



Australian Government



Inspector-  
General of  
Water  
Compliance

# Murray-Darling Basin Plan Review Interim Report

Submission

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## Introduction

The Inspector-General of Water Compliance provides the following response to the Productivity Commission's Interim Report for its *Murray-Darling Basin Plan Review 2023*, published on 30 October 2023. The Inspector-General notes the matters covered by the Productivity Commission will inform future processes, which the Inspector-General will engage through, in due course. The following sets out the Inspector-General's response to matters raised in the Report that are relevant to their functions.

## Intergovernmental agreements

### **INTERIM RECOMMENDATION 2.1: THE AUSTRALIAN GOVERNMENT SHOULD BE MORE TRANSPARENT, AND HAVE GREATER AUTHORITY, OVER DECISIONS FOR SUPPLY, CONSTRAINTS-EASING AND NORTHERN BASIN TOOLKIT MEASURES**

*Inspector-General response: Supported*

The Inspector-General supports increasing transparency and accountability. The Inspector-General notes that the effective delivery of these measures is crucial to meeting current sustainable diversion limits. The Inspector-General considers regular reporting on project status, funding, decision-making, and implications for water recovery would be one driver of improvements in available information on outcomes from water management in the Basin.

### **INTERIM RECOMMENDATION 2.3: IMPLEMENT AN ASSURANCE MECHANISM FOR THE NORTHERN BASIN TOOLKIT**

*Inspector-General response: Supported*

The Inspector-General supports increasing transparency and accountability. The Inspector-General notes a possible overlap between their function of overseeing Basin agreements and the Productivity Commission's proposed monitoring framework. The Inspector-General suggests the Productivity Commission consider how the monitoring framework and the Inspector-General's function could work together to provide greater confidence in the delivery of the northern Basin toolkit.

### **INTERIM RECOMMENDATION 9.1: EXTENDING OVERSIGHT OF INTERGOVERNMENTAL FUNDING AGREEMENTS RELEVANT TO BASIN PLAN IMPLEMENTATION**

*Inspector-General response: Supported*

The Inspector-General considers this would provide necessary clarity around their Basin agreements role.

## Sustainable diversion limits

### **INTERIM FINDING 4.1: WITHOUT WATER RESOURCE PLANS, THE MURRAY-DARLING BASIN PLAN CANNOT BE FULLY IMPLEMENTED**

*Inspector-General response: Supported*

The Inspector-General welcomes the Productivity Commission's focus on the importance of water resource plans and sustainable diversion limits to the implementation of the Basin Plan. Water resource plans, with inbuilt accounting methods, show how Basin States will meet those sustainable limits over the long-term. The Inspector-General's role around sustainable diversion limit compliance focuses on the annual application of the methods set out in water resource plans. Further, the Inspector-General is developing a Water Resource Plan Compliance Framework which will be fundamental to Basin Plan compliance and enforcement.

The Inspector-General notes that the Productivity Commission's call to have all outstanding water resource plans accredited as a priority echoes the long-standing public position of the Inspector-General. The Inspector-General notes some encouraging progress has been achieved

since the Inspector-General's call to action on this matter on 2 June 2022<sup>1</sup>, which demonstrates the substantial value of the recently established independent statutory role, coupled with the substantial re-focussed work of both commonwealth and state agencies. The majority of groundwater plans in NSW are now accredited. The first surface water plan in NSW was accredited and commenced on 9 November 2023, marking a significant milestone. However, eight critical surface water plans which account for the majority of water take in the Murray-Darling Basin remain unaccredited in NSW.

## Water resource plans

### **INTERIM RECOMMENDATION 4.1: SIMPLIFY REQUIREMENTS FOR WATER RESOURCE PLANS**

*Inspector-General response: Supported in-principle*

The Inspector-General performs oversight and compliance roles for water resource plans. The Inspector-General stresses the importance of simplification not reducing accountability, transparency or enforceability of the Commonwealth's water laws. An appropriate assurance program is essential in this regard. Trust and confidence of the community is critical to the success of the Basin Plan.

The Inspector-General suggests the Productivity Commission consider pointing to simplification as an opportunity to also provide clarity around the assignment of roles and responsibilities to appropriate parties (for example, at different levels of government such as commonwealth or state; for example, between various agencies within a level of government; etc.), which is necessary to uplift accountability, transparency, and enforceability.

Unqualified support of this recommendation by the Inspector-General would require further detail on the proposal which we note would occur through the 2026 review of the Basin Plan.

### **INTERIM RECOMMENDATION 4.2: A RISK-BASED APPROACH TO AMENDING WATER RESOURCE PLANS**

*Inspector-General response: Supported in-principle*

The Inspector-General adopts a risk-based approach, which aligns with the Productivity Commission's proposal to streamline reviews of amendments to water resource plans by adopting a risk-based approach.

The Inspector-General notes there are different types of risks being managed through accreditation processes. The Inspector-General recommends the Productivity Commission consider expanding the scope of risks the Inspector-General advises on to also include risks arising from the operation of existing water resource plans.

The Inspector-General welcomes the Productivity Commission raising a formal consultative role in the accreditation of updated water resource plans. The Inspector-General considers this would ensure their experience informs ongoing improvements to water resource plans, including through clarifying obligations, before accreditation. The Inspector-General also considers that this input is essential to ensure Commonwealth's water laws remain robust.

Improvements will be required to current water resource plans. The operations of the Inspector-General to date have found current arrangements for amending a water resource plan to be a challenging issue requiring detailed consideration and a complex balancing of costs and benefits. Current arrangements do not appear to adequately promote continuous improvement in plans in an efficient way.

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<sup>1</sup> <https://www.igwc.gov.au/media-releases/transcript-hon-troy-grant-inspector-general-water-compliance-2022-river-reflections-conference-2-june-2022>  
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Unqualified support of this recommendation by the Inspector-General would require further detail on the proposal.

#### **INFORMATION REQUEST 4.1: REPORTING ON COMPLIANCE AND OTHER ARRANGEMENTS**

*Inspector-General response: Continued reporting on compliance with water resource plans is supported*

The Inspector-General notes the importance of Basin State reporting on compliance with water resource plans. However, the Inspector-General considers the current schedule 12 matter 19 reporting arrangements are inefficient and ineffective.

Current arrangements reflect a qualitative self-assessment as opposed to a quantitative data and information set which supports robust assurance. Further, this matter is complicated by the varied timing of commencement for accredited water resource plans.

The Inspector-General advises against removal of water resource plan compliance reporting requirements. Changes to reporting are needed to ensure the right data and information is collected, and to allow conclusions to be drawn on activities, inputs, outputs and outcomes delivered through water resource plans.

Since commencement of the IGWC, fit-for-purpose assurance reporting has been designed on measurement and also compliance performance reporting. These arrangements have been achieved through the Regulatory Leaders Forum with support from states as well as funding support from the Commonwealth. Of note, these arrangements were developed outside of established processes relating to Schedule 12 which did not provide efficient or effective pathways to achieve this redesign and consensus.

The Review of the IGWC<sup>2</sup> and also the Commonwealth Senate<sup>3</sup> has made comment on the split of roles and responsibilities between the MDBA and the IGWC which affects varied aspects of compliance and associated monitoring and reporting, including Matter 19. On this particular matter, there are arguments for change and also for no change. The Inspector-General considers that, on balance, WRP compliance reporting should be the statutory responsibility of the IGWC as opposed to the MDBA.

The Inspector-General is currently leading work on metering reporting, compliance performance reporting and also the WRP Compliance Framework, which may inform the changes that are required to develop a fit-for-purpose WRP compliance reporting regime.

### **Critical human water needs**

#### **INFORMATION REQUEST 7.1: OPTIONS TO IMPROVE WATER QUALITY AND AVAILABILITY IN THE NORTHERN BASIN**

*Inspector-General response: Supported in-principle*

The Inspector-General is the enforcement agency for critical human water needs obligations under the Water Act and oversight of Basin government agencies' performance of obligations under the Basin Plan, including in relation to critical human water needs.

The Inspector-General notes the critical human water needs framework is currently geographically limited, fails to clearly assign roles and responsibilities, and does not treat the

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<sup>2</sup> Interim Report, Independent Review of the Inspector-General of Water Compliance, November 2023, p.7-8, [https://storage.googleapis.com/files-au-climate/climate-au/prj296f91431e69f9fd2b627/public\\_assets/INTERIM%20REPORT%20IGWC.pdf](https://storage.googleapis.com/files-au-climate/climate-au/prj296f91431e69f9fd2b627/public_assets/INTERIM%20REPORT%20IGWC.pdf)

<sup>3</sup> The Senate, Environment and Communications Legislation Committee, November 2023, p.72 Water Amendment (Restoring Our Rivers) Bill 2023, [Provisions], [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Environment\\_and\\_Communications/MDBAWaterBill2023/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/MDBAWaterBill2023/Report)  
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Basin as an interconnected system. Extending the regulation of critical human water needs to the northern Basin could usefully be supported by also strengthening the existing framework. This would require legislative reforms and would have implications for water resource plans.

Any short-term reforms would need to be developed and implemented by relevant Basin States. However, there is a risk of the Basin States' regulatory frameworks and Basin Plan becoming disjointed in relation to critical human water needs. The Inspector-General recommends the Productivity Commission consider recommendations that enable the Commonwealth and Basin State frameworks to be better integrated in advance of the MDBA's Basin Plan review and any subsequent reforms.

## **Water trading rules**

### **INTERIM RECOMMENDATION 8.1: A COMPREHENSIVE REVIEW OF TRADING RULES IN THE BASIN PLAN**

*Inspector-General response: Supported*

The Inspector-General supports a comprehensive review of the water trading rules.

The Inspector-General notes that, as the appropriate enforcement agency, they have important insights to inform a review and future reforms. While the MDBA is required to obtain advice from the Inspector-General on certain things, it is unclear if this extends to the application and enforceability of rules within the Basin Plan. The Inspector-General requests the Productivity Commission consider the potential for clarifying the Inspector-General's role in reviews of water trading rules and development of potential amendments by the MDBA.

## **Governance**

### **INTERIM RECOMMENDATION 9.2: IMPROVING THE TRANSPARENCY OF BASIN OFFICIALS COMMITTEE**

*Inspector-General response: Supported*

The current arrangements limit the Inspector-General's capacity to perform their functions effectively and the new arrangements would enable a higher level of accountability.

### **INTERIM RECOMMENDATION 9.3: STRENGTHENING THE COMMUNITY VOICE IN BASIN DECISION-MAKING**

*Inspector-General response: Supported*

The Inspector-General considers it is necessary to address some of the barriers to effective participation by all relevant stakeholders in informing decisions that affect them. The Inspector-General notes that this, coupled with interim recommendation 9.2, would enable the Basin Officials Committee to be held to a higher-degree of account for that engagement than is currently the case.