

Recommendation on the accreditation of the proposed NSW Murray–Darling Basin Porous Rock Water Resource Plan

Meeting No. 169 of the Authority

Recommendation

1. The Murray–Darling Basin Authority ('the Authority') has considered and assessed the proposed NSW Murray–Darling Basin Porous Rock Water Resource Plan ('proposed WRP') for the NSW Murray–Darling Basin Porous Rock Water Resource Plan area ('WRP area') (**Attachment A**) provided by the New South Wales on 28 July 2022 consistent with section 63(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 First Nations advice from Murray Lower Darling Rivers Indigenous Nations (MLDRIN) on whether the proposed WRP is consistent with the Basin Plan requirements regarding Indigenous values and uses. In response, advice was provided to the Authority by MLDRIN following a workshop with relevant First Nation representatives. The MLDRIN advice notes that the proposed WRP incorporates changes as compared to the 2020 version of the WRP. The advice concludes that on the whole the proposed WRP does not meet requirements. The MLDRIN advice also contained a separate attachment setting out Gomeroi/Kamilaroi Nation's specific feedback on the proposed WRP that also expressed a view that the proposed WRP should not be accredited.

7. In part, this advice is based on the fact that consultation outcomes for several First Nations associated with the WRP area could not be completed and therefore these First Nations' views on particular matters and their objectives and outcomes for management of water resources are not identified in the proposed WRP. The proposed WRP acknowledges these absences and sets out a commitment to seek further opportunities to consult with the relevant First Nations (Barkandji/Maljangapa, Gomeroi, Tati Tati and Weki Weki) with the aim to finalise the identification of objectives and outcomes based on each First Nation's 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.
8. Despite the MLDRIN advice suggesting these requirements have not been met, and on the basis that the proposed WRP contains sufficient material to address the requirements and issues raised previously by First Nations, the Authority has determined that the Indigenous values and uses content of the proposed WRP is consistent with the Basin Plan.
9. 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.
10. 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 MLDRIN, 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.
11. The Authority strongly encourages NSW to adopt the engagement principles of Free, Prior and Informed Consent (FPIC) 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.
12. 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.
13. 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 expects that more specific water quality monitoring may be undertaken in the future where there are water quality risks rated medium or higher.
14. 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 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.
15. The Authority notes that full implementation of the new and replacement meters detailed in the Water Management (General) Regulation 2018 has not yet been achieved by the compliance date of 1 December 2021 for this WRP area. While the proposed WRP meets the requirement to

identify the timeframe for implementing these improvements, the timeframe has passed so it is critical that NSW supports and enforces the implementation of the agreed metering standards.

16. **On this basis the Authority gives the Minister the proposed WRP and recommends that the Minister accredit the proposed WRP.**
17. The Authority's detailed reasoning is set out in the document titled 'Water Resource Plan assessment report, proposed NSW Murray–Darling Basin Porous Rock Water Resource Plan', November 2022.