

Recommendation on the accreditation of the proposed NSW Great Artesian Basin Shallow Water Resource Plan

Meeting No. 177 of the Authority

Recommendation

1. The Murray–Darling Basin Authority ('the Authority') has considered and assessed the proposed New South Wales (NSW) Great Artesian Basin Shallow Water Resource Plan ('proposed WRP') for the NSW Great Artesian Basin Shallow area ('WRP area') (**Attachment A**) provided by New South Wales on 1 September 2022 consistent with s63(1)(a) of the *Water Act 2007* (Cth) ('the Act').
2. The Authority is satisfied that the proposed WRP is consistent with the relevant Basin Plan (*Basin Plan 2012* (Cth)), version F2021C01067, registered on 27 October 2021 and in force as of the date of the Authority's recommendation, as is required by section 55(2) of the Act including:
 - a. the requirements for water resource plans ('WRPs'), and
 - b. the long-term annual diversion limits ('SDLs') for the water resources of the WRP area.
3. In considering consistency the Authority has had regard to the legislative framework within which the proposed WRP operates, as is required by section 55(3) of the Act.
4. In exercising its powers and performing its functions, the Authority has had regard to the Basin Plan and the extent to which the proposed WRP is consistent with the Basin Plan (in accordance with sections 56(1)(a) and (b) of the Act).
5. In addition, in arriving at its recommendation, the Authority has taken into account the following matters.
6. The Authority sought advice from First Nations on whether the proposed WRP is consistent with the requirements regarding Indigenous values and uses in Part 14 of Chapter 10 of the Basin Plan. This First Nations advice, received on 4 November 2022 (**Attachment D**) was provided by i2i Development Global Pty Ltd (i2i Global). In preparing this advice, i2i Global undertook consultation with relevant First Nations of the WRP area on the adequacy of the Part 14 content of the proposed WRP. As a result of this process, i2i Global has expressed a view that the proposed WRP is not consistent with Basin Plan Part 14 requirements.
7. The Authority notes, that due to an administrative oversight, representatives from the Wiradjuri Nation were not initially contacted as part of the i2i Global consultation on Part 14 requirements. On being made aware of this oversight through correspondence from Murray Lower Darling Rivers

Indigenous Nations (MLDRIN) and Wiradjuri Nation representatives, the MDBA requested that i2i Global contact Wiradjuri Nation representatives to provide an opportunity for the Nation to provide views on the Part 14 content of the proposed WRP. The Authority is satisfied that over a period of approximately nine (9) months, i2i Global has made all reasonable efforts to engage with Wiradjuri representatives but at the time of writing, Wiradjuri Nation views on the Part 14 content of the proposed WRP were not available.

8. The i2i Global advice notes improvements in content but raises key concerns relating to proper naming of Nation groups; limited input through the consultation process and weakness in the 'have regard' requirements of Part 14 of Chapter 10 of the Basin Plan.
9. The Authority respectfully acknowledges the i2i Global First Nations advice with respect to the concern about the use of, and reference to, 'Guwamu (Kooma)' Nation in the proposed WRP material. While the MDBA supports the approach that NSW have taken in applying the First Nation names as represented on the *Guide to Traditional Owner Groups for Water Resource Plan Areas – Groundwater* as previously endorsed by Northern Basin Aboriginal Nations (NBAN) and MLDRIN, the Authority is open to future amendments and revisions to the Nations associated with each WRP areas on advice from and as supported by Murray–Darling Basin First Nations.
10. The Authority's assessment (**Attachment C and C1**) has found that the proposed WRP has incorporated significant amounts of new material to meet the Indigenous values and uses requirements of the Basin Plan as compared to the 2020 version of the proposed WRP. This new material, particularly in relation to views on cultural flows (WRP s. 4.4.1); strategies to address risks to objectives and outcomes (WRP s. 3.4 and Table 3-3); native title (Schedule C Table 2); and Aboriginal heritage (WRP ss. 1.7 and 4.4.2), addresses concerns raised in previous advice from Northern Basin Aboriginal Nations (NBAN)¹ about the adequacy of the Indigenous values and uses content in the 2020 proposed WRP.
11. The Authority further notes that a Nation Consultation Report for the Barkandji/Maljangapa and Gomeroi/Kamilaroi/Gamilaroi/Gamilaraay Nations are not incorporated into the proposed WRP and that as a consequence, Barkandji/Maljangapa and Gomeroi/Kamilaroi/Gamilaroi/Gamilaraay Nations' objectives and outcomes for water management based on their values and uses are not yet identified.
12. The Authority has received correspondence from NSW explaining why Nation Consultation Reports for the Barkandji/Maljangapa and Gomeroi/Kamilaroi/Gamilaroi/Gamilaraay Nations are not available and details are provided in the assessment report (Attachment C). In response, NSW has committed in the proposed WRP to seek further opportunities to consult with the Barkandji/Maljangapa and Gomeroi/Kamilaroi/Gamilaroi/Gamilaraay Nations, with the aim to finalise the identification of objectives and outcomes based on the Nations' values and uses for the water resources of the WRP area, and to incorporate those objectives and outcomes – subject to each Nations' agreement – into the WRP. The proposed WRP also commits NSW to report back to the MDBA regarding progress within two years of accreditation.
13. Despite the i2i Global advice suggesting Part 14 requirements have not been met, and on the basis that the proposed WRP contains sufficient material to address the requirements and responds to

¹ Part 14 advice from First Nations regarding the 2020 version of the proposed NSW Great Artesian Basin Shallow WRP was coordinated by NBAN. Advice on the 2022 version of the proposed WRP has been coordinated by i2i Global.



issues raised previously by First Nations in the WRP area, the Authority has determined that the Indigenous values and uses content of the proposed WRP is consistent with the Basin Plan.

14. While the proposed WRP meets requirements, the Authority recognises that more work is needed by NSW to build a stronger relationship with First Nations and to bring consideration of First Nations' concerns more fully into the NSW water planning and management framework.
15. The proposed WRP also commits NSW to further consultation with First Nations people of the WRP area over the coming 12 months to resolve any outstanding concerns in relation to the Indigenous values and uses requirements. Given the concerns raised by i2i Global, the Authority will strongly encourage NSW to make full use of this 12-month commitment to engage with the First Nations people of the WRP area in a culturally appropriate way.
16. The Authority strongly encourages NSW to adopt the engagement principles of Free, Prior and Informed Consent and the Akwé: Kon Guidelines when undertaking this further consultation. These frameworks ensure that Traditional Owners are engaged in an appropriate manner. This includes providing adequate information about the consent process, appropriate time and information.
17. The Authority notes that the Hon Rose Jackson MLC, NSW Minister for Water has written to the MDBA outlining the key features of the new NSW Aboriginal Water Program. One of the objectives of the Program is to deliver on the commitment in accredited NSW WRPs to consult with First Nations about issues raised during the consultation on Part 14 requirements. A copy of the Minister Jackson's letter is available [here](#).
18. Further to Minister Jackson's letter, the Authority is advised that the MDBA has received further correspondence from NSW advising that NSW has initiated the establishment of Regional Aboriginal Water Committees through a series of inaugural meetings being held over November and December. These committees will be the primary forums for Aboriginal people across NSW to provide advice on water planning and management. Further information about the Regional Aboriginal Water Committees is available [here](#).
19. The Authority welcomes this NSW initiative and is hopeful that the new Aboriginal Water Program will provide for meaningful engagement with First Nations that responds to concerns raised by First Nations about being part of the decision making processes for water management.
20. While the proposed WRP meets requirements, there is scope to improve the level of monitoring to ensure it is sufficient to identify any adverse impacts which in turn will trigger responses such as the use of temporary restrictions on trade or consumptive take as well as water quality measures.
21. The proposed WRP identifies a core set of indicators that will always be monitored. These include groundwater levels and the measurement of take which informs impacts on the condition of groundwater dependent ecosystems. The Authority notes that most water quality risks are rated as low for this WRP area but expects that more specific water quality monitoring may be undertaken in the future where there are water quality risks rated medium or higher.
22. The Authority notes that the proposed WRP includes newly mapped groundwater dependent ecosystems that are subject to confirmation and includes a commitment to establish a confirmation process by the end of 2022. The Authority is advised that NSW established the confirmation process as of September 2023. The Authority also expects that NSW will assess the extent of monitoring to ensure that it provides sufficient coverage to give effect to the triggers in Schedule I, taking account of the location of the newly mapped and confirmed groundwater dependent ecosystems and guided by the medium and high-risks relevant to those systems.

23. The Authority notes that full implementation of the new and replacement meters detailed in the *Water Management (General) Regulation 2018* (NSW) has not yet been achieved by the compliance date of 1 December 2021. While the proposed WRP meets the requirement to identify the timeframe for implementing the improvements to metering, the timeframe has passed so it is critical that NSW supports and enforces the implementation of the agreed metering standards.
24. **On this basis the Authority gives the Minister the proposed WRP and recommends that the Minister accredit the proposed WRP.**
25. The Authority’s detailed reasoning is set out in the document titled ‘Water Resource Plan assessment report, proposed NSW Great Artesian Basin Shallow (GW13) Water Resource Plan, November 2023’.

