



V21/435#25
Your ref: D21/2629

Mr Bryce Wilde, Executive Director
Natural Resource Commission
GPO Box 5341
SYDNEY NSW 2001

Dear Mr Wilde

Audit of implementation of eight coastal unregulated and alluvial water sharing plans

I refer to your letter of 15 June 2021 concerning the audit of the implementation of eight coastal unregulated and alluvial water sharing plans.

I note the report included positive findings in relation to processing of water access licences and dealings, translation of mandatory conditions, tools in place to manage water access licence accounts and application of available water determinations. It is also notes that there are several areas where further work is required.

The Department of Planning, Industry and Environment has considered each of these recommendations and suggested actions, and our response is in the attached tables. Notably, the Department is progressing several areas of work which I believe will contribute to addressing matters identified within the audit. These are:

1. Commissioning work to develop monitoring and evaluation frameworks for water sharing plans which will inform plan assessment and monitoring (Recommendation R1, Suggestion Action 1)
2. Implementation of the non-urban water metering framework by the end of 2023 in coastal areas (Recommendations R4.1, R3, Suggested Action 3.2)
3. Progressing work on an implementation program for key water sharing plan themes. Each theme will document the roles, responsibilities, systems, processes and procedures to ensure implementation and to provide information for future reporting/auditing purposes. (Suggested Actions 3.1 and 4.1)
4. Establishment of an oversight and quality assurance function in the DPIE Water Operations Division to work with WaterNSW and NRAR on mandatory conditions (Recommendation R9)
5. Progressing work on a range of internal and external documentation to provide transparency on the plan amendment process and develop a database management system to help track the work on amendment provisions (R10).

The outcomes of this work, along with the Commission's audit, will inform the next steps in relation to these management plans. If you require additional information or wish to discuss these matters further, please contact Anna Bailey, Director Coastal and Groundwater Planning, in the Department, at anna.bailey@dpie.nsw.gov.au. I'd like to thank the Commission for its work in this important process.

Yours sincerely

A handwritten signature in blue ink that reads 'Jim Bentley'.

Jim Bentley
CEO – NSW Water Sector

Attachment A – Tables

Table 1: Audit findings and recommendations relevant to DPIE Water

Water Sharing Plan for the Brunswick Unregulated and Alluvial Water Sources 2016, Water Sharing Plan for the Clarence River Unregulated and Alluvial Water Sources 2016, Water Sharing Plan for the Clyde River Unregulated and Alluvial Water Sources 2016, Water Sharing Plan for the Deua River Unregulated and Alluvial Water Sources 2016, Water Sharing Plan for the Macleay Unregulated and Alluvial Water Sources 2016, Water Sharing Plan for the Snowy Genoa Unregulated and Alluvial Water Sources 2016, Water Sharing Plan for the Tuross River Unregulated and Alluvial Water Sources 2016, Water Sharing Plan for the Nambucca Unregulated and Alluvial Water Sources 2016

Findings	Recommendations	DPIE Water comment
<p>F 1 Provisions in Part 2 of the plans related to vision, objectives, strategies, and performance indicators were not implemented within the audit period for any of these coastal unregulated and alluvial plans.</p>	<p>R1 DPIE-Water to implement provisions in Part 2 of the plans, specifically to:</p> <ul style="list-style-type: none"> - lead the monitoring and evaluation of performance indicators to measure the success of the strategies to reach the objectives of the coastal unregulated and alluvial plans - use generated data to support decision making for coastal unregulated and alluvial plan implementation. 	<p>Agree. NSW is developing a robust and defensible evaluation framework to inform WSP performance assessment and monitoring plans that includes the required monitoring and reporting, including where, when, how often and responsible business area. The framework will be delivered by December 2021.</p>
<p>F 2 The Malpas Dam release requirements set out in Clause 28 of the Macleay Plan were not met on numerous occasions between 1 July 2016 and 25 March 2021.</p>	<p>R 2.2 DPIE-Water to ensure that the two river gauging stations at Gara River – Willow Glen (206035) and downstream Malpas Dam gauge (206039) – are appropriate to measure low flows and to be used as flow reference points to enable real time management of environmental releases. If these gauges or their controls are deemed unsuitable, consider other options to enable appropriate and measure environmental release are made to achieve objectives.</p>	<p>Agree. If the gauges referenced are not appropriate to measure low flows, consideration will be given to other points or measures.</p>

<p>F 3 Provisions related to limits to availability of water, specifically LTAAEL, were not implemented within the audit period in accordance with Part 6 or 7 Division 1 for any of these coastal unregulated and alluvial plans.</p>	<p>R 3 DPIE-Water to manage Long Term Average Annual Extraction Limits (LTAAEL) and assess LTAAEL compliance for these coastal unregulated and alluvial plans in accordance with Part 6 or 7 Division 1 (as relevant) of each coastal unregulated and alluvial plan.</p>	<p>Agree. The non-urban water metering policy is being rolled out on a risk management basis. Coastal systems will be metered by end 2023 as required by regulation. This will provide relevant information to inform LTAAEL assessment.</p>
<p>F 4.1 Long Term Average Annual Extraction Limit compliance assessment was not undertaken (see F3). This LTAAEL compliance assessment was therefore not considered in making Available Water Determinations for access licences as required by Division 2 of Part 6 or Part 7 (as relevant) of each plan</p>	<p>R 4.1 DPIE-Water to implement R 3 and use the Long Term Average Annual Extraction Limit (LTAAEL) compliance assessment to inform Available Water Determinations adjustments as required by Division 2, Part 6 or 7 (as relevant) of each plan.</p>	<p>Agree. As these systems are not metered the assessment against the extraction compliance trigger is not possible. Metered information provided through implementation of the non-urban water metering policy will provide relevant information.</p>
<p>F 9.1 Mandatory conditions were not consistently applied in accordance with Part 11 (Part 12 in Tuross and Macleay WSPs) in relation to water supply works approvals decommissioning of works, and construction of works in accordance with the Australian Bore Guidelines for the Clarence, Brunswick, Macleay plans.</p>	<p>R 9.1 DPIE-Water to review water licensing system code and associated application processes in NRAR and WaterNSW to ensure mandatory conditions in approvals and WALs are applied as relevant going forward. This should include setting up a process to communicate clearly with NRAR and WaterNSW those conditions omitted at plan commencement that are applicable to some approvals or WALs that need to be considered and added as mandatory conditions on a case by case basis for each plan.</p>	<p>Agree. The Department agrees there were some errors in application of conditions. A Mandatory Conditions Working Group has been established with cross agency participation to assist in resolving these issues.</p>

<p>F 10 Due consideration has not been given to non-mandatory amendments for these coastal unregulated and alluvial plans.</p>	<p>R 10 DPIE-Water to formalise and implement a process for documenting the:</p> <ul style="list-style-type: none">- decision making process that underpins how and whether to implement potential amendments- status of potential amendments.	<p>Agree. An internal process document is available which outlines amendment procedures. A public facing amendment protocol is under development.</p> <p>The Department is currently scoping work on a system to document plan amendment information including status tracking.</p>
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Table 2: Observations and suggested actions relevant to DPIE Water

Water Sharing Plan for the Brunswick Unregulated and Alluvial Water Sources 2016, Water Sharing Plan for the Clarence River Unregulated and Alluvial Water Sources 2016, Water Sharing Plan for the Clyde River Unregulated and Alluvial Water Sources 2016, Water Sharing Plan for the Deua River Unregulated and Alluvial Water Sources 2016, Water Sharing Plan for the Macleay Unregulated and Alluvial Water Sources 2016, Water Sharing Plan for the Snowy Genoa Unregulated and Alluvial Water Sources 2016, Water Sharing Plan for the Tuross River Unregulated and Alluvial Water Sources 2016, Water Sharing Plan for the Nambucca Unregulated and Alluvial Water Sources 2016

Observations	Actions	DPIE Water comment
<p>O1 There is no transparency of Coastal Unregulated and Alluvial plan performance in relation to achieving its objectives.</p>	<p>SA1 DPIE-Water to publicly report on progress towards plan objectives.</p>	<p>Agree. NSW is developing an implementation and reporting program for key WSP themes. This includes developing annual reporting products by June 2022 to track progress of WSP Monitoring and Evaluation. NSW is also developing a robust and defensible evaluation framework to inform WSP performance assessment and monitoring plans. The two projects combined will allow us to maximise the results from monitoring activities, and transparently share the results with stakeholders.</p>
<p>O3.1 Roles and responsibilities, systems, processes and procedures, including quality assurance for the Long Term Annual Average Extraction Limit (LTAAEL) assessment and compliance work are not documented.</p>	<p>SA3.1 DPIE-Water to document the roles, responsibilities, systems, processes and procedures relevant to Long Term Annual Average Extraction Limit (LTAAEL) management and compliance for the Coastal Unregulated and Alluvial systems.</p>	<p>Agree. NSW is developing an implementation and reporting programs for key WSP themes. Each theme will document the roles, responsibilities, systems, processes and procedures relevant for implementation themes. Priority implementation themes including managing to extraction limits (LTAAEL assessment and compliance) will be completed by December 2021.</p>
<p>O3.2 Comprehensive extraction data is not available to inform Long Term Annual Average Extraction Limit (LTAAEL) set out in Part 6 or 7 Division 1 (as relevant) of each plan.</p>	<p>SA3.2 DPIE-Water to obtain reliable extraction data and use it to assess Long Term Annual Average Extraction Limit (LTAAEL) compliance for the Coastal Unregulated and Alluvial plans in accordance with Part 6 or 7 Division 1 (as relevant) of each plan.</p>	<p>Agree. The non-urban water metering policy is being rolled out on a risk basis and consistent with the requirements of the regulation. Coastal systems will be in 2023. This will provide relevant information to inform LTAAEL assessment.</p>

<p>O 4.1 Procedures for determining Available Water Determination (AWD) amounts in accordance with requirements set out in the Act and Regulation, including data requirements and methods appropriate for coastal unregulated and alluvial systems, are not available.</p>	<p>SA 4.1 DPIE-Water to document the roles and responsibilities, systems, processes and procedures relevant to determining Available Water Determination (AWD) amounts for coastal unregulated and alluvial systems.</p>	<p>Agree. NSW is developing an implementation and reporting programs for key WSP themes. Each theme will document the roles, responsibilities, systems, processes and procedures relevant for implementation. Priority implementation themes including managing to extraction limits (LTAAEL assessment and compliance) will be completed by December 2021.</p>
<p>O 6 DPIE-Water participates in developing and reviewing the database configuration rules coded into the Water Accounting System, though this process is informal.</p>	<p>SA 6 DPIE-Water to develop a process to ensure its role in the configuration of rules into the Water Accounting System is clear and understood by all parties involved in this process and that the configuration process for WaterNSW is simplified to enable timely configuration of plan rules.</p>	<p>Agree. DPIE Water does provide informal feedback to WaterNSW on any identified errors in configuration and provide advice where requested. Formal auditing to determine if WaterNSW have correctly configured accounts in line with legislative requirements sits with NRAR.</p>
<p>O 10 The Brunswick, Clarence and Nambucca plans have not been amended to acknowledge native title determinations that have occurred in the audit period.</p>	<p>SA 10 DPIE-Water to amend the Brunswick, Clarence and Nambucca plans to reflect current native title determinations.</p>	<p>Agree in part. Agree plans have not been amended to reflect Native Title determinations. However, as none of the determinations have involved a water allocation to date, amendment to the plan would not result in any material change to the plan. Amending the plan to reflect the determinations forms part of a suite of amendments required to a number of plans. Amendments are prioritised based on the material impact of the amendment.</p>