resources Access Regulator Establishment Plan 2018 under the heading of Context stated, “An interim Chief Regulatory Officer was appointed in September 2017 to assist in the formation of the NRAR”⁴. The Minister for Regional Water, Mr Niall Blair issued a media release on the 15th December 2017 stating “Interim Chief Regulatory Officer, Ross Carter, is already working to revamp water compliance and enforcement”⁵.

Internal Department of Industry documents were provided to the Review that clearly identified that Mr Carter was appointed to the role of Chief Regulatory Officer on the 21st September 2017 on an interim basis until the 20th March 2018.

This action is completed.

4. Appoint an independent board to oversee the NRAR (Q4 2017)

The Natural Resources Access Regulator (NRAR) Board was appointed on the 14th December 2017 with the independent Chair, Mr Knowles and members Ms Millar and Mr Brown. The NRAR Board has a very clear Charter⁶ that addresses the issues of the Board composition, its roles and functions and operations of the Board. The Chief Regulatory Officer may attend Board meetings but is not entitled to vote.

Additionally, the NRAR Board has published a Code of Conduct⁷ and Operating Manual⁸. The NRAR Board also publishes minutes of their meetings that are accessible from the Department of Industry webpage. This is acknowledged as best practice for updating the community about Board priorities and actions.

This action is completed.

5. Appoint a Chief Regulatory Officer (Q2 2018)

A review of the documents provided identified Mr G. Barnes was appointed to the position of Chief Regulatory Officer, commencing 23rd April 2018. Evidence was provided on the establishment of a four-person recruitment panel with support from a Senior Executive Recruitment team. As part of the recruitment process, several applications were received and assessed. Documents provided clearly showed departmental approval was obtained at the appropriate level. A letter of offer and contract of employment was also circulated. Mr Barnes commenced in the role of Chief Regulatory Officer on the 23rd April 2018.

This action is completed.

⁴ https://www.industry.nsw.gov.au/data/assets/pdf_file/0007/145546/NRAR-Establishment-Plan-2018.pdf

⁵ <https://www.industry.nsw.gov.au/water/news/nsw-water-reform-package>

⁶ https://www.industry.nsw.gov.au/data/assets/pdf_file/0008/142784/NRAR-Board-Charter.pdf

⁷ https://www.industry.nsw.gov.au/data/assets/pdf_file/0007/142783/NRAR-Board-Code-of-conduct.pdf

⁸ https://www.industry.nsw.gov.au/data/assets/pdf_file/0009/142785/NRAR-Board-Operating-Manual.pdf

6. Develop and publish the Natural Resources Access Regulator Establishment Plan (Q2 2018)

The Natural Resources Access Regulator Establishment Plan 2018 – ‘Building capacity towards a best-practice regulator’⁹ was released in March 2018 and published on the Department of Industry webpage, under the sub heading of Natural Resources Access Regulator for ease of navigation or through a search request.

The Establishment Plan outlines seven (7) programs divided into thirty-three (33) projects to establish the Natural Resource Access Regulator (NRAR) and build its capability to be a best-practice regulator. The document is comprehensive, covering all the required areas in an Establishment Plan. The ‘projects’ are identified with actions to be taken along with proposed timeframes.

The Establishment Plan was released in March 2018 with several actions marked as complete. However, there are a significant number that are still marked as outstanding and should be updated as the actions have been completed. I would recommend updating these actions in an Establishment Plan update immediately.

This action is completed.

Define and explain the specific roles of government bodies that have accountability for water management

7. Clarify the accountabilities of departments and agencies with water management responsibilities in NSW (Q2 2018)

The Natural Resources Access Regulator Act 2017 No 64 was assented to on the 30th November 2017¹⁰, which set in place the legislative framework for a new independent regulator, the Natural Resources Access Regulator (the NRAR). This Act, under Part 1 Section 3, states the following:

natural resources management legislation means any of the following Acts and the regulations and other instruments made under those Acts:

- (a) *this Act,*
- (b) *Water Management Act 2000,*
- (c) *Water Act 1912,*
- (d) *any other Act or part of an Act administered by a relevant Minister that is prescribed by the regulations.*

The Act clearly places the Water Act 1912 and the Water Management Act 2000 under the responsibility of the Natural Resources Access Regulator.

⁹ https://www.industry.nsw.gov.au/data/assets/pdf_file/0007/145546/NRAR-Establishment-Plan-2018.pdf

¹⁰ <https://www.legislation.nsw.gov.au/acts/2017-64.pdf>

The Department of Industry paper, 'Roles of Water Management Agencies in NSW'¹¹ identifies the four agencies; Department of Industry; WaterNSW; Natural Resources Access Regulator and Office of Environment and Heritage. The document clearly identifies the responsibilities of each agency with water management and is easily accessible online.

This action is completed.

8. Create clear functional separation between those who provide and sell water to customers and those who oversee and regulate water as a public resource (Q2 2018)

The creation of the *Natural Resources Access Regulator Act 2017*¹² and the commencement of operations of the Natural Resources Access Regulator (30th April 2018) required the 'transfer' of several legislative and administrative tasks from WaterNSW to NRAR and Department of Industry to fully implement the broader functional realignment of entities involved in the NSW Governments water service delivery chain. Noting that under schedule 2 of the *Natural Resources Access Regulator Act*, many the Minister's compliance powers under the Water Management Act were conferred on NRAR.

In documents accessed for this review, a letter was sent from the CEO, WaterNSW to the Minister on the 27th April 2018 outlining the interim arrangements until the amendment of the WaterNSW operating licence came into effect. These interim arrangements clearly established the transfer of:

- WAMC compliance functions from WaterNSW to NRAR and
- WAMC licensing functions from the Department of Industry to WaterNSW.

On the 13th February 2019 the required amendments to the operating licence for WaterNSW were finalised.¹³

In June 2018, The Department of Industry published a paper entitled '*Roles of Water Management Agencies in NSW*'¹⁴ The four NSW Government agencies and their roles are clearly articulated as they relate to water management. The transfer of staff between agencies (compliance and investigative staff) further ensured a clear functional separation.

This action was marked as completed within Q2 2018¹⁵, this was due to the publication of the '*Roles of Water Management Agencies in NSW*' document (June 2018) and the introduction of the *Natural Resources Access Regulator Act 2017* with compliance functions under the Water Management Act being conferred on NRAR. However, the required amendments to the WaterNSW operating license were not ratified until the 13th February 2019. This meant that the interim arrangements as outlined above were in effect from the 30th April 2018 – 13th February 2019. Whilst WaterNSW and NRAR have maintained an ongoing professional and cooperative relationship a more accurate reflection of progress against this action would have been to have it marked as commenced until Q1 2019.

This action is completed.

¹¹ http://industry.nsw.gov.au/_data/assets/pdf_file/0019/166024/Roles-of-water-management-agencies-in-NSW.pdf

¹² <https://www.legislation.nsw.gov.au/acts/2017-64.pdf>

¹³ WaterNSW Operating License 2017-2022 Amendment 2019 (1) under the Water NSW Act 2014.

¹⁴ http://industry.nsw.gov.au/_data/assets/pdf_file/0019/166024/Roles-of-water-management-agencies-in-NSW.pdf

¹⁵ <https://www.industry.nsw.gov.au/water-reform/water-reform-action-plan-progress-report>

9. Make information on accountability and roles publicly available (Q2 2018)

In June 2018, The Department of Industry released a paper titled 'Roles of Water Management Agencies in NSW'¹⁶. The document is publicly available and easily located on the Department of Industry webpage. It clarifies the responsibilities of the four agencies in developing and implementing the regulatory framework for water management in regional NSW. These four agencies are:

- Department of Industry
- WaterNSW
- Natural Resources Access Regulator and
- Office of Environment and Heritage

The document contains additional detail as to the responsibilities of each agency under discrete headings, with subsequent headings for licensing and compliance and the licensing and compliance services available.

This action is completed.



Build a compliance and enforcement regime that ensures strong and certain regulation

Strengthening compliance and enforcement capability

10. Increase compliance and enforcement resourcing by \$9.5 million per year (Q4 2017)

This action was difficult to finalise for a number of reasons; Establishment of NRAR in April (part way through a financial year); Recruitment not fully commencing until the new financial year 18/19 and positions being filled now; Positions transferred across from Water, 26 positions remained in enforcement with 30 positions being absorbed into other areas; Transfer of funding went from 6 cost centres to 29 cost centres; Investigation/compliance staff now being exclusively compliance and enforcement duties.

Through interviews and access to documents the following is understood in respect to funding allocations:

Previous expenditure:

2018/19 IPART regulated revenue of \$4.579M was transferred from WaterNSW and represents previous allocation on compliance activities by NRAR's predecessor compliance agency. This was made up from: W08-03 Compliance management (\$4.313M) and W10-01 Customer Management ((\$0.266M). The customer management coding was removed for the purposes of this analysis leaving \$4.313M compliance spending.

¹⁶ http://industry.nsw.gov.au/data/assets/pdf_file/0019/166024/Roles-of-water-management-agencies-in-NSW.pdf

Increase in expenditure:

The total spending on compliance (projected) for the 2018/19 financial year is \$14.09M. The increase in expenditure is calculated by using the \$14.09M (projected NRAR compliance spending) and removing the \$4.314M regulated revenue transferred from WaterNSW (previous compliance agency). This has an increased compliance spend of \$9.777M in 2018/19.

These figures are based on access to financial records, interviews and on a projection of NRAR spending for the 2018/19 financial year. As previously stated, they also reflect a continued recruitment process to fill compliance/investigation positions within the new structure.

It should be noted that NRAR have been using the services of Core Integrity to reduce the backlog of cases that came across from the old structure to the newly established NRAR. This has been a significant, but necessary expenditure by NRAR that is projected to continue until the end of the financial year.

This action is completed.

11. Recruit additional compliance and enforcement officers (Q2 2018)

The Review sought documents and conducted interviews to establish the recruitment process for additional compliance and enforcement officers. The previous structure had all staff as generalists under the title of Water Regulation Officers. These staff were tasked with responsibility for licensing and approvals as well as some investigative requirements in their role description. As the licensing and approvals function workload grew, this monopolised the time of the Water Regulation Officers. It was estimated that between 2-4 (FTE) positions within the Department of Industry 'may' have been spent on investigative work¹⁷. Additionally, on the formation of the Natural Resources Access Regulator (30th April 2018), WaterNSW transferred two investigative staff to NRAR.

The spreadsheets provided by NRAR¹⁸, clearly identified that a structure had been created with a functional split. The review was informed that this was to ensure that no function is neglected based on an increase in work volume in another area¹⁹. The current structure identified (as at February 2019); 39 investigative roles (33 permanently filled) and 23 compliance monitoring & audit roles (18 filled). Additional staff under the heading of Water Regulation Officer are dedicated to the licensing and approvals function within NRAR.

The recruitment process for Senior Investigators commenced 12th March 2018. Whilst this was prior to the commencement of NRAR, it was identified that there would be a skills-gap existing and it was a proactive step in resolving that issue²⁰. The recruitment cycle is over a 12-month period, with the NRAR structure approved on the 10th July 2018, and advertising for compliance and other enforcement roles commenced on the 25th July 2018. The Q2 WRAP progress report marked this action as continuing. This accurately reflected the progress. The action did not appear in Q3 and Q4 reports. It would be timely to now finalise or update the action in the Q1 2019 progress report.

This action is completed.

¹⁷ Interview conducted 14/2/19 NRAR staff

¹⁸ NRAR Establishment Report 1/2/2019

¹⁹ Interview conducted 14/2/19 NRAR staff

²⁰ Interview conducted 14/2/19 NRAR staff

12. Conduct additional training for all compliance and enforcement staff including investigation techniques (Q3 2018)

The training records provided by NRAR identified the following:

- 79 investigators and compliance officers had completed the investigators induction program (since August 2018) – Identified that all 61 investigators had completed the program along with additional project staff that took the number to 79.
- In November 2018, five (5) Investigators attended the two-day program at the National Investigators Symposium
- Six (6) NRAR investigators have undertaken and completed the Diploma in Government Investigations program
- In December 2018, investigators attended the ‘Dealing with Aggressive Stakeholders’ program.

In addition to the above listed training already undertaken, the following training courses have been adopted into the training of compliance officers and investigators:

- Certificate IV in Government Investigations
- Diploma in Government Investigations
- Metering training
- Work Health & Safety training, including ‘Dealing with Aggressive Stakeholders’ and building resilience
- Micro-learning: This is a blended form of learning and development initiatives that can be delivered face to face, online or in the workplace. This would include lessons learnt, good practice tools and tips and other technical water-based information for investigator. These are delivered/offered one every month.

The WRAP Quarter 3 progress report marked this action as ‘Completed – Work is underway and will continue as business as usual’. This should have been marked as ‘Commenced’ and then reported on in subsequent progress reports. The action is now considered as completed with continuing education and training occurring as part of normal business.

This action is completed.

13. Invest in case management technology, database and analytics to more effectively target compliance activity (Q3 2018)

NRAR entered into a contract at its commencement to continue the use of CIRaM as a case management system. The contract includes system support services, staff training and business user needs workshops to identify system improvements.

The CIRaM solution is advertised as being designed to manage compliance and regulatory business processes end-to-end so cases remain visible at all levels through all phases²¹. This would appear to be an appropriate system if configured correctly.

NRAR has worked with the CIRaM vendor to identify and implement specific NRAR needs in June 2018. Since then the vendor has made wholesale upgrades to CIRaM, known as CIRaM version SR6. NRAR has undertaken User Acceptance Training on these changes and is working with the Department to ensure its servers are configured appropriately to operate CIRaM SR6.

NRAR has held further business user needs workshops with staff and the vendor in late 2018 to identify additional changes to CIRaM that will be released concurrently with CIRaM SR6. At this time, it is anticipated that CIRaM SR6 will be released in April 2019 coupled with staff training and business rules for CIRaM use.

NRAR has also separately established a Change Advisory Group to ensure NRAR has a co-ordinated, continuous process to identify further CIRaM improvements and to seek solutions through the vendor.

NRAR has invested into case management technology through the CIRaM contract and through staff time to identify business user needs and to undertake User Acceptance Training for the roll out of CIRaM SR6. However this action is not completed until the rollout of CIRaM SR6 in April 2019.

This action is not complete.

Establish a new independent regulator with strong regulatory powers

15. Natural Resources Access Regulator to lead on compliance matters (Q2 2018)

The Natural Resources Access Regulator Act 2017²² articulates the responsibilities of the Natural Resources Access Regulator who commenced their role on the 30th April 2018. The Act is clear in the placement of water management compliance under the Natural Resources Access Regulator, under Division 2 (10) Principal objectives of the regulator and Schedule 2 Additional functions of the Regulator.

This action is completed.

²¹ <https://www.baytech.com.au/ciram>

²² <https://www.legislation.nsw.gov.au/acts/2017-64.pdf>

16. NRAR to take appropriate enforcement action, including penalty infringement notices and prosecutions (Q2 2018)

The Natural Resources Access Regulator (NRAR) have legislated responsibility for compliance matters for water management. To undertake this function in an appropriate manner NRAR has:

- Recruited investigator and compliance officers
- Provided additional and ongoing training for investigative and enforcement staff (including investigative techniques)

Through increased training, the enforcement action should be more targeted and prosecution briefs be presented at a higher professional level. The '*Compliance activities by water sharing plan*²³' identify that between the 30th April 2018 – 7th August 2018 the following enforcement action had been undertaken against the WRAP Quarter 4 progress report:

Compliance Activities April – August 2018	WRAP Q4 progress report
4 prosecutions commenced	6 prosecutions commenced
5 penalty infringement notices	36 penalty infringement notices
8 statutory notices to landholders	30 statutory notices to landholders
92 advisory and warning letters issued	219 advisory and warning letters issued

Additional documents obtained identified that a comparison between 2017 and 2018 compliance activities identified the following:

- Cases received: 67% 
- Cases finalised: 82% 
- PIN's issued: 263% 
- Allegations of water Take: 400% 

This shows a significant increase in compliance enforcement by NRAR in the 2018 calendar year.

The WRAP Quarter 2 progress report marked this action as commenced, the Quarter 3 progress report had the action as '*Completed – NRAR has commenced taking enforcement action and ongoing capacity continues to improve as recruitment to the NRAR structure is finalised*'. This accurately reflects the actions taken by NRAR for this action.

This action is completed.

17. WaterNSW to implement mandatory immediate reporting to the NRAR of suspected breaches (Q2 2018)

The Natural Resources Access Regulator and WaterNSW entered into a Memorandum of Understanding on the 24th January 2019. This Memorandum of Understanding codifies the breach reporting protocols between WaterNSW and NRAR. The purpose of the Memorandum of Understanding is to provide:

²³ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0008/196775/NRAR-compliance-activities-by-wsp.pdf

'Information and data exchange related to compliance and enforcement of the natural resources management legislation²⁴'

Annexure A, Table of Responsibilities of the Memorandum of Understanding, identifies that under Breach notifications and Licensing, *"WNSW field Officers to lodge breach notifications with NRAR as soon as practicable after becoming aware of the breach. Such notifications are to be made to NRAR's compliance hotline on (number provided) during business hours or via email (email address supplied)²⁵"*

Notification of suspected breach reporting between WaterNSW and NRAR, prior to the 24th January 2019 was facilitated through less formal arrangements at the operational level.

The action was to be completed in Quarter 2 2018, however was not completed until the 24th January 2019. The WRAP Quarter 2 progress report indicated this action as *'Commenced – operational arrangements in place²⁶'* and the Quarter 3 progress report indicated *'Commenced – WaterNSW is working with NRAR to prepare a protocol to facilitate exchange of information in a consistent, orderly, quality assured manner²⁷'*. The Quarter 4 progress report is silent on this action. This action is an operational issue and should have been addressed in a timelier manner. The action is now completed.

This action is completed.

18. NRAR to produce and publish clear and effective policies and processes for compliance that also address the recommendations of the Matthews and NSW ombudsman reports and the MDBA's water compliance review (Q2 2018)

The Natural Resources Access Regulator (NRAR) have published a number of policies and processes for compliance on their webpage. The two significant documents reviewed were:

- NRAR Regulatory Policy²⁸

The document sets out the NRAR policy for ensuring that the regulated community achieves compliance with the legislation. The policy establishes regulatory strategies and how to efficiently and effectively achieve outcomes. This 18-page document clearly articulates the regulatory framework along with guiding principles.

- NRAR Regulatory Framework – How the Natural Resources Access Regulator delivers outcome focused and risk-based regulation²⁹

This document is linked to the NRAR Regulatory Policy as it addresses each of the regulatory framework elements. NRAR's core purpose, classification of regulated entities and activities are clearly defined within the document. The NRAR Governance Framework is marked as *'still to be added to the document'*.

²⁴ Memorandum of Understanding WaterNSW and the Natural Resources Access Regulator Section 2 (b)

²⁵ Memorandum of Understanding WaterNSW and the Natural Resources Access Regulator Annexure A Table of Responsibilities

²⁶ <https://www.industry.nsw.gov.au/water-reform/water-reform-action-plan-progress-report>

²⁷ <https://www.industry.nsw.gov.au/water-reform/water-reform-action-plan-progress-report>

²⁸ https://www.industry.nsw.gov.au/data/assets/pdf_file/0003/144039/NRAR-Regulatory-policy.pdf

²⁹ https://www.industry.nsw.gov.au/data/assets/pdf_file/0018/212517/NRAR-regulatory-framework.pdf

Additional policies, guidelines and compliance approaches that are on the Department of Industry/NRAR webpage to address the recommendations of 'The Matthews' and ombudsman's report and the MDBA water compliance review are as follows:

- NRAR compliance approach – metering regulations – facts sheet³⁰
- NRAR Prosecution Guidelines³¹
- NRAR Compliance with water legislation - Guidelines on reporting alleged breaches of the Water Management Act 2000 and Water Act 1912³²
- NRAR compliance priorities June – August 2018³³
- NRAR Compliance priorities September – December 2018³⁴
- NRAR Guidelines for controlled activities on waterfront land riparian corridors³⁵
- NSW Non-Urban Water Metering Policy³⁶
- NSW non-urban water metering framework Fact sheet – overview of new requirements³⁷

Additional material is available on the webpage that can be read in conjunction with the above resource documents.

This action is completed.

19. NRAR to undertake proactive targeted compliance operations (Q4 2018)

NRAR commenced on 30th April 2018 and approved the new structure on the 30th October 2018. This new structure identifies a significant increase in the number of compliance officers on the ground and represents a significant change in how NSW undertakes their business of water management compliance. NRAR undertook and implemented a functional split between Licensing/Approvals; Investigations/Enforcement (reactive investigation responses to Alleged Breach Notifications (ABN's) and matters identified by field staff) and Monitoring/Audit activities (a new proactive approach not driven by ABN's, but by strategic regulatory priorities).

Previous to this, water compliance officers had a general work brief allowing them to engage in all of these 3 activity areas. The new structure has given specific responsibilities to officers in each functional area, ensuring a focus on allotted work streams. The NRAR structure has been recruited against over the course of the last ten (10) months, with priority placed on getting investigators into the field to undertake work on the significantly large inherited caseload from their predecessor

³⁰ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0005/205790/NRAR-compliance-approach-metering-regulations-fact-sheet.pdf

³¹ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0014/144041/NRAR-Prosecution-guidelines.pdf

³² https://www.industry.nsw.gov.au/_data/assets/pdf_file/0008/156860/NRAR-Compliance-with-water-legislation.pdf

³³ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0005/163265/NRAR-Compliance-priorities-June-August-2018.pdf

³⁴ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0018/174402/NRAR-Compliance-priorities-September-December-2018.pdf

³⁵ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0004/156865/NRAR-Guidelines-for-controlled-activities-on-waterfront-land-Riparian-corridors.pdf

³⁶ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0017/205442/NSW-non-urban-water-metering-policy.pdf

³⁷ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0005/205448/Fact-sheet-overview-of-new-requirements-NSW-non-urban-water-metering-framework.pdf

agencies WaterNSW and Department of Industry – Water. As well as an ever-increasing workload of new breach notifications generated by the high profile of NRAR’s commencement and the drought conditions that have steadily worsened over the course of 2018.

NRAR has engaged in several large-scale targeted compliance actions in connection with shepherding environmental flow events, specifically the Northern Connectivity Event in mid-2018 and environmental water flows in the Macquarie and Gwydir valleys. The Northern Connectivity Event involved shepherding environmental flows over 1400kms of river systems. Partnering with its other state and federal counterparts, NRAR officers proactively visited farms, industry and other stakeholders to monitor compliance with a pumping embargo across the Northern Murray Darling Basin to protect the flow from illegal take. This flow was the first environmental water event of its size in the Northern Basin. Similar NRAR activities took place during the Macquarie and Gwydir valley flow events³⁸.

NRAR has incorporated permanent teams in both East and West operational structures to exclusively pursue a strategic agenda of proactive and targeted monitoring and audit activities. The work of these teams is distinct from investigations in that it is not driven by reactive response to alleged breaches, but by the application of NRAR’s regulatory priorities to create a strategic program of proactive compliance work. This work was to be completed in Q4 2018 and now continues as business as usual.

This action is completed.

Implement a robust metering framework

20. Consult on a metering and water discussion paper for public consultation incorporating: (Q2 2018)

- an approach to implementing ‘no meter, no pump’ objectives
- identification of any necessary legislative reforms to support these changes
- how we monitor metering of water consumption
- policy on self-reporting and random checks

The consultation paper ‘Water take measurement and metering³⁹’ was released in March 2018. The thirty (30) page document is comprehensive and presents five options for consideration under ‘Consultation topic 1: When should a meter be required?’ (Pg. 4);

- Option 1: No meter, no pump (‘universal’ metering)
- Option 2: Water share component
- Option 3: Infrastructure size
- Option 4: Risk of water sources
- Option 5: combination of infrastructure, water shares and risk of water sources

³⁸ Interviews with NRAR staff 28/2/2019

³⁹https://www.industry.nsw.gov.au/data/assets/pdf_file/0018/145422/water-take-measurement-and-metering-consultation-paper.pdf

‘Consultation topic 2: What type of metering equipment and reporting will be required?’ (Pg. 11). Under Proposed future metering requirements is the following information:

- **“Data capture:** the meter must have the capacity to record: volumetric flow rate and the date, time and duration of water taken. Data loggers allow for this data to be captured. This is important for the data to be auditable and verifiable.
- **Transmission of data:** it is proposed that all meters have telemetry, or some mechanism that allows for the information captured by the metering equipment to be remotely collected by WaterNSW and reviewed by regulators. The costs of telemetry have decreased over recent years, and many water users may use telemetry for other parts of their business”
- **Self-reporting:** Log books being phased out and when self-reporting will be permitted and in what format.

Each of these options have different consultation questions and the community were encouraged to provide feedback through a variety of sources that are all listed in the paper. The submissions received are on the Department of Industry webpage under ‘Water Reform Consultation submissions.’⁴⁰

The submissions are easily located on the webpage. A summary of submissions and consultation was provided in the document ‘Community Consultation – What we heard’⁴¹ (Pgs. 4-5). This document is also available on the webpage.

The consultation paper states:

‘This submission process will inform the legislation to be brought to the Parliament by mid-2018. This legislation will allow the NSW Government to implement key elements of water reform required to address the recommendations of the Matthews Report’. (Pg. 20).

The feedback from the consultation paper was used to make informed amendments to legislation, in particular the Water Management Amendment Bill 2018⁴².

This action is completed.

21. Finalise a timetable for implementing new metering requirements following consultation (Q4 2018)

The finalised timetable for implementing new metering requirements were located as:

- NSW non-urban water metering framework: Fact sheet – overview of new requirements⁴³

⁴⁰ https://www.industry.nsw.gov.au/water-reform/metering-framework/water-reform-consultation-submissions?result_162243_result_page=1

⁴¹ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0003/162849/Community-consultation-what-we-heard.pdf

⁴² <https://www.parliament.nsw.gov.au/bill/files/3526/XN%20Water%20Management%20Amendment%20Bill%202018.pdf>

⁴³ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0005/205448/Fact-sheet-overview-of-new-requirements-NSW-non-urban-water-metering-framework.pdf

- NSW non-urban water metering policy: Fact sheet—preparing for the roll-out dates⁴⁴

The documents were published in November 2018, are located on the Department of Industry webpage and identify the roll-out dates as:

- Stage 1: Surface water users with pumps of 500 mm or larger must comply by 1 December 2019
- Stage 2: Remaining users in northern inland regions must comply by 1 December 2020
- Stage 3: Remaining users in southern inland regions must comply by 1 December 2021
- Stage 4: Remaining users in the coastal regions must comply by 1 December 2023.

The NSW non-urban water metering framework – Facts sheet – overview of new requirements⁴⁵ is a comprehensive document covering ‘Who is required to have a meter’, ‘Exceptions’, ‘What standards will apply to your meter’, ‘When will you need your meter installed’ and ‘Duly qualified persons’.

This action is completed.

Adopt innovative technologies to improve compliance effectiveness

22. Seek proposals to pilot the use of technology for water monitoring and compliance activities, which could include remote sensing of on-farm water storages and indicators such as crop growth and telemetry (Q2 2018)

The Water Pilot Technology Program applications opened in March 2018. The program offered grants of up to \$150,000 each to develop pilots or proof of concepts of innovative technologies to improve water regulation, compliance and environmental water management activities⁴⁶. In total more than 50 applications were received from Universities, research organisations or the private sector. An assessment panel, chaired by the Office of the Chief Scientist & Engineer included representatives from:

- Department of Industry – Including Water Analytics, Water Science and Water Renewal Taskforce
- Natural Resources Access Regulator
- Office of Environment and Heritage
- Murray-Darling Basin Authority.

⁴⁴ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0016/205450/Fact-sheet-preparing-for-the-roll-out-dates-NSW-non-urban-water-metering-framework.pdf.

⁴⁵ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0005/205448/Fact-sheet-overview-of-new-requirements-NSW-non-urban-water-metering-framework.pdf

⁴⁶ <https://www.industry.nsw.gov.au/water-reform/water-pilot-technology-program>

The department awarded funding to four projects; University of Sydney; University of NSW; Australian National University and HydroSpacial Pty Ltd. The full details of the projects can be found on the Department of Industry webpage under 'Water Pilot Technology Program'⁴⁷

This action was projected to be completed in Quarter 2 2018 and was completed within that timeframe. However, the WRAP Quarter 1 progress report states 'Complete' and the WRAP Quarter 2 progress report states 'Completed in Q1'. This is inaccurate as applications opened in March 2018 (Q1) and were finalised in Quarter 2. It would have been more accurately reported on as 'Commenced' instead of 'Completed' in Q1 and in Q2 report as complete in Q2.

This action is completed.



Ensure transparency in how we share, allocate and manage water

Increase transparency in water management

24. Release a discussion paper on creating a public register of water information that could cover water entitlements, water licences and water work approvals (Q2 2018)

The Department of Industry released a consultation paper (March 2018) under the NSW Water Reform Action Plan titled 'Transparency Measures'⁴⁸. The consultation paper, in the introduction states:

We are progressing several initiatives to improve the transparency of water management in NSW including:

- *creating a public register of water information that could cover water entitlements, water licences and water work approvals*
- *improving the transparency of when take of water is permitted*
- *publishing compliance and enforcement activities undertaken by the Natural Resources Access Regulator.*

The paper has its first topic as 'What information should be included in a public register and why?' and discusses the recommendations of 'the Matthews Report and the Murray–Darling Basin Water Compliance Review both recommending that all details of water entitlement information should be available to the public from a single source' (Pg. 3). The report provides details on:

- What information is already available and how this information can be accessed

⁴⁷ <https://www.industry.nsw.gov.au/water-reform/water-pilot-technology-program>

⁴⁸ http://www.industry.nsw.gov.au/_data/assets/pdf_file/0019/145423/transparency-measures-consultation-paper.pdf

- A comprehensive table outlining currently accessible NSW water information
- Are there risks associated with publishing some water information and how can these be managed?
- How should information be provided on a public register?

Submissions were able to be made either online, email, webpage or postal. With all submissions closing at midnight on Sunday the 15th April 2018. The submissions received were placed on the Department of Industry's webpage under 'Water Reform Consultation Submissions'⁴⁹ and a summary of all feedback was also published in 'Community consultation – what we heard'⁵⁰. The consolidated feedback was used to assist in the formulation of an Amendment Bill and Regulations.

The Review identified that submissions made and published online under 'Water Reform Consultation Submissions' (over 250 individual submissions) are not easily identifiable as to which consultation paper they are responding to. It is recommended that all submissions be divided into response categories i.e. the consultation paper they are responding to, so that they are more readily identifiable on the webpage. It should be noted that this has been done for submissions for the NSW Water Metering consultation submissions⁵¹.

This action is completed.

25. Publish compliance and enforcement activities (Q3 2018)

The Department of Industry webpage has a Home page section for the Natural Resources Access Regulator. Investigation and enforcement is an area within NRAR where information is provided and hyperlinks to statistical data on enforcement activities. This was accessed on the 14th February 2019 and the following two compliance activity sheets were available:

- NRAR third quarter compliance activities 2018⁵²
- NRAR compliance activities by WSP⁵³

NRAR News on the webpage contains a media release 'Over 100 actions taken by new water regulator.'⁵⁴ This is the NRAR compliance activities by WSP placed into a media release.

The information is easily accessible and contains relevant details; however, it is difficult to read as the 'Compliance activities by water sharing plan' is in extremely small font. It is recommended that for subsequent statistical releases that the NRAR consider using a dashboard on their first page to highlight the various audits, inspections and enforcement actions that was undertaken (in total),

⁴⁹ <https://www.industry.nsw.gov.au/water-reform/metering-framework/water-reform-consultation-submissions>

⁵⁰ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0003/162849/Community-consultation-what-we-heard.pdf

⁵¹ <https://www.industry.nsw.gov.au/water-reform/metering-framework/nsw-water-metering-consultation-submissions>

⁵² https://www.industry.nsw.gov.au/_data/assets/pdf_file/0020/192404/NRAR-third-quarter-compliance-activities-2018.pdf

⁵³ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0008/196775/NRAR-compliance-activities-by-wsp.pdf

⁵⁴ <https://www.industry.nsw.gov.au/natural-resources-access-regulator/nrar-news/over-100-actions-taken-by-new-water-regulator>

including a comparison between quarters. The detailed information can then appear on subsequent pages.

This action is completed.

26. Publish information on the Department of Industry's website about activities in protecting environmental water (Q4 2018)

An Interagency Working Group was established in February 2018 to deliver options on how the NSW Government can better manage environmental water. In March 2018 the Interagency Working Group released a consultation paper, 'Better Management of Environmental Water'⁵⁵. In June 2018 the Interagency Working Group released a paper; 'Better Management of Environmental Water – Interim solutions package'⁵⁶. In December 2018, the Department of Industry circulated a paper titled; 'Better Management of environmental water in NSW – Northern Murray to Darling Basin Snapshot'⁵⁷.

Additional material published on the Department of Industry webpage relating to activities in protecting environmental water were identified as follows:

- Scoping Review - Translucency rules in NSW inland rivers Effectiveness and alternative scenario review – February 2018⁵⁸
- Enhanced Environmental Water Delivery fact sheet – May 2018⁵⁹
- Planned Environmental Water fact sheet – September 2018⁶⁰
- How water is managed⁶¹
- How Water Sharing Plans Work⁶²
- Maintaining the protection of planned environmental surface water fact sheet – September 2018

All of these reports/information were viewed on the Department of Industry's website and clearly relate to options and/or activities in protecting environmental water. They are easy to locate on the webpage under the heading of Environmental Water, in many instances the hyperlink then takes the reader to the various sections. The reports/information are easy to read, broken down into clearly identifiable sections or relevance and include maps, diagrams and flow charts to assist the reader.

This action is completed.

⁵⁵ www.industry.nsw.gov.au/_data/assets/pdf_file/0017/145421/better-management-of-environmental-water-consultation-paper.pdf

⁵⁶ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0009/162891/Better-management-of-environmental-water-interim-solutions-package.pdf

⁵⁷ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0005/209426/better-management-of-environmental-water-snapshot-december-2018.pdf

⁵⁸ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0004/169249/Translucency-rules-in-NSW-inland-rivers.pdf

⁵⁹ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0020/180164/enhanced-environmental-water-delivery-factsheet.pdf

⁶⁰ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0010/175933/Specifying-planned-environmental-water-fact-sheet.pdf

⁶¹ <https://www.industry.nsw.gov.au/water/what-we-do/how-water-is-managed>

⁶² <https://www.industry.nsw.gov.au/water/plans-programs/water-sharing-plans/how-water-sharing-plans-work>

27. Regularly report on progress implementing water inquiry reforms (Q1 2018 onwards)

The Department of Industry webpage has four quarterly reports⁶³ covering:

- Quarter 1 progress report (January – March 2018)
- Quarter 2 progress report (April to June 2018)
- Quarter 3 progress report (July – September 2018) and
- Quarter 4 progress report (October to December 2018).

The reports provide updates under each of the four major categories of the Water Reform Action Plan along with additional information regarding specific achievements within each quarter. The reports also highlight community feedback and next steps. The progress reports also point the reader to other areas where additional information can be obtained via a hyperlink or specific Acts that are relative.

The reports have evolved from quarter to quarter with additional information being available in a readable format. The four major water reform deliverables have specific actions below each clearly identifying what is being done, when it will be actioned and the status. Those actions that are not within the reporting quarter are absent from the report, so the reader is not going through 40 actions in every quarterly report. There are a number of future progress reports to come in 2019.

This action is completed.

28. Have NRAR establish mechanisms for the public to report alleged breaches, including a state-wide hotline and email channel (Q3 2019)

The Natural Resources Access Regulator website on the homepage has a clear contact section on the right-hand side. This initially contains a 1800 phone number and email address. Directly below this is a clearly marked icon with 'Report suspicious activity'⁶⁴ and 'You can make a confidential report on any suspicious activities at any time'.

The person wishing to report an incident is then provided with an explanation of the process involved and provided with three options as demonstrated below.

To make a confidential report on any suspicious activities, contact the Natural Resources Access Regulator⁶⁵:

- on 1800 633 362 during business hours or
- via email nrar.enquiries@nrar.nsw.gov.au

⁶³ <https://www.industry.nsw.gov.au/water-reform/water-reform-action-plan-progress-report>

⁶⁴ <https://www.industry.nsw.gov.au/natural-resources-access-regulator>

⁶⁵ <https://www.industry.nsw.gov.au/natural-resources-access-regulator/report-an-incident>



MAKE AN ONLINE REPORT

Additional information is provided on 'Information we need'; 'How we will handle your report' and 'Confidentiality'. The icon is readily accessible on the webpage and provides the three options of a 1800 number (hotline) and email address or an online reporting process.

This action is completed.

29. Commission an annual, independent review of progress on this plan and publish the results (Q1 2019)

In February 2018, The Department of Industry appointed Risk-e Business Consultant Pty Ltd to undertake the independent review on progress of the Water Reform Action Plan, following a competitive Request for Quote process. Mr David Owens APM undertook the review and this report is the outcome of that review.

This action is completed.

Create a stakeholder engagement framework

31. Implement a new stakeholder engagement framework (Q1 2018)

The Water stakeholder and community engagement policy came into effect on the 30th March 2018.⁶⁶ The document has a clear policy statement and scope along with clearly defined roles and responsibilities.

The Stakeholder Engagement Framework was implemented initially under the above Policy document in March 2018⁶⁷ and enhanced further and released as a Framework document in December 2018 and was designed for effective and coordinated stakeholder engagement. The Framework is supported by detailed guidance, tools and templates to assist staff members in the engagement process. The framework links the following documents together:

- The Water stakeholder and community engagement policy
- Stakeholder engagement toolkit (updated December 2018)
- Stakeholder engagement Toolkit – Facts Sheet (November 2018)
- The Department of Industry Engagement Charter⁶⁸.

The above documents/policies are internal working documents that are available to guide staff through the process of stakeholder engagement. The Policy document and engagement charter are publicly available on the Department of Industry webpage.

This action is completed.

⁶⁶ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0011/148529/IND-I-245-Water-Stakeholder-and-Engagement-Policy.pdf

⁶⁷ Email 4/4/18 Deputy Secretary to all staff re release of Stakeholder Engagement Framework

⁶⁸ <https://www.industry.nsw.gov.au/water-reform/stakeholder-and-community-engagement>

32. Develop and publish a schedule of stakeholder engagement activities (Q1 2018)

The Department of Industry Webpage has a specific heading of Stakeholder Engagement on their webpage. Directly below this heading is an icon listed '*Engagement Activities – A list of stakeholder engagement activities can be found here*⁶⁹'. The site has a clear statement on Stakeholder engagement with a hyperlink to the Community Engagement Policy⁷⁰. The page clearly lists upcoming engagements, including public exhibitions, advisory panels and a drop-in session. There are also hyperlinks to media releases, past engagements in 2018 and 2019 and a contact us section if further information is required.

This action is completed.

Better manage environmental water

33. Establish an interagency working group to develop solutions to improve the management of environmental water (Q1 2018)

An Interagency Working Group – Environmental Water NSW was established and conducted its first meeting on the 6th February 2018. The Terms of Reference clearly establish the Purpose and Scope along with membership as follows:

- Water Renewal Taskforce – Department of Industry (Chair)
- Department of Industry (Water)
- Murray- Darling Basin Authority
- Commonwealth Environmental Water Office
- NSW Office of Environment and Heritage
- NSW DPI Fisheries
- NSW DPI Agriculture
- WaterNSW
- Natural Resources Commission.

A dip sample identified that between February 2018 and December 2018 a total of 15 Interagency Working Group meetings were conducted. Minutes were adequately recorded along with updated actions. The action of having an interim solution within 90 days of commencement was recorded as an action item (Refer to below action).

In March 2018 the Interagency Working Group released a consultation paper, 'Better Management of Environmental Water'⁷¹. The consultation paper was clear in its immediate response, interim and enduring solutions. The Consultation paper, Better Management of Environmental Water, highlighted five possible measures that could be undertaken for improved management. These possible measures were expanded upon within the document and community consultation/submissions/feedback was sought through a variety of sources:

⁶⁹ <https://www.industry.nsw.gov.au/water-reform/stakeholder-and-community-engagement>

⁷⁰ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0011/148529/IND-I-245-Water-Stakeholder-and-Engagement-Policy.pdf

⁷¹ www.industry.nsw.gov.au/_data/assets/pdf_file/0017/145421/better-management-of-environmental-water-consultation-paper.pdf

Online: www.haveyoursay.nsw.gov.au

Email: water.reform@industry.nsw.gov.au

Website: www.industry.nsw.gov.au/water-reform/consultation

Post: Water Renewal Task Force, Department of Industry, GPO Box 5477, Sydney NSW 2001

This action is completed.

34. Have the working group present interim solutions within 90 days of commencement (Q2 2018)

In June 2018 the Interagency Working Group released a paper; 'Better Management of Environmental Water – Interim solutions package'⁷². The 22-page document made four major recommendations that the Working Group considered the most effective. These were:

- Amend Water Sharing Plans
- Protect held environmental water
- Manage resumption of flows
- Amend Water Management Act 2000

The document highlights the Roadmap required to achieve the outcomes, stakeholder consultation that had occurred and governance to ensure progress.

This action is completed.



Build capability to support implementation of water reforms

Build capability, improve standards and embed an ethical culture

37. Update staff induction processes to emphasise ethical and conduct obligations of staff (Q1 2018)

Department of Industry

The Induction process is divided into two specific phases, online and face to face. The Department of Industry intranet page (internal) contains a specific link for the induction of new employees. There are several mandatory tasks that have to be completed by a 'new starter'. The three mandatory areas are:

⁷² https://www.industry.nsw.gov.au/_data/assets/pdf_file/0009/162891/Better-management-of-environmental-water-interim-solutions-package.pdf

- Code of Conduct – Accountable and Ethical Decision Making
- Work health and safety induction and
- WHS Prevention of Workplace Bullying

This is clearly illustrated in the figure below.

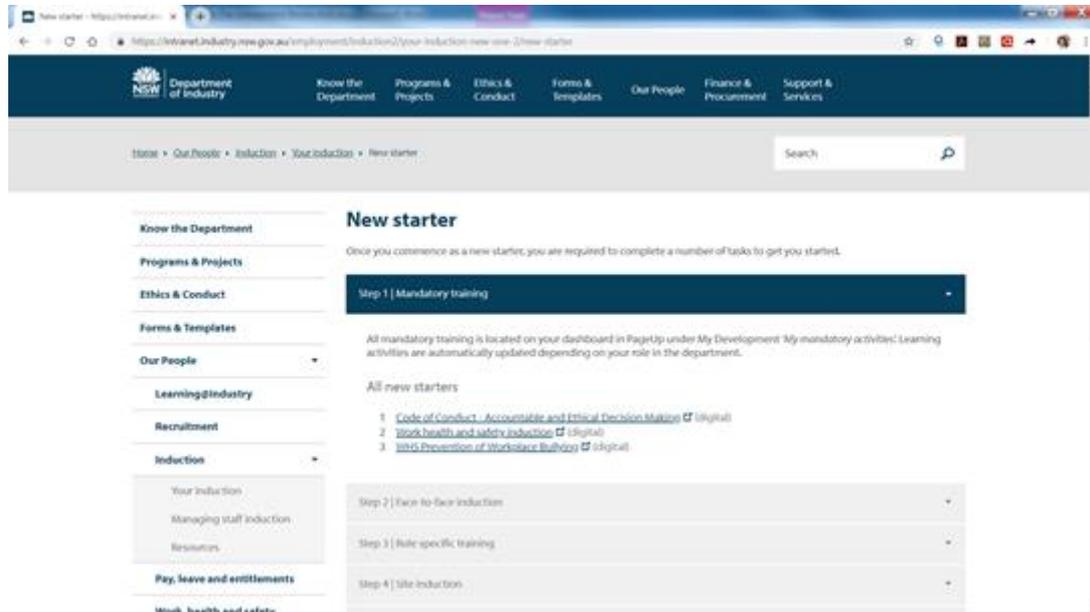


Figure 1: Screen shot of intranet induction page Department of Industry

The Review undertook a dip sample of the online induction program on the 13th February 2019. This is an updated and enhanced program of 40 PowerPoint slides under ‘Accountable and Ethical decision making’. Additional information is available when you place the mouse over the information or headings on the screen. You are then taken through a series of scenarios and questions on the information read.

The updated face to face induction sessions were held on four occasions in 2018: 26th February, 25th May, 14th August and 16th November. The agendas for these days were reviewed and there is a session on ‘Behaving Ethically’ on each day that is delivered by either the Director of Industrial Relations or Human Resources Business Partners.

Natural Resources Access Regulator

NRAR developed their own ‘Onboarding for new employees’ that supplements the Department of Industry’s Induction Program. The aim of the program is:

NRAR’s aim is for all employees to have and maintain the knowledge and skills required to competently and confidently undertake compliance and enforcement activity safely, consistently, lawfully, fairly and in the public interest⁷³.

The new employee is sent a pre-commencement letter specifically addressing the ethical and conduct obligations of employees. There are specific roles and responsibilities established under the ‘Onboarding’ document, including the new employee. These are written and ensure consistency. On

⁷³ NRAR Onboarding for new employees document page 1

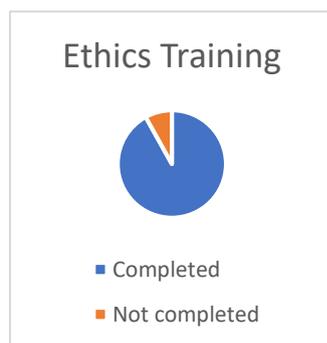
the first day of the Onboarding program, the new employee has two sessions on ethics (90 mins and 75 mins) delivered by the Manager Ethics. The first program was conducted in August 2018.

The Induction/Onboarding process at both the Department of Industry and NRAR includes specific sections on ethics and are delivered online and face to face. The Q1 WRAP progress report identifies that the update was complete. However, NRAR conducted their first program in August 2018 and four induction courses were held in 2018. A more accurate reflection of progress would have been commenced with quarterly updates.

This action is completed.

38. Roll out department-wide ethics and professional standards training (Q1 2018)

On the 22nd August 2018, The Deputy Secretary, Lands and Water circulated an email to all employees introducing the new 'Code of Conduct – Accountable and Ethical Decision Making' e-learning course. The course is mandatory for all employees to complete. The Deputy Secretary states, "I have just completed it⁷⁴ and it will show up as mandatory training in PageUp". This shows strong support from the Executive, along with a willingness by the Executive to also undertake the program.



In training documents/spreadsheets provided, 92% of all Lands and Water Division staff had completed mandatory Code of Conduct– Accountable and Ethical Decision-Making training. Those staff that not yet completed the mandatory training were on long term sick, maternity leave or other leave.

Figure 2: Training breakdown

The simplified Code of Conduct and Ethics had to be rewritten with supporting material on the intranet, and then integrated with Departmental systems. The education enhancement also required that the profile of the code of conduct was increased on the intranet (as demonstrated below) with an opening statement from the Secretary and hyperlinks under each category heading. There are also multiple pathways to access the ethical training on the intranet.

⁷⁴ Email 22/8/18 Deputy Secretary Department of Industry to all employees

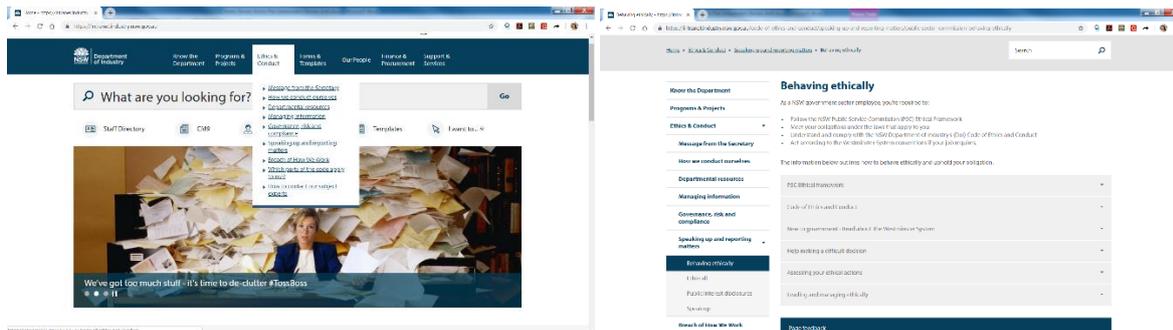


Figure 3: Code of Conduct on the Department of Industry intranet.

Leading Ethical Conversations Program

The Department of Industry has introduced a ‘Leading Ethical Conversations⁷⁵’ Program, initially for their Executives and later rolled out to all employees. The program is based around thirteen (13) two and a half hour sessions with senior executives.

The program will then be rolled out by those senior executives to their teams. As of February 2019, seven (7) senior executives had completed this program. This initiative is to be commended as it is about changing the culture of the whole organisation from the top down through difficult ethical conversations.

The roll out of department-wide ethics and professional standards training was marked in the Q1 2018 progress report as ‘Online course available. Face to Face will start in May’, however did not become mandatory until the subsequent roll out in August 2018. Significant changes have been made to the program in 2018. A more accurate reflection of progress would have been commenced, not completed. The face to face, behaving ethically workshops are being rolled out in 2019.

In discussions with Departmental staff, the delays were due to the enormous volumes of information that had to be rewritten to ensure that training and supporting material was relevant and complementary. IT systems also required reprogramming to enable Ethics to become prominent on the homepage. Priority access to the improved training was given to Land and Water and NRAR staff.

This action is completed.

39. Commence a ‘speak-up’ service to enable anonymous reporting of suspected unsatisfactory conduct (Q1 2018)

The Department of industry has a ‘Speak Up Hotline⁷⁶’ that allows staff and/or members of the public to report suspect unsatisfactory conduct. This is a separate independent pathway for reporting unsatisfactory conduct. This service is provided by KPMG and allows for three options: to remain anonymous, identity can be disclosed and provided to the Department of Industry or the identity can be disclosed only to KPMG. KPMG will share the information with a Governance Team to enable them

⁷⁵ PowerPoint presentation on Leading Ethical Conversations

⁷⁶ www.industry.nsw.gov.au/about/our-business/preventing-fraud-and-corruption

to undertake an assessment and/or share with law enforcement, regulators or other appropriate bodies or departments.

The site is easy to navigate and read, with hyperlinks at the contact points for email, telephone, FairCall website or fax number. On the 11th February 2019, the Review contacted the Speak Up Hotline and received a recorded message from the Secretary and was then immediately passed onto an operator. The operator was efficient and explained the processes/options that were open to lodge a report. The service was efficient, and the caller was reassured that their speaking up was important to the Department of Industry. There is also a provision to obtain statistical data if required as to the number of callers.

This action is completed.

40. Develop the Department of Industry ethical framework to connect all training, systems and activities to embed ethical behaviour into departmental culture (Q3 2018)

Natural Resources Access Regulator – Ethical Framework

In July 2018, NRAR published their Ethics Framework document titled ‘Embedding Ethics in NRAR’s DNA⁷⁷’. The Ethics Framework sets out an easy to follow guide on the framework, implementation, ethical performance and measurement. The document is found on the NRAR webpage. The NRAR Board Papers of the 24th January 2018 had the Board note the importance of the Ethical Framework and asked to be kept informed of the progress. This sent the message from the top down of the importance of the Ethical Framework.

Department of Industry – Ethical Framework

In December 2018, the Department of Industry released their ‘Code of Ethics and Conduct – How we work’ as their Ethical Framework. The document pulls together the training, systems and activities to embed this into the culture of the Department. The Framework covers; Our Values, Departmental Resources, Managing Information, Governance, Risk and Compliance, Speaking up and reporting matters and How to contact subject experts.

The document cannot be read in isolation of the additional work on ethical behaviour that has been undertaken by the Department of Industry. The enhancements to the Intranet meant that Ethics and Conduct on the Homepage became one of the seven highlighted areas. The profile had been elevated along with programs to improve awareness (as previously mentioned).

The Department also undertook to consolidate information (from approximately 25 policies) in the one spot instead of different documents making employees search for the required information⁷⁸. The Ethical Framework could be viewed additionally as the Accountability and Compliance Framework as shown below.

⁷⁷ https://www.industry.nsw.gov.au/_data/assets/pdf_file/0006/169260/Embedding-ethics-in-NRARs-DNA-ethics-framework.pdf

⁷⁸ Interview with Department of Industry staff 15/2/19

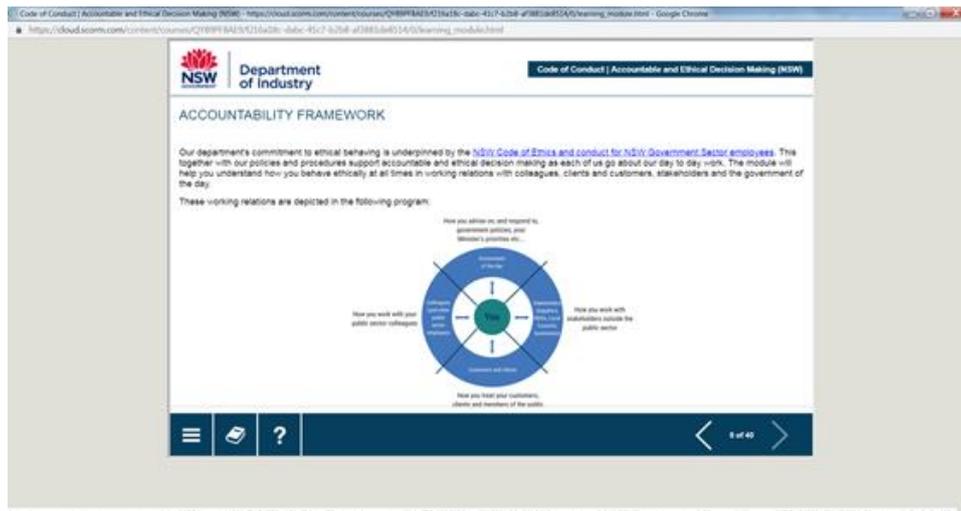


Figure 4: Accountability Framework within the Code of Conduct.

The introduction of the Ethical Framework has seen an integration of code and governance systems where hyperlinks connect the reader to the relevant area. These areas now have an explanation of what each section/area means.

The Department of Industry is also attempting to influence their ethical culture through the introduction of a workplace intranet Facebook site. The Facebook site is for employees only and divided into work groups, ethics is one of those groups. This allows employees to ask questions or obtain relevant information from other employees and subject matter experts through a resource that they are familiar with. A dip sample of the Facebook site showed that at Christmas a posting relating to the acceptance of gifts and the policy was available. This is viewed as a good initiative.

The Framework was delivered in Q4 2018 (not Q3) due to the enormous volume of work that was required in changes to the existing documents.

This action is completed.

Water Reform Action Plan - Actions not reviewed:

The Water Reform Action Plan had a number of actions that were not due for completion or implementation until the first quarter of 2019 or beyond. Therefore, the following actions were outside of the scope of this independent review:

14. Report annually on compliance and enforcement activities and publish on the Department of Industry website (Q3 2019)
23. Develop a water monitoring technology plan (Q1 2019)
30. Redesign the Department of Industry website to provide updated and more accessible information on water management (Q1 2019)
35. Publish explanatory materials to inform the public on how environmental water is managed (Q1 2019)
36. Have all NSW water resource plans accredited by the MDBA (Q3 2019)

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