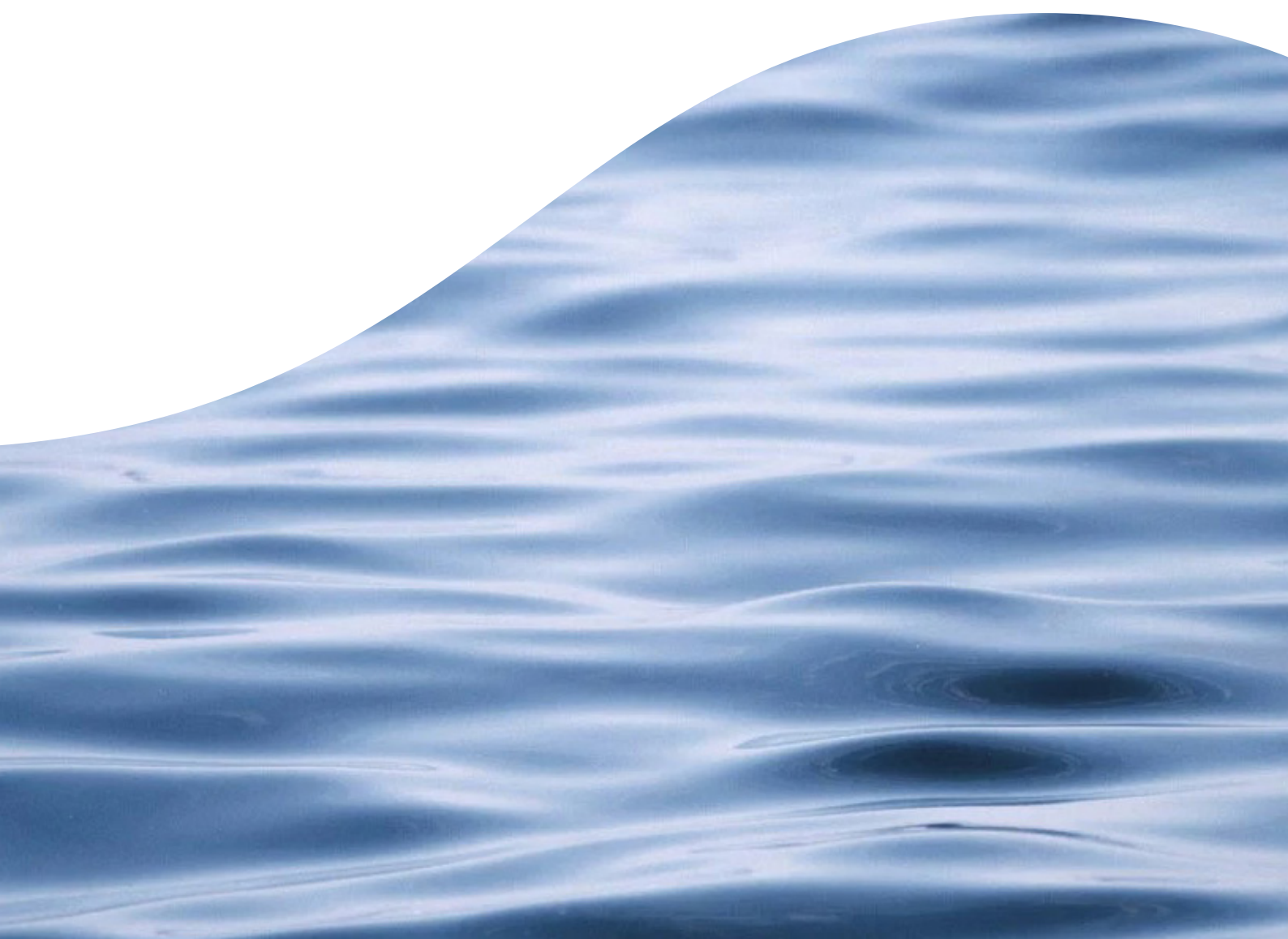




Natural Resources Commission

Review of progress toward implementing the Section 10 Corrective Action Plan

May 2025



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Acknowledgement of Country

The Natural Resources Commission acknowledges and pays respect to traditional owners and Aboriginal peoples. The Commission recognises and acknowledges that traditional owners have a deep cultural, social, environmental, spiritual and economic connection to their lands and waters. We value and respect their knowledge in natural resource management and the contributions of many generations, including Elders, to this understanding and connection. The Commission pays its respects to the Traditional Owners past, present and future, as well as other Aboriginal peoples for whom the waterways subject to this review are significant.

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List of acronyms and abbreviations

Act	the <i>Water Management Act 2000</i> (NSW)
AWD	Available water determination
CAP	Corrective Action Plan
Commission	the Natural Resources Commission
CPHR	Conservation Programs, Heritage and Regulation
CTP	Cease to pump
The Department	Department of Climate Change, Energy, the Environment and Water
LTAAEL	Long-term average annual extraction limit
The Minister	The Minister for Water
ML	Megalitre (unit of volume equivalent to one million (1×10^6) litres)
NRAR	The Natural Resources Access Regulator
NSW	New South Wales
R	Recommendation
Water Group	The Department of Climate Change, Energy, the Environment and Water's Water Group.

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Executive Summary

Section 10 of the *Water Management Act 2000* (the Act) provides for a review as to whether relevant water management principles in the Act have been given effect. Specifically, it requires the Minister to review the work and activities of the Department of Energy, Environment, Climate Change and Water (the Department) *‘for the purpose of determining whether they have been effective in giving effect to the water management principles ...’*.

Relevant water management principles (principles) include the specific water sharing principles in Section 5(3), which require that the water source and its dependent ecosystems and then basic land holder rights must be protected, and no other use may prejudice these two principles. Section 5(2) provides an additional nine general water management principles that should be given effect. These sections reinforce each other. In this report, the Natural Resources Commission (the Commission) has used the standard definition of, ‘give effect to’ meaning to ‘have implemented’ the principles.¹

The Department completed a Section 10 review, led by the Department’s Water Group in late 2023. In response to this review, the Department developed a Corrective Action Plan (CAP). The Minister for Water (the Minister) requested that the Department report annually to the Commission on the progress of CAP implementation, and that the Commission report to the Minister on the adequacy of progress. The Commission commends this commitment to continuous improvement and increased accountability.

The Water Group provided the Commission with the first annual progress report in October 2024. This report details the Commission’s review of the Water Group’s progress report and other evidence, to provide an independent assessment of progress towards implementing the CAP. Given the Water Group was responsible for developing the CAP and implementing most of the recommendations accepted under the 2023 Section 10 review, the analysis focusses on the Water Group, except where otherwise specified.

The Commission’s assessment indicates the Water Group has made limited progress in advancing the CAP actions, and gaps remain in the Department’s ability to demonstrate that it has given effect to relevant water management principles. While some work was begun to address action items, the Department did not meet the timelines specified in the CAP, particularly related to the development of guidance documents and updated procedures and processes. Work that was begun was later put on hold, awaiting additional legal advice to clarify the requirements regarding implementing the principles. The Department wanted to ensure that the revisions to the guidance documents and procedures reflected the legal advice before further progressing the action items. As the legal advice took considerably longer than anticipated, this further extended timelines.

The development of guidance documents for implementing the principles is a foundational step, which will support other key recommendations under the CAP, including the rollout of staff education and training, and the establishment of a quality management framework to provide assurance that decision making aligns with the principles. In the absence of robust guidance documents, these actions were not able to be meaningfully progressed.

¹ [Law Insider](#) for example states that ‘give effect to means to implement according to the applicable policy statement’s intention’ and describes that this is a strong directive creating a firm obligation. Collins dictionary defines this as ‘to put into practice; make operative’. The Commonwealth [Competition and Consumer Act 2010](#) states that “‘give effect to”, in relation to a provision of a contract, arrangement or understanding, includes do an act or thing in pursuance of or in accordance with or enforce or purport to enforce.’

The CAP also included the development of interim measures to develop and provide staff with consistent advice while the other CAP actions were established. These have not been rolled out. The Water Group should provide advice to staff on how to proceed while final guidance documents are developed.

While some guidance documents have been updated to better reflect the water management principles, these remain high level and require additional detail to adequately support staff to ensure the principles are given effect. In particular, the guidance for developing water sharing plans does not provide clear advice for how and when the principles should be considered or what criteria should be used to assess if they have been adequately implemented. While Water Group staff recognised the limitations of documentation around decision-making in interviews, they consistently expressed a view that the principles are duly considered in practice.

The Commission identified issues that extend beyond the documentation. There are fundamental limitations in the Water Group's processes and procedures for implementing the principles. A step change in decision making is needed to address the current gaps. The Water Group would benefit from clear and specific guidance to ensure that decision making processes are able to consistently, transparently and repeatably demonstrate that the principles are fully given effect.

It is not clear how the Water Group assesses adherence with the principles as there is no clear decision matrix or similar tool. Currently, some decisions appear to prioritise certain general principles over all other principles. Other principles or aspects of principles have little evidence of being given effect to. For example, there was no evidence that broader social and economic benefits or impacts outside of those on entitlement holders were assessed, or evidence that all reasonable steps were taken to ensure the protection of cultural sites as required by the principles.

The current prioritisation approach is not transparently communicated to the Minister – who is the ultimate decision maker – or to the public. Fact sheets routinely provided to the Minister to support the approval of remade water sharing plans indicate that the principles have been fully met. However, these fact sheets are not clear about the extent to which proposed rules are likely to contribute to meeting the principles and do not identify remaining risks.

The Commission notes that the Department's Conservation Programs, Heritage and Regulation (CPHR) group have developed a comprehensive draft guidance document that cover its requirements. While this guidance needs to be finalised to reflect the latest legal advice and rolled out, it should be the 'good practice' benchmark for the rest of the Department and be used as the basis for other agency guidance.

The Water Group has acknowledged the Commission's concerns from this review including the delays in implementing the CAP. They have expressed a renewed commitment to ensure the CAP actions are progressed as a matter of urgency now that the legal advice has been received. Further, they have committed to a series of workshops with the Commission and CPHR to develop and document a decision-making process that will demonstrate how to implement the principles in practice. The Commission looks forward to working collaboratively with the Department on these efforts.

Based on this review, the Commission's recommendations for advancing the CAP are:

- 1 The Water Group should update the CAP, including the following steps:
 - a) Review the actions and success measures in the CAP and update them, where necessary, to ensure that they fully address the relevant findings and recommendations.
 - b) Update the CAP to reflect accurate timeframes required for the full delivery of each recommendation and complete project plans as a matter of urgency.
 - c) Prioritise the additional and suggested actions consistent with the priorities identified in **Table A1.1** of this report.
- 2 The Department should undertake workshops in collaboration with the Commission to develop clear guidance on how to implement the principles. Each relevant agency should then update guidance for staff, including the guide to remaking water sharing plans, to ensure that it:
 - a) requires the implementation of all relevant principles and ensures that the prioritisation set out in Sections 5(3) and 9(1) is met – this should include discussion of how the principles are practically implemented in the procedural sections of the guides
 - b) establishes clear criteria to assess whether the relevant principles have been given effect. Where possible, criteria should be specified quantitatively such as a requirement to meet specific environmental water requirements. The CPHR guidance document should be used as 'good practice' guide and basis for updated guidance.
 - c) provides clear guidance for staff on how and when they are required to consider the principles and what is required to give them full effect.
- 3 The Water Group should clearly document and make publicly available how adherence with the principles is assessed, including the data and evidence used to determine whether a water sharing plan has given effect to the principles. The Surface Water Science Group's reports and issues papers provided to the regional working group should also be made publicly available.
- 4 The Water Group should revise the requirements for fact sheets provided to the Minister for Water to ensure they provide a transparent and objective assessment of the extent to which the principles have been given effect, including any remaining risks that have not been fully addressed, and which may impact achieving the principles.
- 5 The Department should immediately implement Recommendation 1.4 of the CAP to provide interim guidance to staff as to expectations for implementing to the principles while the full guidance and training is developed.

1 Background and introduction

1.1 Requirements of the Act

Section 10 of the Act requires the Minister to review the work and activities of the Department at intervals of not more than 5 years *‘for the purpose of determining whether they have been effective in giving effect to the water management principles ...’*. For the purpose of the Section 10 review the applicable agencies are the Department’s Water Group, CPHR, the Natural Resources Access Regulator (NRAR) and WaterNSW.

The water management principles are listed in Section 5 of the Act. They are divided into principles that are generally applied (Section 5(2)) as well as principles that are applied to specific functional areas (Sections 5(3-8)). Of particular importance for water sharing are the principles in Section 5(3), which state that:

‘in relation to water sharing —

- a) sharing of water from a water source must protect the water source and its dependent ecosystems, and*
- b) sharing of water from a water source must protect basic landholder rights, and*
- c) sharing or extraction of water under any other right must not prejudice the principles set out in paragraphs (a) and (b).’*

Section 9(1) of the Act states that:

‘It is the duty of all persons exercising functions under this Act

- a) to take all reasonable steps to do so in accordance with, and so as to promote, the water management principles of this Act, and*
- b) as between the principles for water sharing set out in section 5 (3), to give priority to those principles in the order in which they are set out in that subsection.’*

The relevant agencies under the Act and the Commission have historically taken differing views on the interpretation of Section 9 and its requirements. The Commission has taken the view that Section 9 requires that the protection of water sources and their ecosystems must be given utmost priority. Verbal and written evidence for this review indicates that the Water Group has historically taken the view that the Minister has discretion to balance the general principles with the water sharing principles. To resolve this, over the previous 12 months, the Department (both the Water Group and CPHR), in partnership with the Commission, sought legal advice on the interpretation of Section 9. This has impacted on the Department’s delivery of some of its commitments.

While final legal advice has now been received, the Water Group’s progress report was prepared before the legal advice was received and therefore does not reflect the advice. The Commission’s progress review was also undertaken before final legal advice was received and therefore does not consider the legal advice.

1.2 The Department's 2023 Section 10 review

The Department published a Section 10 review in August 2023. This review was undertaken by the Water Group in collaboration with external consultants. The Minister requested that the Commission review this report before publication and provide independent advice on the report's methodology and findings.

The Section 10 review identified multiple areas for improvement required for the Department to be able to clearly demonstrate that it is giving effect to the water management principles. Findings and recommendations were separated into main findings, additional findings with associated recommendations and Commission (NRC) findings and recommendations.

In October 2023, the Water Group published the CAP, in which it accepted the main and suggested findings and recommendations and committed to implement actions within specific timelines. Half of the recommendations identified by the Commission were accepted by the Minister and included by the Water Group in the CAP.

In response to advice provided to the Minister, the Minister required the Water Group to annually report to the Commission on progress in implementing the CAP, and for the Commission to provide an independent evaluation on progress.

The Water Group provided the Commission with the first annual progress report in October 2024, along with supporting documentation demonstrating actions taken under the CAP. Supporting documents provided to the Commission are listed in **Appendix 3**. This report outlines the Commission's review of the Water Group's first progress report.

1.3 Commission's review process

The Water Group's progress report primarily consisted of a table listing findings, recommendations, corrective actions, committed delivery dates, status updates, supporting artefacts and intended future actions. The Commission reviewed the Water Group's progress report and supporting documentation. A full list of documents review is included in **Appendix 3**.

Where evidence provided was not considered sufficient to support the statements in the Water Group's progress report, the Commission requested additional supporting documentation from relevant agencies. As this was the first progress report and independent evaluation, document collection was iterative as the Commission worked with the Department to identify what documentation was necessary for the review. As a result the Commission's review took several months.

The Commission interviewed senior Water Group executives to clarify the extent and progress of actions taken. Interviewees included the Deputy Secretary of the Water Group, the Executive Director of Planning, and the Directors of Inland and Coastal Planning. The Commission also considered input and documentation from CPHR and WaterNSW as cited throughout the report. CPHR provided draft guidance for its staff on how to implement the principles and outlined their proposed next steps and WaterNSW provided documentation related to its relevant action items.

The Commission's review is based on progress reported through the end of 2024, with some additional evidence provided in response to review of the draft report in the first quarter of 2025. This review was undertaken prior to the joint legal advice being received and does not discuss that advice, as the Water Group's progress report was related to

actions prior to the legal advice. The Commission has not applied any particular interpretation of the requirements of Section 5 and 9 in this report but has assessed whether the Department has demonstrated clear processes and procedures for implementing the Act according to its understanding. Changes to procedures and processes may be required based on the legal advice, which will be assessed in future progress report reviews.

2 Progress towards implementing recommendations

The CAP and the Water Group's progress report include four tables outlining the actions to be undertaken in response to:

- 1 overarching recommendations
- 2 recommendations that apply across a range of Department activities (program-wide recommendations)
- 3 recommendations related to specific activities or aspect of operations
- 4 recommendations from the Commission's review of the Section 10 report.

Each action specified in the CAP includes timing for delivery and is reported with a status and further actions to be undertaken. Success measures were identified for the overarching recommendations. This section discusses progress towards completing these various recommendations:

- **Section 2.1** outlines the achievement of recommendations against the timeframes outlined in the CAP.
- **Section 2.2** outlines progress towards implementing overarching recommendations (item 1 above).
- **Section 2.3** outlines overall progress towards the program-wide recommendations (item 2).
- **Section 2.4** outlines progress towards the program-wide recommendation R1.1 to develop staff guidance documents for implementing the principles.
- **Sections 2.5 – 2.9** outline progress of the remaining program-wide recommendations.
- **Section 2.10** outlines the progress towards implementing the Commission's recommendations.

There has been limited progress towards the establishment of a framework to promote the principles and increase assurance that these principles have been given effect, or education and awareness activities to promote the principles.

The Commission estimates that, of the 20 recommendations allocated to the Department:

- 13 are 0-25 percent advanced
- 4 are 25-50 percent advanced
- 2 are 50-75 percent advanced
- 1 is completed

The Water Group's report overstates progress made, indicating that 13 of the 20 recommendations are 95-100 percent completed or 'closed'. This includes the recommendation to develop updated guidance documents to provide clear guidance for staff.

Draft guidance documents need additional work to adequately address the findings. Key steps required to meet the recommendations, such as rolling out the guidance and training have not been undertaken. Therefore, these actions should not be considered complete. The Water Group's progress report in some cases indicates where additional actions are needed, while simultaneously indicating the recommendation is essentially complete. These additional actions are typically necessary to demonstrate the recommendation has

been completed and have informed the Commission's assessment of the percent the recommendation has been advanced.

Where items have been closed, the Water Group indicated that this may mean that the committed actions were being progressed under an alternative recommendation and that the action has been closed administratively for ease of tracking and consistency of reporting. The Commission does not consider that this is appropriate (unless otherwise noted), as it risks specific action items being lost. A more appropriate approach would be to regroup the actions items to sit under the overarching item to ensure all the recommendations are accurately and individually tracked to completion.

Since the completion of the progress report, joint legal advice from the Crown Solicitor has been received by the Department and the Commission. The Department has agreed to a series of workshops with the Commission to develop processes for reviewing and revising water sharing plans consistent with the requirements of the Act. The Commission welcomes this collaborative approach and recognises that this should assist in addressing many of the key action items in the CAP.

2.1 Achievement of review timelines

The timeframes outlined in the CAP have not been met. The CAP indicated that Recommendation 1.1 to develop a framework, including overarching guidance, information management and an update review method would be complete by June 2024, with education of staff beginning immediately thereafter. Most action items were due to be complete by October 2024.

The Commission and the Department sought joint legal advice in August 2024. As such, the key actions related to improved guidance and documentation should have been completed before the legal advice was requested. The Water Group had taken some steps at that point to update guidance but did not complete R1.1 or overarching recommendation 1 by the CAP due date, and had largely not progressed other items, as most of these depended on this first action being complete. The Water Group has indicated that they stopped progressing the CAP once the legal advice was requested as they had not yet rolled out advice and felt this might create confusion if guidance was changed following the legal advice.

While this explains extended delays in R1.1-1.3, Recommendation R1.4 was for the Water Group to develop and implement interim advice so that there was some consistent guidance while any additional work on more comprehensive guidance was undertaken. The delay due to legal advice would seemingly have enhanced the need for interim advice. The Water Group should have provided the interim guidance as per R1.4 to ensure staff were clear on how they were meant to operate in the absence of final legal advice.

As part of the Water Group update, additional actions and timing to be completed have been provided, noting that delays to implementation were also reported at the quarterly meetings between the Department and the Commission. However, it is not evident that these are likely to be met given the length of time taken to receive legal advice and the CAP timelines should be reviewed and updated to reflect currently expected timelines.

Now that the legal advice has been finalised, the Water Group has committed to undertaking workshops with CPHR and the Commission to develop clear guidance on how to implement the principles. This will ensure that Department staff understand their duties under the Act and are able to demonstrate adherence to the principles.

2.2 Progress towards implementing overarching actions

The Water Group's progress report includes three overarching action items labelled as the '*Overarching response and corrective actions as an outcome of the Section 10 review*'. These are:

- 1 A framework, including overarching guidance, information management and an updated review method to promote the principles and increase assurance that these principles have been given effect. It is anticipated that this will enable a more efficient review and reporting under Section 10.
- 2 Education and awareness activities to promote the principles.
- 3 An implementation plan to address the additional findings and their suggested actions.

This progress report includes timing for delivery of these actions and success measures. The Water Group provided documentation for action item 1. The specific items such as overarching guidance, information management and an updated review method are covered in more detail in **Section 2.3**.

The Commission found there was limited progress made towards overarching action 1. The overarching guidance is not sufficient to ensure that the principles are given effect (see **Section 2.4.1**). Information management to demonstrate compliance with the principles is insufficient and the review of the methodology for the next Section 10 review has not yet commenced.

The Water Group has indicated that it will:

- develop additional detailed guidance documentation following workshops with the Commission and CPHR
- review the methodology through 2025-2027 in time for the next Section 10 review in 2029 to ensure that it is current.

The education and awareness activities in action item 2 were scheduled in the CAP to begin by June 2024 but have not yet commenced. The Water Group indicated the extended delay is due to delays in clarifying legal interpretations related to the principles of the Act and has indicated that it is committed to rolling out this education as part of the improved guidance documentation now that legal advice has been received.

The CAP satisfies action item 3. It was completed in the timeline specified, made publicly available and most of its content is sound. The creation of this CAP is a positive step, demonstrating a commitment by the Water Group to continuously improve the effective implementation of the principles. The CAP covers all the recommendations in the Section 10 review report and those accepted from the Commission's advice. It includes timelines and specifies actions to address the recommendations. In some cases, the actions specified in the CAP do not fully address the findings and recommendations, which may result in repeat findings in the next review if not addressed. The Commission recommends that the Water Group review the actions in the CAP and update them where necessary to ensure that they fully address the findings and recommendations.

The overarching recommendations include 'success measures'. The success measures for this item include:

- increased efficiency for future Section 10 reviews
- improved reporting

- increased confidence and transparency in decision making.

These do not adequately address the recommendation or the findings that led to it. The Commission would consider these recommendations successfully implemented when the Department can successfully demonstrate:

- that decisions are based on repeatable and well-documented processes that ensure proper consideration of, and adherence to, the principles of the Act
- consistent alignment of decisions with the principles of the Act
- increased knowledge by staff of how to apply the principles and what their responsibilities are
- development of a Section 10 review methodology to determine if the Department can demonstrate that its processes and procedures have given effect to the principles in practice.

This would then provide assurance and transparency that decision making adheres to the principles.

2.3 Overall progress towards implementing program-wide recommendations

The Water Group provided a percentage rating of completion for each of the program-wide recommendations. The Water Group has indicated that all program-wide recommendations are 95-100 percent progressed. The Commission's review indicates that this is an overstatement. The Commission estimates these recommendations are likely 0-50 percent complete, as indicated in **Table 1**. The Water Group has indicated that items indicated as 'closed' are being tracked under other actions. While it is reasonable to indicate that R2 is being tracked elsewhere (see note below), other items indicated as closed should remain open and continue to be tracked for transparency and to ensure that they are fully tracked to completion.

R1 consists of four sub recommendations:

- **R1.1:** Each agency in the Department should develop guidance for how the principles should be applied in all levels of implementation, including high-level instruments, processes and decisions. Guidance should reflect the requirement for key documents to demonstrate alignment with the principles, either by showing alignment with a higher-level instrument or demonstrating alignment with the principles directly where discretion is required, or no high-level instrument is in place.
- **R1.2:** The Department should undertake to educate staff on the duty under Section 9 and provide avenues for business units to obtain tailored advice on which principles should be applied to their work and how.
- **R1.3:** The Department should establish a quality management framework that supports improved assurance that decisions are being made in alignment with the principles and that assumptions based on linkages between high level instruments and decisions are being tested.
- **R1.4:** In the interim to R1.1-1.3, the Department should develop and provide to staff consistent advice on requirements for demonstrating and documenting alignment with the principles in decision making.

These were intended to address the overall finding in the Section 10 report that *'there is a lack of explicit evidence for how the principles are given effect in policies, processes and*

decisions. Where consideration of the principles was evident, it was often implicit and addressed either the general or specific principles but often not all principles that apply.'

This finding indicates considerable limitations in the Department's ability to demonstrate that it has been effective in giving effect to the principles of the Act. It also addresses the overarching recommendation 1 (see **Section 2.2**).

Subsequent key findings (including F2, F3) are addressed by this recommendation. Further, the majority of the additional findings (AF1-AF3, AF5-AF7) should be addressed with reference to R1.1-1.4 with only two (AF4 and AF8) able to be fully progressed prior to implementation of recommendations contained in R1. Given the extent to which implementing other recommendations relies on implementation of R1, the Commission has focused most of its analysis on this recommendation.

Table 1: Summary of key recommendations and estimated status evaluations

Recommendation summary		Water Group's status evaluation	Commission's status evaluation
R1.1	Guidance documents to demonstrate alignment with principles		25-50%
R1.2	Staff education	95%	0-25%
R1.3	Quality management framework		0-25%
R1.4	Interim advice		25-50%
R2	Implement additional findings and suggested actions	Closed	0-25%*
R3	Review Section 10 review method	100%	0-25%

* The Commission agrees this item could be marked as being tracked elsewhere once the additional findings and suggested actions are prioritised as required by this recommendation as long as the specific actions continue to be tracked individually under suggested actions as this would become duplicative.

2.4 Program-wide R1.1: Develop guidance documents for implementing the principles

The CAP states that *'the Water Group in consultation with other agencies will develop a framework including overarching guidance, information management and an updated review method to promote the principles, increase assurance that the principles have been given effect and enable more efficient review and reporting under section 10. This will require coordination across agencies to ensure actions will address the relevant functions appropriately and can be resourced. Each agency may need to adapt overarching guidance as necessary.'*

The following subsections detail the Commission's assessment of this sub-recommendation. Broadly, the Water Group's guidance documents developed to date provide insufficient guidance for staff on how to adhere to the principles (**Section 2.4.1**). In addition, the Commission found that fact sheets provided by the Water Group to the Minister for Water for recent water sharing plan remakes do not accurately capture the extent to which the principles have been given effect. This is concerning, given the Minister decides whether plans adhere with the principles in part based on this guidance (**Section 2.4.2**). Limitations in the guidance documents and decision-making processes are

fundamental issues, and the Commission has provided a detailed example to illustrate the risks associated with the current guidance and procedures related to the review of cease to pump (CTP) rules in the Castlereagh above Binnaway Water Source (**Section 2.4.3**).

This sub-recommendation is considered foundational to the achievement of the other R1 sub-recommendations. As such, the lack of progress has had flow-on impacts to the achievement of subsequent recommendation (see **Sections 2.5 to 2.7**).

The Commission has also reviewed the contributions of CPHR and WaterNSW to progressing this recommendation (**Sections 2.4.4 and 2.4.5**).

2.4.1 Water Group guidance for implementing principles

The Water Group provided draft guidance documents for implementing the principles. No evidence of cross-agency coordination was provided, and the Commission was advised to contact CPHR and WaterNSW separately to identify if they had developed guidance. The Water Group indicated that NRAR would be covered by its guidance documents.

The Water Group provided the following documentation in support of this recommendation:

- Draft guidance: Interim guidance on the water management principles
- Interim Decision-Making Framework – DCCEE Water Group
- Interim guidance in Section 3.2 of the Replacement Water Sharing Plan Guide
- Water Sharing Plan Remake Process Flow Diagram
- Fact sheets provided to the Minister regarding implementation of the principles
- Supplementary reports detailing risks assessment undertaken by the water science team
- Issues and options papers prepared by the Water Group
- Example materials provided to the Ministers for approval and concurrence of plans

The Commission evaluated documents developed to address this recommendation from the Water Group (**Table 2**). Overall, the draft policies and procedures provided by the Water Group are high level, providing insufficient guidance for staff on how to adhere to the principles. There is minimal documentation provided of how the principles are incorporated in decision making. Documentation that is available demonstrates a lack of consideration of the full range of relevant principles or explanation of how Section 5(3) is implemented.

In relation to the current guidance, there are no clear decision-making criteria to give effect to the principles, particularly when considering principles that may conflict with each other. The Water Group have maintained that, while there is a requirement to prioritise the water source and its ecosystems and basic landholder rights under Section 5(3), this must be done while taking all the other principles into account. The Water Group has not developed any guidance that explains what this means in practice.

There remains a reliance on implicit consideration of the principles rather than clear demonstration of how the principles have been given effect. The Water Group would benefit from more stringent guidance that articulates considerations for ensuring staff have given effect to the principles. This would ensure greater consistency in how decisions are made and increase transparency around how the principles are given effect, especially where discretion is exercised. Such guidance would require a step change for the Water Group and would change how decisions are made, ensuring that it consistently,

transparently and repeatably demonstrates that the principles are fully given effect (that is, implemented) and not just ‘considered’.

In response to the Commission’s feedback, the Water Group has committed to review the guidance developed to date and develop additional, more detailed procedures for staff.

The Commission interviewed Senior Executives of the Water Group to try to clarify aspects of the documentation provided and ensure we fully understood the current processes and procedures. Interviewees:

- Indicated that they have not advanced most of the CAP and attributed this to the need to await further legal advice. Senior Executives consistently expressed there is a genuine commitment to continuous improvement in implementing the principles.
- Indicated that, while they understand the need to improve documentation of how they consider the principles, they are confident that they are considered at each step of their process. Senior Executives indicated that they are working on process mapping and expect this to help considerably in ensuring the principles are implemented.
- Acknowledged they do not currently have criteria to assess whether the principles have been met or for use when considering conflicting principles. Senior Executives provided a mix of responses as to development of criteria that should be applied to assess if principles have been implemented, indicating:
 - They are looking at a statutory decision-making support document, which would presumably be a decision-framework and should imbed the principles considering questions such as ‘*what are the risks to the environment?*’, ‘*Can risks be quantified or mitigated?*’ and ‘*What are the impacts from the mitigation?*’ These are intended to be addressed in the water sharing plan manual after the legal advice is received.
 - That they had tried multi-criteria analysis, but it became too cumbersome and chaotic, and an alternative way forward is needed.
 - That criteria are ‘not possible’ because each catchment is too unique and there are too many inputs.
- Provided no clear, consistent view on what is required to demonstrate Section 5(3) principles have been implemented:
 - Some indicated that the water source and dependent ecosystems must always be ‘front of mind’ and considered as a priority, but that there was a need to determine what fundamental ecosystem health looks like, as this is the baseline requirement.
 - Others indicated that the requirement is to ‘maintain’ current ecosystem health, meaning any improvement over the current water sharing plan adheres to the principles.

The Commission identified several concerns with the draft guidance documents the Water Group provided in response to R1.1 as detailed in **Table 2** below.

Table 2: Evaluation of guidance documents provided by the Water Group

Document	Assessment
Interim guidance on water sharing principles	<p>This guidance does not provide a sufficient framework for ensuring the legislative requirements are upheld.</p> <p>It incorporates the text about principles from the Act and states that ‘<i>staff should be able, if required, to include advice about how their work accords with and promotes specific water sharing principles, as an input to the decision-making process</i>’. This provides no clarity for what staff are required to do, or how it should be documented. It also does not address the requirements related to the general principles under Section 5(2) of the Act.</p> <p>There are no criteria for what is necessary to meet a principle, how adherence is to be assessed, or how Section 5(3) is to be considered in relation to Section 5(2). While decision making is complicated by catchment specific issues and localised conditions, there are key questions and criteria that could be applied to ensure consistent compliance and would improve guidance.</p> <p>The guide indicates that the Section 9 duty only applies to those ‘exercising functions’ under the Act and states this is only those who have been delegated authority to decide on behalf of the Minister. The definition in the Act of exercising functions is not clearly limited to that, and in interviews Senior Executives acknowledge that it’s important for all employees to understand and consider the principles in their work and relay how this has been done. The guidance document should reflect this.</p>
Interim guidance for decision makers	<p>This guidance does not provide sufficient guidance for decision makers as to how to give effect to the principles or understand if and how the principles apply. It provides no specific guidance on implementing the principles but refers to the broader guidance document (see above) for implementing the principles.</p> <p>This document focuses on broad administrative law requirements and states the principles must also be considered. Later the document says the principles should be promoted. Section 5(3) states that sharing of water must protect the water source and its dependent ecosystems and basic landholder rights. Section 9(1) states that it is the duty of all persons exercising functions under the Act to ‘take all reasonable steps’ to do so in accordance with the water management principles. The document does not outline what would be involved in taking all reasonable steps to apply the principles, including in their priority order.</p>
Revised guide for making of a water sharing plan	<p>This document references the principles but does not provide guidance for how the principles are to be considered in the procedures outlined in the guide.</p> <p>Section 3.2 of the guide indicates that ‘<i>consideration must be given to the water sharing management principles</i>’ and provides text from Sections 5(3) and 9(1) of the Act. It does not reference the general principles, and there is little mention of them elsewhere in the guide. It is not clear how or when the principles are meant to be considered when following this guide.</p> <p>The Water Group’s position has been that Section 5(3) priorities should be considered alongside the Section 5(2) principles, but the water sharing plan guide does not discuss the general principles. It therefore provides no clarity for how, in practice, the Water Group considers the range of principles that are applicable, or how it assesses whether it has met Section 5(3) according to its interpretation.</p> <p>There is no specific guidance provided regarding how to implement the principles in the processes outlined in the guide. For example, there is no mention of how to take the principles into account when considering which of the Commission’s recommendations to implement, assessing access rules or setting long-term average annual extraction limits (LTAAELs). The LTAAEL section references the National Water Initiative principles, which are more focused on economic and social outcomes, rather than the principles in the Act. The section on assessing the Commission’s recommendations (page 31) states that ‘<i>the department will weigh up the costs and benefits of the recommendations when deciding whether to adopt a recommendation</i>’, without any reference to the principles.</p> <p>The guide establishes a separate set of ‘key principles’ for the Water Group’s review of a water sharing plan, instead of referring to the principles of the Act. It is not clear why the separate set of principles has been established, and they may conflict or fail to adhere to the principles of the Act. For example, the key principle is that ‘<i>changes will seek to ensure that environmental outcomes of the plan are maintained or enhanced</i>’. The Act requires that the water source and dependent ecosystems be ‘protected’ under Section 5(3) and ‘protected and restored’ under Section 5(2)(a), not simply maintained consistent with current rules, which may be degrading the health of the ecosystems. Another principle established in the guide is that ‘<i>changes that affect water users will be minimised where possible</i>’. There is no discussion of any potential limitations to this created by the need to adhere to the water sharing principles.</p>
Water sharing plan remake process flow diagram	<p>The Commission requested that the Water Group share a flow diagram identifying the key documents produced during stages of water sharing plan remakes. The Water Group provided a process flow diagram identifying staging for developing key documents and other processes involved in plan remakes. This flow diagram provides a useful starting point for the Water Group to develop guidance documents and create processes for giving effect to the principles at each stage of a plan remake. In addition, the WSP replacement manual would benefit from including the flow diagram.</p>
Other documentation	<p>The Water Group provided additional documentation such as risk assessments and issues papers provided to the regional working group. This documentation did not provide clear evidence of consistent or thorough consideration of relevant principles.</p> <p>In some cases, it appears to demonstrate a focus on ‘weighing’ the economic portion of the general principle, which states ‘<i>the social and economic benefits to the community should be maximised</i>’ versus potential environmental outcomes. The issues papers focus largely on potential impacts to irrigators when assessing rule options. Despite recognition that there are social benefits both instream and downstream of stricter rules and a healthier river, there is no analysis or further discussion of that aspect. There is no analysis of other principles such as those relating to Aboriginal cultural outcomes.</p> <p>Comments in risk assessments included statements such as ‘<i>risk is now tolerable as there is no longer a suitable active gauge in the water source</i>’.² A lack of measurement should not be considered as an indication that a risk is mitigated, as an unsuitable gauge does not change the inherent ecological risk. Documentation also indicates that, in some cases, ‘<i>no suitable stream flow gauges for setting flow-based access rules</i>’³ is used to justify why rules to adequately protect the environment were not adopted. In these cases, it should be clearly identified that there is a risk that extraction may be at inappropriate levels and is not adequately managed. Consistent with the objects of the Act, a precautionary approach should be taken where there is a risk of irreversible harm.</p>

²

Review of the Water Sharing Plan for the Macquarie Bogan Unregulated River Water Sources 2012 (Table 1)

³

Review of the Water Sharing Plan for the Macquarie Bogan Unregulated River Water Sources 2012 (Table 1)

2.4.2 Fact sheets provided to the Minister on adherence with the principles

The Water Group provided fact sheets provided to the Minister for Water for recent water sharing plan remakes. These documents outlining how the plans meet the principles do not accurately capture the extent to which the principles have been given effect. They do not transparently identify where there are significant risks remaining to fundamental environmental or basic landholder outcomes that have not been addressed or where measures are unlikely to be effective. This is concerning as the Minister decides whether plans adhere with the principles in part based on this guidance. Issues identified include that:

- Many of the 'high' or 'intolerable' risks identified in environmental risk assessments were not addressed. This is not acknowledged or explained in the fact sheets.
- Statements around the extent to which principles are met are misleading. For example, in water sharing plans where recommendations for rules to better protect the environment were not adopted and access rules remain nearly exclusively at 'no visible flow' thresholds, the fact sheet states that the access rules provide for protection of the water source and dependent ecosystems, as well as water quality needs and downstream connectivity. This is not supported by evidence. While access rules can provide for those things, there is no assessment or analysis of the extent to which the rules in the water sharing plan being discussed achieve these outcomes, or acknowledgement of when they are unlikely to do so.
- The fact sheets provided for unregulated water sharing plans have a section on how the water sharing plans protect the water source and its ecosystems, which highlights that plans have LTAAELs '*which, on average, protect water above those limits for environmental purposes*'. The fact sheets do not acknowledge that the Water Group has consistently reported that it cannot currently assess compliance with the LTAAELs in these systems and will not be able to assess compliance for several years. Without compliance assessments and subsequent adjustment of available water determinations, the LTAAELs currently provide no protection.
- The fact sheets often indicate that 'very low flow' or 'no visible flow' rules provide for connectivity and water quality when there is strong evidence that higher flows are necessary to provide for adequate connectivity, water quality and ecosystem health for threatened species.

2.4.3 Detailed example demonstrating issues

An example of a decision-making process that demonstrates issues raised above was the process of revising the CTP in the Castlereagh above Binnaway Water Source as part of the replacement of the *Castlereagh Unregulated River Water Sharing Plan 2011* (the Castlereagh Plan). Broadly, this example shows a lack of clear criteria for assessing the range of relevant principles, particularly those in Section 5(3). No procedures were identified that would have guided staff in how to assess principles, particularly those that may conflict with each other.

The Planning Group within the Water Group restricted consideration of options based on the potential impact to users and potential to trigger compensation, despite information available from the Water Group's Surface Water Science team that a higher CTP was required to protect fundamental environmental needs including protection of threatened species. No guidance documents guiding this decision were identified and there was no evidence provided that this decision to weigh user impacts over potential environmental risks was relayed to the Minister. There was also no evidence that the Minister was informed that the applied CTP did not comply with recommendations from the Commission

and the Surface Water Science Group or that stakeholders had concerns that the rule was inadequate to give effect to the Act's principles. No assessment was made of how this decision would impact on other principles such as Aboriginal cultural outcomes, despite baseflows being very important to cultural outcomes.

Detailed decision-making process for the Castlereagh above Binnaway Water Source

The Commission's review of *Castlereagh Unregulated River Water Sharing Plan 2011 (the plan)* prior to its expiry in 2022 found the 'no visible flow' CTP in the Castlereagh above Binnaway Water Source was inadequate to protect the water source and its ecosystems. It recommended the replacement plan include flow classes in this water source based on best available information and environmental flow requirements.

In remaking the plan, the Surface Water Science Group reviewed the risk assessment,⁴ which identified the water source as at high risk of insufficient baseflow and low flows⁵ due to licenced extraction. In addition, there were 'very high' consequences to the 'high' environmental values, including known populations of endangered and threatened populations.⁶ A comparison of observed and modelled flows found '*reduced low flow and base flow levels ... pose a key threat to aquatic diversity...*', which are '*essential to support critical lifecycle activities of threatened, endangered and vulnerable species in this water source*'.

The risk assessment concluded that a 1 ML per day CTP would improve cease to flow periods (rated at medium risk) but not baseflows (rated at high risk) and that a 5 ML per day CTP was required to reduce the frequency of low flow and provide base flow conditions needed to protect the identified ecological assets and functions.

The Planning Group's CTP options assessment⁷ investigated CTPs up to 3 ML per day, with no explanation for why 5 ML per day was not considered. The Planning Group's issues paper indicated that a CTP of 1 ML per day would '*not provide the same environmental benefits as higher CTP access rules*' providing no improvement for baseflows and merely shifting a portion of cease to flow days to very low flow days. The paper recommended a CTP of up to 1 ML per day stating that it was '*consistent with the macro approach*'.

The issues paper did not assess CTPs recommended as necessary for the protection of threatened species populations. The paper focused on estimating potential impacts to licence holders, indicating that a 3 ML per day CTP would result in '*significant impacts on water users and would likely trigger the compensation provisions under S. 87A of the WMA 2000*'. The paper also highlights limitations of the assumptions used in the risk assessment but does not discuss similar limitations and risks with the methodology used to assess potential impacts to the users.

In May 2023, the Regional Working Group endorsed a CTP of up to 1 ML per day. No discussion was documented related to the fact that the endorsed CTP did not address the high risk of extraction impacting environmentally important baseflow and low flows. Regional Working Group minutes show endorsement for the plan to be publicly exhibited from all agencies except for '*Environment and Heritage Group (EHG) who sought further time*'.

⁴ Undertaken as part of the water resource plan process: Department of Industry Water (2018) [Risk Assessment for the Macquarie-Castlereagh water resource plan Area \(SW11\)](#)

⁵ DPE (2023) *Supplementary Report for Water Sharing Plan review: Castlereagh Unregulated River Water Sharing Plan*

⁶ DPE (2023) *Supplementary Report for Water Sharing Plan review: Castlereagh Unregulated River Water Sharing Plan*

⁷ DPE (n.d.) *Options for changes to access rules for the Castlereagh Unregulated River Water Sources 2011 Sharing Plan – Discussion paper*.

to consider the amendments out of session.' No discussion or assessment of other principles or aspects of principles such as social or cultural impacts was included.⁸

During the draft Castlereagh Plan public exhibition in 2023, the Water Group received stakeholder feedback that the draft replacement plan is *'an erosion of intended protection of river health in the above Binnaway Water Source'* and that the plan *'fails to meet the water management principles and objects of the Water Management Act 2000'*.⁹

The Planning Group published a fact sheet on compliance with the Section 9 duty, which stated that the CTP will *'limit access to very low flow events ... which will protect a portion of natural flows, riffle environments and maintain hydrological connectivity'*.¹⁰ There is insufficient evidence that this CTP would provide necessary flow over riffle environments or adequate connectivity, both of which generally require baseflows.¹¹ The fact sheet does not acknowledge the potential environmental risks of not raising the CTP to 5 ML per day. The Planning Group responded to the Commission's review of the Castlereagh Plan by identifying that the CTP provides *'a balance between the protection of low flows, basic landholder rights and town water supply and the needs of existing licenced water users'*.¹² The provision commenced in the replacement Castlereagh Plan on 1 July 2024.

The CAP required that the Water Group develop guidance documents to ensure that the principles are consistently given effect and staff understand how and when to apply the principles. This example reinforces that, while the Water Group maintains it has discretion to weigh principles against each other, it has no clear criteria or guidance for how this is done, or how procedures ensure that all reasonable steps are taken to implement the range of relevant principles.

It is also not evident how the Water Group assesses whether it has met the requirements of Sections 5(3) and 9(1)(b). It appears to be left to the individual planners to determine how this is done, and the decisions around such weighting are not transparent. Ultimately any such assessment should be undertaken by the decision maker – in this case the Minister. However, insufficient information is provided to the Minister to meaningfully assess the extent to which the principles have been given effect.

2.4.4 CPHR guidance for implementing principles

CPHR (formerly the Department's Biodiversity, Conservation and Science Group) developed and provided a draft guidance document establishing how staff should apply the principles to water sharing plan replacements and amendments.

This draft guidance provides a suitable framework, guiding staff and decision makers to interpret and apply legislative requirements and ensure requirements are given effect in a consistent and transparent manner. It is a valuable benchmark which should inform the Water Group's next steps in developing guidance material, noting that it would need to be adapted for the Water Group reflecting its different role.

⁸ Department of Planning and Environment (2023) *Meeting Minutes – Castlereagh Unregulated WSP remake – Regional Working Group Meeting #1*

⁹ Department of Planning and Environment (2023) [What we heard – draft water sharing plan for the Castlereagh Unregulated River Water Sources 2024](#)

¹⁰ Department of Climate Change, Energy, the Environment and Water (2024) [Fact Sheet – Compliance with the ministers' duty under section 9 of the Water Management Act 2000 – making of the Water Sharing Plan for the Castlereagh Unregulated River Water Sources 2024](#)

¹¹ Department of Industry (2018) [Risk assessment for the Macquarie–Castlereagh water resource plan area \(SW11\): Part 1](#)

¹² Department of Climate Change, Energy, the Environment and Water (2024) [Fact sheet – Government response to the Natural Resources Commission recommendations for the Castlereagh Unregulated River Water Sharing Plan](#)

This document outlines the relevant contextual issues related to the Act's focus on ecologically sustainable development. Definitions of the precautionary principle, inter-generational equity and conservation of biological diversity are included as well as guidance on implementing these principles if there is '*uncertain but potential serious and/or irreversible threats of harm*'.

The guide details CPHR's understanding and requirements for applying each principle, providing enough guidance for consistent implementation. The process is based on identifying and evaluating the best available scientific data, analysis, or expert opinion related to key environmental assets and values, environmental water requirements, threats to water sources, as well as water sharing plan rules to prioritise during the plan replacement or amendment process. Standardised questions and information sources are also provided to transparently guide staff in their assessments.

It provides clear descriptions of each of the principles and identifies factors that need to be considered when applying them. Discussion around considerations for prioritising overlapping principles aligns with their understanding of the Act including identifying that protecting water sources and dependent ecosystems followed by basic landholder rights are to be given paramount consideration and greater weight than other principles. Key definitions such as 'must', 'protect', 'cumulative impacts' and 'adaptive management' are discussed alongside guidance on the use of key environmental water requirements, representing '*at a minimum ... critical flows required for ecosystem functions*', to evaluate the level of protection water-dependent ecosystems are provided under water sharing plan rules.

While the Section 9 duty is described in the guidance, it has been interpreted '*in the strictest sense*' as only applying to Ministers and 'officials' exercising functions under the Act. This interpretation is seen to exclude CPHR staff supporting decision makers in the administration of the Act from compliance with the duty. The definition in the Act of exercising functions is not clearly limited in this manner. However, the guide recognises the importance that other staff have in implementing the principles, similar to the Water Group guidance.

While this guidance is clear and comprehensive it has not yet been finalised or implemented. Similar to the Water Group, evidence indicates that CPHR has not applied a consistent approach to consideration of the principles in the concurrence process previously. CPHR acknowledged that this guidance needs to be finalised and rolled out to ensure this consistency and clarity for staff. As part of this process, it will need to be reviewed to ensure it reflects the latest legal guidance.

CPHR has indicated it is developing a plan for how it will promote the guidance once complete and provide training for its officers to ensure that they are using it and plan to undertake an annual evaluation to check the implementation. However, this was not yet completed for the Commission's review.

CPHR's guidance covers its procedures for the concurrence process. It advised that the Water Group indicated it will lead the preparation of broader documentation on the overall concurrence process, which the CPHR procedures would be incorporated into. This work has not yet progressed to CPHR's understanding. CPHR also indicated that, while it has prepared an outline for the process for their role in water sharing plan development, replacement and concurrence, it still needs to prepare templates for each step of the process. CPHR indicated it is awaiting input from the Water Group on the level of detail expected prior to advancing this step.

2.4.5 WaterNSW guidance for implementing principles

WaterNSW provided a range of documents demonstrating progress towards implementing recommendations that are relevant to the agency. WaterNSW has updated its work instructions and associated assessment summary sheets for all water supply work approval applications. These updates ensure that the required principles, particularly Principle 5(2)(f) as outlined in recommendation SA2, are considered during assessments.

Relevant confidential documents were provided to the Commission to demonstrate this progress. These documents demonstrate that the assessment process requires assessment relevant to the water sharing and general principles. However, the documents provided do not demonstrate clarity on how these assessments are considered in making a recommendation as to whether a work should be approved or not. Guidance for how these assessments are considered in recommendations should be developed in line with recent legal advice to ensure the recommendations align with the requirements of the Act.

WaterNSW advised that it is currently reviewing the water trades process. This review will document all trade types, with the development of work Instructions, checklists, and assessment summary sheets as necessary. WaterNSW indicated that these documents will ensure that all applicable legislation, including the access licence dealings principles and water sharing plans, are incorporated into the assessment process.

2.5 Program-wide R1.2: Undertake staff education

R1.2 of the Section 10 review report identified that *'ongoing education for staff on the duty and how it applies would help to increase staff confidence in applying the principles and may drive uptake of overarching guidance and tailored advice'*. Implementing this recommendation is necessary to fulfil the overarching corrective action to provide *'education and awareness activities to promote the principles'*. Additionally, the recommendation specifies that the Department should *'undertake to educate staff on the duty under s 9 and provide avenues for business units to obtain tailored advice on which principles should be applied to their work and how'*.¹³

The Water Group identified that actions in response to this recommendation were being managed under finding F1 and provided the following documentation in support of this recommendation:

- Draft guidance: Interim guidance on the water management principles
- Interim Decision-Making Framework – DCCEW Water Group
- Replacement Water Sharing Plan Guide.

As discussed in **Section 2.4.1**, these documents are high level guidance instruments focusing on decision making in relation to the principles and do not represent education and awareness activities.

The Water Group indicated in the CAP that it would begin delivery of the education program to staff as soon as the guidance materials were completed (original due date of June 2024) and complete it within eight months of completion of the guidance materials. During interviews, the Water Group indicated a clear intention to roll out an education and awareness program but noted that this action was postponed due to ongoing clarification of legal advice related to interpretations of the principles. The Water Group indicated that

¹³ Department of Planning and Environment (2023) [Review of the activities of the department under Section 10 of the Water Management Act 2000 - August 2023](#)

this was intentional to ensure that advice and training to staff was accurate and to avoid potential revision of guidance, which could risk staff confusion around the obligations of implementing the principles of the Act.

The Water Group advised as part of the development of training materials there is an intent to consult with the Commission. To date the Commission has not been provided with evidence demonstrating progress in the development or delivery of broader education and awareness activities related to the principles. The Water Group should ensure when they develop awareness and education materials that consideration is given to providing avenues for business units to obtain tailored advice on giving effect to the principles. The Commission assumes that WaterNSW and NRAR will be appropriately included in any training developed.

CPHR similarly indicated that they had not begun rolling out their advice or training their staff. They also indicated this finalisation has been delayed due to the need to wait for final legal advice. They provided information on their planned next steps indicating that staff training was a high priority as soon as their guidance documents are finalised.

Adequately addressing this recommendation requires the Department to develop an ongoing education and awareness strategy and training for all staff undertaking duties under the Act. This should include guidance for delegated and non-delegated decision makers on their duty under the Act, particularly in relation to clarifying mandatory and discretionary requirements.

2.6 Program-wide R1.3: Establish quality management framework

R1.3 of the Section 10 report states that *‘the department should establish a quality management framework that supports improved assurance that decisions are being made in alignment with the principles and that assumptions based on linkages between high level instruments and decisions are being tested’*.¹⁴

This was to address the finding that *‘consideration of the principles in decision making was sometimes deferred to a management plan, assumed to be consistent with the principles. However, it was often not demonstrated which parts of a process or decision strictly implemented a management plan and which parts were not covered by plan provisions and required discretion. These links were also not clearly articulated in documentation of processes or procedures’*.

Water Group

The Water Group provided the following general documentation in support of this recommendation:

- Corporate Assurance Framework
- Replacement Water Sharing Plan Manual
- Plan specific evidence including:
 - Fact sheets addressing compliance with the principles
 - Regional Working Group (RWG) meeting minutes
 - Supplementary reports, issues papers, options papers,
 - Response to NRC recommendations

¹⁴ Department of Planning and Environment (2023) [Review of the activities of the department under Section 10 of the Water Management Act 2000 - August 2023](#)

- What we heard report
- Assessment of consistency with the Act

While these documents demonstrate some consideration of the principles as part of the water sharing plan remake process, no evidence of an overarching quality management program that addresses the issues identified in the finding was provided.

The Water Group provided DCCEEW-Water Group's corporate assurance framework, noting that the assurance framework had to be developed before the quality management framework. Development of an overall assurance framework is an important step for the Water Group but does not fully address the recommendation.

The specific need is for a quality management framework that outlines the processes and systems the Water Group has for planning, managing, quality assuring and continuously improving how it gives effect to the water management principles.

Addressing this recommendation requires the Water Group to develop a specific quality management framework that clearly outlines when higher level documents are sufficient to ensure the principles are adhered to and when discretionary decision making is required. It should also indicate processes for how to ensure discretionary decision making adheres to the principles. The framework should provide for internal assurance processes to test whether the documents and procedures are effective in giving effect to the principles in practice. Internal assurance should also test whether staff understand when to rely on higher level documents to ensure principles are implemented and when using discretion is more appropriate, as well as whether they adhere to relevant processes and procedures.

This framework should identify the lines of evidence relied upon during decision making, the evaluation metrics used, how uncertainties are considered, and how discretionary decision making are managed.

Such a framework should also outline how there are processes to drive continuous improvement in giving effect to the principles of the Act. The CAP itself and the Section 10 reviews are components of any such quality management framework.

WaterNSW

WaterNSW provided a quality management framework that covers the Assessments and Approvals area within its Customer Services portfolio. This references the requirements of Section 5, 9 and 10 of the Act. WaterNSW advised that it is also developing a Customer Services Quality Assurance Management System to provide overarching guidance on systems and procedures across the entire Customer Services portfolio. This system is intended to ensure that staff consider all relevant legislation, including the water management principles under the Act. WaterNSW also indicated that it expects the Water Group to develop an action plan for how their processes will be integrated with the Department's broader procedures.

WaterNSW indicated that it has implemented an annual quality assurance plan. This requires ongoing quality assurance to be conducted on the revised work instructions and assessment summary sheets to monitor staff adherence to the updated processes, including consideration of the water management principles. The Commission was not provided examples but may review this in more depth in its future Section 10 reviews.

CPHR

CPHR provided a written description of their plans for the next steps in implementing Section 10 actions. This indicated that they are planning an annual assessment to launch an evaluation process to assess implementation of their guidance (once finalised) and then

report annually on implementation outcomes. They also intend to review their guidance material annually and refresh as needed.

2.7 Program-wide R1.4: Interim measure to develop and provide staff with consistent advice

R1.4 of the Water Group's progress report seeks for the Department to '*develop and provide to staff consistent advice on requirements for demonstrating and documenting alignment with the principles in decision making*'. The purpose of this recommendation was for the Department to implement interim measures to fill the significant gaps identified in the review until R1.1-1.3 could be fully implemented.

The Water Group provided the Commission with draft interim guidance on the water management principles and an interim decision-making framework, as well as revisions to the replacement water sharing plan guide. While the Commission does not view these documents as sufficient for giving full effect to the principles (see **Section 2.4.1**), as an interim measure, they would improve information for staff and give them some guidance while they await the final comprehensive guidance.

The Water Group advised that it paused the roll out of this advice while awaiting clarification of legal advice related to interpretations of the principles to ensure the advice was correct and thorough. However, this seems to confuse this recommendation with R1.1, which was to develop comprehensive advice. This recommendation was specifically aimed at ensuring there was interim advice to ensure staff understood how they were to proceed in the absence of final legal advice and full guidance. The Water Group should provide such interim guidance until such time as they have completed their comprehensive guidance, noting this is likely to take some time given the plan to develop guidance through a series of interagency workshops. Staff require some guidance in the meantime.

2.8 Program-wide R2: Implement additional findings and suggested actions

R2 of the Section 10 report seeks for the Department to '*prioritise and address the additional findings and suggested actions identified with the 'AF' and 'SA' prefixes using a risk-based approach*'.

The suggested actions cover several areas to improve the implementation of the principles, which are directed at the Water Group, CPHR and WaterNSW. The actions address gaps identified in functional areas, including supply work approval assessments, available water determination (AWD) processes, Long-Term Average Annual Extraction (LTAAEL) compliance, joint private works and water modelling and measurement.

No documentation was provided demonstrating that a risk-based approach was applied to the prioritisation and implementation of the suggested actions.

The Water Group's progress report included updates on the implementation status of each suggested action. **Table A1.1** in **Appendix 1** summarises these updates and the Commission's evaluation of the status of each action, as well as the Commission's proposed prioritisation for their implementation.

The Water Group has indicated that R2 is 'closed' as it is covered by the suggested actions. The Commission agrees that once the suggested actions have been prioritised according to risk as required by R2 – provided the suggested actions continue to be tracked

individually– it would be reasonable to note that R2 is being tracked through the suggested actions to avoid duplication of effort.

The Water Group acknowledged there have been gaps in the delivery of the suggested actions for several reasons, including ongoing clarification of legal advice related to interpretations of the principles, and resource constraints. As such, the Commission has not undertaken a detailed evaluation of progress towards implementing these suggested actions in this review but will address these in subsequent annual reviews. In some cases, the Water Group has proposed new timelines, but evidence has not been provided to indicate if those timelines are on track or have been met.

2.9 Program-wide R3: Review the Section 10 review method

The Water Group's progress report was the first to be conducted using a published method developed in 2021 by Alluvium Consulting. During implementation of the method, limitations of the method and approach were identified, and the review method had to be adapted throughout the review.¹⁵ R3 seeks a review to update the method and approach to address identified limitations. Additionally, the review recommended that the Department should consider changes to how the method is operationalised throughout the 5-year period to support reporting under Section 10. Limitations identified in the review include:

- misalignment between the hierarchy of Act implementation provided by the method and the approach to implementation
- limitations in the ability to make findings for non-focus areas due to low level of assurance provided by the review approach due to a reliance on document evidence
- lack of a framework for forming evaluative conclusions consistently and transparently.

The Commission also provided advice to the Minister¹⁶ outlining recommendations for improvements to the review method. This advice made three recommendations, that:

- future Section 10 evaluations should be conducted by an independent reviewer to increase public confidence in the management of NSW water resources
- the method should be reviewed by an independent reviewer and involve collaboration with relevant legal experts to ensure alignment with the Act's requirements as well as the department to ensure the updated method can be supported and resourced
- future evaluations should be outcomes focussed rather than based on the process for making decisions.

In response to these recommendations, the Water Group provided documentation on an updated corporate assurance framework. While the assurance framework demonstrates improvements in processes related to corporate assurances, it does not demonstrate evidence of progress towards implementing a review of the Section 10 method. No other evidence was provided in relation to these recommendations. The Water Group advised that it intends to evaluate and update the Section 10 review steps over the next 12 months.

To align with the recommendation and facilitate the next Section 10 review, the method should be reviewed as a priority to enable its implementation before the start of the next reporting period, scheduled for 2029.

¹⁵ See Appendix 3 in Department of Planning and Environment (2023) [Review of the activities of the department under Section 10 of the Water Management Act 2000 - August 2023](#)

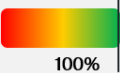

¹⁶ Natural Resources Commission (2023) *Letter to Minister Jackson – Section 10 review of the Water Management Act 2000*

2.10 Progress on implementing the Commission's recommendations




The Commission provided six additional recommendations to the Section 10 review. The Water Group's progress report identifies that five of these recommendations have been 'closed'. **Table A2.1** in **Appendix 2** presents the Water Group's progress report and the Commission's evaluation. The Commission estimates the progress on these recommendations (other than recommendation 4) to be between 0 and 25 percent and proposed prioritisation for progressing these recommendations. The Commission agrees recommendation 4 of the Commission's recommendations is closed as per **Table A2.1**. The Commission does not agree the other recommendations are 'closed' or are necessarily adequately addressed through other recommendations. Progress on the remaining Commission recommendations should be tracked independently of other actions for transparency. Alternatively, the CAP should be revised to incorporate the specifics of these recommendations into the recommendations that the Water Group says are being addressed to ensure the specific recommendations are not lost.


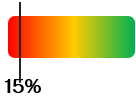

Appendix 1 – Progress towards implementing suggested actions

Table A1.1: Additional findings and suggested actions and Department response/commitment

Recommendation	Corrective actions and committed delivery date	Department's progress update		Commission's findings	
		Progress and intended future actions		Progress	Commission recommended priority
SA1	<p>The Water Group with the Environment and Heritage group should develop process documentation for the development, replacement and concurrence of water sharing plans covering all water source types. It should include explicit guidance with respect to the relevant principles, including 5(2)(e) and (f). This should be addressed with reference to R1.1-1.4.</p>	<p>The department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that the department should be transparent about the process used to develop water sharing plans, including all information inputs and how the principles are considered in this process.</p> <p>The Water Group commits to within 6 months developing a project plan that addresses the finding and associated suggested action. The execution approach will consider the methods used to respond to R1.1-1.4.</p> <p>Committed Delivery Date</p> <p>Project plan to be developed within 6 months (April 2024).</p> <p>Recommendations will be addressed within 12 months (Oct 2024)</p>	<p>The planning manual has been updated to include regulated river content.</p> <p>The Water Group will continue to review and update the manual ongoing so that it remains current.</p> <p>Please note that the Environment and Heritage Group is now Biodiversity, Conservation and Science post the machinery of government changes that established DCCEEW in January 2024.</p> <p>% Completed</p>  <p>100%</p> <p>Intended future actions</p> <p>Continued review to ensure consistency between DCCEEW Biodiversity, Conservation and Science and DCCEEW Water Group manuals for water sharing plans.</p>	<p>Evidence provided demonstrated a review of the replacement water sharing plan manual. The manual changes were minimal and do not adequately ensure that the principles will be given effect. The CAP indicates the Water Group will include 'all information inputs and how the principles are considered' in the manual. This has not been achieved. CPHR has developed comprehensive and explicit draft guidance for its staff, which covers concurrence requirements.</p> <p>Est. % Completed</p>  <p>50-75%</p>	High priority
SA2	<p>WaterNSW and the Water Group should update their guidance and assessment documents for water supply work approvals to specifically address identification and protection of features under</p>	<p>The department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that current guidance poses the risk that geographical and other features of major non-indigenous cultural heritage and spiritual significance may not be protected and therefore this principle is not given effect.</p>	<p>The Metering and Licensing Branch was formed in January 2024 with the creation of a new Director role. Resourcing for the licensing and approvals function in the metering and licensing branch has significantly increased over the past two years, growing from 24 FTEs in 2022 to 43 FTEs in 2024. In September 2024, the management team was expanded from 2 to 6 managers which will ensure that teams are appropriately sized and can be effectively and efficiently managed. Among these changes, a dedicated Service Improvement team has been established to drive delivery of process improvements, that includes delivery against the commitments made</p>	<p>Evidence provided demonstrated commitment to addressing this finding, but no evidence was provided demonstrating revised policies or procedures from the Water Group.</p> <p>WaterNSW provided updated assessment sheets, which demonstrated required assessment of each of the</p>	Medium priority

	<p>principle 5(2)(f). This should be addressed with reference to WNSW and the WG must have existing d R1.1-1.4.</p>	<p>The Water Group commits to within 6 months developing a project plan that addresses the finding and associated suggested action. The execution approach will consider the methods used to respond to R1.1-1.4.</p> <p>Committed Delivery Date</p> <p>Project plan to be developed within 6 months (April 2024).</p> <p>Recommendations will be addressed within 12 months (Oct 2024)</p>	<p>through the s.10 review. This will include a review and update of the Licensing and Approvals Procedures and assessment sheets.</p> <p>It is anticipated that this corrective action will be achieved by March 2025.</p> <p>% Completed</p> <div><div></div></div> <p>15%</p> <p>Intended future actions</p> <p>Develop the project plan to address the finding and associated suggestion action.</p>	<p>principles. Guidance on decision making for a recommendation is not included in the assessment sheet and should be developed.</p> <p>Est. % Completed</p> <div><div></div></div> <p>25-50%</p>
SA3	<p>The Water Group and WaterNSW should develop documentation articulating how the available water determination process applies the principles. This includes identifying which parts of the process directly implement the water sharing plan, which parts require discretion and how the principles should be applied where discretion is required. This should be addressed with reference to R1.1-1.4.</p>	<p>The department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that available water determinations are a critical aspect of implementing water sharing plans and the department should be transparent in how these decisions are made.</p> <p>The Water Group commits to within 6 months developing a project plan that addresses the finding and associated suggested action. The implementation approach will consider the methods used to respond to R1.1-1.4.</p> <p>Committed Delivery Date</p> <p>Project plan to be developed within 6 months (April 2024).</p> <p>Recommendations will be addressed within 12 months (Oct 2024)</p>	<p>On hold - this action has been pending the delivery of the guidance developed as part of findings 1-4.</p> <p>Consideration of the allocations process, as it relates to aspects such as minimum inflows and losses, has also commenced as part of the project that the department is undertaking to review climate change impacts on water sharing plans, particularly the application of minimum inflows.</p> <p>The department has held an initial workshop with the NRC on the discretionary aspects of water allocations to identify areas of concern, that need to be considered as part of the review. S44 audits undertaken by the NRC have also identified areas for improvement, and these are also guiding future work on reviewing allocations. Process improvements have already been made.</p> <p>As part of ongoing continuous improvement and increased transparency, the department has already published guides on how allocations are undertaken in each regulated river valley.</p> <p>Regular water allocations statements are issued for regulated rivers, to provide community and stakeholders with information on how allocations are determined. These are being improved and updated continuously, as we receive feedback from stakeholders.</p> <p>% Completed</p> <div><div></div></div> <p>30%</p> <p>Intended future actions</p> <p>The project plan will be developed by Dec 2024.</p>	<p>The Department recognised in its response that this action has not materially progressed. AWDs play a critical role in managing water sources and, as such, this should be a high priority. No project plan was provided for this action despite the updated deadline. This should be completed as a matter of urgency.</p> <p>Est. % Completed</p> <div><div></div></div> <p>0-25%</p> <p>High priority</p>

			<p>Reviews of allocations, as it applies to minimum inflows, has already commenced.</p> <p>Valley guides will be updated, as required, to include information on the principles, and also the decision-making process where there is a level of discretion.</p>	
SA4	<p>The Water Group should develop a process to implement LTAAEL compliance assessment in unregulated water sources to enable available water determinations to be made in accordance with the principles.</p>	<p>The department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that there is a risk to water sources if extractions are not being managed in compliance with plan limits through compliance assessments and available water determinations. Other growth in use response measures may also be relevant, but these were out-of-scope for this review.</p> <p>The Water Group commits to within 6 months developing a project plan that addresses the finding and associated suggested action. The implementation approach will consider the methods used to respond to R1.1-1.4.</p> <p>Committed Delivery Date</p> <p>Project plan to be developed within 6 months (April 2024).</p> <p>A pilot assessing risk from extraction in the Lachlan and Richmond valleys completed by Dec 2023, with all unregulated valleys completed to assess risk by June 2024. Application of unregulated long-term average annual extraction limits (LTAAEL) by 1 July 2025.</p>	<p>A project plan was developed and endorsed by the Steering Committee in October 2023. The department also met with the NRC in October to discuss the proposed project approach. The department responded to NRC on how their feedback will be addressed in November 2023. This included changes to the scope of the project which meant delays to the planned delivery timeframes.</p> <p>The department has engaged with CSIRO to provide critical baseline data to assess risk from extraction – this has been received.</p> <p>Pilots of the Richmond and Lachlan systems have been completed based on the original project scope. However, the scope for the Lachlan has now been extended to allow for the development of a numeric LTAAEL – as per the requirement of a recent BCS concurrence for 6 unregulated plans (delay for completion is approx. 3 months).</p> <p>Assessments for high priority unregulated systems are on track for December 2024 (the priority unregulated systems have been agreed with the NRC (May 2024) – noting these will focus on the Northern Basin which is expected to be close to the unregulated LTAAEL limit).</p> <p>% Completed</p>  <p>40%</p> <p>Intended future actions</p> <p>Options paper will be developed for determination on how to calculate a numeric LTAAEL.</p>	<p>Evidence provided identified a proposed approach for LTAAEL compliance in unregulated valleys. No project plan was provided. The Commission is aware of the Water Group's ongoing work related to LTAAEL compliance. However, staff from the Water Group advised that they had refocused efforts on the development of numeric LTAAELs, and therefore this work was delayed.</p> <p>Est. % Completed</p>  <p>25-50%</p> <p>High priority</p>
SA5	<p>The Water Group should scope and implement a framework for delivering on section 66(3) of the Act. This should be addressed with reference to R1.1-1.4.</p>	<p>The department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that this is a required function and notes no local water utility licences were varied under this section of the Act during the review period.</p> <p>The Water Group commits to within 6 months developing a project plan that addresses the</p>	<p>This action has been postponed due to immediate priorities for the Local Water Utilities team including supporting utilities with water quality risks (including PFAS testing), responding to the Joint Select Committee Inquiry into the Privatisation of Local Water Utilities and responding to the Productivity and Equality Commission's Review into Alternative Funding Models for Local Water Utilities.</p> <p>The department has identified the necessary resourcing to implement a risk-based approach to enabling the Minister to enact</p>	<p>The Department has acknowledged this item has not progressed and provided an updated timeline for developing the project plan.</p> <p>Est. % Completed</p>  <p>0%</p> <p>Medium priority</p>



		<p>finding and associated suggested action. The implementation approach will consider the methods used to respond to R1.1-1.4.</p> <p>Committed Delivery Date</p> <p>Project plan to be developed within 6 months (April 2024).</p> <p>Recommendations will be addressed within 12 months (Oct 2024)</p>	<p>section 66(3) of the Act. The Local Water Utilities team will deliver a project plan for this by March 2025.</p> <p>% Completed</p>  <p>0%</p> <p>Intended future actions</p>	
SA6	<p>The Water Group should clarify the roles and responsibilities for the joint private works – irrigation corporation's function and implement the function in accordance with the principles. This should be addressed with reference to R1.1-1.4.</p>	<p>The department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that irrigation corporations extract a significant volume of water and are responsible for delivery of town water supplies in some areas. Gaps in implementation in this area lead to a risk that irrigation corporation licence and approvals are not being managed effectively. There is a risk that uncertainty in roles and responsibilities is leading to gaps in implementation being missed.</p> <p>The Water Group commits to within 6 months developing an implementation plan that addresses the finding and associated suggested action. The implementation approach will consider the methods used to respond to R1.1-1.4.</p> <p>Committed Delivery Date</p> <p>Project plan to be developed within 6 months (April 2024).</p> <p>Recommendations will be addressed within 12 months (Oct 2024)</p>	<p>The Metering and Licensing Branch was formed in January 2024 with the creation of a new Director role. Resourcing for the licensing and approvals function in the metering and licensing branch has significantly increased over the past two years, growing from 24 FTEs in 2022 to 43 FTEs in 2024. In September 2024, the management team was expanded from 2 to 6 managers which will ensure that teams are appropriately sized and can be effectively and efficiently managed. One of these manager roles has been dedicated to corporate licensing (including irrigation corporations).</p> <p>An internal audit of the L&A function, released in 2024, rated the regulation of irrigation corporations as ineffective. Scoping for a detailed program of work to improve the regulation of irrigation corporations has commenced. This will include the establishment of a fee structure to achieve cost recovery for the corporate licence service and administration.</p> <p>It is anticipated that this corrective action will be achieved by June 2025.</p> <p>% Completed</p>  <p>15%</p> <p>Intended future actions</p> <p>Data and document analyse to inform development of the program of work.</p>	<p>Evidence was provided demonstrating audit of process, commitments register and staff restructuring. The Department has updated the delivery timeframe. Given the finding that its internal audit found regulation of irrigation corporations ineffective, the Department should ensure the new timeframe is adhered to.</p> <p>Est. % Completed</p>  <p>0-25%</p> <p>Medium priority</p>
SA7	<p>The Water Group should ensure that forthcoming reforms to joint private works – private irrigation and drainage functions give effect</p>	<p>The department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that the reform of the joint private works – private irrigation and drainage functions will establish the framework for implementation of this function and should ensure that the principles</p>	<p>The reforms have been completed and commenced on 1 March 2024, with a 12- month transition period provided for schemes to comply with the new requirements.</p> <p>% Completed</p>	<p>The Water Group notes that policies and procedures are under development. These drafts were not provided as evidence. The Commission notes the progress in this item but considered it should not be</p> <p>Medium priority</p>


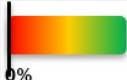

	<p>to the principles. This should be addressed with reference to R1.1-1.4.</p> <p>have been considered in development of this framework.</p> <p>The Water Group commits to within 6 months of the joint private works reform that a project plan that addresses the finding and associated suggested action will be in place. The implementation approach will consider the methods used to respond to R1.1-1.4.</p> <p>Committed Delivery Date</p> <p>Project plan to be developed within 6 months of the joint private works reform (1 July 2024).</p> <p>Recommendations will be addressed within 14 months (1 Dec 2024)</p>	<div><div></div><div>100%</div><div>Specifically reforms</div></div> <p>Intended future actions</p> <p>Operational policies and procedures for the new requirements are being developed over the 12-month transition period, with testing and refinement anticipated before documents are finalised.</p> <p>ETA for delivery is Q2 2025 in line with the 12-month transition period.</p>	<p>marked as complete until the operational procedures and policies are fully developed and implemented.</p> <p>Est. % Completed</p> <div><div></div><div>50-75%</div></div>
SA8	<p>The Water Group should consider prioritisation of water modelling and measurement functions for future review.</p> <p>The department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that this functional area contains important enabling functions that are relied on for the implementation of other functions.</p> <p>The Water Group commits to undertake a review of this functions within 6 months with any changes to be delivered at the start of the 2024/25 financial year.</p> <p>Committed Delivery Date</p> <p>A review of the function to be undertaken within 6 months (April 2024) with expected implementation of any changes by 1 July 2024.</p>	<p>Due to other statutory priorities, including supporting the work of the independent Connectivity Expert Panel, this review was deferred.</p> <p>The Department is now preparing a scope of works to undertake the review, in order to provide assurance of the effectiveness of these functions in supporting the Department to give effect to the water management principles in the Act.</p> <p>The review is now anticipated to be undertaken by April 2025.</p> <p>% Completed</p> <div><div></div><div>0%</div></div> <p>Intended future actions</p> <p>Completion of review</p>	<p>No evidence was provided to address this recommendation. The Department acknowledges the delay and has developed an updated timeframe.</p> <p>Evidence was not provided that this new timeline was met, and it appears likely a new timeline will be required.</p> <p>Est. % Completed</p> <div><div></div><div>0%</div></div>

High
priority

Appendix 2 – Progress towards implementing the Commission’s recommendations

Table A2.1: Commission recommendations in line with review of the report and department response/commitment

Recommendation	Corrective actions and committed delivery date	Department’s progress update	Commission’s findings	Priority
		Progress and intended future actions	Progress	
1 The Minister should require future evaluations to be conducted by an independent reviewer	<p>The department accepts the NRC’s recommendation and is committed to the review of its assurance framework that will consider the approach required to ensure future independent reviews. The Department will work with the NRC to ensure that the approach for independent review is in line with best practice</p> <p>Committed Delivery Date</p> <p>The corporate assurance framework will be reviewed and implemented within 6 months (April 2024).</p> <p>The framework will be annually reviewed to ensure that it remains fit for purpose.</p>	<p>Action is being managed as part of the response to F5.</p> <p>% Completed</p> <p>Closed</p> <p>Intended future actions</p> <p>Nil</p>	<p>The Commission does not agree that this item should be closed. It should be completed in conjunction with R3 (review and update of the methodology). The framework referred to in the response does not address this recommendation. It is important that this item is advanced as soon as possible, so that any independent reviewer has adequate time to plan the review and evidence needs.</p> <p>Est. % Completed</p>  <p>0-25%</p>	Medium priority
2 Future evaluations should be outcomes focused and an independent reviewer should review and update the review method.	<p>The department accepts the NRC’s recommendation and is committed to the review of its assurance framework that will consider the approach required to ensure future independent reviews.</p> <p>The corrective actions will be reported to the NRC annually and subject to review to ensure that these meet the spirit of the recommendations of the review and remain fit for purpose.</p> <p>Committed Delivery Date</p> <p>See R1.3</p>	<p>Action is being managed as part of the response to F5.</p> <p>% Completed</p> <p>Closed</p> <p>Intended future actions</p> <p>Nil</p>	<p>As per recommendation 1, the Commission does not agree this should be closed. The CAP should also be updated to address the recommendation, which is about ensuring the updated methodology is outcomes focused. The response does not address this.</p> <p>Est. % Completed</p>  <p>0-25%</p>	High priority
3 The Minister should require the department to revise existing policies, processes and decision-making procedures to ensure	<p>The department accepts the NRC’s recommendation in so far as the new guidance will be applied to all new policy and decisions, and to existing policy as it comes up for review, noting that the recommendation will be addressed as part of the corrective action prescribed for R1.1</p>	<p>Action is being managed as part of the response to F1-5.</p> <p>% Completed</p> <p>Closed</p> <p>Intended future actions</p>	<p>The Commission does not agree that this action should be closed. Evidence was provided demonstrating revision of several policies and procedures. However, the Commission did not consider these revisions to be effective in giving effect to the principles. Further, the Department did not provide any evidence to demonstrate</p>	High priority

they give effect to the principles	Committed Delivery Date See R1.1	Nil	that policies and procedures are consistently being reviewed to ensure they give effect to the principles as they come up for review or new ones are developed.	
			Est. % Completed  0-25%	
4 The Minister should request the Commission review the extent to which the Commission's recommendations made under section 43A of the Act have been addressed by the department in draft remade water sharing plans	The department notes that this recommendation is not directly related to the findings or content of the Section 10 review. However, it also notes that discussions are ongoing with the NRC and the Minister on this subject and will address this recommendation through those processes. Committed Delivery Date NA	Action being managed as part of AF8 % Completed Closed Intended future actions Nil	The Commission has been providing advice to the Minister regarding the extent to which the Department has addressed comments from water sharing plan reviews in the remade plans. Est. % Completed Ongoing	Closed
5 The Minister should commission an independent review of the modelling and measurement functional area and discretionary decisions by the river operator	The section 10 review report acknowledges that the modelling and measurement functional area could not be reviewed in detail due to resourcing constraints and recommends that this area be prioritised. The Water Group supports further review of this area within the scope of section 10, noting that major updates to the models used by the department are independently peer reviewed, and for the Murray-Darling Basin, also reviewed by the MDBA Committed Delivery Date Funding to be confirmed for an independent review	Due to other statutory priorities, including supporting the work of the independent Connectivity Expert Panel, this review was deferred. Department is now preparing a scope of works to undertake the review, in order to provide assurance of the effectiveness of these functions in supporting the Department to give effect to the water management principles in the Act. The review is now anticipated to be undertaken by April 2025. % Completed  0% Intended future actions Finalisation of AF8 and next steps to be confirmed.	See response to SA8. Est. % Completed  0%	Medium priority

6	<p>The Minister should request an independent review to assess the AWD process and the manual for development of water sharing plans</p>	<p>The section 10 review assessed the available water determination (AWD) process and the manual for development (replacement) of water sharing plans as part of its review of focus areas and the findings are included in the report.</p> <p>The department has committed to addressing the report's recommendations, which include improvements in processes for making AWDs and water sharing plan development.</p> <p>Work is currently underway to update the water sharing plan replacement manual.</p> <p>Along with other areas where the NRC has recommended independent review, the department suggests an initial process to better understand the NRC's concerns and for the NRC to work closely with the relevant agencies in the first instance.</p> <p>Committed Delivery Date</p> <p>Initial scoping of NRC concerns to be delivered within 6 months (April 2024)</p>	<p>Being managed as part of AF1, 3 and 4</p> <p>% Completed</p> <p>Closed</p> <p>Intended future actions</p> <p>Nil</p>	<p>See response to SA3.</p> <p>Est. % Completed</p> <div><div></div></div> <p>0-25%</p>	<p>High priority</p>
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Appendix 3 – Documents provided by the department

	Document title	Document type
Overarching	Att A Section 10 Review – Progress report from WG	Report
	Att B - Interim guidance on the water management principles	Guidance
	Att C - Interim decision-making framework - DCCEW WG	Framework
	Att D final audit report water licences and approval administration process	Process
	Att E - L&A commitments register report	Report
	Att F - Realignment M&L org chart	Org chart
	Assurance Framework	Framework
	Replacement water sharing plan manual	Manual
	WSP Remake Process Flow 2025 update	Process
	List of documents relevant to upgrades/updates to WaterNSW's processes/documentation	Summary of documents
	WaterNSW Work Instruction – Process a new & amended approval	Process
	WaterNSW Quality Management Framework – Management Systems & Assurance	Framework
	WaterNSW Assessments & Approvals Quality Assurance Framework	Framework
	GW WSWA Application Assessment	Assessment form
Border Rivers	meeting 2 minutes with WG comments	Minutes
	Compliance with principles	Fact sheet
	Access Rules Issues Paper	Issues paper
	Tenterfield Creek	Options paper
	Mole River	Options paper
	Clen Innes	Options paper
	Inverell	Options paper
	Beardy River	Options paper
Castlereagh	Compliance with principles	Fact sheet
	Issues Papers - Access Rules - Final	Issues paper
	Regional Working Group Minutes - Meeting #1	Minutes
	Supplementary science report Castlereagh unregulated river WSP	Supplementary report
	RWSOG meeting minutes #13	Minutes

Lower Murray-Darling	Att AA - Fast facts for the Minister	Ministerial brief
	Att C - Compliance with Act fact sheet	Fact sheet
	Att D - NRC recs and responses	Response to NRC review
	Att E - Summary of changes fact sheet	Fact sheet
	Att A - Concurrence letter	Concurrence
	Att B - Final Plan	WSP
	Concurrence letter from Minister Sharpe	Concurrence
	Minister's approval for plan commencement	Plan approval
	Wetland map	WSP
	Plan map	WSP
	Compliance with Principles	Fact sheet
	Issues paper - remake of Lower Murray-Darling Unregulated River WSP - DRAFT	Issues paper
	Supplementary report Murray and Murray Lower Darling unregulated WSP	Supplementary report
	Lower Murray-Darling unregulated WSP remake - Regional Working Group - notes - meeting 1	Minutes
	RWSOG meeting minutes #14	Minutes
Macquarie - Bogan	Issues paper - review of access rules	Issues paper
	Issues paper - trading rules	Issues paper
	Issues and options for access rules and active management in the Lower Macquarie Water source	Issues paper
Namoi	Attachment A - Concurrence letter	Concurrence
	Concurrence letter from Min Sharpe	Concurrence
	What we heard report Namoi	WWH report
	Signed letter from Min. Sharpe providing concurrence	Concurrence
	Att C1 - Compliance with Act fact sheet - Namoi reg plan	Fact sheet
	Att D1 - Assessment of draft plan consistency with the Act (reg)	Assessment of compliance
	Att E1 - Summary of changes fact sheet - reg plan	Summary of WSP changes
	Namoi Reg WSP	WSP
	Namoi Reg WSP with mark up	WSP
	Att B1 - Amendment order reg plan	Amendment
	Att C2 - Compliance with Act fact sheet - Namoi unreg plan	Fact sheet
	Attach D2 - Assessment of draft WSP consistent with the Act - unreg	Assessment of compliance

Att E2 - summary of changes fact sheet - unreg plan	Summary of WSP changes
Namoi Peel unreg WSP	WSP
Namoi Peel unreg WSP with mark up	WSP
Att B2 - Amendment order unreg plan	Amendment