



V21/435#10

Bryce Wilde
Executive Director
Natural Resources Commission
GPO Box 5341
SYDNEY NSW 2001

Dear Bryce

Audit of implementation of three coastal groundwater sharing plans

I refer to your letter of 19 March 2021 concerning the audit of the implementation of three coastal groundwater sharing plans.

I note the report included positive findings in relation to processing of water access licences and dealings, translation of mandatory conditions, tools in place to manage water access licence accounts and application of available water determinations.

It is also noted that there are several areas where further work is required.

The Department has considered each of these recommendations and suggested actions in the attached tables. The Department is progressing a number of areas of work which I believe will contribute to addressing matters identified within the audit. These are:

1. Commissioning work to develop monitoring and evaluation frameworks for water sharing plans which will inform plan assessment and monitoring (Recommendation R1, Suggestion Action 1)
2. Implementation of the non-urban water metering framework by the end of 2023 in coastal areas (Recommendations R2 and R3.1)
3. Progressing work on an implementation program for key water sharing plans themes. Each theme will document the roles, responsibilities, systems, processes and procedures relevant for implementation and provide information for reporting/auditing purposes. (Recommendation R9, Suggested Actions 1, 2 and 3)
4. Establishment of an oversight and quality assurance function in the DPIE Water Operations Division to work with WaterNSW and NRAR on mandatory condition (Recommendation R8)
5. Commissioning an independent review of controlled allocation processes and governance to ensure these are fit for purpose (Suggested action 4.2)
6. Progressing work as part of the Licencing and Approvals Taskforce established to make improvements to the performance and customer service of the licensing and approvals system, which includes strengthening accountability and

effectiveness to achieve more efficient and predictable delivery outcomes
(Suggested action 5)

7. Progressing work on a range of internal and external documentation to provide transparency on the plan amendment process, and develop a database management system to help track the work on amendment provisions (suggested action 9.2)

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

Yours sincerely



Jim Bentley
CEO – NSW Water Sector



Letter Attachment A – Tables

Table 1: Audit findings and recommendations relevant to DPIE Water (South Coast Groundwater Sharing Plan, North Coast Coastal Sand Groundwater Sharing Plan, North Coast Fractured and Porous Rock Groundwater Sharing Plan)

Findings	Recommendations	DPIE Water comment
F 1 Provisions related to vision, objectives, strategies, and performance indicators under Part 2 of each plan were not implemented in the audit period for any of the plans.	R 1 DPIE-Water to lead the monitoring and evaluation of performance indicators to measure the success of the strategies to reach the objectives set out in Part 2 of each plan and to use generated data to support decision making for plan implementation.	Agree - NSW is developing a robust and defensible evaluation framework to inform WSP performance assessment and monitoring plans that include what monitoring is required, where, when, how often and who is responsible for doing and reporting it. The development of the framework will be delivered by December 2021.
F 2 Provisions related to limits to availability of water, specifically Long Term Average Annual Extraction Limits (LTAAEL) set out in Part 6 Division 1 of each plan (as required under clauses 26 and 27 of the South Coast Plan, clauses 28 and 29 of the North Coast Coastal Sands Plan and clauses 28 and 29 of the North Coast Fractured and Porous Rock Plan) were not implemented in any of the plans.	R 2 DPIE-Water to obtain reliable extraction data and use it to assess LTAAEL compliance for these three plans in accordance with Part 6 Division 1 of each plan.	Agree - The non-urban water metering policy is being rolled out on a risk basis. Coastal groundwater systems will be included in the 2023 roll out. This will provide relevant information to inform LTAAEL assessment in the medium to longer term.

<p>F 3.1 Long Term Average Annual Extraction Limit compliance assessment was not undertaken (see F 2). This LTAAEL compliance assessment was therefore not considered in making Available Water Determinations for access licences as required by clauses 31 and 32 in the South Coast Plan, clauses 30 and 31 in the North Coast Coastal Sands Plan, and clauses 33 and 34 in the North Coast Fractured and Porous Rock Plan.</p>	<p>R 3.1 DPIE-Water to implement R 2 and use the Long Term Average Annual Extraction Limit compliance assessment to inform Available Water Determinations adjustments as required by Clause 27 of the South Coast Plan, Clause 29 of the North Coast Coastal Sands Plan and Clause 29 of the North Coast Fractured and Porous Rock Plan.</p>	<p>Agree - As these systems are not metered the assessment against the extraction compliance trigger is not possible. Metered information provided through the non-urban water metering policy will provide some information.</p>
<p>F 3.2 In the first year (2016/17) of the South Coast Plan, AWDs applied to access licences in the Lachlan Fold Belt and Sydney Basin South Coast water sources were not made in accordance with the relevant AWD orders.</p>		<p>Noted.</p>
<p>F 8 Mandatory conditions for bore construction intended to minimise environmental harm were not included on water supply work approvals in accordance with Part 11, Clause 56(1) of the North Coast Fractured and Porous Rock Plan, Clause 51(1) of the South Coast Coastal Sands Plan and Clause 56(1) of the North Coast Coastal Sands Plan.</p> <p>Note that F 4.1, F 4.2, F 6.1, and F 6.2 (and associated recommendations) are also relevant to this Criterion – these findings relate to mandatory conditions being delayed in being given effect due to a lack of or delayed notification.</p>	<p>R 8 DPIE-Water to review Water Licensing System (WLS) coding to ensure mandatory conditions for bore construction in accordance with Part 11, Clause 56(1) of the North Coast Fractured and Porous Rock Plan, Clause 51(1) of the South Coast Coastal Sands Plan and Clause 56(1) of the North Coast Coastal Sands Plan are applied to all water supply work approvals going forward.</p>	<p>Agree - Mandatory conditions have been imposed on water supply work approvals in bulk as required. Some of the conditions only apply to works that have not yet been constructed, for example new and replacement bores, and are not relevant to most approvals for which the bores have already been constructed and are operational. For these types of conditions, it has been agreed that licensing officers impose the relevant conditions as required based on their assessment of the application for a new or amended water supply work approval. This approach ensures that approvals only have conditions that are relevant to the approval, in accordance with the principles for drafting quality conditions. DPIE Regulatory Implementation team plans to provide better supporting documents for licensing staff to ensure the relevant conditions are not omitted.</p>

F 9 Due consideration has not been given to non-mandatory amendments set out in Part 12 of each plan.

R 9 DPIE-Water to formalise and implement a process to:

- document the decision-making process underpinning if and how to implement potential amendment provisions

- document the status of potential amendment provisions.

Agree - An internal process document is available which outlines amendment procedures. A public facing amendment protocol is under development. The Department is currently scoping work on a system to document plan amendment information including tracking status.

Table 2: Observations and suggested actions relevant to DPIE Water (South Coast Groundwater Sharing Plan, North Coast Coastal Sand Groundwater Sharing Plan, North Coast Fractured and Porous Rock Groundwater Sharing Plan)

Observations	Actions	DPIE Water comment
<p>O 1 There is no transparent reporting of plan performance in relation to progress towards achieving stated objectives.</p>	<p>SA 1 DPIE-Water to publicly report on progress towards plan objectives.</p>	<p>Agree - NSW is developing an implementation and reporting program for key WSP themes. This includes developing annual reporting products to track progress of WSP Monitoring and Evaluation by June 2022. NSW is also developing a robust and defensible evaluation framework to inform WSP performance assessment and monitoring plans. The two projects combined will allow us to maximise the results from monitoring activities, and transparently share the results with stakeholders.</p>
<p>O 2 Roles, systems, and processes, including quality assurance for Long Term Average Annual Extraction Limit assessment and compliance work are not documented.</p>	<p>SA 2 DPIE-Water to document the roles, responsibilities, systems, processes, and procedures relevant to Long Term Average Annual Extraction Limit management and compliance for coastal groundwater systems.</p>	<p>Agree - NSW is developing an implementation and reporting programs for key WSP themes. Each theme will document the roles, responsibilities, systems, processes, and procedures relevant for implementation. Priority implementation themes including managing to extraction limits (LTAAEL assessment and compliance) will be completed by December 2021.</p>
<p>O 3 Procedures for determining Available Water Determination amounts in accordance with requirements set out in the Act and Regulation, including data requirements and methods appropriate for coastal groundwater systems, are not available.</p>	<p>SA 3 DPIE-Water to document the roles and responsibilities, systems, processes, and procedures relevant to determining Available Water Determination amounts for coastal groundwater systems.</p>	<p>Agree - NSW is developing an implementation and reporting programs for key WSP themes. Each theme will document the roles, responsibilities, systems, processes, and procedures relevant for implementation.</p>

<p>O 4.2 Formal guidance for determining controlled allocation volumes is not documented or transparent to stakeholders</p>	<p>SA 4.2 DPIE-Water to formally document guidance for how the percent of unassigned water in a controlled allocation is determined. This should be externally expert reviewed and made available to stakeholders.</p>	<p>Agree - DPIE Water calculates the unassigned water by following the method set out in the 'Strategy for the controlled allocation of water'. Other factors are also considered (as set out in the Strategy) on a water source by water source basis and may result in water being reserved for unconverted licences, urban water supplies or other critical needs. The portion of unassigned water (percent) to be made available is at the discretion of the Minister and is decided by the working group based on analysis of the previous controlled allocation, indicated demand and risk to each water source, prior to each controlled allocation. A working group has set out the steps and considerations in determining the water sources and shares to be made available in each controlled allocation. An external review of controlled allocation processes and governance is currently underway.</p>
<p>O 5 DPIE Water participates in developing and reviewing the database configuration rules coded into the Water Accounting System, although the process is informal.</p>	<p>SA 5 DPIE Water to develop a process to ensure its role in the configuration of rules into the Water Accounting System is clear and understood by all parties involved in the process.</p>	<p>Agree – DPIE Water is progressing mapping of the end to end process in liaison with WaterNSW as part of the Licencing and Approvals Taskforce.</p>
<p>O 9.1 The North Coast Coastal Sands and North Coast Fractured and Porous Rock plans have not been amended to acknowledge native title determinations that have occurred in the audit period.</p>	<p>SA 9.1. Amend the North Coast Coastal Sands and North Coast Fractured Rock plans to reflect current native title determinations.</p>	<p>Noted - Plans have not been amended to reflect Native Title determinations. As none of the determinations have involved a water allocation, amendment to the plan would not result in any material change to the plan. Amending the plan to reflect the determinations forms part of a suite of amendments required to several plans. Amendments are prioritised based on the material impact of the amendment.</p>

O 9.2 The plans refer to an outdated version of the minimum construction requirements for water bores in Australia.

SA 9.2 Amend plan provisions to reflect current guidelines for water bores in Australia.

Agree - Plan refers to 2012 standard. Standard was updated in 2020. Referring to the old standard is low risk (as advised by hydrogeology team) so plans will be updated as they are replaced. If any plans are amended for other reasons this amendment will be included at that time.