



Australian Government



Inspector-
General of
Water
Compliance

IPART review of prices for the Water Administration Ministerial Corporation (WAMC)

Submission from the Inspector-General of Water
Compliance

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Foreword

Community trust and confidence in the management of the Murray-Darling Basin depends on the effective management of water by NSW water management agencies such as NSW DCCEEW, NRAR and Water NSW.

The last time the Independent Pricing and Regulatory Tribunal (IPART) determined prices for NSW water management agencies was late 2020 into early 2021. With increasing public scrutiny in relation to water management across the Murray Darling Basin, the role of Inspector-General of Water Compliance (the Inspector-General) was established by the Australian Parliament as a new independent statutory role in August 2021. As a statutory office holder, my role was established to provide oversight, compliance and enforcement functions across Murray Darling Basin water management and the empowerment of an independent regulator with inquiry, audit and investigative powers.



The Water Act and Basin Plan 2012 (the Basin Plan) both place legal obligations upon state and Commonwealth agencies to ensure their implementation and success. With new powers including oversight of both states and the Commonwealth, I intend to bring about transparency and accountability and ensure confidence in the management of Murray Darling Basin water resources. As such, my role brings a much-needed boost to regulation from a national perspective on what is a precious and contested natural resource.

In my first three years in this role, I have observed an incredibly complex system. Whether it is the multiple tiers of government; the multiple government agencies in each jurisdiction; the complexity of legislation underpinning water management; the challenges of variable and changing climate; the measurement of a natural resource; the scientific subject matter expertise; the introduction of new technology for management systems; the stakeholder environment; or the governance and decision making. The complexity is often underestimated.

Many of the issues I have identified through my first three years have their genesis in water management decision making processes in NSW over many years. Whilst there are a number of priority areas highlighted in this submission which require action, there is also a need for systemic performance improvement and stabilisation to appropriately manage water resources in NSW and avoid a recurrence of previous failures. I note an improvement in water user compliance in NSW has been underway for six years. It is critically important that the improvements associated with the establishment of the independent Natural Resources Access Regulator are maintained and matured.

I note that each jurisdiction in the Murray-Darling Basin has its unique characteristics; and also some commonalities. NSW is geographically the largest component of the Murray-Darling Basin, and hence by far the largest water using jurisdiction. It is a floodplain harvester, but so too is Queensland. NSW lags Victoria on metering reforms, but they are using vastly different models (for example, in Victoria metering assets are publicly owned). NSW is the only jurisdiction with a footprint in both the northern basin and also the southern basin. I am pursuing a level of consistency where appropriate; however, my work to date demonstrates that benchmarking and harmonisation should be approached with caution.

Along with other matters which IPART has highlighted for consideration when setting water prices, I encourage IPART to consider:

- The need to manage the Murray-Darling Basin as a precious national asset which has impacts in five jurisdictions

- Compliance obligations which reside with NSW water management agencies to follow the law under the commonwealth Water Act, Basin Plan, associated regulations and Water Resource Plans
- The historic impact on the Murray-Darling Basin associated with ineffective aspects of water management in NSW
- Performance of NSW water management agencies in relation to Basin Plan implementation
- The perceptions and increasing expectations in NSW and other Murray-Darling Basin communities in relation to integrity, accountability and transparency in water management in NSW
- The expectations of the Inspector-General of Water Compliance in relation to building a culture of integrity, accountability and transparency in water management agencies in NSW.

Community perceptions around water management are driven by a number of factors, where the underlying theme is one of transparency; that is, being able to form views on decision-making and outcomes. The importance of transparency is likely to be exacerbated in drier conditions, where, for example, a drought could increase distrust in governments' management of increasingly scarce water resources. Early focus on, and commitments to, practically improve the visibility of and access to relevant data and information should be used as one mechanism to proactively manage this risk.

While there are significant challenges ahead in terms of water management, I also intend to build regulatory frameworks, standards and guidelines, and point to best practice across government agencies and the Basin to recognise where agencies are doing well. Part of this work will include the collection of data through reporting and the publication of report cards, audit reports, an annual report, and where necessary, inquiries. My remit also includes oversight of various Intergovernmental Agreements which form part of the very complex and intricate water management arrangements.

Water will remain a contentious issue for decades to come. There are many moving parts in relation to national and state water management and I am therefore being deliberate and focused on the use of my resources via my annual workplan. In this submission I have prepared for you, I have provided high-level information noting there is a significant amount of detailed information, evidence and insights published on my website.

Inspector-General of Water Compliance

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Introduction

The Murray-Darling Basin is a national asset which requires a national perspective.

The effective management of Murray-Darling Basin (Basin) water resources is highly important to the health of Basin ecosystems, communities, economies, and cultures. The Water Act 2007 (the Water Act) was established to address over-extraction of water from the Basin in the national interest, by setting enforceable sustainable diversion limits. The Water Act, therefore, underpins a national regulatory regime enacted through Commonwealth law and given effect by relevant state and territory governments (collectively, the Basin States).

The Inspector-General of Water Compliance was established following over a decade of experience with the challenges around the collective management of Basin water resources by multiple governments, and within a complex array of government agencies at all levels. Importantly, the Inspector-General was established in a period of significant community dissatisfaction and lack of confidence in governments and agencies' management of Basin water resources in the public interest.

The Inspector-General performs a valued role in water governance in the Basin for both Basin governments and the broader Australian community. The Inspector-General is intended to improve trust and confidence in the management of Basin water resources by providing assurance that the letter and intent of the Water Act is being complied with. However, in practice, the effectiveness of their role is highly dependent on the performance of functions by a range of government agencies across six jurisdictions.

The Inspector-General performs a key role in the national water governance arrangements in ensuring Basin water resources are managed in the national interest. In this role, the Inspector-General is responsible for ensuring the Commonwealth's water laws are complied with and providing assurance that commitments in intergovernmental agreements that support the operation of those water laws are implemented.

In the three years since appointment to the role of Inspector-General of Water Compliance, the Inspector-General has built a strong evidence base that guides the oversight and compliance roles to ensure the transparent and accountable management across the Basin of Australia's most precious resource - water. Through multiple submissions, the Inspector-General intends to provide evidence to IPART and others regarding compliance and Basin Plan implementation through a national lens as it relates to all of the Inspector-General's functions.

This submission will provide a high-level public overview of areas of relevance to IPART relating to water compliance and Basin Plan implementation in NSW, feeding in evidence-based information from the Inspector-General as an independent integrity agency and regulator.

Background & Context

Murray-Darling Basin

The Murray–Darling Basin is a one million square kilometre area in the south-east of Australia, covering 14 percent of Australia’s land area and home to 2.3 million people. The Basin covers 75 percent of New South Wales, more than 50 percent of Victoria, 15 percent of Queensland, 8 percent of South Australia and all of the Australian Capital Territory. The Basin is one interconnected system of rivers made up of 22 different catchments (see Figure 1). Water in the Basin is managed to sustain the river system and maintain water quality. This management means that water can continue to support first nations, local communities, businesses and industries, Australian agriculture, and unique environmental ecosystems.

Historical complexity

The legacy of federation and the Constitution at times creates a siloed, individual lens at jurisdictional level that will continue being problematic when managing water in the Basin on a national scale. Communities will rightly continue to feel confused about the complexity of joint management via state-based arrangements and both the Murray-Darling Basin Agreement (the Agreement) and also the Murray-Darling Basin Plan (Basin Plan). Sustainable management of water in the Basin must be considered at a national scale in order to achieve balanced outcomes for all parties.

Basin Plan

The Water Act 2007 (Cth) sets out a national framework to enable the Commonwealth, in conjunction with the Basin States, to manage Murray-Darling Basin water resources in the national interest, give effect to relevant international agreements and promote the sustainable use and management of Basin water resources. The Water Act enables the Basin Plan 2012 (Cth) (the Basin Plan) and water resource plans that, collectively, provide for the integrated management of the Basin water resources by the Commonwealth and Basin States.

History of arrangements and legislation governing the Murray Darling Basin



National Water Initiative

The 2004 *Intergovernmental Agreement on a National Water Initiative* (NWI) is a world-leading agreement that supports the multi-jurisdictional management of Australia's scarce water resources. The NWI critically establishes joint commitments of all Australian governments to water management in the national interest. The NWI laid the foundation for a more efficient, transparent and sustainable approach to water resource planning and management throughout Australia.

On 28 March 2024, the commonwealth Department of Climate Change, Energy, the Environment and Water (Cth DCCEEW) commenced consultation on a new national agreement that seeks to build on the sound water management principles that were established in the NWI to address new and emerging water management challenges. To support this consultation, Cth DCCEEW published *Discussion paper – Seeking views on a future national water agreement* (March 2024).

Law Reform

The end of 2023 saw a significant change to the law affecting the Basin through the Water Amendment (Restoring Our Rivers) Act 2023 (Restoring Our Rivers Act). In summary, this legislative change amends the Water Act 2007 (Cth) (the Water Act) and the Basin Plan 2012 (the Basin Plan) to significantly assist and boost the ability for Basin State and Commonwealth governments and their agencies, communities, industry, and water operators to deliver on the Basin Plan. Among the changes and measures of the Restoring Our Rivers Act – enabling the Inspector-General of Water Compliance to determine Sustainable Diversion Limit (SDL) compliance and require action plans, providing powers to ensure greater accountability regarding SDL compliance.

Figure 1: The Murray-Darling Basin



Inspector-General of Water Compliance

Establishment of the independent Inspector-General of Water Compliance

Following findings from the Productivity Commission's 2018 five-yearly review of Basin Plan implementation, the role of Inspector-General of Water Compliance (Inspector-General) was established on 5 August 2021 to provide oversight, compliance, and enforcement functions of the Water Act and Basin Plan. The Inspector-General is an independent integrity agency and regulator with inquiry, audit, and investigative powers.

The Inspector-General has oversight of the performance of state and Commonwealth agencies operating under the Basin Plan and intends to provide transparency and accountability to Basin Plan matters, to ensure there is public confidence in the management of the Murray-Darling Basin and its water resources.

Purpose of the Inspector-General

The purpose of the Inspector-General is to ensure various government bodies, water managers and water users in the Murray-Darling Basin comply with their obligations under the Water Act and the Basin Plan, and drive governments and water managers to uphold high standards of integrity and performance.

This purpose reflects the functions described in the Water Act, which include both oversight powers and specific compliance powers relating to areas of water management.

About the Inspector-General of Water Compliance

The Inspector-General is an independent **statutory office holder** and **integrity agency** with oversight, monitoring and enforcement functions and powers in relation to the *Water Act 2007 (Cth)* and the *Basin Plan 2012* (the Basin Plan).

The Inspector-General role was established in 2021 under the Water Act. This means:

- the functions of the Inspector-General are set out in the legislation
- the Inspector-General is appointed by the Governor-General
- the Inspector-General is appointed for a set term (4 years).

The Inspector-General is a public-facing role and reports to the Australian Parliament while engaging directly with the public across the Murray-Darling Basin (the Basin).

What the Inspector-General does

The Inspector-General provides independent regulation of water compliance. This includes:

- enforcing **compliance** with the Water Act and the Basin Plan, including water trading rules
- **overseeing** the performance of Commonwealth and Basin State¹ government agencies in meeting their water management responsibilities under the Water Act, including

¹ The Basin States are New South Wales, Queensland, South Australia, Victoria and the Australian Capital Territory.

overseeing intergovernmental agreements which implement various elements of the Basin Plan

- **engaging** with the Australian public on the management of Basin water resources.

In performing the above roles, the Inspector-General is primarily responsible for:

- Assessment of compliance with long-term water extraction limits (known as sustainable diversion limits) in Basin catchments under the *Water Act 2007* (Cth) (Water Act)
- Compliance with water resource plans that enable the integrated management of Basin water resources by Commonwealth and Basin State governments
- Enforcement of the *Basin Plan 2012* (Cth) (Basin Plan) water trading rules
- Assurance around the enforcement of water laws with respect to the theft of Basin water resources
- Oversight of the implementation of commitments in intergovernmental agreements that support the effective operation of the Water Act and delivery of the Basin Plan
- Providing accountability for the effectiveness of Commonwealth and Basin States' performance of their obligations under Part 2 of the Water Act, relating to the management of Basin water resources
- Scrutinising and providing accountability around relevant Commonwealth agency decisions made in performing their functions or exercising powers under Part 2 of the Water Act
- Engaging with Australian communities by providing assurance around the management of Basin water resources.

The Inspector-General is also responsible for enforcing Part 2A of the Water Act, relating to critical human water needs. Where, in accordance with this Part of the Water Act, the Basin Plan sets out the triggers for and processes to follow during times of low water availability.

IGWC functions and jurisdiction

As a new entity, the Inspector-General has undertaken a significant piece of work to clarify the role, functions and jurisdiction as per the current law. This is publicly articulated in the IGWC Regulatory Policy which is available on the IGWC website at [Regulatory Policy - July 2024](#).

Basin State governments are responsible for monitoring compliance with the water laws in their jurisdictions and for determining the allocations between different types of water use.

The Inspector-General ensures Basin water managers and users act within the law in respect of the Water Act and Basin Plan. The Inspector-General has powers to enforce compliance with relevant laws where there is evidence to support a finding of non-compliance.

The Inspector-General also monitors state, territory and Australian Government decision-makers and holds them to account. In doing this, the Inspector-General may conduct inquiries to gather information and evidence to inform their findings.

Several Australian Government agencies have responsibilities relating to Basin Plan implementation that fall within the Inspector-General's remit. They include:

- the Murray-Darling Basin Authority (MDBA)
- Cth DCCEEW
- the Commonwealth Environmental Water Holder (CEWH).

Organisational strategy

Figure 2: Strategic objectives of the Inspector-General 2023–2026

The Inspector-General has produced and published a four-year strategy which is available at [2023-26 Strategic Plan](#). The plan has four main components shown in figure 1.

The strategy impacts NSW entities, including NSW DCCEEW, NRAR & Water NSW.

Key activities in NSW to ensure it's lawful include:

- ◆ Pursue accredited Water Resource Plans in NSW
- ◆ Measurement of floodplain harvesting take is implemented in NSW
- ◆ Monitor state commitments to have accurate and timely metering of take by individuals across the Basin
- ◆ Implementation of the rules accredited by the Commonwealth in Water Resource Plans by all States assessed
- ◆ Ensure adjustments to sustainable limits are completed
- ◆ Basin Plan Water Trading Rules are known, implemented, and enforced.

1: Ensure it's lawful



Ensure Basin water managers and users meet their obligations under the Water Act 2007 and the Basin Plan.

2: Ensure it's visible



Provide the Australian community with visibility over the integrity of Basin water management.

3: Do it better



Raise performance, drive improvements in standards of Basin Plan delivery.

4: Make it better



Use knowledge, evidence and insights to input into the ongoing reform of water regulation.

Work Plan 2024–25

The Inspector-General must publish a workplan each financial year. The Inspector-General takes a risk-based approach to developing annual priorities for its work plan. The Inspector-General has identified 1 key priority for 2024–25: Environmental outcomes.

As the implementation of the Basin Plan nears its conclusion in coming years, public attention will shift towards evaluating its effectiveness in achieving environmental outcomes. The Inspector-General observes that this shift is already evident in its very early stages.

The Inspector-General is responsible for overseeing Commonwealth and Basin state water management agencies' performance in relation to the Basin Plan under section 215C of the Water Act.

During the Restoring Our Rivers Act amendment process in late 2023, the Inspector-General heard concerns from stakeholders about environmental water outcomes throughout the Basin.

The [independent review of the Inspector-General](#) noted:

... there will be a need for an auditor of the environmental outcomes ... this should be the IGWC. But it must be allowed to grow into the role.

By prioritising environmental outcomes, the Inspector-General aims to begin the agency's transition from a narrow focus on compliance to more comprehensive oversight.

This priority helps deliver on the following objectives of the Inspector-General's strategic plan:

- 2 Ensure it's visible: Provide the Australian community with visibility over the integrity of Basin water management.
- 3 Do it better: Raise performance and drive improvements in standards of Basin Plan delivery.

The workplan impacts NSW entities, including NSW DCCEEW, NRAR & Water NSW.

To read the Inspector-General's 2024–25 Annual Work Plan, go to <https://www.igwc.gov.au/publications>

Inquiries

Inquiry into the Northern Basin Toolkit

The Inspector-General has the power to undertake inquiries as part of its role to monitor and provide independent oversight of the Commonwealth and Basin States. Inquiries provide a transparent mechanism to ensure Basin water laws are implemented and their administration is effective.

The Inspector-General may undertake an inquiry into how Commonwealth or state agencies are performing their functions and meeting their obligations under:

- Various parts of the Water Act
- The Basin Plan
- Accredited water resource plans
- A number of intergovernmental agreements on implementing the Basin Plan.

The Inspector-General can initiate their own inquiry, or the Minister can direct the Inspector-General to conduct an inquiry.

The Inspector-General can compel a person to provide verbal or written information or testimony to an Inquiry.

On 30 October 2024, the Inspector-General announced an inquiry under Part 10AB of the Water Act into the implementation of measures to improve environmental outcomes in the northern Basin. These measures, known collectively as the Northern Basin Toolkit (the Toolkit), are set out in Schedule 3 of the Intergovernmental Agreement on Implementing Water Reform in the Murray Darling Basin, June 2013 (as amended in August 2019) (the Agreement).

In accordance with clause 6 of Schedule 3, the Commonwealth stated that it would make available an estimated total financial contribution to New South Wales and Queensland of up to \$180 million (GST exclusive) for approved projects associated with the implementation of the environment measures set out in Schedule 3.

The environmental measures were to be implemented by 30 June 2024. In August 2023, in a progress report published by the MDBA it was reported that Measures 5 and 6 of the Toolkit would not be completed by June 2024.

Also, in August 2023, the relevant Commonwealth, Queensland and New South Wales government Ministers agreed to extend the deadline for completion of the Toolkit Measures until 31 December 2026.

The Inspector-General is receiving submissions in response to the Inquiry to 29 November 2024. Further information is available at [Northern Basin Toolkit Inquiry - IGWC](#).

Budget 2024–25 announcement

As part of the 2024–25 Budget, the Australian Government is investing an additional \$28.6 million over 4 years in the Inspector-General to continue to build confidence and integrity in Basin water management.

Under the Water Act, the Inspector-General has compliance, oversight and engagement functions supported by statutory powers. The increase in funding will allow the Inspector-General to deliver on all their legislated functions to:

- ensure the various government bodies, water managers and users in the Basin comply with their obligations under the Water Act and the Basin Plan
- drive high standards of integrity and performance in government agencies and water managers responsible for achieving Basin outcomes.

Key facts

- The Inspector-General will use the funding to establish a dedicated oversight team to ensure the agency has the in-house capacity and legal support to undertake an inquiry when necessary.
- The funding will also allow the Inspector-General to maintain the independence required to perform the role effectively.
- The Inspector-General will continue to undertake compliance and engagement activities throughout the Basin.

Next steps

In the next few years, the Inspector-General will build a fit-for-purpose oversight team which will allow the agency to effectively oversee how governments:

- perform their duties and obligations under the Water Act and WRPs
- implement their commitments in supporting intergovernmental agreements.

This team will include a dedicated inquiry and in-house legal capability, and a leadership structure that can support the broad functions of the Inspector-General.

Community engagement

Strategic engagement plays a critical role in ensuring that the Inspector-General of Water Compliance supports transparency and accountability in addressing stakeholder concerns across the Basin. By actively seeking input from communities, stakeholders, and experts, the IGWC ensures that diverse voices are heard, enhancing decision-making processes, performance and promoting implementation and compliance with national water law.

Recent engagements revealed several key themes have emerged as top stakeholder concerns across the Basin:

- **Robust Decision-Making:** Emphasising the need for strategies that ensure sustainable water management and accountability.
- **River Operations:** Highlighting the importance of effective river management to sustain water resources.
- **Buybacks:** Discussing their role in balancing water allocation and addressing overuse, with a call for transparency in implementation and assessment.
- **Environmental Water:** Underlining the challenges in managing environmental water delivery and its ecological implications, alongside concerns about potential damage.
- **Sound Science:** The necessity for decisions based on reliable scientific data to maintain credibility.
- **Collaboration and Communication:** Identifying the need for effective partnerships and clear dialogue to address complex issues.
- **Water Markets:** Addressing the impact of water markets on local communities and the importance of understanding and mitigating any adverse effects.
- **Transparency:** A consistent emphasis on the need for transparent processes and informed stakeholder engagement.

Overall, the community feedback highlights a collective desire for improved trust, confidence, and collaboration to effectively navigate the Basin's significant water management challenges.

Community survey & perceptions

The IGWC undertakes regular Community Sentiment Research to develop an independent baseline of evidence in relation to public perception and the drivers of confidence in the implementation of the Murray Darling Basin Plan. The survey focuses on awareness and support for the Basin Plan and perceptions towards compliance and enforcement.

The research is designed to give the Inspector-General, and other agencies such as IPART, an understanding of what is driving trust and confidence in water management across the Basin.

Detailed findings are available on the IGWC website at [Annual Community Sentiment Survey | Inspector General of Water Compliance](#).

Water user compliance and enforcement

In 2017, a *Four Corners* report into water management in the Basin raised significant concerns about unauthorised water take in NSW and as a result community confidence in water compliance was severely undermined.

The 2018 Productivity Commission assessment noted that water take compliance was a significant concern raised in both public forums and inquiry submissions. The subsequent report found that in response to a number of reviews at that time, change was being instigated and represented a step in the right direction.

Each Basin State faces compliance and enforcement challenges unique to its jurisdiction. NSW, as the state responsible for the largest amount of water take in the Basin and the largest geographical area, has faced the most significant of those challenges. Pleasingly, it is evident to the Inspector-General that significant effort has been made to address compliance and enforcement shortcoming across the Basin, and we are now in a much better position than in 2017/18.

This is not to say however that further improvements in this area are not required.

The establishment of the independent NSW Natural Resources Access Regulator in NSW has been a positive and welcome development in water management in NSW in recent years. The Inspector-General undertook an independent assessment of NSW compliance systems for individual water licence holders in 2022. The results are published on the website at www.igwc.gov.au/reviews-reports.

Compliance Compact

In 2018 the Compliance Compact was agreed by Murray-Darling Basin State governments and the Australian Government. Its aim was to help restore public confidence in Basin water management through a focus on key priority areas.

The Compact is a collaborative, joint commitment by the Australian Government and all Basin State Governments. It focuses on five key priority areas:

1. A compliance culture of transparency and accountability in decision-making
2. Effective compliance and enforcement frameworks
3. Metering and measurement of water take
4. Finalising water resource plans
5. Protecting and managing environmental water

As at the end of 2020, 41% of commitments were complete, 33% of commitments were progressing, and the remaining 26% of commitments were either of concern or had insufficient evidence. In 2021 a review of the Compact led by the MDBA was undertaken. It noted that of the five priority areas listed above, metering and measurement of water take remains the most significant theme of outcomes at risk. This review also noted that:

The Compact should evolve from an annual cycle of activity and commitment reporting... to refined performance and outcomes reporting on the Basin's water compliance systems. This will meet community expectations initially and progressively

provide more valuable information. Ideally, the performance reporting metrics will be developed collaboratively.

The [IGWC review](#) in 2022 reinforced these findings. It found:

... simply reporting activities does not necessarily show how effective the activities are in achieving desired outcomes. There is a need to move the focus from activities and outputs to achieving better compliance outcomes ... At present there is no established Basin-wide set of key indicators that would allow systematic monitoring of how effective compliance and enforcement activities are in achieving outcomes.

There are several commitments made by Basin governments under the Murray-Darling Basin Compliance Compact that are yet to be implemented. It is the intention of the Inspector-General to undertake a stocktake of the implementation of all Compliance Compact commitments in 2025.

IGWC review of Basin state compliance

In 2021, the Inspector-General commissioned a review of Basin state compliance and enforcement frameworks, led by Mr Des Pearson (AO). In 2022, this review concluded that whilst individual water user compliance was generally well managed across the Basin, there remained a number of areas where improvements could be made.

In response, the Inspector-General has identified a number of action items aimed at addressing the findings of Mr Pearson. Included among these are the establishment of the Regulatory Leaders Forum, the implementation of a metering standard; and the development of a compliance performance reporting dashboard. For more information on the review and associated findings and action items, please visit: [Compliance and enforcement across the Murray-Darling Basin \(Inspector-General.gov.au\)](https://www.igwc.gov.au/publications/reviews-reports).

Compliance performance reporting

There is a strong community demand for clear and open reporting on compliance activities and outcomes within the Basin, as demonstrated by:

- the 'Pumped' episode of *Four Corners* in 2017
- the Australian Government's *Murray-Darling Basin Water Compliance Review* in 2017
- the *Compliance and enforcement across the Murray-Darling Basin* review led by the Inspector-General in 2022.

In response to findings from these developments, the Inspector-General commenced a project to progressively develop and implement improved and consistent Basin-wide public reporting on water compliance performance outcomes. This project is a collaboration with all Basin State regulatory agencies through the Regulatory Leaders Forum.

This year marked the completion of the first phase of the Inspector-General's compliance performance reporting project. All Basin jurisdictions agreed on and reported against a set of common compliance activity metrics. The findings were published in December 2024 on the IGWC website at <https://www.igwc.gov.au/publications/reviews-reports>.

The variation in compliance and enforcement approaches can be explained by the unique legislative and institutional frameworks and resources of each jurisdiction. However, there is a recognised need for greater consistency and transparency in reporting practices.

The compliance performance reporting provided by Basin States is the first reporting provided in accordance with an agreement from Basin State compliance regulators to move towards consistent compliance performance reporting, with a greater focus on regulatory outcomes.

This aligns with broader trends for regulators to transition from activity-based reporting to outcomes-focused reporting, which necessitates new approaches to obtaining and using data.

Increasing consistency and transparency comes with particular challenges in water management, as the regulatory frameworks applied by regulators and institutional arrangements vary between Basin States. This compounds the challenges in shifting from activities-based reporting to providing visibility around water compliance outcomes in the Basin. The current reporting is therefore a step on that process, which will be built on through future annual compliance performance reporting processes from next financial year.

The first year of compliance performance reporting has laid the groundwork for more robust and effective reporting on compliance and enforcement. Expanding the scope of reporting, focusing on outcomes and increasing transparency can drive positive change to ensure the long-term health and resilience of the Basin.

Duplication risk

A review of the Inspector-General of Water Compliance was completed in 2024. Amongst other issues, the review considered whether or not there was a risk of duplication between the Inspector-General and Basin state water regulation and enforcement agencies.

*"...the Review has formed the view that the IGWC is not likely to duplicate State-level functions to a degree that would warrant concern."*²

The detailed report can be found here:

[Final Report Independent Review of the Inspector General of Water Compliance.pdf](#)

Water regulator agency collaboration

The Regulatory Leaders Forum (RLF) was established in 2021 by the Inspector-General to provide a mechanism through which Basin state regulators and the Inspector-General can:

- share knowledge, insights and lessons
- work collaboratively to build community confidence in water management
- actively cooperate to:
 - increase transparency in the application of water rules across the Basin
 - achieve the outcomes they are working towards.

The Inspector-General has convened a quarterly forum of Senior Executives responsible for compliance and enforcement in each Basin jurisdiction. This forum is an opportunity for all Basin States to share knowledge and experience on a range of topics including metering and measurement.

The CEO of NRAR is an active participant in the Regulatory Leaders Forum which was established by the Inspector-General to work collaboratively on water use compliance in the Murray-Darling Basin.

² REVIEW OF SOME ASPECTS OF MURRAY DARLING BASIN WATER COMPLIANCE AND THE ROLE OF THE INSPECTOR-GENERAL OF WATER COMPLIANCE, January 2024, Mr Peter Harris AO, https://storage.googleapis.com/files-au-climate/climate-au/p/prj296f91431e69f9fd2b627/page/Final_Report_Independent_Review_of_the_Inspector_General_of_Water_Compliance.pdf, p.49

Modern Regulator Improvement Tool

As a new regulator with high standards of accountability and integrity, as well as an assurance and coordination role for water regulation, the Inspector-General is committed to:

- building robust regulatory practices
- creating a culture of learning and continuous improvement across water regulators agency.

Regular performance evaluation drives improvement, excellence and accountability for regulators. It also has a positive impact on community trust and confidence in Basin water management.

The Inspector-General is committed to using the Modern Regulator Improvement Tool (MRIT) to assess and improve regulator performance across the Murray-Darling Basin. The Inspector-General is encouraging water compliance regulators across the Basin, including the NSW Natural Resources Access Regulator (NRAR) to implement the tool in an ongoing way. The Inspector-General notes that NRAR have now been utilising the tool for a number of years.

The MRIT allows regulatory agencies to assess and report on their regulatory maturity and know where to focus effort and action to improve.

In 2023-24, the Inspector-General worked on a project to customise the MRIT for water sector regulatory agencies. This was a collaborative effort with:

- the Australasian Environmental Law Enforcement and Regulators Network (AELERT), which developed the MRIT
- the Water Compliance Community of Practice, which the Inspector-General co-chairs
- the RLF.

Murray–Darling Basin memorandum of understanding

A single, multilateral memorandum of understanding (MoU) between the Inspector-General and the Basin states has been in place and published on the Inspector-General's website since August 2022.

[Memorandum of Understanding Water Compliance Collaboration in the Murray-Darling Basin](#)

Metering and measurement

Metering and measurement of actual water take is fundamental to trust in water accounting and compliance. Without accurate, consistent measurement at this level, it would be impossible to be confident that water use in the Basin remains under sustainable diversion limits. It would also be impossible to ensure a level playing field across the system.

Whilst Basin State governments have primary responsibility for regulating water take in their respective jurisdictions, including by setting their jurisdiction's metering policies, Commonwealth agencies also have a role to play. For example, the Inspector-General has the power to issue standards and guidelines under the Water Act 2007 (Cth).

The current metering reforms have now been going for over two decades. There is still a large amount of reform and policy implementation to be completed. Even once this has occurred, there is an ongoing need for activity and assurance.

IGWC Metering Report Card

Water meters and other measurement devices are used to measure licence holder water take throughout the Basin. The quality of water metering is therefore a critical factor in the quality of Basin water management. The Inspector-General recognises this by publishing a [Murray-Darling Basin Metering and Measurement Report Card](#) each year. In effect, the metering report card assesses the qualitative aspects of metering within each state and territory.

The Inspector-General has produced a metering report card to demonstrate the progress of all Basin States in the 3 key areas of metering:

1. Coverage (does the pump have a meter)
2. Accuracy (does that meter meet the Australian Standard)
3. Timeliness (are readings collected or monitored in a timely manner)

Those are key commitments by the Basin States in the *Compliance Compact*.

In recent years metering has been a major area of reform in NSW and the broader Murray-Darling Basin. Under the Compliance Compact (2018) NSW committed to effective and accurate measurement of non-urban water use.

The 2022-2023 Metering Report Card was published on our website on April 19, 2024. This is the third metering report card my team has released; it covers metering reform progress up to June 2023. The 2022-2023 metering report card also includes new metrics on floodplain take in New South Wales and Queensland.

New South Wales have acknowledged that compliance rates with their non-urban metering framework¹ are not where they should be and have completed an internal review². With the release of a recommendations report² in August 2024, NSW DCCEE confirmed the steps they will be undertaking to address their behind schedule non-urban metering reform. The recommendations report confirms that NSW will commence the following actions:

- Reprioritising demand by focusing government resources and DQPs on Murray-Darling Basin meter installations. This includes granting a short extension for coastal water users and simplifying measurement methods for smaller, low-risk users.
- Removing prescriptive measurement requirements for smaller and low-risk water users, allowing these users to install cheaper measurement options. These water users will still be required to record and report their licensed water take.

- Providing better training and support for the DQP workforce, improving the systems they use, reviewing meter revalidation requirements and expanding the potential workforce.
- Strengthening the Natural Resources Access Regulator's (NRAR) compliance approach by enabling more effective use of compliance and enforcement tools, ensuring the law can be fully enforced with the intention of sending a message to water users that there will be consequences for persistent non-compliance.

The Inspector-General is currently preparing the next version of the report card which will cover progress of metering reform up to June 2024. We plan to release this report card in early 2025.

Metering and Basin Plan

Under the Water Act 2007 (Cth), water taken from Basin water resources is accounted annually. This is then compared with the extraction limit (called the 'sustainable diversion limit') associated with the relevant resource area. The Inspector-General uses this to determine whether the water take is compliant with the limit or not, which is then recorded in a register by the Murray-Darling Basin Authority. This means the trends in water take are tracked over time, allowing relevant governments to take action to address instances of overextraction, and leading to sustainable levels of extraction over the long term. This allows water to be managed equitably for all water users across the Basin.

Timely and accurate data around water take is essential for this water accounting and for water compliance regulators to enforce relevant laws and rules. It is only with compliance with water laws and rules across the Basin, that the framework established by the Water Act works effectively. In addition, as NSW contains catchments that affect downstream surface water supply in the Basin, water accounting provided for those catchments informs estimations of availability of water in downstream catchments. This means inaccuracies and errors in NSW water take measurements may have implications for the accuracy of Victorian and South Australian accounts. Further, any inaccuracy and errors in NSW Basin groundwater take measurements may have broader implications as well. Relevantly, where those resources have a significant connection to Victoria's Basin groundwater resources, accurate measurement of water take is necessary for the management and sustainable use of water resources in the other Basin States. Such interconnectivities are identified in relevant water resource plans of NSW.

Floodplain harvesting

In NSW, licences for floodplain harvesting have been issued in some valleys and entitlement holders are now subject to measurement obligations associated with those licences. These licence conditions form an important component of the Compliance Compact as well as WRP and SDL compliance.

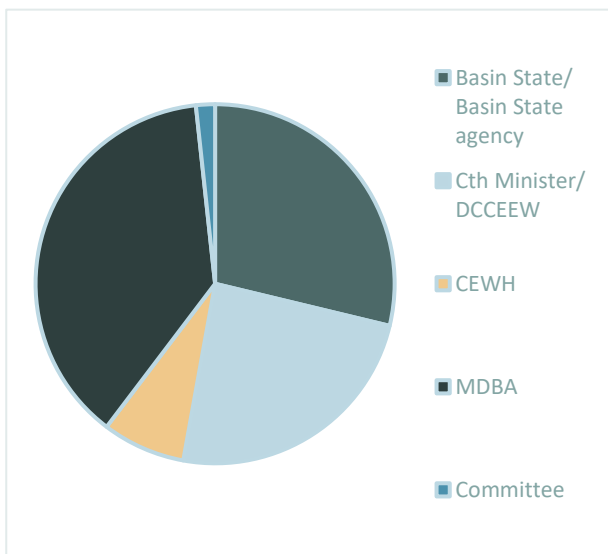
It is essential that measurement of floodplain harvesting implementation in NSW is completed to enable increased accuracy of take volumes under the Basin Plan. On-ground intelligence and other analysis suggests there is significant risks at present in this area.

As part of improvements to the IGWC Metering Report Card, the Inspector-General is currently collecting a new data set, including from NSW, regarding implementation of floodplain harvesting measurement policy, obligations and commitments. This will occur in parallel to IPARTs draft determination process.

Basin Plan Implementation & Compliance

The Inspector-General has conducted research to inform a comprehensive approach to performing its monitoring, oversight and enforcement functions, underpinned by detailed analysis of the Water Act, Regulations, Basin Plan and Basin agreements. The Inspector-General identified the obligations, responsibilities (that is, functions and powers) and commitments contained in those documents. The Inspector-General then identified who the obligations, functions, powers and commitments (collectively, OFPCs) related to, how many are ongoing and how many have expired (or are otherwise 'spent').

Figure 1: Number of OFPCs for different parties

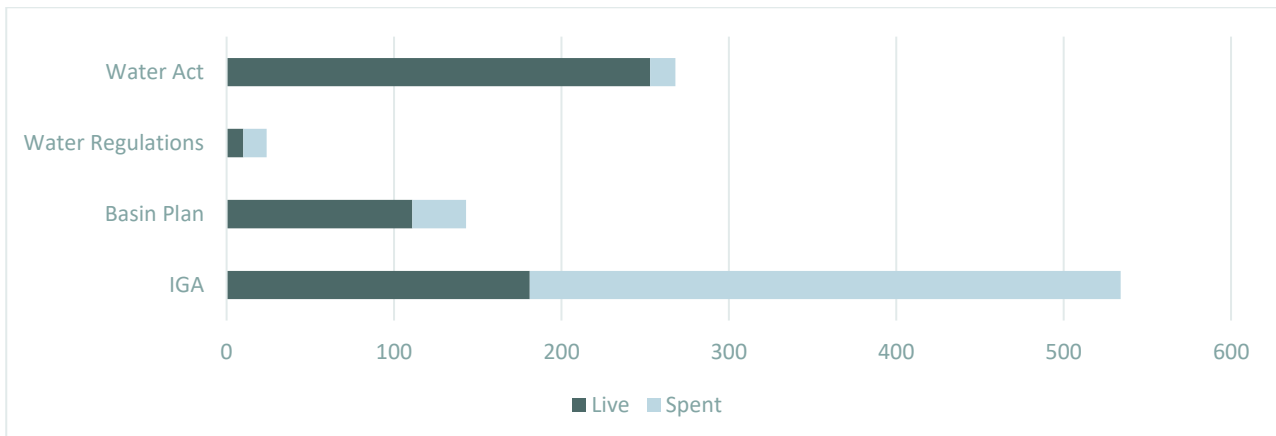


As headline figures:

- **988 OFPCs were mapped in total**
- 420 relate to Basin States
- 348 sit with the Murray-Darling Basin Authority (MDBA)
- 186 are the responsibility of the relevant Commonwealth department (currently, the Department of Climate Change, Energy, the Environment and Water (DCCEEW))
- 55 relate to the Commonwealth Environmental Water Holder
- 239 are categorised as 'spent'.

From a transparency and accountability perspective, 190 OFPCs relate to reporting.

Figure 2: Numbers of OFPCs in different instruments



The nature of the OFPCs from the above can be broken down further into purpose:

- 47 percent support the delivery of the Basin Plan
- 38 percent support returning extraction of Basin water resources to sustainable levels

- 34 percent relate to managing the failures in legislative arrangements and intergovernmental agreements identified in the Four Corners program 'Pumped'
- 16 percent refer to engagement with particular types of stakeholders
- 3 percent apply in areas where the Commonwealth legislation cannot operate in the same way as, or deliver same outcomes as in, the rest of the Basin.

Effective performance of regulatory obligations, functions and powers and implementation of commitments is critical to managing Basin water resources. Accountability around those obligations, functions, powers and commitments needs to be prioritised by all Basin governments and gaps addressed to ensure intended outcomes are delivered.

Water Resource Plans

The Basin is divided into 33 water resource plan areas in total across 5 jurisdictions: 14 for surface water, 14 for groundwater, and 5 that cover both. 20 of the WRPs are in NSW.

Water resource plans are an integral part of implementing the Basin plan. They outline how each region of the Basin aims to achieve community, environmental, economic and cultural outcomes and ensure that state water management rules meet the Basin Plan objectives.

Each water resource plan specifies the rules the Basin States will apply to manage water quantity and quality for the consumptive use, the environment and cultural purposes. They are also used to ensure that SDLs are not exceeded over time.

Twenty-nine water resource plans have been accredited and are operational. This total comprises plans for each water resource plan area in Queensland, Victoria, the ACT and South Australia; and 16 of the 20 water resource plan areas of New South Wales. Status of accredited water resource plans can be viewed on the MDBA's [website](#).

Water Resource Plan development: Basin State governments are responsible for developing water resource plans. They work closely with the MDBA to ensure that their water resource plans meet both the requirements of the Basin Plan and local requirements for water resource management.

Water Resource Plan process: Much of the critical work of water resource planning happens in the development stages when plans are developed by NSW DCCEEW in consultation with communities and with assistance from the MDBA. Getting the plans right can take time, as local communities must have confidence that the plans are robust, are high quality and adequately address local needs.

Water Resource Plan accreditation: Basin State governments submit their completed water resource plans to the MDBA for assessment. The MDBA then advises the Australian Government Minister responsible for Water on whether the plans should be accredited.

On average, there are 18 commitments or obligations per accredited WRP. NSW has a total of 20 plans, meaning an estimates 360 obligations supported by an estimated 200 supporting documents. Compliance with these obligations by NSW water agencies is a significant task.

Water Resource Plan Compliance and Enforcement Framework

The Inspector-General is the enforcement agency for WRPs, with a suite of monitoring, risk assessment and compliance tools to use for monitoring and enforcement of WRPs. These tools include inquiries, audits and investigations.

A Water Resource Plan Compliance and Enforcement Framework, developed in 2023–24, defines the Inspector-General's compliance powers. This framework will be published in late 2024 or early 2025.

The Framework:

- describes the Inspector-General's role and objectives to ensure compliance with WRPs
- sets out the Inspector-General's approach to exercising statutory powers and functions
- sets out the Inspector-General's expectations and requirements for how Basin state governments and Commonwealth agencies perform their functions relating to WRP compliance
- sets out processes and expectations for responses to potential WRP non-compliance noting such responses must apply best practice regulation principles and be balanced in nature and timing.

The Framework ensures a transparent and robust process to provide procedural fairness. It aims to build community confidence in WRPs and the Basin Plan.

Detailed reporting obligations are intended to be produced by the IGWC as part of the Basin Plan, Schedule 12 Matter 19. These reporting obligations would require data capture and reporting by NSW water management agencies.

An embargoed copy can be made available to IPART upon request, should this be of importance to the price setting process, prior to publication by the IGWC.

Water resource plans in New South Wales

Accredited water resource plans (WRPs) that are operative in all basin states are essential to the successful implementation of the Basin Plan.

NSW is the only Basin state jurisdiction which does not have all required water resource plans in place. The deadline was 30 June 2019.

The performance of NSW in adhering to commitments to submit accreditable WRPs to the MDBA has been closely observed by the Inspector-General and NSW has not met expectations. The Inspector-General published criticism of the NSW government on this matter on 2 June 2022 (<https://www.igwc.gov.au/media-releases/transcript-hon-troy-grant-inspector-general-water-compliance-2022-river-reflections-conference-2-june-2022>).

The delay and on-going absence of operational NSW WRPs poses a significant risk to the implementation of the Basin Plan as approximately 50% of the water take in the Basin occurs in NSW. Without accredited WRPs, significant areas of the Basin are not able to be assessed for compliance with the Basin Plan. It is not unreasonable for other Basin states and the broader Basin community to question the fairness and equity of the current situation. The poor performance of the NSW government in preparing accreditable WRPs for MDBA assessment has contributed to the undermining of trust and confidence in the Basin Plan.

Determining compliance with the Basin Plan occurs by considering rules contained inside accredited water resource plans.

The deadline for WRPs to be accredited was in 2019, but in mid-2022 New South Wales still had no accredited WRPs. The Inspector-General made a call to action on this at the River Reflections Conference in June 2022. Since then, New South Wales has made significant progress on WRP accreditation. As at the end of 2023–24, 16 out of 20 New South Wales WRPs have been accredited. The Inspector-General has been closely monitoring the progress of New South Wales WRP accreditation, which was a priority in the 2022–23 Annual Work Plan.

The Inspector-General will continue to undertake close oversight of all agencies that have obligations under the Water Act, the Basin Plan, and relevant Intergovernmental Agreements to progress the accreditation and/or adoption of all NSW WRPs.

Sustainable Diversion Limit (SDL) Compliance

The Basin Plan sets sustainable diversion limits (SDLs), which limit how much water, on average, can be sustainably taken from the surface and groundwater resources of the Basin for use by towns and communities, industry and farmers.

Sustainable Diversion Limits (SDLs) are essential to the implementation and operation of the Basin Plan. SDLs limit the amount of water that can be taken from rivers and aquifers for towns, industry, and farmers.

Each year, the Inspector-General of Water Compliance undertakes an SDL compliance assessment to ensure all areas are compliant.

The Basin States and the MDBA also have responsibilities in relation to SDL compliance.

Basin states report on water take (permitted and actual) and compliance with SDLs within 4 months after the end of the water year.

If any SDL resource unit in the Basin cumulatively exceeds its permitted take by 20%, then the Basin Plan outlines the rules around non-compliance and reasonable excuse which can then be enforced. The lack of accredited WRPs in NSW means there is no legal basis upon which the Inspector-General can assess NSW's compliance with the long-term annual SDLs in those outstanding areas.

The Inspector-General has developed a Sustainable Diversion Limit Compliance Framework which sets out the Inspector-General's role and objectives in relation to ensuring compliance with the SDLs. The framework also articulates the Inspector-General's expectations, requirements and approach regarding performance by Basin States and agencies and the MDBA of their functions relating to SDL compliance.

The framework is published on the IGWC website at [Sustainable Diversion Limit Compliance Framework](#).

Audits & Investigations

The Inspector-General undertakes audits and investigations across the Murray-Darling Basin. These include investigations into potential non-compliance of state government agencies. Further detail is available on the IGWC website at [Audits and investigations | Inspector General of Water Compliance](#).

Water trade audits

The Inspector-General has undertaken one audit in NSW relating to Basin Plan water trading rules obligations.

The audit looked at interstate trade in the Northern Basin between NSW & Queensland.

The audit found:

- The volume of water traded was not likely to have had any material impact on SDL compliance.
- The transfer of water through works that are permanently linked is not recognised as a trade by either NSW or Qld.
- Inconsistencies and inaccuracies in water accounting records
- No appropriate process in place to reconcile accounting differences between the states
- Take of water occurred in Qld before trades were approved.
- NSW do not require a meter reading to confirm water availability before a water trade is

approved.

The Inspector-General recommended:

- NSW and Qld must recognise transfers of water through works that are permanently linked as trades under the Basin Plan.
- Systems and process improvement to ensure that water trade data is accurately recorded.
- Regular reconciliation of water trade data to identify and resolve data integrity anomalies and ensure the accuracy of information reported.
- Qld must investigate and record the outcome of investigations in all instances where water was taken before the trade was approved.
- Meter reading data in NSW needs to be validated before a trade is approved.

More information about both of the audits can be found here: [Reviews and reports | Inspector General of Water Compliance \(igwc.gov.au\)](#)

Basin Water Markets

Basin wide water trade markets have an annual average value of over \$1.8 billion per year. Water trading has brought substantial benefits to many water users across the Basin, but improvements to water markets are sorely needed.

The Basin Plan is a cap-and-trade policy. A well-functioning, efficient water market is essential to ensuring its success. The Basin Plan water trading rules is the element of the Basin Plan that supports water users to respond to changes in water availability.

ACCC Water Markets Inquiry

The Australian Competition and Consumer Commissions 2019-2021 water market inquiry demonstrated that significant improvements are needed.

In 2022 the Australian government released its water market reform roadmap that sets out the pathway to implement water market reform.

When implemented, the Inspector-General along with enforcing the Basin Plan water trading rules, will be responsible for compliance and enforcement of new Bureau of Meteorology water market data standards.

What is the role of the Inspector-General?

The Inspector-General is responsible for compliance and enforcement of the Basin Plan water trading rules.

Under the water market reforms, the Inspector-General will largely retain its current roles and responsibilities in relation to the Basin Plan water trading rules, however some elements are planned to be transferred to the ACCC.

Basin Plan water trading rules

The majority of the Basin Plan water trading rules will remain largely unchanged under the water market reform process. Ongoing compliance, enforcement and review of the Basin Plan water trading rules will be required to ensure they support Basin Plan outcomes.