

16 May 2024

Professor Hugh Durrant-Whyte  
Commissioner  
Natural Resources Commission  
Level 6, Martin Place  
Sydney NSW 2000

## **Audit of the implementation of five inland groundwater water sharing plans**

Dear Professor Durrant-Whyte,

Thank you for your letter dated 12 September 2023 and the enclosed final report for assessing implementation of the five inland groundwater water sharing plans (WSPs) as required by Section 44 of the Water Management Act 2000 (Act). These plans cover the groundwater sources in the:

- Water Sharing Plan for the Gwydir Alluvial Groundwater Sources 2020 (Gwydir Plan) – version effective from 30 June 2020
- Water Sharing Plan for the Lachlan Alluvial Groundwater Sources 2020 (Lachlan Plan) – version effective from 30 June 2020
- Water Sharing Plan for the Macquarie-Castlereagh Groundwater Sources 2020 (Macquarie-Castlereagh Plan) – version effective from 30 June 2020
- Water Sharing Plan for the Murray Alluvial Groundwater Sources 2020 (Murray Plan) – version effective from 2 September 2022
- Water Sharing Plan for the Murrumbidgee Alluvial Groundwater Sources 2020 (Murrumbidgee Plan) – version effective from 30 June 2020

As requested, we have reviewed the report and provide the responses set out below:

WaterNSW notes that the audit concluded overall that on balance the provisions of the Plan have not been given full effect in accordance with the Act. We also note that the majority of the main recommendations are assigned to DCCEE (Water Group) as the lead or responsible agency. WaterNSW commits to resolving the recommendations assigned to us and working with DCCEE (Water Group) in the implementation of the recommendations where we are jointly identified.

If you have any queries, please contact our Regulatory Compliance Specialist Rebecca Reid (E:rebecca.reid@waternsw.com.au M: 0476 644 008).

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Andrew Geoge".

Andrew Geoge  
CEO

**Table 1 WaterNSW Response to Audit findings and Recommendations**

No	Findings	Recommendations	Applicable Plan
5.1	<p>Maximum water account debit provisions have been applied in the Water Accounting System as an annual use limit to around half of all access licence categories in these groundwater sources. All of the licence categories without a use limit applied in the Water Accounting System appear to be limited in their use by carryover provisions applied in that system. This is also the case for many of the licences that do have annual use limits.</p>	<p>WaterNSW to apply Annual Use Limits to existing licence categories that have maximum water account debit provisions in the Plans but do not currently have an Annual Use Limit applied in the Water Accounting System.</p>	<p>All 5 Plans</p>
<p><b>WaterNSW Comment:</b></p> <p>WaterNSW can confirm that all Water Sharing Plans (WSPs) have been reviewed and Account Use Limits corrections have been applied in the Water Accounting System (WAS) where required.</p>			
5.2	<p>Carryover provisions for Aquifer (town water supply) access licences other Aquifer subcategories have not been applied in the Water Accounting System in accordance with Aquifer provisions in the Plans, or licence conditions. This is the case for Aquifer licence subcategories in most water sources in the Lachlan, Murray, and Murrumbidgee.</p>	<p>WaterNSW to review and update configuration of carryover for Aquifer licence subcategories in the Water Accounting System to align with plan provisions for Aquifer access licences (unless otherwise stated in the Plans).</p>	<p>Lachlan Plan, Murray Plan, Murrumbidgee Plan</p>
<p><b>WaterNSW Comment:</b></p> <p>There is an "Interpretation" clause in the Lachlan Plan, Murray Plan, Murrumbidgee Plan WSP, as per the below statement.</p>			

No	Findings	Recommendations	Applicable Plan
6	<p><b>Interpretation</b></p> <p>(1) Unless otherwise defined in this Plan, words and expressions that are defined in the Act or in the regulations made under the Act have the same meaning in this Plan.</p> <p>(2) Words and expressions that are defined in the Dictionary at the end of this Plan have the meaning set out in the Dictionary.</p> <p>(3) Unless otherwise specified in this Plan, a clause that applies to a category of access licence also applies to any subcategories of that category of access licence.</p> <p>WNSW has since conducted a review and update of the configuration of carryover for Aquifer licence subcategories in the WAS to align with plan provisions. The above interpretation clause has been subsequently applied to all Water Sharing Plans.</p>		
5.3	<p>Carryover has been configured differently in the Water Accounting System for Aquifer licences in three water sources where the Plans have no account management provisions relating to this licence category in these water sources. These were Aquifer licences in the Upper Gwydir Alluvial Groundwater Source, the Belubula Valley Alluvial Groundwater Source, and the Cudgegong Alluvial Groundwater Source.</p>	<p>5.3.1 DPE-Water to investigate three water sources where Aquifer access licences exist but there are no plan provisions for their account management, including to investigate the potential for amendments. DPE-Water to advise WaterNSW of the outcome and how to configure these accounts appropriately.</p> <p>5.3.2 WaterNSW to update the Water Accounting System to configure these accounts in line with DPE-Water's advice.</p>	<p>Gwydir Plan, Lachlan Plan, Murrumbidgee Plan</p>
<p><b>WaterNSW Comment:</b></p> <p>5.3.2 DCCEE Water advises that this will be addressed on a risk-based approach - through plan amendment or on plan replacement. While WaterNSW awaits DCCEE advice on configuring these accounts, the above "Interpretation" clause has been applied to the carryover rules to the Aquifer licences as per the Aquifer High Security category in these water sources (see our response to Recommendation 5.2). On receipt of further instructions from DCCEE, WaterNSW will scope and prioritise further implementation actions. This may include seeking funding approvals if significant system changes are required.</p>			

No	Findings	Recommendations	Applicable Plan
6.1	<p>WaterNSW and DPE-Water (previously NRAR) have procedures and systems for governing the water supply work approval process generally, however, gaps were identified in this audit relating to the documentation and assessment of rules for supply works approvals under Part 9 of the Plans (see F 6.2 – F 6.6 below). Both agencies advised that they are updating their procedures and systems for processing supply works approvals.</p> <p>Water supply works must not be approved or amended unless the agencies are satisfied that there will be no more than minimal effect on a person's ability to take water using an existing approved water supply work and any associated access licences, and no more than minimal harm done to:</p> <ul style="list-style-type: none"> <li>- any water source, or its dependent ecosystems,</li> <li>- public health and safety or</li> <li>- a groundwater-dependent culturally significant area.</li> </ul> <p>While the Commission observed evidence of assessment of this, there is the potential for greater than minimal harm or effect due to the gaps in assessment and documentation described in 6.1 to 6.6.</p>	<p>6.1a DPE-Water to finalise updates to its procedures and systems governing the water supply work approval process. As part of this work, DPE-Water to implement its updated processes and templates to assess and explicitly document compliance with the provisions for water supply works approvals under Part 9 of the Plans. This should include rectification of gaps identified in 6.2a to 6.5.2b below.</p> <p>6.1b WaterNSW to finalise updates to its procedures and systems governing the water supply work approval process. As part of this work, WaterNSW to update processes and templates to assess and explicitly document compliance with the provisions for water supply works approvals under Part 9 of the Plans. This should include rectification of gaps identified in 6.2b to 6.6 below.</p>	All 5 Plans
<p><b>WaterNSW Comment:</b></p> <p>6.1b WaterNSW has completed the update to Water Supply Works Approval (WSWA) processes, templates, and the assessment summary sheet to be more explicit that Part 9 has been addressed.</p>			
6.2	The Plans include rules to minimise interference between water supply works, including minimum	6.2a DPE-Water to assess and explicitly document compliance with the provisions under Part 9 of the	Lachlan Plan, Macquarie-

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	<p>set back distances under certain situations such as from neighbouring properties or local water utility bores. The Commission did not sight evidence of assessment of all the provisions to minimise interference between water supply works being checked by WaterNSW or NRAR. The current DPE-Water and WaterNSW assessment sheets do not include any checks for the rules to minimise interference to be documented.</p>	<p>Plans for all rules to minimise interference between water supply works.</p> <p>6.2b WaterNSW to assess and explicitly document compliance with the provisions under Part 9 of the Plans for all rules to minimise interference between water supply works.</p>	<p>Castlereagh Plan, Murrumbidgee Plan</p>
<p><b>WaterNSW Comment:</b></p> <p>6.2b WaterNSW has completed the update to WSWA processes, templates, and the assessment summary sheet to be more explicit that Part 9 has been addressed.</p>			
6.3.1	<p>The Plans require assessment of potential sources of contamination near water supply works, including on-site sewage disposal systems and any site that: (a) has been declared to be significantly contaminated land Under the Contaminated Land Management Act 1997; (b) notified to the EPA. (Environment Protection Authority) under section 60 of the Contaminated Land Management Act 1997. The Commission did not sight evidence indicating the consistent assessment of declared and notified potential sources of contamination under the Contaminated Land Management Act 1997 by NRAR and WaterNSW during the audit period.</p>	<p>6.3.1a DPE-Water to consistently assess and explicitly document compliance against the Plans' schedule requirement for assessment of contamination sources including any site that has been declared to be significantly contaminated land under the Contaminated Land Management Act 1997 or notified to the EPA under section 60 of the Contaminated Land Management Act 1997.</p> <p>6.3.1b WaterNSW to consistently assess and explicitly document compliance against the Plans' schedule requirement for assessment of contamination sources including any site that has been declared to be significantly contaminated land under the Contaminated Land Management Act 1997 or notified to the EPA under section 60 of the Contaminated Land Management Act 1997.</p>	<p>All 5 Plans</p>

No	Findings	Recommendations	Applicable Plan
<p><b>WaterNSW Comment:</b></p> <p>6.3.1b WaterNSW will work with DPE-Water to consistently assess and explicitly document compliance against the Plans' schedule requirement for assessment of contamination sources. Once we have collaboratively developed this process, we will update our procedure.</p>			
6.3.2	<p>The Plans require assessment of water supply work approvals located near groundwater-dependent culturally significant areas. The Commission did not sight evidence that demonstrated assessment of groundwater-dependent culturally significant areas for any of the six relevant water supply work approvals processed by WaterNSW or NRAR during the audit period. Assessments did include an Aboriginal Heritage Information Management System (AHIMS) search with a requirement that works are not within 20 m of a site. Agencies identified in interview that this search is not intended to fulfil the requirements of an assessment for groundwater-dependent culturally significant areas under Part 9 of the Plans. Agencies identified that there is no process to provide the information to allow an assessment of groundwater-dependent culturally significant areas. The current DPE-Water and WaterNSW assessment summary sheets do not have a location to record the results of any assessment of nearby groundwater-dependent culturally significant areas.</p>	<p>6.3.2a DPE-Water to develop a process to support the assessment and documentation of compliance against the Plans' schedule requirement for assessment of contamination sources including any site that is or has been the subject of an activity listed in Table 1 of the contaminated land planning guidelines published under the Environmental Planning and Assessment Act 1979.</p> <p>6.3.2b WaterNSW to develop a process to support the assessment and documentation of compliance against the Plans' schedule requirement for assessment of contamination sources including any site that is or has been the subject of an activity listed in Table 1 of the contaminated land planning guidelines published under the Environmental Planning and Assessment Act 1979.</p>	All 5 Plans
<p><b>WaterNSW Comment:</b></p> <p>6.3.2b WaterNSW will work with DCCEEW-Water to develop a consistent process to support the assessment and documentation of compliance against the Plans' schedule requirement for assessment of contamination sources. Once we have collaboratively developed this process, we will update our procedure to ensure this is documented appropriately.</p>			

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6.4	<p>The Plans have rules to prevent water supply works from being approved within certain distances of high priority groundwater dependent ecosystems or the high bank of a river unless adequate arrangements are in place to protect the ecosystems. The audited assessment summary sheets do not require compliance with these provisions to be recorded or have a check that they are explicitly met.</p> <p>In the sample of relevant water supply work approvals reviewed, NRAR did not document the distance to the high bank of a river or groundwater dependent ecosystems in one of the three tested water supply works approvals. WaterNSW did not document the distance to the high bank of a river in two relevant water supply works approvals, or the distance to groundwater dependent ecosystems in one relevant tested water supply works approval.</p>	<p>6.4a DPE-Water to consistently assess and document compliance with the provisions under Part 9 of the Plans for water supply works near high priority groundwater dependent ecosystems and high banks of rivers.</p> <p>6.4b WaterNSW to consistently assess and document compliance with the provisions under Part 9 of the Plans for water supply works near high priority groundwater dependent ecosystems and high banks of rivers.</p>	Lachlan Plan, Macquarie-Castlereagh Plan
<p><b>WaterNSW Comment:</b></p> <p>6.4b WaterNSW will work with DCCEEW-Water to develop a consistent process to assess and document compliance with the provisions under Part 9 of the Plans for water supply works near high priority groundwater dependent ecosystems and high banks of rivers. Once we have collaboratively developed this process, we will update our procedure to ensure this is documented appropriately.</p>			
6.5	<p>The Plans require assessment of water supply work approvals located near groundwater-dependent culturally significant areas. The Commission did not sight evidence that demonstrated assessment of groundwater-dependent culturally significant areas for any of the six relevant water supply work</p>	6.5.1 DPE-Water to develop a process to support the identification of groundwater-dependent culturally significant areas to enable assessments of potential impacts from water supply work approvals.	All 5 Plans

No	Findings	Recommendations	Applicable Plan
	<p>approvals processed by WaterNSW or NRAR during the audit period. Assessments did include an Aboriginal Heritage Information Management System (AHIMS) search with a requirement that works are not within 20 m of a site. Agencies identified in interview that this search is not intended to fulfil the requirements of an assessment for groundwater-dependent culturally significant areas under Part 9 of the Plans. Agencies identified that there is no process to provide the information to allow an assessment of groundwater-dependent culturally significant areas. The current DPE-Water and WaterNSW assessment summary sheets do not have a location to record the results of any assessment of nearby groundwater-dependent culturally significant areas.</p>	<p>6.5.2a Upon completion of 6.5.1, DPE-Water to assess and document compliance with the provisions under Part 9 of the Plans for water supply works near groundwater dependent culturally significant areas.</p> <p>6.5.2b Upon completion of R 6.5.1, WaterNSW to assess and document compliance with the provisions under Part 9 of the Plans for water supply works near groundwater dependent culturally significant areas.</p>	
<p><b>WaterNSW Comment:</b></p> <p>6.5.2b Upon advice from DCCEEW, WaterNSW will update procedures to reflect any process changes made to support the identification of groundwater-dependent culturally significant areas.</p>			
6.6	<p>The Plans only require replacement water supply works to be assessed against some of the criteria in Part 9 due to their lower risk profile. The Plans define the specific features of a 'replacement' water supply work. This audit reviewed one replacement water supply work application, approved by WaterNSW under the Gwydir Plan. It did not explicitly comply with two elements of the definition of a replacement groundwater supply work in the Plan (depth and diameter). The Commission understands that the Minister's exemption clauses were used and conditions applied to the licence in</p>	<p>WaterNSW to assess and explicitly document compliance, where relevant, with the definition of a replacement work under Part 9 of the Plans to inform the assessment process.</p>	Gwydir Plan



No	Findings	Recommendations	Applicable Plan
	<p>place of meeting the depth requirements. However, the diameter requirement was not met. This means it was not assessed against all relevant Plan provisions that apply to new water supply work approvals.</p> <p>The current DPE-Water and WaterNSW assessment summary sheets do not require documentation of compliance with the criteria for a replacement work under the Plans and the agency's agreed triage process does not align with the replacement work definitions or exemptions. Further, the assessment did not address provisions which should still be assessed for replacement works, specifically rules for water supply works located near contaminations sources.</p>		
<p><b>WaterNSW Comment:</b></p> <p>WaterNSW has updated our existing process in relation to all WSWA assessments. However, we are developing a specific assessment process for replacement WSWA. We anticipate this will be developed by June 2024.</p>			
7.1	<p>The Water Licensing System that is used to process dealings reports any 71O, 71P, 71R, 71S and 71W dealings as a bundle of dealing types ("71O/R/S/W" or "71P(1)(a)/O/R/S/W" for example). 71O (conversion to a new licence category) dealings are prohibited across the Plans and 71R(amendment of licence share component) dealings are typically prohibited. Therefore, the system reports make it appear as if dealings that are prohibited were processed during the audit period. Note, the Commission has not confirmed</p>	<p>WaterNSW to update the naming conventions for dealings under WAVE to ensure dealing names and system reports accurately reflect dealings undertaken to demonstrate compliance and improve data quality.</p>	All 5 Plans

No	Findings	Recommendations	Applicable Plan
	any instances of prohibited dealings being processed.		
<p><b>WaterNSW Comment:</b></p> <p>WaterNSW confirms that our WAVE roadmap will have updated naming conventions to reflect individual dealing types and better enable compliance reporting.</p>			
7.2	<p>In the sample reviewed of three 71W dealings processed in each of the Gwydir, Lachlan, Murray and Murrumbidgee, the Commission found some minor quality issues relating to requirements of the Access Licence Dealing Principles Order 2004 including:</p> <ul style="list-style-type: none"> <li>- inconsistent documenting of the assessment of interstate tagging requirements and whether these applied and were met (including 1 dealing in the Murrumbidgee that incorrectly stated these requirements were not met)</li> <li>- inconsistent answering of subsequent questions relating to requirements for specific purpose access licences (SPALs) where it had been identified the WAL in question was not a SPAL (including 1 in the Lachlan and 1 in the Gwydir that incorrectly stated these requirements were not met)</li> <li>- one WAL in the Murrumbidgee was incorrectly stated as being suspended, which would trigger a rejection.</li> </ul>	<p>WaterNSW to update the assessment summary sheet structure and process for 71W dealings to:</p> <ul style="list-style-type: none"> <li>- include a 'not applicable' option for interstate and NSW tagging requirements</li> <li>- remove default positions on answers to promote active entry of answers by assessing officers</li> <li>- ensure any answers which would trigger a refusal of the dealing are identified and corrected before processing a dealing</li> </ul>	<p>Gwydir Plan, Lachlan Plan, Murray Plan, Murrumbidgee Plan</p>
<p><b>WaterNSW Comment:</b></p>			

No	Findings	Recommendations	Applicable Plan
	WaterNSW has updated the assessment summary sheet structure and process for 71W dealings as recommended and has now been implemented.		
8.3	WaterNSW indicated that conditions for replacement water supply works have been applied as discretionary conditions, rather than mandatory conditions. The commission has observed one water supply work approved in the Gwydir during the audit period which had conditions for replacement groundwater works applied as a discretionary condition.	WaterNSW to apply rules for replacement groundwater works as mandatory conditions.	All 5 Plans
<p><b>WaterNSW Comment:</b></p> <p>WaterNSW has updated our procedures such that in the future we apply all rules in WSPs as mandatory conditions rather than discretionary conditions. WaterNSW will also do an inventory check of existing discretionary conditions and assess which ones come from WSPs and therefore we consider should also become mandatory.</p> <p>We will check the outcome of this inventory with DCCEE. Once confirmation is received from DCCEE that we have correctly identified discretionary conditions that should in fact be mandatory, we will rectify this across all 5 WSPs. We will scope and prioritise the workload and implement accordingly across all 5 WSPs.</p>			