

Department of Planning and Environment

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Corrective Action Plan

Review of the activities of the department under Section 10 of the *Water Management Act 2000*

October 2023



Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Introduction

1.1 Purpose and Scope

The *Water Management Act 2000* (the Act) is the overarching legislation that guides water policy in NSW and Section 10 of the Act requires the government to undertake a review every five years to ensure its principles are being considered in the decision-making process.

Section 10 states:

- (1) The Minister is to ensure that the work and activities of the Department are reviewed at intervals not more than 5 years for the purpose of determining whether they have been effective in giving effect to the water management principles of the Act and the State Water Management Outcomes Plan.

The last Section 10 review was completed in 2011, with the current review completed in 2023 – with a focus on the period July 2017 to December 2022. The review identified successes and challenges in giving effect to the water management principles (the principles) of the Act. Whilst the Department had made significant improvements to water management in NSW during the period of the review, including with respect to the principles, there remains significant areas for improvement, including clearly demonstrating how the principles have been given effect.

As an outcome of the review the Water Group has worked through all recommendations and committed to detailed corrective actions (Tables 2 – 4). In summary these actions will deliver:

| Table 1 – Overarching response and corrective actions as an outcome of the Section 10 review | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| Action | Timing | Success Measure(s) |
| A framework, including overarching guidance, information management and an updated review method to promote the principles and increase assurance that these principles have been given effect. It is anticipated that this will enable a more efficient review and reporting under Section 10. | Refer to recommendations R1.1 to 1.4 and associated corrective actions for specific detail of deliverables and committed delivery dates. | Increased efficiency for future Section 10 reviews Improved reporting Increased confidence and transparency in decision making |
| Education and awareness activities to promote the principles | Commencing development immediately with delivery to staff to be completed by June 2024 | |
| An implementation plan to address the additional findings and their suggested actions | Overarching corrective action plan that maintains line of sight of end-to-end implementation to be delivered by the end of October 2023 (this plan) Project plans for suggested actions to be in place by April 2024. Noting individual responses and corrective action plans are contained in Table 3. | |

The Corrective Action Plan

The following tables (tables 2-4) outline all the actions to be undertaken to respond to the recommendations from both the Section 10 report and the Natural Resources Commission's (NRC) independent review. Each action will have a project plan developed to support its implementation. This plan will retain oversight of all actions to ensure that they are delivered on time, within the scope of the agreed actions and contribute to the overarching outcomes as outlined in Table 1.

Table 2 – Findings, recommendations and Department response/commitment

| Finding | | Recommendation | | Corrective Actions | Committed Delivery Date |
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| F1 | There is a lack of explicit evidence for how the principles are given effect in policies, processes and decisions. Where consideration of the principles was evident, it was often implicit and addressed either the general or specific principles but often not all principles that apply. | R1.1 | Each agency in the Department should develop guidance for how the principles should be applied in all levels of implementation, including high-level instruments, processes and decisions. Guidance should reflect the requirement for key documents to demonstrate alignment with the principles, either by showing alignment with a higher-level instrument or demonstrating alignment with the principles directly where discretion is required, or no high-level instrument is in place. | <p>The Department accepts all recommendations as part of F1, and commits to the following corrective action(s):</p> <ul style="list-style-type: none"> The Water Group in consultation with other agencies will develop a framework including overarching guidance, information management and an updated review method to promote the principles, increase assurance that the principles have been given effect and enable more efficient review and reporting under Section 10. <p>This will require coordination across agencies to ensure actions will address the relevant functions appropriately and can be resourced. Each agency may need to adapt overarching guidance as necessary.</p> <p>The department notes that the duty under Section 9 applies to all persons exercising functions under the Act and acknowledges that these measures would be useful for</p> | R1.1 – within 8 months (June 2024) |
| | | R1.2 | The Department should undertake to educate staff on the duty under Section 9 and provide avenues for business units to obtain tailored advice on which principles should be applied to their work and how. | | R1.2 - within 8 months for guidance (June 2024) following completion of R1.1, and within 12 months for quality management framework |
| | | R1.3 | The Department should establish a quality management framework | | |

Table 2 – Findings, recommendations and Department response/commitment

| Finding | | Recommendation | | Corrective Actions | Committed Delivery Date |
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| | | R1.4 | <p>that supports improved assurance that decisions are being made in alignment with the principles and that assumptions based on linkages between high level instruments and decisions are being tested.</p> <p>In the interim to R1.1-1.3, the Department should develop and provide to staff consistent advice on requirements for demonstrating and documenting alignment with the principles in decision making.</p> | <p>staff who exercise those functions. Specific actions to develop the framework include:</p> <ul style="list-style-type: none"> A) Develop guidance (R1.1 and R1.4) within 8 months. B) Develop quality management framework (R1.3) within 12 months. C) Review and update review method (R3) within 12 months. D) The Department will undertake education and awareness activities to promote the principles (R1.2), commencing with completion of the guidance and continuing thereafter as required. | <p>R1.3 – within 12 months (October 2024)</p> <p>R1.4 – within 8 months (June 2024)</p> |
| F2 | Staff were often uncertain about which principles apply to their work and how those principles should be given effect at policy, process and decision levels. | R1.1 – 1.4 | R1.1 to 1.4 applies | The Department accepts all recommendations - see above for committed corrective actions | As per above |
| F3 | Consideration of the principles in decision making was sometimes deferred to a management plan, assumed to be consistent with the | R1.1 – 1.4 | R1.1 to 1.4 applies | The Department accepts all recommendations - see above for committed corrective actions | As per above |

Table 2 – Findings, recommendations and Department response/commitment

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| Finding | | Recommendation | | Corrective Actions | Committed Delivery Date |
| | principles. However, it was often not demonstrated which parts of a process or decision strictly implemented a management plan and which parts were not covered by plan provisions and required discretion. These links were also not clearly articulated in documentation of processes or procedures. | | | | |
| F4 | Issues were identified in review of specific functional areas, which may pose a risk to the department giving effect to the principles. | R2 | The Department should prioritise and address the additional findings and suggested actions identified with the ‘AF’ and ‘SA’ prefixes using a risk-based approach. | The Department accepts the recommendation from F4. Committed corrective actions have been addressed against each suggested action in Table 2 below. | See SA1 – 8 for individual delivery dates |
| F5 | First application of the review method identified areas for improvement, as well as limitations in the approach used for reviewing non-focus functional areas. The NRC also suggested future reviews should consider applying an outcomes-based approach. | R3 | The Water Group should review the Section 10 review method and make updates as required. This should consider changes to how the method is operationalised throughout the 5-year period to support reporting under Section 10 | The Department accepts the recommendation from F5 and commits to the following corrective action(s): The Water Group is currently reviewing its corporate assurance framework. As part of this review the approach to the Section 10 review methodology will be considered and | Corporate Assurance Framework to be published within 6 months (April 2024) |

Table 2 – Findings, recommendations and Department response/commitment

| Finding | | Recommendation | | Corrective Actions | Committed Delivery Date |
|---------|--|----------------|--|---------------------------------------------------------------|-------------------------|
| | | | | operationalised prior to the next Section 10 reporting cycle. | |

Table 3 – Additional Findings and Suggested Actions

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| AF1 | Water sharing plan development: The Water Group’s Replacement Water Sharing Plan Manual covers only unregulated water sources and groundwater sources outside the Murray–Darling Basin. There is no equivalent document covering other water sources. The manual implicitly aligned with most of the relevant principles but did not include detail on information inputs to address principles 5(2)(e) concerning features of Aboriginal significance or 5(2)(f) concerning geographical and other features of major heritage or spiritual significance. There is currently no documented guidance for how the principles should be | SA1 | The Water Group with the Environment and Heritage Group should develop process documentation for the development, replacement and concurrence of water sharing plans covering all water source types. It should include explicit guidance with respect to the relevant principles, including 5(2)(e) and (f). This should be addressed with reference to R1.1-1.4. | <p>The Department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that the department should be transparent about the process used to develop water sharing plans, including all information inputs and how the principles are considered in this process.</p> <p>The Water Group commits to within 6 months developing a project plan that addresses the finding and associated suggested action. The execution approach will consider the methods used to respond to R1.1-1.4.</p> | <p>project plan to be developed within 6 months (April 2024).</p> <p>Recommendations will be addressed within 12 months (October 2024)</p> |
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Table 2 – Findings, recommendations and Department response/commitment

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| Finding | | Recommendation | | Corrective Actions | Committed Delivery Date |
| | considered and applied in concurrence. | | | | |
| AF2 | Water supply work approvals: The Licensing Procedure Manual and assessment sheets demonstrate consideration of the principles, but do not directly address principle 5(2)(f) concerning features of major cultural, heritage or spiritual significance. | SA2 | WaterNSW and the Water Group should update their guidance and assessment documents for water supply work approvals to specifically address identification and protection of features under principle 5(2)(f). This should be addressed with reference to R1.1-1.4. | <p>The Department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that current guidance poses the risk that geographical and other features of major non-indigenous cultural heritage and spiritual significance may not be protected and therefore this principle is not given effect.</p> <p>The Water Group commits to within 6 months developing a project plan that addresses the finding and associated suggested action. The execution approach will consider the methods used to respond to R1.1-1.4.</p> | <p>Project plan to be developed within 6 months (April 2024).</p> <p>Recommendations will be addressed within 12 months (October 2024)</p> |
| AF3 | Available water determinations: The review could not determine from the evidence provided how decisions for making available water determinations in groundwater and | SA3 | The Water Group and WaterNSW should develop documentation articulating how the available water determination process applies the principles. This includes identifying which parts of | The Department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that available water determinations are a critical aspect of implementing water sharing plans and the department should | <p>Project plan to be developed within 6 months (April 2024).</p> <p>Recommendations will be addressed</p> |

Table 2 – Findings, recommendations and Department response/commitment

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| Finding | | Recommendation | | Corrective Actions | Committed Delivery Date |
| | regulated water sources had considered the principles. | | the process directly implement the water sharing plan, which parts require discretion and how the principles should be applied where discretion is required. This should be addressed with reference to R1.1-1.4. | be transparent in how these decisions are made. The Water Group commits to within 6 months developing a project plan that addresses the finding and associated suggested action. The implementation approach will consider the methods used to respond to R1.1-1.4. | within 12 months (October 2024) |
| AF4 | Available water determinations: Processes and procedures for making available water determinations in unregulated river water sources were inconsistent with the principles, due to non-implementation of LTAAEL compliance assessments in these water sources. | SA4 | The Water Group should develop a process to implement LTAAEL compliance assessment in unregulated water sources to enable available water determinations to be made in accordance with the principles. | The Department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that there is a risk to water sources if extractions are not being managed in compliance with plan limits through compliance assessments and available water determinations. Other growth in use response measures may also be relevant, but these were out-of-scope for this review. The Water Group commits to within 6 months developing a project plan that | Project plan to be developed within 6 months (April 2024). A pilot assessing risk from extraction in the Lachlan and Richmond valleys completed by December 2023, with all unregulated valleys completed to assess risk by June 2024. Application of unregulated long- |

Table 2 – Findings, recommendations and Department response/commitment

| Finding | | Recommendation | | Corrective Actions | Committed Delivery Date |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | addresses the finding and associated suggested action. The implementation approach will consider the methods used to respond to R1.1-1.4. | term average annual extraction limits (LTAAEL) by 1 July 2025. |
| AF5 | Mandatory conditions: Section 66(3) has not been implemented in the review period. This section requires that “at the end of each 5-year period, the Minister is to vary each local water utility licence so as to reflect any variation in associated commercial activities, that have occurred during that period in the area in which domestic water is supplied under the licence.” | SA5 | The Water Group should scope and implement a framework for delivering on section 66(3) of the Act. This should be addressed with reference to R1.1-1.4. | <p>The Department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that this is a required function and notes no local water utility licences were varied under this section of the Act during the review period.</p> <p>The Water Group commits to within 6 months developing a project plan that addresses the finding and associated suggested action. The implementation approach will consider the methods used to respond to R1.1-1.4.</p> | <p>Project plan to be developed within 6 months (April 2024).</p> <p>Recommendations will be addressed within 12 months (October 2024)</p> |
| AF6 | Joint private works – irrigation corporations: The functional area was not implemented in full and there is uncertainty about roles and responsibilities. It was not clear | SA6 | The Water Group should clarify the roles and responsibilities for the joint private works – irrigation corporation’s function and implement the function in | The Department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that irrigation corporations extract a significant volume of water and are responsible for | <p>Project plan to be developed within 6 months (April 2024).</p> <p>Recommendations will be addressed</p> |

Table 2 – Findings, recommendations and Department response/commitment

| Finding | | Recommendation | | Corrective Actions | Committed Delivery Date |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| | whether reform is underway for this functional area. | | accordance with the principles. This should be addressed with reference to R1.1-1.4. | <p>delivery of town water supplies in some areas. Gaps in implementation in this area lead to a risk that irrigation corporation licence and approvals are not being managed effectively. There is a risk that uncertainty in roles and responsibilities is leading to gaps in implementation being missed.</p> <p>The Water Group commits to within 6 months developing an implementation plan that addresses the finding and associated suggested action. The implementation approach will consider the methods used to respond to R1.1-1.4.</p> | within 12 months (October 2024) |
| AF7 | Joint private works – private irrigation and drainage: The functional area has not been implemented in full; however, reform is understood to be underway. | SA7 | The Water Group should ensure that forthcoming reforms to joint private works – private irrigation and drainage functions give effect to the principles. This should be addressed with reference to R1.1-1.4. | The Department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that the reform of the joint private works – private irrigation and drainage functions will establish the framework for implementation of this function and should ensure that the principles have been | <p>Project plan to be developed within 6 months of the joint private works reform (1 July 2024).</p> <p>Recommendations will be addressed</p> |

Table 2 – Findings, recommendations and Department response/commitment

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|------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| Finding | | Recommendation | | Corrective Actions | Committed Delivery Date |
| | | | | <p>considered in development of this framework.</p> <p>The Water Group commits to within 6 months of the joint private works reform that a project plan that addresses the finding and associated suggested action will be in place. The implementation approach will consider the methods used to respond to R1.1-1.4.</p> | within 14 months (1 December 2024) |
| AF8 | Water modelling and measurement: The water modelling and measurement functional area could not be reviewed due to time constraints and the need to fully scope the functions contained. | SA8 | The Water Group should consider prioritisation of water modelling and measurement functions for future review. | <p>The Department accepts the finding and suggested action and, notes the rationale for the finding and suggested action that this functional area contains important enabling functions that are relied on for the implementation of other functions.</p> <p>The Water Group commits to undertake a review of this functions within 6 months with any changes to be delivered at the start of the 2024/25 financial year.</p> | A review of the function to be undertaken within 6 months (April 2024) with expected implementation of any changes by 1 July 2024. |

Table 2 – Findings, recommendations and Department response/commitment

| Finding | Recommendation | Corrective Actions | Committed Delivery Date |
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Table 4 Natural Resources Commission’s recommendations in line with review of the report

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|--|----|---|-----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | NA | 1 | The Minister should require future evaluations to be conducted by an independent reviewer | The Department accepts the NRC’s recommendation and is committed to the review of its assurance framework that will consider the approach required to ensure future independent reviews. The Department will work with the NRC to ensure that the approach for independent review is in line with best practice | The corporate assurance framework will be reviewed and implemented within 6 months (April 2024). The framework will be annually reviewed to ensure that it remains fit for purpose. |
| | NA | 2 | Future evaluations should be outcomes focused and an independent reviewer should review and update the review method. | The Department accepts the NRC’s recommendation and is committed to the review of its assurance framework that will consider the approach required to ensure future independent reviews. The corrective actions will be reported to the NRC annually and subject to review to ensure that these meet the spirit of the recommendations of the review and remain fit for purpose. | See R1.3 |

Table 2 – Findings, recommendations and Department response/commitment

| Finding | | Recommendation | Corrective Actions | Committed Delivery Date | |
|---------|----|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| | NA | 3 | The Minister should require the Department to revise existing policies, processes and decision-making procedures to ensure they give effect to the principles | The Department accepts the NRC’s recommendation in so far as the new guidance will be applied to all new policy and decisions, and to existing policy as it comes up for review, noting that the recommendation will be addressed as part of the corrective action prescribed for R1.1 | See R1.1 |
| | NA | 4 | The Minister should request the Commission review the extent to which the Commission’s recommendations made under Section 43A of the Act have been addressed by the Department in draft remade water sharing plans | The Department notes that this recommendation is not directly related to the findings or content of the Section 10 review. However, it also notes that discussions are ongoing with the NRC and the Minister on this subject and will address this recommendation through those processes. | NA |
| | NA | 5 | The Minister should commission an independent review of the modelling and measurement functional area and discretionary decisions by the river operator | The Section 10 review report acknowledges that the modelling and measurement functional area could not be reviewed in detail due to resourcing constraints and recommends that this area be prioritised. The Water Group supports further review of this area within the scope of Section 10, noting that major updates to the models used by the department are independently | Funding to be confirmed for an independent review |

Table 2 – Findings, recommendations and Department response/commitment

| Table 2 – Findings, recommendations and Department response/commitment | | | | | |
|------------------------------------------------------------------------|----|----------------|-----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| Finding | | Recommendation | | Corrective Actions | Committed Delivery Date |
| | | | | peer reviewed, and for the Murray-Darling Basin, also reviewed by the Murray-Darling Basin Authority (MDBA). | |
| | NA | 6 | The Minister should request an independent review to assess the AWD process and the manual for development of water sharing plans | <p>The Section 10 review assessed the available water determination (AWD) process and the manual for development (replacement) of water sharing plans as part of its review of focus areas and the findings are included in the report.</p> <p>The department has committed to addressing the report’s recommendations, which include improvements in processes for making AWDs and water sharing plan development.</p> <p>Work is currently underway to update the water sharing plan replacement manual.</p> <p>Along with other areas where the NRC has recommended independent review, the department suggests an initial process to better understand the NRC’s concerns and for the NRC to work closely with the relevant agencies in the first instance.</p> | Initial scoping of NRC concerns to be delivered within 6 months (April 2024) |

Monitoring and Reporting

To ensure that the corrective actions and required improvements are delivered as an outcome of the Section 10 review, a monitoring, evaluation and reporting (MER) approach has been adopted. The MER approach is broken into three components.

1.2 Monthly and Bi-monthly monitoring and reporting

Table 5 outlines the monitoring and reporting requirements for each corrective action.

| Table 5 – Monitoring and reporting approach for corrective actions | |
|--------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Action | Monitoring and reporting requirements |
| Findings 1 – 4 and associated recommendations R1.1-1.4 | Monthly reporting on progress to commitments tabled at the Water Group Leadership Committee as part of the regular assurance reporting. |
| Additional Findings 1-8 and suggested actions 1-8 | Bi-monthly reporting initially noting reporting requirements may increase as the project scopes are finalised. These reports will be tabled as part of the regular assurance report to the Water Group Leadership Committee. |
| NRC Recommendations and committed corrective actions 1-5 | Bi-monthly reporting and tabled as part of the regular assurance report to the Water Group Leadership Committee. |

1.2.1 Project Reviews

To support the regular monitoring and reporting oversight all agreed actions will be managed as projects. These projects will be subject to the Water Group Project Management Framework and oversight. Projects will be evaluated as part of the regular project review meetings. This approach ensures that the Water Group will deliver on-time, within budget and fit for purpose contemporary solutions in response to the recommendations/suggested actions.

1.2.2 Independent Oversight

To ensure that implementation of agreed actions remain within agreed scope and timeframes an annual report will be provided to the NRC for independent review. The first report will be due to the NRC in August 2024.

The Risk and Assurance section within the Ministerial, Governance and Business Planning branch of the Water Group will retain oversight of all corrective actions and their related project plans. Actions will continue to be monitored to ensure commitments remain on track for delivery. Actions that are at risk will be escalated to the Water Group Leadership Team for oversight and intervention and where required escalated to the Minister. The Risk and Assurance section will work with the NRC to ensure that any feedback is considered and implemented into the corrective actions and project plans as appropriate.