

Compliance and enforcement issues

Compliance reviews

On 24 July 2017, on the ABC Four Corners program, certain allegations were made regarding misuse of environmental water within the Basin. A number of reviews have now been completed in response to the allegations made. These are:

- The Murray-Darling Basin Authority (MDBA) Murray-Darling Basin Water Compliance Review
- NSW independent review of water management and compliance (Matthews Review – interim and final reports)
- NSW Ombudsman’s progress report water compliance and enforcement 2007–17
- Australian National Audit Office (ANAO) assurance review on the Department of Agriculture and Water Resources’ (DAWR) assessment of the performance of NSW under the *National Partnership Agreement on Implementing Water Reform in the Murray-Darling Basin* (NPA) relevant to the protection and use of environmental water for the 2014–15 and 2015–16 financial years

Further reviews that are currently underway are:

- Senate inquiry on the Integrity of the water market in the Murray-Darling Basin (report due March 2018)
- An independent audit of Queensland non-urban water measurement (due March 2018)
- The South Australian Murray-Darling Basin Royal Commission (due February 2019)

Response to compliance reviews

Governments across the Basin have expressed serious concern about compliance issues, and are acting to address them. In their communique from the 19 December 2017 Ministerial meeting, Basin Ministers stated:

Ministers agreed that it was important that all Australians had confidence that the rules and regulations governing water use in the Murray–Darling Basin were being enforced and complied with. They acknowledged that this confidence had been eroded by allegations of theft of water and inadequate enforcement of the rules, particularly in the northern part of the Basin. Ministers committed to prompt and effective responses to the reviews that had been conducted to date, and to those still underway.

Table 1 below summarises the key recommendations from the reviews completed to date, specific actions that are being undertaken in response to the findings and their respective timeframes.

As part of its six point implementation agenda for delivering the Basin Plan (released by the Prime Minister and Assistant Minister for Agriculture and Water Resources on 25 November 2017), the Australian Government has committed to act on the review findings as they relate to the MDBA. On 7 February 2018 the Minister announced \$9.1 million of additional funding to strengthen the MDBA’s compliance and enforcement role.

The findings from the compliance reviews will also be brought together as part of the development of a Basin Compliance Compact (the Compact) which seeks to restore public confidence in water management in the Murray-Darling Basin. The Compact will detail a compliance implementation framework, including specific plans for improving compliance and enforcement activities for each Basin jurisdiction and for the MDBA, and transparent reporting and accountability arrangements on progress. An interjurisdictional working group will meet on 14 February 2018 to begin drafting the Compact which will be provided to the Ministerial Council at their next meeting, prior to the consideration by the Council of Australian Governments (COAG) in June 2018.

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Table 1: Compliance Reviews and Reports

MDBA Compliance Review	MDBA responses
<p>Key recommendations from and concerns raised in the MDBA's Review report, released on 25 November 2017, included:</p> <ul style="list-style-type: none"> • implementation of a 'no meter, no pump' policy • stronger commitment to compliance • greater transparency on compliance investigations and outcomes • accreditation of state water resource plans by 30 June 2019 is at risk <p>The Independent Panel found the MDBA's own compliance arrangements to be inadequate to ensure compliance with the Basin Plan, and made findings relating to governance, MDBA's legislative powers and the need to accelerate work on state water resource plans and to protect environmental water</p> <p>The independent panel and the MDBA recommended a Basin Compliance Compact, comprising implementation plans for the MDBA and each of the Basin states, should be developed.</p>	<p>The MDBA has already:</p> <ul style="list-style-type: none"> - Established an Office of Compliance - Established an Independent Assurance Committee - Streamlined Water Resource Plan (WRP) assessment framework - Increased level of resourcing in WRP accreditation <p>MDBA has commenced drafting:</p> <ol style="list-style-type: none"> a) guidelines for the compliance requirements of hydrometric networks b) hydrological improvement model <p>MDBA is reviewing their compliance strategy</p> <p>MDBA is developing a sustainable diversion limit (SDL) Reporting and Compliance Framework for publishing</p> <p>MDBA will publish WRP Progress Register</p> <p>MDBA is assessing legislative options to strengthen its compliance role with the Department.</p> <p>On 19 December 2017, the MDB Ministerial Council agreed to the development of a Compliance Compact. "The Compact will detail a compliance implementation framework, including specific plans for improving compliance and enforcement activities for each Basin jurisdiction and for the MDBA, and transparent reporting and accountability arrangements on progress. The draft Compact will be considered by the Council at its first meeting in 2018, prior to consideration by the Council of Australian Governments. Ministers also agreed to appoint an independent person to examine and bring together the findings of the various compliance reports and provide advice on implementation." (Communique, 19 December 2017).</p>

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NSW independent reviews and reports	NSW responses
<p>Ken Matthews' interim report recommended a Water Management Compliance Improvement Package to include:</p> <ul style="list-style-type: none"> • Consolidate and augment all compliance and enforcement functions • Legislate for a new Natural Resources Access Regulator (NRAR) • Set interim resourcing levels for the first two years • Premier to write to the MDBA Chair outlining their proposed approach to addressing water compliance reform • Administrative and operational reforms to increase transparency, independence and effectiveness <p>Ken Matthews' final report identified risks to momentum and made a further four recommendations to ensure that the compliance response was not weakened</p>	<p>NSW has committed to implementing the Water Management Compliance Improvement Package.</p> <p>NSW has already:</p> <ul style="list-style-type: none"> - Established a new Lands and Water division - Legislated to establish the new independent Natural Resources Access Regulator (NRAR) to lead on compliance matters and appointed an interim chief regulatory officer - Compliance and enforcement resourcing has been increased by \$9.5m a year. - The Premier has written to the MDBA outlining their proposed approach to addressing water compliance reform. <p>NSW has the following actions in progress:</p> <ul style="list-style-type: none"> - NRAR is drafting a Plan that will establish clear and effective policies and processes for compliance that address all the reviews - A new stakeholder engagement framework will be implemented - A discussion paper is being drafted on creating a public register of water information - An interagency working group is being established to develop solutions to improve the management of environmental flows - NSW will have all water resource plans accredited by July 2019 - There will be regular reporting on progress of implementing water inquiry reforms - A discussion paper on metering will be developed for public consultation - Additional staff will be recruited and there will be additional training for all compliance and enforcement staff - A clear separation will be created between those who provide and sell water to customers and those who oversee and regulate water as a public resource.

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<p>The NSW Ombudsman report made recommendations that compliance and enforcement is adequately funded and supported, including with a clear mandate from the NSW Government.</p>	<p>NSW has committed to implementing the Water Management Compliance Improvement Package.</p>
<p>Australian National Audit Office ANAO concerns about milestones and criteria for assessments under the <i>National Partnership Agreement on Implementing Water Reform in the Murray-Darling Basin</i></p>	<p>Commonwealth response The Commonwealth will review and amend assessment criteria and assessment processes for future assessments The Commonwealth has committed to making current funding for Basin states to implement the Basin Plan contingent on achieving the improved compliance outcomes identified by the MDBA review (announcement by the Prime Minister and Assistant Minister for Agriculture and Water Resources, 25 November 2017).</p>