



Australian Government



Murray–  
Darling  
Basin  
Authority

# Authority response to Minister's request for advice

Advice on Basin Plan Implementation

July 2023

Published by the Murray–Darling Basin Authority  
MDBA publication no: 15/23



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**Title:** Authority response to Minister's request for advice, Murray–Darling Basin Authority Canberra, 2023. CC BY 4.0

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# Advice on Basin Plan implementation

The Basin Plan is a significant and important water reform – a world-leading model for basin-scale water resource management. The Millennium drought was a turning point for our nation. We recognised that our rivers were being over-used and that a coordinated, whole-of-Basin approach was needed to manage Basin water resources in the national interest and to meet Australia’s international obligations.

The 2012 Basin Plan provided the necessary re-balancing of water needs of the environment and consumptive users. The Plan supports our rivers for future generations. It delivers outcomes to enable healthy rivers, floodplains and ecosystems, and for the communities that depend on them – be that for Cultural use, critical human water needs, irrigation, tourism or recreation. The numbers are important, but it is about so much more than that.

As we turn our attention to the Basin Plan Review in 2026, it is appropriate to first reflect on Basin Plan progress and the challenges that remain. Full implementation of the Plan is critical to improving outcomes and providing the essential foundation needed to prepare rivers and communities for future conditions.

This document is the Authority’s advice on Basin Plan implementation progress to date and the prospects of meeting water recovery targets by 30 June 2024, as requested by the Hon Tanya Plibersek MP, Minister for Environment and Water, on 4 July 2023.

The Authority recognises the significant achievements over the past decade of implementation.

Through water recovery under Bridging the Gap, 98% of the surface water target has been transferred to entitlements with the Commonwealth Environmental Water Holder (CEWH). We acknowledge that this water recovery has predominantly occurred in irrigation dependent communities, and these communities have been impacted by water reform.

This water has been used by the CEWH, in collaboration with state water holders and operators, to deliver environmental water to ecologically significant sites and for the benefit of the whole system. These watering events have been critical throughout droughts and between major floods to sustain these environments, maintain system connectivity and kept the River Murray connected to the sea.

Eighteen water resource plans have been accredited across all five Basin jurisdictions. This has brought the sustainable diversion limits into effect in these areas and has allowed for compliance monitoring and enforcement by the Inspector-General of Water Compliance. In most catchments across the Basin, Basin states are managing their water allocations and arrangements to keep use under the consumptive limits.

However while we recognise that the Basin Plan has delivered significant outcomes, the Authority’s view is that full implementation of the Basin Plan will not be possible by 30 June 2024 under the current settings.

There are many reasons why implementation has been slower and even more challenging than originally anticipated, and why both the Commonwealth and Basin states have found it difficult to meet timeframes and milestones. This an extremely complex reform agenda, requiring deep and enduring change across Basin jurisdictions. Our advice does not seek to document, validate or justify, rather to provide our independent view on the trajectory of delivery against the Basin Plan.

Our advice is provided against key elements of the Basin Plan, as a stocktake of current implementation.

# Sustainable Diversion Limit Adjustment Mechanism

The sustainable diversion limits in each area of the Basin determine how much water, on average, can be used by towns and communities, farmers, and industries, while keeping the rivers and environment healthy. The Basin Plan includes mechanisms to adjust the sustainable diversion limits.

The 'Sustainable Diversion Limit Adjustment Mechanism' (SDLAM) recognises that the implementation of projects (supply measures) can allow for Basin Plan environmental outcomes to be achieved with less water. This 'Sustainable Diversion Limit (SDL) offset' means that less water recovery is required and more water can remain in the system for consumptive use.

SDLAM also includes projects that recover an additional 450 GL/y of water for the environment in ways that are socio-economically neutral or improved (efficiency measures). The water savings from these projects, coupled with easing of constraints, can then be used to achieve the enhanced environmental outcomes outlined in Schedule 5 to the Basin Plan.

In 2017, the Authority determined that the implementation of a package of supply measures notified by Basin Governments could provide a 605 GL/y offset. If it appears to the Authority that supply measures will not, as at 30 June 2024, deliver the envisaged offset and provide expected environmental outcomes, the Basin Plan requires a reconciliation to be conducted. In conducting the reconciliation, the Authority will represent the capability of projects that have been completed. The Authority will then determine the adjustment and propose an amendment of the SDLs.

## SDLAM – supply and constraints measures

Since 2021, the Authority has published [annual assurance reports](#) to keep communities informed of the progress being made by states in delivering the projects brought forward in 2017. In 2022, the Authority concluded that several measures will not be operable by 30 June 2024 and therefore that a reconciliation will be required.

In our 2023 Assurance Report, we reaffirm that a reconciliation will be needed, and advise that almost no progress has been made in the last year.

We have not changed our estimate of the range of anticipated shortfall published last year– reiterating the likely shortfall to be in the range of 190 to 315 GL/y. This means that between 290 to 415 GL/y of the intended 605 GL/y is expected to be delivered.

Progress has been further delayed or has paused on a number of projects that, in last year's report, we signalled *may* be able to be in operation by June 2024. This year, reflecting that lack of progress, we expect the shortfall to be at the upper end of the 190 to 315 GL/y range.

Our advice is that a June 2024 reconciliation would likely result in a new determination in the order of approximately 290 GL/y (instead of the existing 605 GL/y). This would mean an additional 315 GL of water recovery would be needed to bridge the gap to sustainable levels of water take.

Communities have invested considerable time and effort in these projects through their participation in the consultation processes. Concerns about localised impacts of some measures have led to projects being redesigned to avoid impacting Cultural heritage, or to target more appropriate environmental

outcomes. While this will impact how projects are represented in the reconciliation, the Authority considers such changes to be critical to the successful operation of worthwhile projects.

Communities are also invested in the successful outcomes of these projects. Many will provide important flexibility to river operations in the future and will help deliver better environmental outcomes under climate change. Lack of delivery and an adjustment to the SDLs will mean a reduction in water available for consumptive use. In the wake of the uncertainty about these projects, the community is calling for a clear pathway forward. The Authority is of the view that these projects remain worthwhile and will improve river operations and also achieve environmental outcomes, the pathway forward should consider the longer-term horizon.

Our 2023 Assurance Report includes a detailed summary of assurance on all SDLAM measures. The report found that projects fall into 4 categories:

1. Projects that are **currently operating**
2. Projects that will **likely be operable** by 30 June 2024

The Authority has observed that some projects are currently operating, and are already achieving positive environmental outcomes. A number of other projects are progressing, with construction nearing completion or relevant supporting arrangements being finalised. These projects will contribute to the SDL offset and allow for more water to remain available for consumptive use.

3. Projects that are **unlikely to be operable** by 30 June 2024

There are some notified projects on which some delivery progress has been made, and which proponent states claim a pathway to delivery should they have additional time and sufficient funding. The Authority's view is that these projects, if delivered, would provide the expected environmental benefits and contribute to an SDL offset, and could therefore reduce the requirement for water recovery. Measures that are part of the Victorian Murray Floodplain Restoration Project are examples of such works.

4. Projects that **will not be operable or are not viable** by 30 June 2024

Our annual assurance found that 4 constraints measures will not be operable by 30 June 2024. These projects address infrastructure, policy and operating constraints that restrict the vital connectivity between rivers and mid-floodplains of the Basin. The ecological outcomes that can be achieved through relaxing constraints are material, important, and would provide a significant SDL offset, allowing for more water to remain in the consumptive pool.

It is clear in our 2023 Assurance Report, progress with these challenging projects has been very limited. While early consultation for NSW and Victorian projects continues, there remain multiple steps before projects will be operational. The impact of these projects not being complete is not confined to NSW and Victorian rivers. For example, although the South Australian constraints project will likely be operable by 30 June 2024, it will not be capable of achieving its full anticipated environmental outcomes because of dependencies on other upstream constraints projects that have failed to progress. These interdependencies are reflected in the modelling of the projects; the 605 GL/y offset assumed delivery of the entire package of SDLAM projects.

Nevertheless, it is our firm view that these projects should remain a focus for delivery by all governments. We acknowledge they are complex and previous experience in constraint easing has shown they require

time to properly engage with affected individuals and communities. However, they are essential to realising the full benefit of the investments which have been made to secure environmental water and to achieve the long-term environmental outcomes sought by the Basin Plan.

While the constraints projects will not be delivered by 30 June 2024, the Authority considers it should remain one of the highest priorities for Basin governments. As we approach a future where climate change presents ever-increasing challenges for the Basin, enabling the resilience of our floodplains to maintain their ecological health and function will be critical. Basin governments must find a clear pathway forward so that this program can be continued beyond 2024 to a feasible timeframe, and ultimately delivered to ensure outcomes are achieved.

Other projects in this category are **not viable**. These are projects that proponent states have reported will not or cannot be implemented as notified, regardless of the time available. The most material of these is the Menindee Lakes project. The Basin Plan requires projects that will not be operable by 30 June 2024 be withdrawn. The Authority has not received any notification withdrawals to date.

## SDLAM – efficiency measures

The efficiency measures were intended to deliver an additional 450 GL/y of environmental water while maintaining or improving social and economic outcomes. They were agreed in the Basin Plan and are a component of the SDLAM. In conjunction with the operation of constraints projects, the use of water recovered through these efficiency measures will enable the achievement of enhanced environmental outcomes that are set out in Schedule 5 to the Basin Plan.

The Australian Government accepted responsibility for recovering this water and the program objectives are set out in the *Water Act 2007* (Cth) (the Water Act), in the Water for the Environment Special Account (WESA) provisions.

Very little progress has been made in achieving the 450 GL/y target and, since 2018, only 12.2 GL/y, or less than 3%, has been recovered, with a further 13.8 GL/y contracted for delivery by 30 June 2024 (as at 31 May 2023).

The second independent review of the WESA in 2021 found that the 450 GL/y will not be recovered by 30 June 2024 through the current off-farm efficiency measure program. The Authority has considered the WESA review and fully accepts and supports its conclusions.

## Water Resource Plans

Water Resource Plans (WRPs) are an integral part of implementing the Basin Plan. They set new rules on how much water can be taken from the system, protections for planned environmental water, and rules for how water is managed and used at the local level to achieve community, environmental, economic and Cultural outcomes. The Basin Plan includes 55 requirements that WRPs must comply with to be accredited.

Basin states were to develop water resource plans by 1 July 2019 to give effect to the long-term average sustainable diversion limits.

WRPs in Victoria, Queensland, South Australia and the Australian Capital Territory are accredited and in operation. Five New South Wales plans have been accredited and are operational. A further 8 plans are with the MDBA and undergoing formal assessment. The remaining 7 plans previously submitted for assessment were withdrawn by the New South Wales Government on 25 May 2023 and have not been re-submitted.

One of the significant concerns for the Authority is the continued slow pace at which we have been able to assess and make recommendations to you, the responsible portfolio Minister, to accredit NSW WRPs. This concern is shared by communities both in NSW and beyond who expected the WRPs to be delivered on time. Satisfying the requirements of the Basin Plan (and Water Act) for WRPs requires substantial and sustained effort, however, it remains a fact that all other jurisdictions have managed to submit plans that have been accredited.

Without these plans accredited, there is no mechanism to enforce the sustainable diversion limits (SDLs) in those catchments. For example, SDL exceedances have occurred in the Barwon–Darling in 2019–20 and 2020–21. However, without WRPs, the Inspector-General for Water Compliance is unable to enforce compliance.

Water resource plans also provide a framework for including First Nations people in water management and planning. It is a requirement of the Basin Plan that WRPs are prepared with regard to the social, spiritual and Cultural values and uses of Indigenous people within WRP areas. The Authority acknowledges that there remains deep dissatisfaction with NSW government’s First Nations engagement and consultation methods for WRPs. Work is needed by NSW to build stronger relationships with First Nations and bring consideration of First Nations’ concerns more fully into the NSW water planning and management framework.

We encourage you to continue to work with your ministerial counterpart in NSW to ensure that models, policies, engagement processes, protections for environmental water and assets and supporting legislation are in place in ways that ensure compliance with the Basin Plan as timely as possible.

## Northern Basin toolkit

In 2016, the Northern Basin Review proposed a revision of the northern Basin water recovery target to reflect improved knowledge and science. To complement and support environmental watering in the North, relevant governments agreed to a ‘toolkit’ package of policy and infrastructure measures which sought to better manage water for local communities, the environment and future generations. This package was enhanced, with a particular focus on improving fish outcomes in the north, following the fish death events in the 2018–19 summer.

The northern Basin is unique. It is predominantly an unregulated system, managed by flow rules rather than ‘held’ water releases, and during the most recent drought many rivers stopped flowing, with devastating ecological and community impacts.

Many of the northern Basin toolkit projects will contribute to enhanced system resilience, by working to improve connectivity along the river system, and to reduce the likelihood and severity of periods of low or no flows. Now more than ever, this resilience is critical to ensuring the health of northern Basin environments and communities, particularly given the challenges faced as a result of climate change.



Despite the significance of the toolkit, the Authority has observed that progress has been slow and, in some instances, intention to implement appears to have waned. The Authority's advice is that valuable elements of the agreed toolkit package will not be implemented by June 2024.

These projects are important, contributing to delivering better management and important outcomes articulated in the Basin Plan. There should be continued focus on completion of these initiatives, recognising that they contribute to system resilience and ensure enhanced connectivity.

## Conclusion

The challenges outlined in this advice are clear and significant. However, they are presented in the context of the significant progress and world leading reform that has been delivered since governments committed to a Basin-wide approach and started work on the Murray–Darling Basin Plan in 2007.

Through maintained commitment and consensus, Basin governments are delivering a tremendous reform and one which Australians can be very proud of. There is still much work to be done and, just as our environment and our context will continue to change and as our information base will improve, so must we continue to build the settings that will allow us to adapt as a nation over time. Ongoing inquiry and assessment is essential to the integrity of the Basin Plan and to support adaptive management over time.

At our recent River Reflections Conference, we were reminded of the significance of the Australian achievements by a focus on the Colorado River Basin in the United States. There, the dire circumstances faced by a system devoid of a coordinated plan, with no clear cross-jurisdictional mechanisms or commitment to addressing problems are clear. These are pressures that are only being exacerbated by a changing climate.

This reflection gives the Authority real purpose in conducting the 2026 Basin Plan Review. As we seek to identify ways of further improving the management of our Basin in the national interest – the Basin which is relied on by over 50 First Nations, by a wide variety of industries, by diverse and vibrant regional communities, and by the rich biodiversity of its river and wetland ecosystems.

We will continue to support the implementation of the Plan as we undertake our Review journey.



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