

Office of the Chief Executive

Ref: EC21-000302

The Hon Melinda Pavey MP
Minister for Water, Property and Housing
GPO Box 5341
SYDNEY NSW 2001

Dear Minister

I am writing to give New South Wales ('NSW') notice of the grounds on which the Authority considers that it should recommend that the Commonwealth Minister for Resources, Water and Northern Australia ('the Minister') not accredit the content in the proposed Murray and Lower Darling Water Resource Plan ('the proposed WRP').

As you are aware NSW formally gave the proposed WRP to the Authority on 29 June 2020 and asked the Authority to provide it to the Minister for accreditation in accordance with s 63(1) of the *Water Act 2007* (Cth) ('the Act').

Consistent with the requirements of s 63(3) of the Act, Murray-Darling Basin Authority officers have been assessing the proposed WRP.

The Authority has found a number of matters which may support a recommendation that the proposed WRP should not be accredited.

In accordance with s 63(4) of the Act, the Authority must not recommend that the Minister not accredit the proposed WRP until the process required by that section has been completed. This requires that the Authority:

- (a) gives a Basin State written notice of the grounds on which the Authority considers that it should recommend that the Minister not accredit the proposed WRP;
- (b) gives the Basin State the opportunity to make submissions to the Authority, within the period of 14 days after the notice referred to in paragraph (a) is given, in relation to the grounds set out in the notice; and
- (c) has regard to the submissions made by the Basin State within that period in deciding what recommendations to make to the Minister in relation to a proposed water resource plan.

The Authority may, in writing, extend or further extend the period referred to in paragraph (b).

The details of the grounds on which the Authority considers that it should recommend that the Minister not accredit the proposed WRP are set out at **Attachment A**.

Office locations

Adelaide, Albury-Wodonga, Canberra,
Goondiwindi, Griffith, Mildura,
Murray-Bridge, Toowoomba

Office of the Chief Executive

I therefore ask that NSW take the opportunity to provide submissions, within 14 days of the date of this notice, in relation to these grounds. I am particularly interested in submissions which would assist the Authority in considering whether the treatment of these matters is consistent with the relevant version of the Basin Plan and/or whether, notwithstanding these matters, the proposed WRP is consistent with the relevant version of the Basin Plan.

I would like to take this opportunity to acknowledge the collaborative efforts of your Departmental staff in progressing the proposed WRP to this stage and assure you that the Authority remains committed to working with you to finalise this plan for accreditation.

Key contact for the proposed WRP are A/g General Manager Water Resource Planning Policy and Assessment (), and I , Executive Director Basin Plan Regulation ().

Please feel free to contact them should you have any enquiries in relation to the assessment and accreditation of the proposed WRP. I look forward to receiving any submissions from you on or before 20 May 2021.

Yours sincerely

Andrew Reynolds
A/g Chief Executive

6 May 2021

Attachment A: The grounds on which the Authority considers it should recommend that the Minister not accredit the proposed WRP.

Attachment A – The grounds on which the Authority considers it should recommend that the Minister not accredit the proposed WRP

In exercising powers and performing functions under the Act in relation to a water resource plan the Authority must have regard to the Basin Plan and the extent to which a proposed water resource plan is consistent with the relevant Basin Plan (s 56(1) of the Act).

The proposed WRP must be consistent with the relevant Basin Plan including the requirements for water resource plans and any long-term annual diversion limit for the water resources of the water resource plan area (or for a particular part of those water resources (s 55(2) of the Act)). The relevant Basin Plan is version F2018C00451, registered on 11 July 2018 and ending on 31 December 2019.

In determining whether the proposed WRP is consistent with the relevant Basin Plan, and having regard to the legislative framework in which the proposed WRP operates, the Authority has identified the following issues as the grounds on which the Authority considers it should recommend that the Minister not accredit the proposed WRP:

WRP issues identified as potential inconsistencies with Basin Plan provisions

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
Part 2			
2.1	10.05	<p>A water resource plan must:</p> <p>(a) be prepared having regard to the management and use of any water resources which have a significant hydrological connection to the water resources of the water resource plan area; and</p> <p>(b) describe the way in which paragraph (a) was complied with.</p>	<p>Text for accreditation at WRP s 2.2 refers to WRP ss 4.7, 5.6 and 5.7, Tables 2-1 and 2-2, WRP Schedule A (<i>Water Sharing Plan for the NSW Murray and Lower Darling Regulated Rivers Water Sources 2020</i>), Part 4 and clauses 47 and 71, Schedule A (<i>Water Sharing Plan for the Murray Unregulated River Water Sources 2011</i>), Part 4 and Division 2 of Part 8 and Schedule A (<i>Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 2011</i>), Part 4 Division 2 of Part 8 and Schedule D (Risk Assessment) s 3.3 including ss 3.3.1, 3.3.2 and Table 3-3.</p> <p>Examination of this material has found several gaps and inconsistencies including:</p> <ul style="list-style-type: none"> • Incorrect identification of the Murray-Darling Basin Agreement; and • Inconsistent description of the nature and significance of connectivity with adjacent WRP areas between s 2.2 of the proposed WRP (including tables 2-1 and 2-2) and s 3.3 of Schedule D to the proposed WRP. This leaves ambiguity as to the level of connection between the resources of the proposed WRP area and those of the Wimmera-Mallee (SW4), the Goulburn-Murray (GW2) and the Wimmera-Mallee (groundwater) (GW3). • Insufficient information provided on the <i>Interim Unregulated Flow Management Plan for the North-West</i> (DWR 1992). • Consequential inconsistencies resulting from assessment against s 10.10(3) regarding requirements of 10.12(1)(e). Specifically: There is no material describing how the method for determining the annual permitted take accounts for significant hydrological connections with surface and groundwater resources as required under s 10.12(1)(e) of the Basin Plan.) • Consequential inconsistencies resulting from assessment against ss 10.23 and 10.24. Specifically: the listing and monitoring of interception activities required under ss 10.23 and 10.24 of the Basin Plan does not have appropriate regard to the management and use of connected resources in the listing, monitoring and actions associated with interception activities that may have a significant impact on connected water resources. <p>As such, the content of WRP s 2.2 is not supported and consequently the requirements of s 10.05 have not been met.</p>
2.2	10.07	<p>(1) A water resource plan prepared by a Basin State must contain a description of the consultation in relation to the plan (including in relation to any part of the plan), if any, that was undertaken before the State gave the plan to the Authority under subsection 63(1) of the Act.</p> <p>Note: A water resource plan prepared by the Authority and adopted under section 69 of the Act is a legislative instrument. The Legislative Instruments Act 2003 requires that the explanatory statements for such plans describe the consultation undertaken in relation to the plans.</p>	<p>The proposed WRP refers to Schedule C (NSW Murray and Lower Darling Surface Water Resource Plan Consultation Report) for a description of the consultation that has been carried out in relation to the development of the proposed WRP.</p> <p>Examination of Schedule C shows that while the Tati Tati and Weki Weki have been identified as associated with this WRP area, the nature of consultation undertaken in relation to all or part of the proposed WRP has not been fully described for these First Nations, nor has an explanation been provided regarding these omissions.</p> <p>Furthermore, the place holder in Schedule C for Attachment A: Culturally Appropriate First Nations Consultation, Barkandji Nation Consultation Report for development of NSW Water Resource Plans (page 13) states: 'report to be provided when available'.</p> <p>As such, the proposed WRP has not satisfactorily described all the consultation carried out in relation to the requirements of Part 14 of the Basin as there is no record of the consultation with Barkandji Nation and the requirement is not met.</p>
Part 3			
3.1	10.08	<p>(1) A water resource plan must identify:</p> <p>(a) each form of take from each SDL resource unit in the water resource plan area</p>	<p>Text for accreditation at WRP s 5.1.1 incorporates Table 5-1 to describe the forms of take and classes of water access rights in the WRP area. Table 5-1 lists <u>take from floodplain harvesting</u> (page 65), which is not a form of take in either the two SDL resource units in the NSW Murray and Lower Darling WRP area as listed in Schedule 3 of the Basin Plan. Its inclusion is inconsistent with Schedule 3 of the Basin Plan as it is not a form of take in this SDL resource unit.</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
		(b) any classes of water access rights that apply to the forms of take identified under paragraph (a)	
3.2	10.08	(1) A water resource plan must identify: (c) the characteristic of each class of right including, where appropriate, the number of rights and any conditions on the exercise of the rights.	<p>Text for accreditation at WRP s 5.1.2 incorporates WRP Table 5-1 to describe the characteristics and number of each class of access right in the WRP area.</p> <p>For <u>take from watercourses</u>:</p> <ul style="list-style-type: none"> Domestic and stock licenced take in the NSW Murray SDL resource unit volume is given in column 5, row 14 of Table 5-1 as 629 ML. This differs from the volume in Schedule A (<i>Water Sharing Plan for the Murray Unregulated River Water Sources 2011</i>) of 720 ML. Domestic and stock licenced take in the Lower Darling SDL resource unit is given in column 5 row 18 of Table 5-1 as 38 ML. This differs from the volume in Schedule A (<i>Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 2011</i>) of 29 ML. Local water utility in the Lower Darling SDL resource unit is given in column 5 row 19 of Table 5-1 as 6,300 ML. This differs from the volume in Schedule A (<i>Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 2011</i>) of 0 ML/y. Unregulated river access licences in the Lower Darling SDL resource unit is given in column 4 row 17 of Table 5-1 as 3,387 ML. This differs from the volume in Schedule A (<i>Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 2011</i>) of 2,424 unit shares. <p>For <u>take by runoff dams</u>, the Harvestable Rights Order as described under NSW Government Gazette 40 dated 31 March 2006 was not submitted as part of the formal WRP package as described in the letter of transmission to the MDBA. This means that the proposed WRP is incomplete. In addition, the Authority notes that s 53 of <i>Water Management Act 2000</i> (WMA 2000) provides that:</p> <p style="padding-left: 40px;">an access licence and water use approval is required to authorise the taking and use of water from that source for any volume taken and stored in excess of the maximum harvestable right volume unless the water is taken under the authority of a domestic and stock right or native title right.</p> <p>However, it is not clear how the harvestable rights which may require a licence are identified in Part 5 of either water sharing plan (as indicated in Table 5-1). Further information is required to clarify this matter. In addition, the conditions of the dams listed as exempt in Schedule 2 of the Harvestable Rights Order are not further characterised.</p> <p>For <u>take under basic rights</u>, the class of water access right 'Domestic and Stock' Table 5-1 refers to s 55 of the WMA 2000. However, this appears to be a drafting error as s 55 refers to conditions on Native Title rights holders. Conditions on Domestic and Stock rights holders are set out at s 52 of the WMA 2000. As such, conditions for this component of <u>take under basic rights</u> have not been incorporated into the proposed WRP.</p> <p>Also, column 5 of row 25 incorporates the native title determination for the Barkandji Traditional Owners #8 (Parts A and B, National Native Title Tribunal refs NCD2015/001 and NCD2017/00) to describe the volume issue to take under basic rights – 'Native title'. The Authority notes that the reference to the Barkandji native title determination as including the National Native Title Tribunal reference NCD2017/00 appears to be incorrect. This reference is also included in draft <i>Water Sharing Plan for the NSW Murray and Lower Darling Regulated Rivers Water Sources 2020</i>, whereas the reference included in the <i>Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 2011</i> is NCD2017/001.</p> <p>Further, the determination was not submitted as part of the formal WRP package as described in the letter of transmission to the MDBA. This means that the proposed WRP is incomplete.</p> <p>As set out in the assessment of material in the proposed WRP incorporated to meet s 10.08(1)(a), Table 5-1 incorporates <u>take by floodplain harvesting</u> and classes of access right against that form of take. As this is not a recognised form of take for the Murray Lower-Darling WRP area under the Basin Plan, this material is inconsistent with the Basin Plan.</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			Due to the inclusion of incorrect characteristics and the omission of relevant characteristics, and conditions referenced above, the requirement has not been met.
3.3	10.08(2)	(2) A water resource plan must require a holder of water access right to comply with the conditions of that right.	<p>Examination of the cited provisions in Table 5-1 and the text for accreditation confirms they oblige water access rights holders to comply with the condition of a right. Therefore, the proposed WRP obliges water access right holders to comply with the conditions of a right.</p> <p>However, as per the assessment above relating to s 10.08(1)(c), there are omissions under <u>take by run off dams</u> of the conditions of the dams listed as exempt in Schedule 2 of the Harvestable Rights Order and information relating to take by runoff dams which may require a licence. Further, s 52 of the WMA 2000 is not referenced in Table 5-1 for <u>take under basic rights</u>. This means that the proposed WRP does not oblige water access right holders to comply with the conditions of those rights therefore this requirement is not met.</p>
3.4	10.09(1)	(1) A water resource plan must identify the planned environmental water in the water resource plan area and associated rules and arrangements relating to that water.	<p>Examination of Part 4 of the three water sharing plans that make up Schedule A confirms that the identification of PEW is consistent with the description of PEW in s 6 of the Water Act 2007. However, there are rules not identified for accreditation in the proposed WRP that appear to operate to commit or preserve water for an environmental purpose.</p> <p>These include:</p> <ul style="list-style-type: none"> • Clause 8(3) of the Water Sharing Plan for the <i>NSW Murray and Lower Darling Regulated Rivers Water Sources 2020</i>, clause 10(3) of the <i>Water Sharing Plan for the Murray Unregulated Rivers Water Sources 2011</i> and clause 8(3) of the <i>Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 2011</i>, which identify strategies for reaching targeted environmental objectives, including by reference to relevant provisions of the water sharing plan that commit or preserve water that contribute to achieving those objectives, and are therefore considered a rule or arrangement relating to PEW. • Clause 39(3)(a) of the <i>Water Sharing Plan for the NSW Murray and Lower Darling Regulated Rivers Water Sources 2020</i> that limits the amount of water that can be allocated to regulated river regulated river (general security) access licences in the Lower Darling Water Source, unless water is available to meet environmental water rules. • Clause 46 of the <i>Water Sharing Plan for the NSW Murray and Lower Darling Unregulated Rivers Water Sources 2011</i> that prevents water supply works approvals on specified lagoons. • Clause 68 of the <i>Water Sharing Plan for the NSW Murray and Lower Darling Regulated Rivers Water Sources 2020</i> that defines priority of delivery for water orders against access licences and from the Environmental Water Allowance (established under Division 1 of Part 10 of the water sharing plan) is not identified as a rule or arrangement that protects PEW. It is the Authority's view that this rule directly relates to the protection of PEW by guaranteeing some level of access to water orders from the environmental water allowance during periods of reduced delivery capacity. • Clause 48 of the <i>Water Sharing Plan for the Murray Unregulated Rivers Water Sources 2011</i>, where 48(2) allows water supply works for in-river dams on third order or higher streams – except in the Dora Dora water source. Protection for the Dora Dora water source is identified in the strategy clause and WRP Schedule D as relevant to environmental objectives and EWRs respectively. <p>The rules outlined above operate to preserve water for an environmental purpose at specific times, or under specific circumstances, as identified in the water sharing plans that make up WRP Schedule A, and therefore fall within the definition of PEW as set out in s 6 of the Water Act 2007.</p> <p>The Authority notes that for several of the cited rules, '<i>limited exemptions apply</i>'. The nature and extent of these exemptions is not clear from the information incorporated into the proposed WRP. This introduces ambiguity into the application of the rules and arrangements as they apply to the protection of PEW.</p> <p>Finally, it is noted that text for accreditation at s 4.1.1. (blue box on page 41) states:</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>Key aspects of some of the rules are to provide for calculation or apportionment of available water for sharing between consumptive users, technical mechanisms and details for the purpose of managing consumptive user allocations, storage, release and delivery operations and accounting. The aspects of the rules below that are not for the purpose of committing or preserving planned environmental water are excluded from the requirements in section 10.09(1).</p> <p>There is no information provided to set out which aspects of the cited rules are 'excluded from the requirements of section 10.09(1)'. As such, the Authority is not able to differentiate between aspects that are included and those that are not.</p> <p>Consequently, due to the failure to include relevant PEW rules referred to above, and the inability to be able to differentiate between aspects of the cited rules that are included and excluded for meeting s 10.09(1), this requirement is not met.</p>
3.5	10.10(1)	(1) For each SDL resource unit in a water resource plan area, and for each form of take, the water resource plan must set out the method for determining the maximum quantity of water that the plan permits to be taken for consumptive use during a water accounting period.	<p>Text for accreditation at s 5.6 provides a formula as the method for determining the annual permitted take for the NSW Murray and Lower Darling Sustainable Diversion Limit (SDL) resource units.</p> <p><u>Take from regulated rivers (excluding basic rights)</u></p> <p>The annual permitted take formula for both SDL resource units set out in the text for accreditation at s 5.6 includes parameters for:</p> <ul style="list-style-type: none"> +/- trade in and out of the SDL resource unit - local reduction amount - shared reduction amount + net SDL adjustment amount that is equal to supply contributions less efficiency contributions <p>However, Table F-2 gives the annual permitted take method relevant to this form of take as determined by the application of the NSW Murray and Lower Darling APT model. Supporting information at WRP Schedule F Attachment describes the application of the model. At ss 3.6, 3.7 and 5.1.2 these four parameters are identified as part of the annual permitted take method for <u>take from regulated rivers</u> in both SDL resource units. The effect of this, is that these four parameters are double counted, which compromises the ability of both SDL resource unit formulas to correctly determine the annual permitted take.</p> <p>Examination of the material in Table F-2 that provides for this method has established that the relevant material does not satisfy requirements for s 10.10. This is due to:</p> <ol style="list-style-type: none"> 1. Inconsistent naming of the method and model - column 2 row 2 of Table F-2 defines 'NSW Murray and Lower APT model', which differs from the 'NSW Murray and Lower Darling Regulated Rivers Permitted Take Method' described in column 3 row 1 of Table F-2. Table F-2 column 5 incorrectly names Attachment A to Schedule F as both 'the Sustainable Diversion Limit Scenario Model report'. 2. Table F-2 column 2, rows 1 and 4 define the sub-parameter 'Net NSW Murray and Lower Darling Trade'. However, this sub-parameter is part of the description for 'NSW Murray and Lower Darling APT model' given in Table F-2 column 3, row 2, where supporting information in Attachment A to Schedule F, identified in Table F-2 column 5, row 2 define trade as part of the model, where temporary trade is part of the model as defined in s 3.7 (page 16). 3. Inconsistency between Table F-2 and Attachment A to Schedule F regarding the treatment of HEW entitlement trade, where Table F-2 row 3, column 3 describes a method for 'Murray and Lower Darling Regulated HEW' which includes HEW entitlement trade. However, this is not identified in Attachment A of Schedule F, in the additional information in column 5 of row 3. However, as row 1 of column 3 in Table F-2 does not include the expression for 'Murray and Lower Darling Regulated HEW', this variable appears to stand alone and not impact the annual permitted take method. 4. The method description in Table F-2 column 3, rows 1 -5 is not by each SDL resource unit and infers that is calculated at the WRP scale, that is NSW Murray and Lower Darling SDL resource units combined, rather than separately for each SDL resource unit.

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p><u>Take from floodplain harvesting</u></p> <p>Despite not listed for either SDL resource unit in Schedule 3 of the Basin Plan, the annual permitted take method description in Table F-2 column 3, row 5 states this form of take is 'Not relevant in the NSW Murray and Lower Darling WRP'. While this means this form of take does not impact the annual permitted take, because it is not listed in Schedule 3 of the Basin Plan, the inclusion of <u>take from floodplain harvesting</u> is inconsistent with Schedule 3 of the Basin Plan as it is not a form of take in either SDL resource unit in the WRP area.</p> <p><u>Take from watercourses (excluding basic rights)</u></p> <p>The Authority notes Table 7-1 (incorporated to meet s10.44 requirements) defines 62% of <u>take from watercourse</u> is measured. Further justification is required to explain why the measured information for unregulated take is not the best available information for estimating the annual permitted take for <u>take from watercourses</u> in each SDL resource unit.</p> <p><u>Take by runoff dams (excluding and under basic rights)</u></p> <p>'Harvestable rights' is the only class of water access right identified in the annual permitted take method description in column three of Table F-2. As such, it is unclear if exempt runoff dams, referred to in WRP Table 5-1, are also covered in this method. Consequently, there is insufficient information to determine if this annual permitted take method captures all take from runoff dams.</p> <p><u>Take under basic rights – domestic and stock rights</u></p> <p>The method given in Table F-2, row 7, column 3 is that annual permitted take is equal to the long-term average as specified in Schedule 3 column 2 of the Basin Plan for the NSW Murray (SS14) and Lower Darling (SS18) SDL resource units.</p> <p>Column 5 of Table F-2 states:</p> <p style="padding-left: 40px;">This information is based on the methods described in National Water Commission report Surface and/or groundwater interception activities: initial estimates (SKM, CSIRO & BRS, 2010), p165 and Murray-Darling Basin Sustainable Yields Project: Projections of effect of future Farm Dam Development to the year 2030 on runoff, SKM 2007).</p> <p>Table F-2, row eight, column five states the domestic and stock basic rights are estimated based on a method relating to identification of using riparian properties and Departmental farm water supplies data. No reference is given to provide any further detail on this method. The estimate in column 3 of 5.56 GL/y for both the NSW Murray and Lower Darling SDL resource units aligns with Table 5-1. However, it is at the WRP area scale rather than by each SDL resource unit.</p> <p>Further Table F-2, column two rows 10-11 refer to 'BLR regulated' and 'BLR unregulated' respectively. A method description is not provided in column three for either sub-parameter. While column five provides the volumes for each respective row, this is not provided by each SDL resource unit and so infers the annual permitted take method is by WRP area rather than by SDL resource unit. This does not meet requirements. It is not clear in the text if this method and volume represents the long-term annual average estimate. The Authority is not satisfied that this is an appropriate annual permitted take method for domestic and stock rights under take under basic rights as there is insufficient information provided to verify the method used to estimate the volume applied by the annual permitted take method for each SDL resource unit.</p> <p><u>Take under basic rights – native title rights</u></p> <p>The Authority is satisfied that this is an appropriate annual permitted take method for native title water access rights for <u>take under basic rights</u>. However, the Authority also notes that the reference to the Barkandji native title determination as including the National Native Title Tribunal reference NCD2017/00 appears to be incorrect. This reference is also included in draft <i>Water Sharing Plan for the NSW Murray and Lower Darling Regulated Rivers Water Sources 2020</i>, whereas the reference included in the <i>Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 2011</i> is NCD2017/001. Therefore, the requirement is not met.</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			In summary, the proposed WRP has set out the various components of a method to determine annual permitted take which relates to each of the forms of take that apply in the NSW Murray and Lower Darling WRP area. However, as a result of the inconsistencies and discrepancies described above the method is insufficient to determine the annual permitted take. As such, the requirement is not met.
3.6	10.10(1)	(1) For each SDL resource unit in a water resource plan area, and for each form of take, the water resource plan must set out the method for determining the maximum quantity of water that the plan permits to be taken for consumptive use during a water accounting period.	<p><u>Consideration of the BDL estimates</u></p> <p>The proposed WRP includes proposed revisions to the BDL estimates for the NSW Murray and Lower Darling SDL resource units. In both SDL resource units, the BDL change in the unmodelled forms of take relates to take under basic rights. The proposed BDL revised estimate for take under basic rights are provided, but the Authority is unable to confirm that the proposed revisions arise from better methods as insufficient information is provided in relation to the method.</p>
3.7	10.10(1)	(1) For each SDL resource unit in a water resource plan area, and for each form of take, the water resource plan must set out the method for determining the maximum quantity of water that the plan permits to be taken for consumptive use during a water accounting period.	<p><u>Consideration of the local reduction amount</u></p> <p>Supporting information at Table 12 of WRP Schedule F Attachment A gives the NSW Murray and Lower Darling BDL less the total reduction amount to give the SDL. The total reduction amount is described in Table 3 (page 5) and includes the local reduction amount (262 GL/y in the NSW Murray and 8 GL/y in the Lower Darling), shared reduction amount (165.8 GL/y in the NSW Murray and 14.3 GL/y in the Lower Darling), and the SDL adjustment amount assuming 62 GL/y or efficiency measures are achieved (124.8 GL/y in the NSW Murray). The Authority notes therefore that the SDL volume is based on the applicable local reduction amount.</p> <p>However, text for accreditation at s 5.6 (blue box on page 79) sets out a formula for determining annual permitted take in each SDL resource unit at the end of each water accounting period that includes ‘– local reduction amount’. As such, the Authority notes that the local reduction amount is part of the annual permitted take method for <u>take from regulated rivers</u> and is double counted in the proposed WRP.</p>
3.8	10.10(1)	(1) For each SDL resource unit in a water resource plan area, and for each form of take, the water resource plan must set out the method for determining the maximum quantity of water that the plan permits to be taken for consumptive use during a water accounting period.	<p><u>Consideration of the shared reduction amount</u></p> <p>Supporting information at Table 12 of WRP Schedule F Attachment A gives the NSW Murray and Lower Darling BDL less the total reduction amount to give the SDL. The total reduction amount is described in Table 3 (page 5) and includes the local reduction amount (262 GL/y in the NSW Murray and 8 GL/y in the Lower Darling), shared reduction amount (165.8 GL/y in the NSW Murray and 14.3 GL/y in the Lower Darling), and the SDL adjustment amount assuming 62 GL/y or efficiency measures are achieved (124.8 GL/y in the NSW Murray). The Authority notes therefore that the SDL volume is based on the applicable shared reduction amount.</p> <p>However, text for accreditation at s 5.6 (blue box on page 79) sets out a formula for determining annual permitted take in each SDL resource unit at the end of each water accounting period that includes ‘– shared reduction amount’. As such, the Authority notes that the shared reduction amount is part of the annual permitted take method for <u>take from regulated rivers</u> and is double counted in the proposed WRP.</p>
3.9	10.10(1)	(1) For each SDL resource unit in a water resource plan area, and for each form of take, the water resource plan must set out the method for determining the maximum quantity of water that the plan permits to be taken for consumptive use during a water accounting period.	<p><u>Consideration of the SDL adjustment amount</u></p> <p>Text for accreditation at s 5.6 (blue box on page 79) sets out a formula for determining annual permitted take at the end of each water accounting period for each SDL resource unit that includes ‘+ net SDL adjustment amount that is equal to supply contributions less efficiency contributions.’</p> <p>Supporting information (page 22) at Attachment A to Schedule F s 5.1.2 states that:</p> <p>To determine the annual permitted take for an SDL resource unit, post processing adjustments to unadjusted annual modelled diversions will be undertaken. This adjustment consists of potentially four parts, to account for:</p> <ul style="list-style-type: none"> - actual water recovery (representing the sum of the local and shared reduction amount i.e. only up to the reduction target),

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<ul style="list-style-type: none"> - incomplete water recovery (where applicable, representing any local and shared reduction amounts that have not yet been met), - either the apportioned supply contribution or the reduced supply contribution (required until the initial 62 GL/y of efficiency measures are delivered) and - any registered environmental entitlements reflecting efficiency measures. <p>And at s 5.1.3 (page 24):</p> <p>A single APT model run, with the ability to adjust the annual permitted take to reflect possible changes in the SDL as post-processing adjustments (as set out in formula (2) above), is intended to meet this requirement.</p> <p>As such, the SDL adjustment amount is part of the annual permitted take method for <u>take from regulated rivers</u>. Consequently, the annual permitted take method formula is double counting the effect of any SDL adjustment amounts. This means the annual permitted take method will not operate as intended.</p>
3.10	10.10(1)	(1) For each SDL resource unit in a water resource plan area, and for each form of take, the water resource plan must set out the method for determining the maximum quantity of water that the plan permits to be taken for consumptive use during a water accounting period.	Noting the issues identified in the annual permitted take method and the inability to confirm BDL changes, the Authority is not satisfied that the annual permitted take method for the NSW Murray SDL resource unit and Lower Darling SDL resource unit in the NSW Murray and Lower Darling WRP area, represents and operates as 'best available information'.
3.11	10.10(2)	(2) The method for subsection (1) may include modelling, and must be designed to be applied after the end of the relevant water accounting period, having regard to the water resources available during the period.	<p>Text for accreditation at WRP s 5.6 (blue box on page 79) states:</p> <p>Annual permitted take for the NSW Murray SDL resource unit (SS14) and the Lower Darling SDL resource unit (SS18) will be determined for each water accounting period at the end of each water accounting period, according to the following formula (and the methods described in Table F-2 in Schedule F to this Plan)</p> <p>While it is clear that the annual permitted take method is intended to calculate the annual permitted take at the end of the water accounting period, assessment against s 10.10(1) has found the requirement is not met due to inconsistencies in the methods described in Table F-2 and text for accreditation at s 5.6.</p> <p>Examination of Table F-2 confirms that, except for take from regulated rivers, the annual permitted take method for all other forms of take provides that the relevant annual permitted take component is equal to the long-term annual average estimate of take as described in WRP Table F-2 and is the baseline diversion limit (BDL). This is the maximum quantity of water available for consumptive take for the relevant forms of take. As the BDL is the maximum quantity of water available for consumptive take under the levels of development and use practices as described in Schedule 3 of the Basin Plan, these forms of take have regard to water resources available by being based on estimates of the long-term annual averages of take. However, as the Authority is unable to verify the BDL estimates for take under basic rights, it is not possible to confirm that the method has regard to water availability during the accounting period with respect to take under basic rights.</p> <p>The Authority notes that for take from regulated rivers, row two of Table F-2 sets out the means by which the Source Murray Model will be applied to have regard to the water resources available during the period for take from regulated rivers.</p> <p>In summary, while some components of the method for determining annual permitted take have regard to the water resources available during the water accounting period this cannot be confirmed for the method as a whole. In addition, assessment against s 10.10(1) has found the requirement is not met as the annual permitted take methods for some forms of take are not operating as the best available information and so this requirement is not met.</p> <p>.</p>
3.12	10.10(3)(a)	10.10(3) The method must:	Text for accreditation at WRP s 5.6 (blue box on pages 79-80) states:

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
	10.12(1)(a)	<p>(a) account for the matters in subsection 10.12(1)</p> <p>10.12(1): For paragraph 10.10(3)(a), the following matters must be accounted for:</p> <p>(a) all forms of take from the SDL resource unit and all classes of water access right;</p>	<p>For the purpose of section 10.10(3)(a) of the Basin Plan see 10.12 accredited text and</p> <p>A detailed explanation for how the annual permitted take methods account for the matters listed in section 10.12 of the Basin Plan is provided in Table F-4 of Schedule F of this Plan.</p> <p><u>Take from floodplain harvesting</u> is included in the annual permitted take for NSW Murray SDL resource unit, which is not listed in Schedule 3 of the Basin Plan this SDL resource unit. This does not meet requirements as it is inconsistent with the Basin Plan.</p> <p>For <u>take from watercourses</u>, Table F-2 outlines the water access rights in the annual permitted take method that are consistent with Schedule A for both SDL resource units and those given in Table 5-1 with the exception of unregulated (high flow) access licences in the NSW Murray SDL resource unit. Salinity and water table management access licences in the Lower Darling SDL resource unit are also present, but the volume in Table 5-1 is 0 ML so accounting for this water access right in the annual permitted take method is not relevant. The Authority is not satisfied that this method accounts for all relevant classes of water access right for this form of take.</p> <p>For <u>take under runoff dams</u>, the Authority notes that column six of Table 5-1 refers to a class of 'exempt dams' listed in Schedule 2 of the Harvestable Rights Orders and it is not clear if these exempt dams are incorporated into the method described at Table F-2. Further, confirmation of the treatment of exempt dams in the SDL accounts is required as the 2012 Basin Plan BDL method for this form of take may have included the exempt dams but this is not clear from the information available in the proposed WRP. Further take by runoff dams (excluding basic rights) are not accounted for in this method, though they are part of the estimate. The Authority is not satisfied that this method accounts for all relevant classes of water access right for this form of take.</p>
3.13	10.10(3)(a) 10.12(1)(d)	<p>10.10(3) The method must:</p> <p>(a) account for the matters in subsection 10.12(1)</p> <p>10.12(1): For paragraph 10.10(3)(a), the following matters must be accounted for:</p> <p>(d) subject to subsection (3) – trade of water access rights</p>	As assessed against s 10.10(1), supporting information in Attachment A to Schedule F defines trade, where temporary trade is part of the model as defined in s 3.7 (page 16) and is not a separate adjustment as given in Table F-2. This inconsistency in the proposed WRP means this requirement is not met.
3.14	10.10(3)(a) 10.12(1)(e)	<p>10.10(3) The method must:</p> <p>(a) account for the matters in subsection 10.12(1)</p> <p>10.12(1): For paragraph 10.10(3)(a), the following matters must be accounted for:</p> <p>(e) water resources which have a significant hydrological connection to the water resources of the SDL resource unit</p>	There is no material in Table F-4 that addresses how the annual permitted take method accounts for the significant hydrological connections with surface water and groundwater resources. As a result, the Authority is not satisfied that this requirement is met.
3.15	10.10(3)(a) 10.12(1)(g)	<p>10.10(3) The method must:</p> <p>(a) account for the matters in subsection 10.12(1)</p> <p>10.12(1): For paragraph 10.10(3)(a), the following matters must be accounted for:</p> <p>(g) changes over time in the extent to which water allocations in the unit are utilised;</p> <p><i>Note: Paragraph (g) includes what is commonly known as a growth-in-use strategy.</i></p>	<p>Column 3 of Table F-4 states that 'Growth-in-use provisions in the WSPs specify how the plan responds to changes in utilisation'.</p> <p>Supporting information at column four of Table F-4 states:</p> <p>NSW manages growth-in-use through managing extraction to the long term annual average extraction limit or SDL. Any management action to growth in extraction from rivers will be managed through managing take from the regulated or unregulated rivers, e.g. reducing supplementary take.</p> <p>The Authority notes that supporting information at Attachment A to Schedule F Appendix C refers to 'See respective Water Resource Plans' to meet this requirement. However, the text for accreditation in Table F-4 does not meet requirements as it does not describe how the annual permitted take methods account for this matter.</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
3.16	10.10(3)(b)	(3) The method must: (b) be consistent with the other provisions of the water resource plan.	Assessment of material incorporated to meet s10.12(1)(e) has found the annual permitted take method is not consistent with material incorporated to meet s 10.05 (regard to other water resources). It is also the case that the assessment for s 10.13 has found that an inconsistency with the volume nominated for <u>take under basic rights</u> and Table F-2. Therefore, this requirement is not met.
3.17	10.10(4)	(4) The plan must also set out a demonstration that the method relates to the SDL of each resource unit in such a way that, if applied over a repeat of the historical climate conditions, it would result in meeting the SDL for the resource unit, including as amended under section 23B of the Act. Note 1: Under the Basin Plan, the SDL is the same as the long-term annual diversion limit because the temporary diversion provision for each SDL resource unit is zero. Section 6.04 and Schedules 2 and 4 set out the SDLs for each SDL resource unit. Note 2: Amendments under section 23B of the Act are made following proposals for adjustment under Chapter 7.	Text for accreditation at WRP s 5.6 (blue box on pages 79-80) states: the demonstration that the annual permitted take method is capable of meeting the SDL over a repeat of the historical climate conditions (1895 – 2009) is provided in Schedule F, Table F-3 and Schedule F Appendix A: NSW Murray and Lower Darling SW WRP -Modelling -Combined SDL, BDL and PBP Scenario Report. Except for <u>take from regulated rivers</u> , WRP Schedule F Table F-3 (page 139) does not separately present the forms of take that align with Schedule 3 of the Basin Plan for each SDL resource unit in the WRP area, that is it does not separately demonstrate the SDL for the NSW Murray SDL resource unit (SS14) and Lower Darling SDL resource unit (SS18). This does not meet requirements. Though the annual permitted take methods are based on the same historical climate conditions, for <u>take under basic rights</u> , <u>take from watercourses</u> (called ‘unregulated (excluding basic rights)’ in Table F-3), <u>take from runoff dams</u> and <u>net take from commercial plantations</u> , the summed BDL volumes for each NSW Murray SDL resource unit (SS14) and Lower Darling SDL resource unit (SS18) are given, which does not meet requirements. Under <u>take by runoff dams</u> , 5.5. GL/y is missing. This appears to be the volume is the Lower Darling SDL resource unit. Table F-3 gives 80 GL/y which is the NSW Murray SDL resource unit BDL for this form of take.
3.18	10.10(4)	(4) The plan must also set out a demonstration that the method relates to the SDL of each resource unit in such a way that, if applied over a repeat of the historical climate conditions, it would result in meeting the SDL for the resource unit, including as amended under section 23B of the Act. Note 1: Under the Basin Plan, the SDL is the same as the long-term annual diversion limit because the temporary diversion provision for each SDL resource unit is zero. Section 6.04 and Schedules 2 and 4 set out the SDLs for each SDL resource unit. Note 2: Amendments under section 23B of the Act are made following proposals for adjustment under Chapter 7	Due to the errors noted in the above assessment in Table F-3, the Authority notes that Table F-3 which does not separately present the SDL for the NSW Murray SDL resource unit (SS14) and Lower Darling SDL resource unit (SS18) except for take from regulated rivers, the results do not show that the method will result in the SDL for the unit being met. There are also issues with the environmental water adjustment that allows for the SDL to change with any amendments to SDL adjustment amounts under s 23B of the Water Act 2007. There is a requirement that the method reflect any amendments to the SDLs that occur through a s 23B amendment, including as a result of any reconciliation adjustment in 2024. Currently the environmental water adjustment method does not include the SDL adjustment amount, that is the supply contribution amounts and efficiency contribution amounts, as those recorded on the MDBA’s register of SDL adjustment measures (available at https://www.mdba.gov.au/basin-plan-roll-out/sustainable-diversion-limits/sdl-adjustment-proposals-state-projects ; as at 30 June 2019 available at https://www.mdba.gov.au/sites/default/files/Register-of-measures-30-June-2019.pdf). Given the above issues however, the Authority is not satisfied that this requirement is met. The MDBA will update the Source Murray Model APT model report to incorporate this change.
3.19	10.10(5)	(5) If, as a result of an amendment under section 23B of the Act, the SDL for a surface water SDL resource unit is expressed as a formula that changes with time, the SDL for subsection (4) is taken to be: (a) for a water accounting period beginning on or after 1 July 2019 – the SDL as it stood on 30 June 2019; and (b) for a water accounting period beginning on or after 1 July 2022 – the SDL as it stood on 30 June 2022; and (c) for a water accounting period beginning on or after 1 July 2024 –	Assessment of material incorporated to meet s 10.10(1) has found the requirements are not met. Further, the SDL adjustment amount appears to be double counted within text for accreditation at s 5.6 and in the <u>take from regulated rivers</u> annual permitted take method defined in Table F-2 and Attachment C. Therefore, the formula cannot operate as intended. Further, there are also issues with the environmental water adjustment that allows for the SDL to change with any amendments to SDL adjustment amounts under s 23B of the Water Act 2007. There is a requirement that the method reflect any amendments to the SDLs that occur through a s 23B amendment, including as a result of any reconciliation adjustment in 2024. Currently the environmental water adjustment method does not include the SDL adjustment amount, that is the supply contribution amounts and

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
		the SDL as it stood on 30 June 2024.	<p>efficiency contribution amounts, as those recorded on the MDBA's register of SDL adjustment measures (available at https://www.mdba.gov.au/basin-plan-roll-out/sustainable-diversion-limits/sdl-adjustment-proposals-state-projects; as at 30 June 2019 available at https://www.mdba.gov.au/sites/default/files/Register-of-measures-30-June-2019.pdf).</p> <p>Given the above issues however, the Authority is not satisfied that this requirement is met.</p> <p>The MDBA will update the Source Murray Model APT model report to incorporate this change.</p>
3.20	10.11(1)	(1) A water resource plan must set out rules (including, if applicable, rules for water allocations) that ensure, as far as practicable, that the quantity of water actually taken from each SDL resource unit for consumptive use in a water accounting period that beginning on or after 1 July 2019 does not (after making any adjustments for the disposal or acquisition of held environmental water) exceed the unit's annual permitted take for the period.	<p>Text for accreditation at s 5.4 states 'At the time of commencement of this Plan, there is no floodplain harvesting in the NSW Murray and Lower Darling WRP'. However, this form of take is not listed in Schedule 3 of the Basin Plan for either SDL resource unit. As a result, it is inconsistent with the Basin Plan for the proposed WRP to address this form of take in s 10.11 requirements and does not meet requirements.</p> <p>Further, the Authority notes that in October 2020, the NSW government released a document titled <i>Floodplain harvesting: Frequently asked questions</i>, which states:</p> <p style="padding-left: 40px;">Floodplain harvesting occurs in all designated floodplains across NSW without regulation. There are five designated floodplains in the north of the state and ten in the south. We have prioritised implementation of the NSW Floodplain Harvesting Policy in the Northern Basin because floodplain harvesting in this area has grown above legal limits and this growth is taking water away from other water users and the environment. Although floodplain harvesting occurs in the south without regulation, it is unlikely to have grown in excess of legal limits at this stage.</p> <p>This statement suggests that unregulated take from floodplains in the southern NSW portion of the Murray–Darling Basin is occurring. While it is not clear, whether this form of take is actually occurring in the NSW Murray and Lower Darling WRP area, further details need to be set out in the risk assessment (Schedule D) to support the conclusion that there is 'nil' risk rating and to justify why rules and/or monitoring actions are not required for floodplain harvesting in this WRP area for the purposes of Part 5 of Chapter 10.</p>
3.21	10.12(1)(a)-(i)	<p>(1) For paragraph 10.10(3)(a), the following matters must be accounted for:</p> <ul style="list-style-type: none"> (a) all forms of take from the SDL resource unit and all classes of water access right; (b) water allocations that are determined in one water accounting period and used in another, including water allocations that are carried over from one water accounting period to the next; (c) for a surface water SDL resource unit—return flows, in a way that is consistent with arrangements under the Agreement immediately before the commencement of the Basin Plan; (d) subject to subsection (3)—trade of water access rights; (e) water resources which have a significant hydrological connection to the water resources of the SDL resource unit; (f) circumstances in which there is a change in the way water is taken or held under a water access right; (g) changes over time in the extent to which water allocations in the unit are utilised; <p style="padding-left: 40px;">Note: Paragraph (g) includes what is commonly known as a growth-in-use strategy.</p> <ul style="list-style-type: none"> (h) water sourced from the Great Artesian Basin and released into a Basin water resource, by excluding that water; 	<p>An assessment of the responses for s 10.12(1)(a)-(i) is provided under issue reference 3.12-3.15, which finds that while each matter is addressed, inconsistencies in the material incorporated into the proposed WRP mean the requirements have not been met.</p> <p>Specifically, the matters in s 10.12(1)(a), (d), (e) and (g) have not been met.</p> <p>Consequently, the Authority is not satisfied that the text provided addresses each matter in letter (a) to (i) and thus the requirement is not met.</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
		(i) water resources which are used for the purpose of managed aquifer recharge.	
3.22	10.13(1)	<p>(1) Subject to this section, a water resource plan must require that the long-term annual average quantity of water that can be taken from a surface water SDL resource unit for consumptive use by:</p> <ul style="list-style-type: none"> (a) take under basic rights; or (b) take by runoff dams; or (c) net take by commercial plantations; <p>does not exceed the level specified in column 2 of Schedule 3 for that form of take.</p>	<p>Text for accreditation at s 5.4 states:</p> <p>the long-term average annual quantity of water that can be taken under basic rights, by runoff dams, commercial plantations and by floodplain harvesting is limited to the volume specified in column 2 of Schedule 3 of the Basin Plan for the NSW Murray (SS14) and Lower Darling (SS18) SDL resource units.</p> <p>Under Schedule 3 of the Basin Plan, volumes are given for <u>take by runoff dams</u> and <u>net take by commercial plantations</u>. For <u>take under basic rights</u>, no estimate is given in the Basin Plan for either SDL resource unit for this form of take. Consequently, the proposed WRP does not limit the quantity of water that can be taken under basic rights as stated.</p> <p>Further, despite text for accreditation referring to a quantity of <u>take for floodplain harvesting</u>, s 10.13 requirements do not require a level to be defined for this form of take. The inclusion of this text is therefore inconsistent with the Basin Plan and does not meet requirements.</p>
3.23	10.13(2)	<p>(2) The quantity specified in subsection (1) for a form of take may be increased above the level specified in column 2 of Schedule 3 for that form of take if:</p> <ul style="list-style-type: none"> (a) the long-term annual average quantity of water that can be taken by another form of take from the same SDL resource unit is changed at the same time so that there is no overall change in the total long-term annual average quantity of water that can be taken; and (b) take by the forms of take affected by the changes are capable of: <ul style="list-style-type: none"> i. being accurately measured (for example, through the use of a meter); or ii. in the case of a form of take that is not capable of being accurately measured at the time the water resource plan is submitted for accreditation or adoption—being reasonably estimated using the best available method immediately before the water resource plan is submitted; and (c) the changes are not expected to result in the take from the SDL resource unit ceasing to be an environmentally sustainable level of take. 	<p>Text for accreditation at WRP s 5.4 states that:</p> <p>the long-term average annual quantity of water that can be taken under basic rights, by runoff dams, commercial plantations and by floodplain harvesting is limited to the volume specified in column 2 of Schedule 3 of the Basin Plan for the NSW Murray (SS14) and Lower Darling (SS18) SDL resource units.</p> <p>As such the limits considered for s 10.13(1) do not indicate that the long-term annual average quantity of take by these forms of take has increased or is likely to increase. However, the assessment against s 10.13(1) finds that the volumetric limit for take under basic rights is not correctly identified and <u>take from floodplain harvesting</u> inclusion is inconsistent with the Basin Plan.</p> <p>Therefore, the Authority cannot confirm whether this quantity has or is likely to increase. Consequently, the assessment cannot confirm if the requirements of s 10.13(a)- (c) have been met.</p>
3.24	10.15(1)	<p>(1) A water resource plan must set out how the quantity of water actually taken for consumptive use by each form of take from each SDL resource unit will be determined after the end of a water accounting period using the best information available at the time.</p> <p>Note: The annual actual take for the SDL resource unit is the sum of the quantity of water actually taken by each form of take for consumptive use: see subsection 6.10(2) and 6.12B(2). Paragraph 71(1)(c) of the Act requires the annual actual take to be set out in a report to the Authority within 4 months after the end of the water accounting period.</p>	<p>Text for accreditation at s 5.5 sets out a formula to determine annual actual take for each SDL resource unit in the proposed WRP that is the NSW Murray (SS14) and Lower Darling (SS18) SDL resource units. Text for accreditation refers to 'Table F1 of Schedule F' for a description of the methods that support the formula. The following issues have been identified in relation to the cited material.</p> <p><u>Take from regulated rivers</u></p> <p>The annual actual take method given in row 1, column 3 of Table F-1 is:</p> <p>The sum of all regulated river access licence diversions (as listed in Table 5-1) in the NSW Murray (SS14) and Lower Darling (SS18) SDL resource units for the relevant water year, as officially recorded in the Database system of the responsible agency.</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>The Authority is not satisfied that this represents the best available information for this form of take as the method description implies that the NSW Murray and Lower Darling regulated river actual take volumes are summed together, when instead each SDL resource unit annual actual take is to be calculated at the individual SDL resource unit scale. Further, the annual actual take method does not account for return flows as given in the annual permitted take method.</p> <p><u>Take from floodplain harvesting</u></p> <p>This is not a form of take in either SDL resource unit as listed in Schedule 3 of the Basin Plan. Thus, the inclusion of floodplain harvesting in the annual actual take formulas, while not impacting the volume of annual actual take for either SDL resource unit in this WRP area, is inconsistent with the Basin Plan. This form of take is not listed in Schedule 3 of the Basin Plan for either SDL resource unit. As a result its inclusion in text for accreditation is inconsistent with the Basin Plan and does not meet requirements.</p> <p><u>Take from watercourses</u></p> <p>Table F-1 states the method for this form of take is equal to the annual permitted take method in Table F-2, which is equal to the long term average as specified for the NSW Murray (SS14) and Lower Darling (SS18) SDL resource units under Schedule 3 column 2 of the Basin Plan. The Authority notes WRP Table 7-1 (incorporated to meet requirements of s 10.44 – measuring take) indicates at column 3 that that 62% of watercourse take is measured, therefore the annual actual take method does not represent the best available information for this form of take.</p> <p><u>Take under basic rights – domestic and stock rights</u></p> <p>Table F-1 states the method for this form of take is equal to the annual permitted take method in Table F-2. Table F-2 describes this method as:</p> <p>The sum of water estimated as required to be taken under domestic and stock basic rights (regulated), domestic and stock basic rights (unregulated) and native title basic rights from the NSW Murray (SS14) and Lower Darling (SS18) SDL resource units in the relevant water year.</p> <p>At the start of the WRP, this volume was estimated to be 5.56 GL/yr in the <i>Water Sharing Plan for the NSW Murray and Lower Darling Regulated Rivers Water Sources 2020</i>, <i>Water Sharing Plan for Murray Unregulated River Water Sources 2011</i> and the <i>Water Sharing Plan for Lower Murray-Darling Unregulated River Water Source 2011</i>.</p> <p>The Authority notes that in the absence of sufficient evidence to support how the new estimates has been derived, the inclusion of an estimate where none existed previously does not constitute best available information. Further, the nominated volume does not reflect the method presented, and also sums the volume for both SDL resource units where instead the volume is to be accounted for each SDL resource unit separately. Therefore, the Authority is not satisfied that this represents the best available information for this form of take.</p> <p><u>Take under basic rights – native title rights</u></p> <p>The method for determining annual actual take for take under native title rights refers to the Barkandji native title determination as including the National Native Title Tribunal reference NCD2017/00. This reference appears to be incorrect. This reference is also included in draft <i>Water Sharing Plan for the NSW Murray and Lower Darling Regulated Rivers Water Sources 2020</i>, whereas the reference included in the <i>Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 2011</i> is NCD2017/001.</p> <p>Therefore, the Authority is not satisfied that the proposed estimate of take under basic rights represents the best available information for determining annual actual take this form of take.</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p><u>Take by runoff dams</u></p> <p>Table F-1 states the method for this form of take is equal to the annual permitted take method in Table F-2, which is equal to the long term average as specified for the NSW Murray (SS14) and Lower Darling (SS18) SDL resource units under Schedule 3 column 2 of the Basin Plan. This covers the water access right 'Harvestable rights (runoff dam)'. The Authority notes that the reference to the water access right 'Harvestable rights (runoff dam)' is a class of water access right set out in WRP Table 5-1 for the purpose of meeting requirements of s 10.08 (classes of access right) of the Basin Plan. Column six of Table 5-1 states:</p> <p>The Dams listed as exempt in schedule 2 of the Harvestable Rights Orders are either designed to hold small volumes of water, have no catchment, fill/empty intermittently, are required under other legislation, are already accounted under other take, or primarily provide an environmental benefit, such as containing contaminated water on a mine site.</p> <p>The Authority is unable to determine from the material incorporated into the proposed WRP whether annual actual take by these 'exempt dams' is incorporated into the estimate of <u>take by runoff dams</u> and therefore the determination of whether it represents best available information. Consequently, this requirement is not met.</p>
3.25	10.15(2)	<p>(2) For a particular form of take, and subject to the requirement that a determination use the best information available at the time, a determination may be made by:</p> <p>(a) measuring the quantity of water actually taken; or</p> <p>(b) estimating the quantity of water actually taken; or</p> <p>(c) a combination of the above.</p>	<p><u>Take by floodplain harvesting</u> is given in column 3 of Table F-2 and column 5 of Table F-1 as 'Not relevant in the NSW Murray and Lower Darling WRPA' and is thus neither measured nor estimated. However, its inclusion is inconsistent with Schedule 3 of the Basin Plan and thus does not meet requirements.</p> <p><u>Take from a watercourse</u> is 'measured and estimated' as stated in column five of Table F-1. However, the method in column 3 is the annual permitted take method, which in Table F-2 is given as the 'estimated average annual extraction'. This does not align with WRP Table 7-1 (incorporated to meet requirements of s 10.44 – measuring take) which indicates at column 3 that 62% of take is estimated.</p>
Part 4			
4.1	10.17(1)-(3)	<p>(1) A water resource plan must be prepared having regard to whether it is necessary for it to include rules which ensure that the operation of the plan does not compromise the meeting of environmental watering requirements of priority environmental assets and priority ecosystem functions.</p> <p>Note: The environmental watering requirements of priority environmental assets and priority ecosystem functions will be set out in long-term watering plans and may also be set out in the Basin wide environmental watering strategy. Long term watering plans are required to use the methods in Part 5 of Chapter 8 to identify those requirements.</p> <p>(2) Without limiting subsection (1), regard must be had to whether it is necessary for the rules to prescribe:</p> <p>(a) the times, places and rates at which water is permitted to be taken from a surface water SDL resource unit; and</p> <p>(b) how water resources in the water resource plan area must be managed and used.</p> <p>(3) If the outcome of the requirement in subsection (1) is that such rules are necessary, the water resource plan must include those rules.</p>	<p>For the purposes of s 10.17(1) and (2) of the Basin Plan the proposed WRP has considered whether it is necessary to include rules to ensure that the operation of the proposed WRP does not compromise the meeting of the environmental watering requirements for priority environmental assets (PEA) and priority ecosystem functions (PEF). Text for accreditation at s 4.2 states that:</p> <p>regard was had to whether it is necessary for this Plan to include rules which ensure that the operation of the plan does not compromise the meeting of environmental watering requirements (EWRs) of priority environmental assets and priority ecosystem functions</p> <p>and</p> <p>section 4 of the Risk Assessment for the NSW Murray and Lower Darling Surface WRP Area at Schedule D considers the risks of insufficient water being available for the environment, including risks to the capacity to meet environmental watering requirements. Risks to environmental watering requirements were assessed against existing water sharing plan rules.</p> <p>The proposed WRP concludes that rules are needed and includes rules. However, the assessment notes that consequential inconsistencies arise through assessment of material incorporated into the proposed WRP to meet requirements of ss 10.05 (regard for connected water resources) and 10.09 (identification of PEW). Items 2.1 and 3.4 refer. The inconsistencies relate to:</p> <ol style="list-style-type: none"> 1. Insufficient demonstration of regard to connected water resources which means proposer consideration of risks to EWRs and the need for rules cannot be confirmed (s 10.05) 2. Missing PEW rules or arrangements means the WRP cannot ensure meeting EWRs is not compromised as EWRs rely on the availability of PEW (s 10.09)

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>The consequential inconsistencies arising for assessment against ss 10.05 and 10.09 means that the requirements of s 10.17(3) have also not been met. Further, as the proposed WRP relies on the risk assessment and inclusion of rules under s 10.17 to also address the requirements of subsections 1 and 3 of each of ss 10.18-10.20, the consequential inconsistencies from ss 10.05, 10.09 and 10.41 means the requirements 10.18(1) and (3), 10.19(1) and (3) and 10.20(1) and (3) and 10.22(b) are also not met.</p> <p>Section 4.3 of Schedule D identifies several medium and high risks relating to the capacity to meet EWRs in the regulated system. For the certain of these risks the consolidated risk tables (pp 17-50) identify the strategic use of River Murray Increased Flows (RMIF) as a 'New Critical Mechanism' that would contribute to the management of those risks, but these risks are not fully mitigated. The proposed WRP establishes a new PEW account for the management of the RMIF which improves the ability to manage these flows beneficially. However, the Authority considers there are further opportunities to ensure the strategic use of this Account. Further, consistency with the interim rules for RMIF as agreed by the Basin Officials Committee, including with respect to spill rules, would enhance the effectiveness of these arrangements.</p> <p>Currently, the proposed NSW WRP does not include information as to how environmental watering using RMIF will be coordinated between NSW and Victoria, and does not mention the 2013 interim RMIF strategy or the 2006 interim rules for RMIF. Reference to these two key documents, and a commitment in the proposed WRP to operate the RMIF PEW account consistently with the strategy, would enhance the strategic use of RMIF.</p> <p>This would also assist the management of operational challenges that arise due to the different characterisation of RMIF between Victoria (HEW) and NSW (PEW) that may otherwise limit the intended outcomes of use of RMIF for the Living Murray Initiative through Southern Connected Basin Environmental Watering Committee. To provide a greater contribution towards mitigating the risks relating to the capacity to meet EWRs, the NSW RMIF should be afforded the same management arrangements as those applied through the Pre-requisite policy measure provisions to other downstream of Choke River Murray allocations, recognising that this is not yet clearly articulated in the accompanying NSW Murray and Lower Darling PPM Procedures Manual.</p> <p>The assessment also finds that for 10.17(1) - regarding consideration of risks related to take by floodplain harvesting - proper consideration and regard has not been demonstrated. This is because s 4 of the WRP Schedule D (Risk Assessment for the NSW Murray and Lower Darling Surface WRP area) indicates that there is no material floodplain harvesting occurring in this WRP area. Yet, there is some risk of future growth and that it is intended that 'any new floodplain harvesting activity will be treated as illegal take and subject to compliance actions where appropriate'. It is noted that Part 12 of the three water sharing plans that comprise WRP Schedule A (<i>Water Sharing Plan for the NSW Murray and Lower Darling Regulated Rivers Water Sources 2020</i>, <i>Water Sharing Plan for Murray Unregulated River Water Sources 2011</i> and <i>Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 2011</i>), provide for future amendments (in part 12) to enable floodplain harvesting.</p> <p>Further, in October 2020 the NSW government released a frequently asked questions document about floodplain harvesting that suggests unregulated floodplain harvesting is occurring in the southern NSW portion of the Basin. As such, whilst the proposed WRP sets out material to demonstrate regard has been given to the need for rules, it is not clear that sufficient consideration has been given to the need for rules to ensure that take by floodplain harvesting does not compromise the EWRs of PEAs and PEFs.</p> <p>The assessment of s 10.17 of the Basin Plan concluded that proper regard has not been given to risks associated with take by floodplain harvesting. As a result, the Authority is not satisfied with the approach to addressing the requirements of s 10.17 of the Basin Plan. Therefore, the reliance on the approach to meeting the s 10.17 requirement as also meeting the ss 10.18, 10.19 and 10.20 requirements means that requirements of ss 10.18(1), 10.18(3), 10.19(1), 10.19(3), 10.20(1) and 10.20(3) are also not met.</p>
4.2	10.18(1) and (3)	(1) A water resource plan must be prepared having regard to whether it is necessary for it to include rules which ensure that, for priority environmental assets and priority ecosystem functions that depend on groundwater, the operation of the plan does not compromise the	The assessment above of s 10.17 of the Basin Plan concluded that all relevant rules have not been included, that connected resources have not been given full consideration and that the risk assessment that informs consideration of the need for rules is flawed. As a result (and as noted above in the assessment of s 10.17), the assessment has determined that requirements of s 10.17 of the Basin Plan have not been met.

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
		<p>meeting of environmental watering requirements.</p> <p>Note: The environmental watering requirements of priority environmental assets and priority ecosystem functions will be set out in long-term watering plans and may also be set out in the Basin wide environmental watering strategy. Long term watering plans are required to use the methods in Part 5 of Chapter 8 to identify those requirements.</p> <p>(3) If the outcome of the requirement in subsection (1) is that such rules are necessary, the water resource plan must include those rules.</p>	<p>Although the WRP adequately demonstrates regard to risks between surface water connections with groundwater, the reliance on the approach to meeting the s 10.17 requirement as also meeting the s 10.18 requirements means the proposed WRP does not demonstrate regard for the need for rules to ensure the environmental watering requirements of surface water PEAs and PEFs that depend on groundwater are not compromised and does not include all relevant rules.</p> <p>As such the requirements of ss 10.18(1) and (3) are not met.</p>
4.3	10.19(1) and (3)	<p>(1) A water resource plan must be prepared having regard to whether it is necessary for it to include rules which ensure that, for groundwater that has a significant hydrological connection to surface water, the operation of the plan does not compromise the meeting of environmental watering requirements (for example, base flows).</p> <p>(3) If the outcome of the requirement in subsection (1) is that such rules are necessary, the water resource plan must include those rules.</p>	<p>The assessment against s 10.17 of the Basin Plan concluded that all relevant rules have not been included, that connected resources have not been given full consideration and that it is not clear that sufficient consideration has been given to the need for rules to ensure that take by floodplain harvesting does not compromise the EWRs of PEAs and PEFs. As a result (and as noted in the assessment against s 10.17), the assessment has determined that requirements of s 10.17 of the Basin Plan have not been met.</p> <p>Although the WRP adequately demonstrates regard to risks between surface water connections with groundwater, the reliance on the approach to meeting the s 10.17 requirement as also meeting the s 10.19 requirements means the proposed WRP does not demonstrate regard for the need for rules to ensure that for groundwater that has a significant hydrological connection to surface water, the operation of the proposed WRP does not compromise the meeting of environmental watering requirements. As such the requirements of ss 10.19(1) and (3) are not met.</p>
4.4	10.20(1) and (3)	<p>(1) A water resource plan must be prepared having regard to whether it is necessary for it to include rules which ensure that the operation of the plan does not compromise:</p> <p>(a) the overall structural integrity of the aquifer (whether within or outside the water resource plan area) arising from take within the long-term annual diversion limit for an SDL resource unit; or</p> <p>(b) the overall hydraulic relationships and properties between groundwater and surface water systems, between groundwater systems, and within groundwater systems</p> <p>(3) If the outcome of the requirement in subsection (1) is that such rules are necessary, the water resource plan must include those rules.</p>	<p>The assessment against s 10.17 of the Basin Plan concluded that all relevant rules have not been included, that connected resources have not been given full consideration and that it is not clear that sufficient consideration has been given to the need for rules to ensure that take by floodplain harvesting does not compromise the EWRs of PEAs and PEFs. As a result (and as noted above in the assessment of s 10.17), the assessment has determined that requirements of s 10.17 of the Basin Plan have not been met.</p> <p>Although the proposed WRP adequately demonstrates regard to risks between surface water connections with groundwater, the reliance on the approach to meeting the s 10.17 requirement as also meeting the s 10.20 requirements means the proposed WRP does not demonstrate regard to the need for rules to ensure that operation of the proposed WRP does not compromise the overall structural integrity of connected aquifers or the overall hydraulic relationships and properties between connected systems.</p> <p>Therefore, the requirements of ss 10.20(1) and (3) have not been met.</p>
4.5	10.22 (b)	<p>A water resource plan must:</p> <p>(a)</p> <p>(b) if a risk of a kind referred to in subsection 10.41(1) has been identified in relation to the water resources of the water resource plan area – explain why rules addressing the risk have or have not been included in the plan.</p>	<p>Text for accreditation at WRP s 4.2 and s 4.7 set out how regard for the need for rules was given and provides rules for accreditation.</p> <p>Text for accreditation at s 4.2 states that:</p> <p>the consolidated risk tables in the Risk Assessment identify the level of risk at the water source or river reach scale for a range of flow components. Rules that help manage these risks are identified in the columns labelled 'Current Critical Mechanisms' (existing rules) and 'New Critical Mechanisms' (new rules). This includes rules about the times, places and rates at which water can be taken, and how water must be managed and used.</p> <p>Text for accreditation at ss 4.2 and 4.7 also states that the consolidated risk tables of Schedule D explain why a risk is tolerable or cannot be addressed by the water resource plan in a manner commensurate with the level of risk.</p> <p>Examination of the cited tables confirms that appropriate explanation has been included on why a risk is tolerable or why rules have not been included to address risks identified in s 10.41(1). Further, the consolidated risk table refer to Schedule D Table 9-3 for additional explanation about the rationale behind tolerable risk results, which has also been confirmed through examination of that table.</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			However, the assessment of material provided for the purposes of ss 10.17-10.20 has found that there is insufficient rationale for the exclusion of certain rules as identified in those assessments. Therefore, this requirement has not been met.
Part 5			
5.1	10.23(1)	(1) A water resource plan must, having regard to the risk identification and assessment conducted for section 10.41, specify whether there are any types of interception activity in the water resource plan area which have the potential to have a significant impact on: (a) the water resources of the water resource plan area; or (b) water resources which are hydrologically connected to the water resources of the water resource plan area; whether on an activity-by-activity basis, or cumulatively.	Text for accreditation at WRP s 5.7 states that no types of interception activity were found to have the potential to have a significant impact on the water resources of the Murray-Lower Darling WRP area, or hydrologically connected water resources. It states that all interception activities have a low risk rating. WRP s 3 and s 3.1 sets out the risk assessment process, including consideration of the risks due to interception in ss 4.5 and 8.2 of WRP Schedule D (Risk Assessment). Examination of ss 4.5 and 8.2 of Schedule D identifies a number of inconsistencies with the statement in WRP s 5.7 that all interception activities are a 'Low' risk, and therefore do not have the potential to have a significant impact. Consistent with MDBA Position Statement 5A, where a risk associated with an interception activity is identified as Medium or higher, that interception activity is considered to have the potential to have a significant impact and must be identified as such for the purposes of s 10.23. As this has not been done for interception by commercial plantations, this requirement has not been met, and appropriate regard for the risk assessment has not been demonstrated. Additionally, as set out in item 2.1 above, the proposed WRP has not identified all hydrologically connected water resources, and the assessment cannot determine that regard has been had for the potential for interception activities to have an impact on connected resources.
5.2	10.23(1)	(1) A water resource plan must, having regard to the risk identification and assessment conducted for section 10.41, specify whether there are any types of interception activity in the water resource plan area which have the potential to have a significant impact on: (a) the water resources of the water resource plan area; or (b) water resources which are hydrologically connected to the water resources of the water resource plan area; whether on an activity-by-activity basis, or cumulatively.	There is an internal inconsistency in the consequence score for the impact of interception by plantation forestry on environmental assets. Section 4.5.2.1 of Schedule D states that the consequence score is 'negligible', and refers to Table 4-24. Table 4-24, which sets out consequence results due to interception by farm dams, lists a consequence for the Lower Darling regulated river water source of 'Medium', and for the NSW Murray regulated river water source of 'Medium - Very High'. Table 4-41 calculates the overall risk outcome for plantation interception, and applies the 'negligible' consequence score for both. Text immediately preceding this table also refers to the consequence scores in Table 4-24. The calculated risk outcome is 'Low'. If the consequence score in Table 4-24 are instead used, there is no change to the overall risk outcome for the Lower Darling, but the risk outcome for the NSW Murray changes from Low to High. This change to High would result in a significant interception activity, as set out in the above issue. Note: There is an additional consideration in that the risk matrix set out in Table 4-40 does not use consequence rankings of 'Medium' or 'Very High' in regulated water sources, instead 'Moderate' and 'Severe', however these are directly mapped to 'Medium' and 'Very High' in unregulated water sources and are therefore considered equivalent for the purpose of calculating this risk.
5.3	10.23(2)	(2) If there are any such types of interception activity, the water resource plan must list those types.	WRP s 5.7 provides a list of interception activities, which includes interception by commercial plantations. This list is identified as a list of interception activities with a low risk ranking, which is inconsistent with the findings of Schedule D as detailed above. This statement, and preceding text in WRP s 5.7 which clearly states that no interception activities have been found to have the potential to have a significant impact, means that the list of interception activities provided in WRP s 5.7 does not meet the requirements of s 10.23(2), as interception by commercial plantations has not been listed as a significant interception activity.
5.4	10.23(3)	(1) For the purpose of determining whether a type of interception activity is of the kind referred to in subsection (1), regard must be had to the	Examination of these sections of Schedule D confirms that they consider the location, impact and projected growth of interception activities in the Murray-Lower Darling WRP area. However, as set out in the assessment for s 10.23(1), appropriate regard for these

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
		<p>following factors:</p> <p>(a) the location of particular activities of that type in the water resource plan area;</p> <p>(b) the impact of the type of activity on the availability of:</p> <p>(i) the water resources of the water resource plan area; and</p> <p>(ii) any water resources which are hydrologically connected to the water resources of the water resource plan area;</p> <p>(c) the projected growth of the type of activity over the period for which the water resource plan will have effect.</p>	<p>matters has not been had in regard to interception by commercial plantations, as the evidence that this form of interception has the potential to have a significant impact has not been acknowledged.</p> <p>Additionally, as set out in item 2.1 above, the proposed WRP has not identified all hydrologically connected water resources, and the assessment cannot determine that regard has been had for the potential for interception activities to have an impact on connected resources.</p> <p>Therefore, the requirements of this section have not been met.</p>
5.5	10.24	<p>If a water resource plan includes a list of the kind referred to in subsection 10.23(2), the plan must set out, in respect of each type of interception activity listed, a process for monitoring the impact of that type of activity on:</p> <p>(a) the water resources of the water resource plan area; and</p> <p>(b) water resources which are hydrologically connected to the water resources of the water resource plan area.</p>	<p>WRP Schedule B (WRP Index) refers to WRP s 5.7 as addressing s 10.24 of the Basin Plan.</p> <p>Text for accreditation at s 5.7 (blue box on page 81) states that s 10.24 is not applicable to the proposed WRP for interception by commercial plantations.</p> <p>However, as set out in the assessment for s 10.23, interception by commercial plantations is a significant interception activity which has not been identified.</p> <p>As a significant interception activity, a process for monitoring the impacts of this activity needs to be identified. No such process has been identified, and therefore the requirements of this section have not been met.</p> <p>Further, as identified in the assessment for ss 10.05 and 10.23(1), not all adjacent water resources have been identified, and so it is not clear how any monitoring would capture impacts on those water resources which have not been identified.</p>
5.6	10.25(1)	<p>(1) A water resource plan must identify actions that will be taken in the event that monitoring under section 10.24 shows that:</p> <p>(a) an impact of a type of interception activity compromises the meeting of an environmental watering requirement; or</p> <p>(b) an impact of several types of activity together compromises the meeting of an environmental watering requirement; or</p> <p>(c) there is an increase in the quantity of water being intercepted by a type of activity;</p> <p>after the commencement of the water resource plan.</p>	<p>Text for accreditation at WRP s 5.7 states that s 10.25 is not applicable to the proposed WRP for interception by commercial plantations.</p> <p>However, as set out in the assessment for s 10.23, examination of ss 4.5 and 8.2 of WRP Schedule D (Risk Assessment) indicates that interception by commercial plantations has the potential to have a significant impact but has not been identified as such in the proposed WRP for the purposes of s 10.23.</p> <p>Further, as set out in the assessment for s 10.24, no processes for monitoring the impacts of this activity have been identified.</p> <p>Therefore, there is no trigger for actions to be taken under s 10.25.</p> <p>Further, no actions have been identified in the proposed WRP to manage the impacts of interception by commercial plantations.</p> <p>As no actions have been identified, the requirements of this section have not been met.</p>
Part 6			
6.1	10.26(1)	<p>(1) A water resource plan must provide for environmental watering to occur in a way that:</p> <p>(a) is consistent with:</p>	<p>The proposed WRP relies on the approaches to addressing Parts 3 and 4 of Chapter 10 to meet the requirements of s 10.26(1). As set out above, the requirements of those parts have not been met, and therefore there is a consequential inconsistency for s 10.26(1).</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
		i. the environmental watering plan; and ii. the Basin-wide environmental watering strategy; and (b) contributes to the achievement of the objectives in Part 2 of Chapter 8.	
6.2	10.26(2)	(2) For the purposes of subsection (1), the water resource plan must be prepared having regard to: (a) the most recent version of the long-term watering plan prepared in accordance with the requirements of Division 3 of Part 4 of Chapter 8;	<p>Text for accreditation at s 4.3 identifies that:</p> <ul style="list-style-type: none"> The Risk assessment conducted in the development of the WRP had regard to the EWRs in the LTWP. Sections 4.2-4.4 of WRP Schedule D (Risk Assessment) describe the way flow requirements were considered in the risk assessment method, and the assessment results for risks to water available for the environment and capacity to meet EWRs. Rules incorporated into the proposed WRP at s 4.1.1 recognise and contribute to meeting the environmental watering requirements (EWRs) set out in the LTWP. These rules and how they contribute to the LTWP objectives are set out in Schedule E Table E-1. The provisions in the LTWP are given effect by the proposed WRP. The rules provide flexibility to respond to the LTWP and any annual environmental watering plan through the management of the EWA. <p>Examination of the rules and arrangements noted above confirm that the proposed WRP was prepared having regard to the most recent version of the LTWP to some extent.</p> <p>However, the assessment of the material provided for the purposes of s 10.09(1) of the Basin Plan has identified that the proposed WRP does not include all the rules that provide for the management and protection of PEW (item 3.4 refers). Therefore, while there are some rules and arrangements in place that demonstrate that regard was had to the most recent version of the LTWP, the omissions noted above mean that this requirement has not been met.</p>
6.3	10.27(2)	(3) The water resource plan for each of the areas must provide for the co-ordination of environmental watering between the 2 areas.	<p>Appendix C (No net reduction in planned environmental water) of the proposed WRP includes a new PEW account to “permanently recognise NSW’s share of RMIF water.” The Authority notes that this water was previously stored and released by Snowy Hydro Ltd in accordance with the Snowy Water Licence with the primary use of RMIF to be in accordance with meeting the objectives and outcomes of the Living Murray Initiative (improving river health).</p> <p>The Authority notes that the RMIF account is credited equally to NSW and Victoria, but that Victoria characterises these flows as HEW with return flow protections in place through pre-requisite policy measures. Currently, the proposed NSW WRP does not include information as to how environmental watering using RMIF will be coordinated between the two states and does not mention the 2013 interim RMIF strategy or the 2006 interim rules for RMIF. Reference to these two key documents, and a commitment in the proposed WRP to operate the RMIF PEW account consistently with the strategy, would provide for coordination of environmental watering.</p> <p>This would also assist the management of operational challenges that arise due to the different characterisation of RMIF between Victoria (HEW) and NSW (PEW) that may otherwise limit the intended outcomes of use of RMIF for the Living Murray Initiative through SCBEWC. In order to ensure coordination of the use of this environmental water, NSW RMIF should be afforded the same management arrangements as those applied through the Pre-requisite Policy Measure provisions to other downstream of Choke River Murray allocations, recognising that this is not yet clearly articulated in the accompanying NSW Murray and Lower Darling Pre-requisite Policy Measures Procedures Manual.</p>
6.4	10.28	A water resource plan must ensure that there is no net reduction in the protection of planned environmental water from the protection provided under State water management law immediately before the commencement of the Basin Plan.	<p>The text for accreditation in s 4.5 sets out changes to PEW rules identified by NSW.</p> <p>The assessment has reviewed the WSPs that were in effect on 23 November 2012 and carried out an assessment against the relevant rules identified in the proposed WRP and has found that there have been changes to the supplementary flows access rule in the</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>proposed Regulated WSP and the proposed WRP does not provide any information to explain the impact on PEW. Clause 49 in the baseline Regulated WSP, regarding extraction under supplementary water access licences has been included in the proposed Regulated WSP at cls 46 and 47. However, the provision has been redrafted and multiple subclauses appear to have been omitted, this includes cl 49(4)(a) which states:</p> <p style="padding-left: 40px;">Taking of water under supplementary water access licences in these water sources shall only be permitted once flows are in excess of those required under the environmental water provisions for the water source specified in Part 3 of this Plan.</p> <p>The proposed Regulated WSP also omits several subclauses related to rules around the taking of supplementary flows in the Lower Darling Water Source.</p> <p>The changes to this provision in the proposed Regulated WSP appear to have some impact on the legal protection of PEW. However, this is not addressed in Appendix C or the proposed WRP, and as such, there is insufficient information provided for the Authority to determine the impact on the protection of PEW</p> <p>In addition, the proposed WRP has not comprehensively identified the rules and arrangements that protect PEW under existing WSPs for the purposes of accreditation in the WRP for s.10.09(1). Item 3.3 above sets out the details of rules and arrangements relating to PEW that have not been identified for the purposes of s 10.09(1).</p> <p>As a consequence, the Authority has been unable to confirm that the proposed WRP will operate to ensure there is no net reduction in PEW protection and therefore is not satisfied that this provision has been met.</p>
Part 7			
7.1	10.31	If a risk of a kind mentioned in paragraph 10.41(2)(d) has been identified in relation to the water resources of the water resource plan area, the WQM Plan must explain why measures addressing the risk have or have not been included in the water resource plan.	<p>Management action <i>Reduce the impact of algal blooms on recreational users by monitoring algae concentrations, communicating the risks of harmful algal blooms to users and implementing incident response monitoring</i> is provided for WQ7 Strategy 2. The accompanying management plan listed in Table 4-3 of Schedule H as 'NSW Guidelines to management response to harmful algal blooms; for application in the Murray and Sunraysia regions.' However, it is noted that in Table 4-2 of Schedule H the following management plan has been listed 'NSW Algal risk management sub plan: Guidelines to management response to harmful algal blooms in the Murray and Sunraysia region'.</p> <p>It is assumed that the latter document should be the document listed for WQ7 Strategy 2 in Table 4-3, but as the latter document has not been provided as part of the package of material submitted for assessment purposes, the requirement has not been met.</p>
7.2	10.32(2)(a)	<p>(2) The water quality target values are the following:</p> <p>(a) for fresh water-dependent ecosystems—the applicable target values referred to in section 9.16;</p>	<p>The application of the water quality targets (Table 5-1 of Schedule H) in the NSW Murray and Lower Darling Surface WRP area is on the whole consistent with the water quality target values that appear in Schedule 11 of the Basin Plan except for two:</p> <ul style="list-style-type: none"> • The value for total phosphorus (µg/L) identified for water quality zone <i>cMum</i> for other water-dependent ecosystems (not including Ramsar sites) is 340 µg/L. • The value for total phosphorus (µg/L) identified for water quality zone <i>cM1</i> for declared wetland sites is 50 µg/L. <p>It appears that the value for water quality zone <i>cMum</i> could be a typographical error as the value in Schedule 11 of the Basin Plan is 40 µg/L for total phosphorus for 'other water-dependent ecosystems' and not 340 µg/L.</p> <p>It appears that the value for water quality zone <i>cM1</i> for total phosphorus (50 µg/L) for declared wetlands appears to be a 'better than' target value than that which is in Schedule 11 of the Basin Plan (80 µg/L). Nominating the value of 50 µg/L is inconsistent with the text provided at WRP s 6 which states:</p> <p>The water quality targets listed [in Table 5-1] reflect those set out in s 10.32(2) of the Basin Plan.</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			As a result of the inconsistencies identified above, it cannot be confirmed whether the water quality target values identified in Table 5-1 are correct. Therefore, this requirement has not been met.
7.3	10.33(1)	(1) The WQM Plan must specify measures to be undertaken in or in relation to the water resources of the water resource plan area that contribute to the achievement of the objectives set out in: (a) section 9.04 (Objectives of water-dependent ecosystems); and (b) section 9.05 (Objectives for raw water for treatment for human consumption); and (c) section 9.06 (Objective for irrigation water); and (d) section 9.07 (Objective for recreational water quality); and (e) section 9.08 (Objective to maintain good levels of water quality); unless there are no such measures that can be undertaken cost-effectively.	<p>Examination of Table 4-3 of Schedule H finds instances of material inconsistency between the strategies (column two), the water management actions (column three), and the identified management plans (column four) when addressing the requirements of s 10.33(1) (a)-(c) and (e).</p> <p>The accompanying management plan listed at WQ2, Strategy 4, WQ3 Strategy 3, WQ4 Strategy 1 and WQ10 Strategy 1 in Table 4-3 for measures that contribute to objectives set out in (a) to (e), is listed as 'Murray Darling Basin Agreement. [Water Act 2007 (Cwth) Schedule 1]' and is identified as an 'A' (for accreditation) management plan. This management plan has not been provided as part of the assessment package and therefore cannot be considered for accreditation. Further, it is not clear that the entire <i>Murray Darling Basin Agreement</i> is needed to address this requirement and that it is not intended to be accredited.</p> <p>Therefore, this requirement has not been met.</p>
7.4	10.33(2)(a) and (b)	(2) The measures must be prepared having regard to: (a) the causes, or likely causes, of water quality degradation identified in accordance with section 10.30; and (b) target values identified in accordance with section 10.32; and (c) the targets in Division 4 of Part 4 of Chapter 9.	<p>10.33(2)(a) Examination of Table 4-3 in Schedule H confirms that measures have been identified. However, inconsistencies have been identified between the risk ratings identified in Schedule D, Table 3-1 and Table 4-3 of Schedule H. Subsequently, it is not clear whether the appropriate regard has been had to the causes or likely causes of water quality degradation when identifying measures related to medium and high risks.</p> <p>Further, there are inconsistencies in Table 5-1 of Schedule H with regards to target values for water quality for fresh water-dependent ecosystems. It appears that some values for total phosphorus for declared wetlands and other water-dependent ecosystems, are inconsistent with the values noted in Schedule 11 of the Basin Plan. Thus, it cannot be confirmed that the measures listed in Table 4-3 of Schedule H have been developed having regard to the water quality targets at s 10.32 of the Basin Plan.</p> <p>10.33(2)(b) The application of the water quality targets (Table 5-1 of Schedule H) in the NSW Murray and Lower Darling Surface WRP area is on the whole consistent with the water quality target values that appear in Schedule 11 of the Basin Plan except for two:</p> <ul style="list-style-type: none"> • The value for total phosphorus (µg/L) identified for water quality zone <i>cMum</i> for other water-dependent ecosystems (not including Ramsar sites) is 340 µg/L. • The value for total phosphorus (µg/L) identified for water quality zone <i>cM1</i> for declared wetland sites is 50 µg/L. <p>It appears that the value for water quality zone <i>cMum</i> could be a typographical error as the value in Schedule 11 of the Basin Plan is 40 µg/L for total phosphorus for 'other water-dependent ecosystems' and not 340 µg/L.</p> <p>It appears that the value for water quality zone <i>cM1</i> for total phosphorus (50 µg/L) for declared wetlands appears to be a 'better than' target value than that which is in Schedule 11 of the Basin Plan (80 µg/L). Nominating the value of 50 µg/L is inconsistent with the text provided at WRP s 6 which states:</p> <p>The water quality targets listed [in Table 5-1] reflect those set out in s 10.32(2) of the Basin Plan.</p> <p>As a result of the inconsistencies identified above, it cannot be confirmed whether the water quality target values identified in Table 5-1 are correct.</p> <p>Therefore, this requirement has not been met.</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
7.5	10.35	<p>The measures specified in the WQM Plan must be developed having regard to:</p> <ul style="list-style-type: none"> (a) the impact those measures (including the absence of adequate measures) may have on the ability of another Basin State to meet water quality targets; and (b) any adverse impacts those measures may have on Basin water resource in the other Basin States. <p>Note: See also the consultation requirement in subsection 63(2) of the Act.</p>	<p>Schedule H does not provide information about the potential of the measures set out in Table 4-3 of Schedule H to impact on the ability of another Basin State to meet water quality targets.</p> <p>Based on the assessment of s 10.35 and the lack of information provided in text for accreditation at s 6 of the proposed WRP, it cannot be confirmed whether the measures listed in Table 4-3 will affect Victoria and South Australia in meeting their water quality targets or result in adverse impacts to water resources. Thus, the requirement has not been met.</p>
Part 9			
9.1	10.41(1)	A water resource plan must be prepared having regard to current and future risks to the condition and continued availability of the water resources of the water resource plan area.	As outlined in ss 10.41(2)(a) and (b), 10.41(3)(a) and s 10.41(4) of the assessment, not all risks to which the risk assessment has had regard to have been listed in the proposed WRP.
9.2	10.41(2)(a), (b) and (c)	<p>(2) Without limiting subsection (1), the risks include (where applicable):</p> <ul style="list-style-type: none"> (a) risks to the capacity to meet environmental watering requirements; and (b) risks arising from the matters referred to in subsection 10.20(1); (c) risks arising from potential interception activities <p>10.20(1): A water resource plan must be prepared having regard to whether it is necessary for it to include rules which ensure that the operation of the plan does not compromise:</p> <ul style="list-style-type: none"> (a) the overall structural integrity of the aquifer (whether within or outside the water resource plan area) arising from take within the long-term annual diversion limit for an SDL resource unit; or (b) the overall hydraulic relationships and properties between groundwater and surface water systems, between groundwater systems, and within groundwater systems. 	<p>WRP s 3 identifies all the blue boxed text in s 3 as demonstration that the proposed WRP was prepared having regard to risks listed in s 10.41(2).</p> <p><i>10.41(2)(a)</i></p> <p>Text for accreditation at WRP s 3.1 refers to s 4.3.1 of WRP Schedule D (risk assessment) for how the risk assessment has regard to there being sufficient water available to meet environmental watering requirements.</p> <p>However, the assessment for s 10.05 and s 10.41(1) has identified that the proposed WRP has not adequately considered the risks to the water resources in the NSW Murray and Lower Darling Surface WRP area from the in the adjacent hydrologically connected water resources. As such, the assessment cannot confirm whether all the risks to the capacity to meet environmental watering requirements have been considered in the proposed WRP.</p> <p><i>10.41(2)(b)</i></p> <p>Text for accreditation at s 3.2 refers to s 3.3.2 of Schedule D to demonstrate that the risk assessment process had regard to the risks described in 10.41(2)(b) and 10.20(1)(a).</p> <p>Whilst the risk assessment has had regard to the risks described under 10.20(1), the specific risks relating to structural damage to an aquifer (within or outside of the WRP area) have not been listed in the proposed WRP to meet s 10.41(4) requirements.</p> <p>Additionally, the assessment for s 10.05 and s 10.41(1) has identified that the proposed WRP has not adequately considered the risks to the water resources in the NSW Murray and Lower Darling Surface WRP area from the adjacent hydrologically connected water resources.</p> <p><i>10.41(2)(c)</i></p> <p>Text for accreditation at s 3 refers to the Consolidated Risk Tables and ss 4.5.1.4, 4.5.2.4, 4.5.3.2, 4.5.4.4, 8.2.1.4, 8.2.2.3, 8.2.3.2 and 8.2.4.3 of Schedule D to demonstrate that the risk assessment process had regard to the risks from potential interception activities.</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>The assessment notes that accreditation text refers to s 4.5.4.4 of Schedule D to demonstrate the Risk outcomes. However, this appears to be a drafting error as s 4.5.4.4 is about determining the likelihood rating. While, risk outcomes of increased floodplain harvesting to insufficient water for the environment and capacity to meet EWRs are set out at s 4.5.4.6 of Schedule D. This drafting error is not material to the requirement.</p> <p>As set out in the item 5.4 related to the assessment for s 10.23, Examination of the sections of Schedule D that are related to the risks from potential interception activities confirm that they consider the location, impact and projected growth of interception activities in the NSW Murray and Lower Darling Surface WRP area. However, as set out in the assessment for s 10.23(1), appropriate regard for these matters has not been had in regard to interception by commercial plantations, as the evidence that this form of interception has the potential to have a significant impact has not been acknowledged..</p> <p>Also, the assessment for s 10.05 and s 10.41(1) has identified that the proposed WRP has not adequately considered the risks to the water resources in the NSW Murray and Lower Darling Surface WRP area from the in the adjacent hydrologically connected water resources. As such, the assessment cannot confirm whether all the risks arising from potential interception activities have been considered in the proposed WRP.</p>
9.3	10.41(3)(a)	<p>In identifying risks for the purpose of subsection (1), regard must be had to:</p> <p>(a) risks identified in section 4.02</p> <p>4.02:</p> <p>(1) the risks to the condition, or continued availability, of Basin water resources, including the risks to the availability of Basin water resources that arise from the matter specified in item 3 of the table in subsection 22(1) of the Act are:</p> <p>(a) insufficient water available for the environment; and</p> <p>(b) water being of a quality unsuitable for use; and</p> <p>(c) poor health of water-dependent ecosystems.</p> <p>(2) The consequences of the materialisation of the risks identified in subsection (1) include:</p> <p>(a) that insufficient water is available, or water is not suitable for consumptive and other economic uses of Basin water resources; and</p> <p>(b) that insufficient water is available, or water is not suitable to maintain social, cultural, Indigenous and other public benefit values.</p>	<p>4.02(1)(a)</p> <p>Text for accreditation at WRP s 3.2 refers to the risks and risk outcomes in sections 4.3.3, 4.4.3, 4.5.1.4, 4.5.2.4, 4.5.3.2, 4.5.4.4 and 4.6.4 Schedule D to demonstrate that the risk assessment process had regard to the risks of insufficient water available for the environment.</p> <p>The assessment notes that accreditation text refers to s 4.5.4.4 of Schedule D to demonstrate the Risk outcomes. However, this appears to be a drafting error as s 4.5.4.4 is about determining the likelihood rating. While, risk outcomes of increased floodplain harvesting to insufficient water for the environment and capacity to meet EWRs are set out at s 4.5.4.6 of Schedule D. This drafting error is not material to the requirement.</p> <p>As noted in the assessment for s 10.23 and s 10.41(2)(c), appropriate regard has not been demonstrated for the risks of interception by commercial plantations, as appropriate monitoring, and actions commensurate with the identified risk outcomes are not identified for the purposes of Part 5.</p> <p>Also, the assessment for s 10.05 and s 10.41(1) has identified that the proposed WRP has not adequately considered the risks to the water resources in the NSW Murray and Lower Darling Surface WRP area from the in the adjacent hydrologically connected water resources. As such, the assessment cannot confirm whether all the risks relating to insufficient water being available for the environment have been considered in the proposed WRP. Therefore, the requirement is not met.</p> <p>4.02(1)(b)</p> <p>Schedule D has identified risks and had regard to risks of poor health of water-dependent ecosystems.</p> <p>However, the assessment for s 10.05 and s 10.41(1) has identified that the proposed WRP has not adequately considered the risks to the water resources in the NSW Murray and Lower Darling Surface WRP area from those in the adjacent hydrologically connected water resources or from interception by commercial plantations. As such, the assessment cannot confirm whether all the risks relating to poor health of water-dependent ecosystems have been considered in the proposed.</p> <p>Therefore, this requirement has not been met.</p> <p>4.02(1)(c)</p> <p>Text for accreditation at s 3.2 refers to the risk outcomes in ss 5, 6.3.3, 6.4.3 and 6.5.3 of Schedule D as providing the list of risk assessment outcomes relevant to this risk.</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>The assessment for s 10.05 and s 10.41(1) has identified that the proposed WRP has not adequately considered the risks to the water resources in the NSW Murray and Lower Darling Surface WRP area from the in the adjacent hydrologically connected water resources. As such, the assessment cannot confirm whether all the risks relating to poor health of water-dependent ecosystems have been considered in the proposed WRP. Therefore, this requirement is not met.</p> <p><i>4.02(2)(a)</i></p> <p>Section 3.2 refers to the risk outcomes in ss 7.3, 7.4.4, 7.5 and 7.6 of Schedule D as providing the list of risk assessment outcomes relevant to risk to other water uses due to unsuitable water quality.</p> <p>Section 7.5 of Schedule D states that:</p> <p style="padding-left: 40px;">Risks to raw water and their management strategies are identified in the Drinking Water Management Systems for the following water suppliers in the Murrumbidgee WRP and will not be addressed further in this document.</p> <p>Section 7.5 then lists 11 local government water suppliers responsible for identifying and managing water quality risks in their supply areas. However, the proposed WRP does not list these risks for the purposes of s 10.41(4).</p> <p>Section 7.6 of Schedule D states that:</p> <p style="padding-left: 40px;">As there is a related requirement in 10.53(f), refer to sections 1.3.2, 1.7 and 4.6 of the WRP for further information relevant to risks to Indigenous values and uses of surface waters.</p> <p>Examination of the cited sections of the WRP relevant to risks to Indigenous values and uses of surface waters confirms that WRP s 1.7 details matters relevant to the risks identified in s 7.6 of Schedule D. However, the assessment notes that there is no material relevant to s 10.41 in text for accreditation at s 4.6, and the reference to WRP s 1.3.2 is incorrect and does not exist in the proposed WRP. Therefore, the requirement is not met.</p> <p><i>4.02(2)(b)</i></p> <p>There is no material incorporated into the proposed WRP that refers to material demonstrating regard for the risk of insufficient water being available to maintain social, cultural, Indigenous and other public benefit values.</p> <p>The assessment also notes that assessment against s 10.53(1)(f) has found (issue 14.9 below) that while risks to Indigenous values and Indigenous uses arising from the use and management of the water resources of the water resource plan area have been identified, there is insufficient evidence that genuine, proper and realistic consideration of these risks has been given. Therefore, this requirement is not met.</p>
9.4	10.41(4)	The water resource plan must list the risks identified for the purposes of subsection (1).	<p>Section 3.2 of the proposed WRP incorporates the Consolidated Risk Tables and risk outcomes outlined in Schedule D. However, as outlined against s 10.41(2) and (3) in this notice (item 9.2 and 9.3), not all risks to which the risk assessment has had regard to have been listed in the proposed WRP.</p> <p>Additionally, the assessment for s 10.05 and s 10.41(1) has identified that the proposed WRP has not considered the risks to the water resources in the NSW Murray and Lower Darling Surface WRP area from those in the adjacent hydrologically connected water resources. As such, the Authority cannot confirm whether the list of risks provided for s 10.41(4) includes all current and future risks as described in ss 10.41(1) – (3).</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			Therefore, this requirement is not met.
9.5	10.41(5)	The water resource plan must assess each risk.	<p>Text for accreditation at s 3.2 states that</p> <p>The consolidated risk tables in Schedule D also include a 'risk rating' column that defines the level of each risk as low, medium or high.</p> <p>However, as outlined in against s 10.41(2)-(4) in this notice, not all of the risks have been listed, which means that not all risks have been assessed according to NSW's chosen risk assessment method. Therefore, this requirement is not met.</p>
9.6	10.41(6)	<p>The water resource plan must define the level of risk of each risk, using the following categories:</p> <ul style="list-style-type: none"> (a) low; (b) medium; (c) high; (d) if it is considered appropriate, any additional category. 	<p>Text for accreditation at WRP s 3.1 sets out the methods used to assess current and future risks. Text for accreditation at WRP s 3.2 refers to the risks and risk outcomes described in multiple sections of Schedule D.</p> <p>A comparison of the risk outcomes of Schedule D that are cited in s 3.2, against the risks and risk outcomes detailed in the consolidated risk tables of Schedule D has been undertaken. However, as outlined against ss 10.41(4) and (5) (items 9.4 and 9.5) of this notice, not all risks have been listed or assessed according to NSW's chosen risk assessment method. This means the proposed WRP has not listed all of the required risks as either low, medium or high and the requirement is not met.</p>
9.7	10.43(2)	If the water resource plan identifies a risk which relates to a matter dealt with by a requirement in another Part of this Chapter, the strategy must take account of that requirement.	<p>Text for accreditation at WRP s 3.3 states that for the purpose of s 10.43 of the Basin Plan:</p> <p>Columns 1 and 5 of Table 9-7 and Table 9-8 of the Risk Assessment detail the strategies to manage the current and future risks to the condition and continued availability of surface water resources of the Gwydir Surface WRPA.</p> <p>While column one of Table 9-7 identifies all the strategies relating to the risks identified in the risk assessment, column five and Table 9-8 do not contain any material to link the strategies in column one with the other part under Chapter 10 that have provisions to deal with risks to satisfy the requirement of s 10.43(2). Examination of column six of Table 9-7 confirms it identifies how strategies address each of the risk requirements in Chapter 10 of the Basin Plan. However, as column six of Table 9-7 does not form part of the accredited text of the proposed WRP, it cannot be relied upon to demonstrate that this requirement has been met. Further, it is not possible to find any other information in the proposed WRP that maps other provisions to each risk. Therefore, this requirement is not met.</p>
9.8	10.43(3)	<p>A water resource plan must be prepared having regard to:</p> <ul style="list-style-type: none"> (a) the strategies listed in subsection 4.03(3) 	<p>Text for accreditation at WRP s 3.3 states that for the purpose of s 10.43 of the Basin Plan and states:</p> <p>Columns 1 and 5 of Table 9-7, and Table 9-8 of the Risk Assessment detail the strategies to manage the current and future risks to the condition and continued availability of surface water resources of the Gwydir Surface WRPA.</p> <p>The assessment against s 10.43(2) has confirmed that columns one and five of Table 9-7 do not provide material that meet the requirement to link the strategies with the other risk requirements of Chapter 10 and that this material is provided in column six of Table 9-7. However, as column six of Table 9-7 is not incorporated into the proposed WRP, it cannot be relied upon to demonstrate that this requirement has been met (refer to item 9.8).</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
9.9	10.43(3)	A water resource plan must be prepared having regard to: (a) the strategies listed in subsection 4.03(3)	<p>In addressing the strategies listed in s 4.03(3), column six of Table 9-7 of Schedule D does not refer to any strategies listed under s 4.03(3)(h)(iii), 'to improve knowledge of the impact on Basin water resources'... on 'climate change'.</p> <p>The assessment has undertaken a systematic review of the strategies in Table 9-7 and has identified that Strategy 14 is the only strategy which relates to climate change. However, a note in column four of Table 9-7 relating to this strategy states that:</p> <p style="text-align: center;">No further climate change strategy has been identified beyond the SDL in this document.</p> <p>Given this statement, and the lack of identification of s 4.03(3)(h)(iii) as being relevant to any identified strategy, the assessment has determined that the proposed WRP was not prepared having regard to the strategies listed in s 4.03(3)(h)(iii). As such this requirement is not met.</p>
Part 10			
10.1	10.44(a)	<p>A water resource plan must include the following information in relation to each class of water access right relating to the water resources of the water resource plan area:</p> <p>(a) the best estimate of the total long-term annual average quantity of water taken that is measured;</p> <p>(b) the best estimate of the total long-term annual average quantity of water taken that is not measured;</p> <p>(c) how the quantities under paragraphs (a) and (b) were calculated.</p>	<p>Table 7-1 does not identify all classes of water access right that have been incorporated into the proposed WRP to meet the requirements of s 10.08 (identification of water access rights) of the Basin Plan.</p> <p>Table F-1 ('Parameters for the method for determining Annual Actual Take (AAT') claims to contain the 'current best estimate of the total long-term annual average quantity of water taken for each class of water take that is measured and not measured', but it does not directly contain any numerical values for measured or estimated annual actual take, nor does it present any numerical values for long-term annual average take. Table F-1 instead refers to the annual summing of all diversions under regulated river access licences listed in Table 5-1 or to volumes described in WRP Table F-2.</p> <p>Table F-3 ('Demonstration of APT method with the SDL') sets out a demonstration that the annual permitted take method will achieve the sustainable diversion limit over a repeat of Basin Plan historical climate conditions. However, none of the volumes in columns two or three of Table F-3 against the classes right where take is measured correspond with the volumes for take from a regulated river in Table 7.1.</p> <p>For take from regulated rivers (excluding basic rights) and the measured portion of take from a watercourse (excluding basic rights) this is because the volumes in Table F-3 set out the SDLs and the annual permitted take for each form of take run over a repeat of the historical climate period.</p> <p>The volumes for take from regulated rivers (excluding basic rights) and the measured portion of take from a watercourse (excluding basic rights) are not the same as long term annual average estimates of take that is measured. The material in Table F-3 is therefore not relevant to s 10.44(a) requirements as they relate to these forms of take.</p>
10.2	10.44(b)	<p>A water resource plan must include the following information in relation to each class of water access right relating to the water resources of the water resource plan area:</p> <p>(a) the best estimate of the total long-term annual average quantity of water taken that is measured;</p> <p>(b) the best estimate of the total long-term annual average quantity of water taken that is not measured;</p> <p>(c) how the quantities under paragraphs (a) and (b) were calculated.</p>	<p>Consistent with the assessment of material to meet s 10.44(a) of the Basin Plan, Table 7-1 does not identify all classes of water access right that have been incorporated into the proposed WRP to meet the requirements of s 10.08 (identification of water access rights) of the Basin Plan.</p> <p>Take that is not measured under unregulated river access licences is 'as specified in Table F-2'. However, the volumes provided in Table 7-1 are not consistent with that method.</p>
10.3	10.44(c)	<p>A water resource plan must include the following information in relation to each class of water access right relating to the water resources of the water resource plan area:</p>	<p>Consistent with the assessment of material to meet s 10.44(a) of the Basin Plan, Table 7-1 does not identify all classes of water access right that have been incorporated into the proposed WRP to meet the requirements of s 10.08 (identification of water access rights) of the Basin Plan.</p> <p>There are discrepancies in volumes at Table 7-1 for Take from a Regulated River (Conveyance), Take from a Regulated River</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
		(a) the best estimate of the total long-term annual average quantity of water taken that is measured; (b) the best estimate of the total long-term annual average quantity of water taken that is not measured; (c) how the quantities under paragraphs (a) and (b) were calculated.	(Supplementary) and Take from Runoff Dams. Take that is not measured under unregulated river access licences is 'as specified in Table F-2'. However, the volumes provided in Table 7-1 are not consistent with that method.
Part 12			
12.1	10.49(1) and (2)	(1) A water resource plan must be based on the best available information. (2) The water resource plan must identify and describe the significant sources of information on which the water resource plan is based.	The assessment has established gaps and errors in various sections of the WRP (as detailed in individual assessments of the Chapter 10 Parts). Examples of the inconsistencies that indicate the best available information has not been used are set out in this notice against ss 10.05, 10.10, 10.13, 10.15, 10.23, 10.24, 10.25, 10.41(4) and 10.44. Due to these gaps and errors in the information provided in the proposed WRP, this requirement has not been met.
Part 13			
13.1	10.51(1)(b)	A water resource plan describes how water resources will be managed during the following types of events: (a) ... (b) a water quality event that is sufficient to render water acutely toxic or unusable for established local uses and values;	For the purposes of s 10.51(1)(b) of the Basin Plan the relevant cited material in the text for accreditation at s 5.8 (blue box on pp 84-85) is ss 2.1 and 3.3 and Tables 1-1, 1-2, 1-3, 2-1, 3-3 of Schedule G (Incident Response Guide). Examination of the cited material from Schedule G confirms it outlines how the water resources in the Murray Lower Darling WRP area will be managed during an extreme water quality event. However, Table 3-4 is titled 'IRG criticality matrix and management responses for extreme ecological water quality events within the WRPA' and contains material relevant to this provision but has not been incorporated into the proposed WRP. As such, the proposed WRP provides some of how the water resources of the NSW Murray and Lower Darling WRP area would be managed during a water quality event that is sufficient to render water acutely toxic or unusable for established local uses and values. However, due to the exclusion of relevant material described in this assessment, the requirement has not been met.
13.2	10.51(1)(c)	A water resource plan describes how water resources will be managed during the following types of events: ... (c) any type of event that has resulted in the suspension of a statutory regional water plan in the past 50 years (including a transitional water resource plan or interim water resource plan).	The proposed WRP has identified that there has been an event in the past 50 years that has resulted in the suspension of a statutory regional plan. However, the Authority also notes that the reference in the above text for accreditation that refers to the 'predecessor of the <i>Water Sharing Plan for the NSW Murray and Lower Darling Regulated River Water Source 2020</i> was suspended on 10 November 2006 during the Millennium drought and recommenced in September 2011' causes an inconsistency with the requirements of s 10.51(c) of the Basin Plan. This is because the predecessor of the <i>Water Sharing Plan for the NSW Murray and Lower Darling Regulated River Water Source 2020</i> (WRP Schedule A) is the current <i>Water Sharing Plan for the NSW Murray and Lower Darling Regulated River Water Source 2016</i> . This water sharing plan came into effect on 1 July 2016 and so could not have been in effect in 2006 at the time of the suspension nominated in the text for accreditation. The relevant water sharing plan appears to be the <i>Water Sharing Plan for the NSW Murray and Lower Darling Regulated River Water Source 2003</i> . Consequently, this requirement has not been met.
Part 14			
14.1	10.52(1)	A water resource plan must identify: (a) the objectives of Indigenous people in relation to managing the water resources of the water resource plan area. (b) the outcomes for the management of the water resources of the water resource plan area that are desired by Indigenous people.	<u>Referencing errors</u> There are three referencing errors relating to the identification of objectives and outcomes: <ul style="list-style-type: none"> Table 8 of Attachment B. Barapa Barapa Nation Consultation Report identifies the desired objectives and outcomes and is not included in text for accreditation. Section 7.3.1 of Attachment F. Wadi Wadi Nation Consultation Report identifies the desired objectives and outcomes and is not included in text for accreditation. Section 5.2 of Attachment I. Yorta Yorta Nation Consultation Report as identifying desired objectives and outcomes and is not

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>included in text for accreditation.</p> <p><u>Naming inconsistency and missing consultation with the Barkandji Maljangapa First Nation</u> All references to this Nation in the proposed WRP refer to the Barkandji Nation only, whilst the listing of Attachment A is the Schedule C table of contents is 'the Barkandji and Maljangapa Nation Consultation Report'. The Authority is aware these Nations requested they be consulted together, however this is not reflected in the proposed WRP.</p> <p>Schedule C Attachment A. Barkandji Nation Consultation Report was not provided with the WRP package of materials, nor does text for accreditation cite relevant content from this document. The Authority notes that representatives of the Barkandji Maljangapa Nation have advised the Authority that the Nation Report has not been endorsed by the Barkandji and Maljangapa Nation. At present, the status of the report remains unclear.</p> <p><u>Missing consultation reports for the Tati Tati and Weki Weki First Nations</u> Schedule C did not include consultation reports for these Nations and noted that they would be provided to the MDBA when finalised and endorsed by the Traditional Owners.</p> <p>The absence of these three Nation reports and/or lack of appropriate explanation on why the content of these reports could not be incorporated into the proposed WRP means it is not clear that the objectives and outcomes of all Indigenous people in relation to managing the water resources of the WRP area have been identified.</p> <p>The Murray-Lower Darling Rivers Indigenous Nations (MLDRIN) expressed concern that, as a result of inadequate consultation processes, objectives and outcomes were only partially captured in the Nation consultation reports but acknowledged that those that were captured were reflected in the WRP. However, it is unclear how the identified objectives and outcomes informed WRP Schedule A.</p> <p>Although the Authority finds that the proposed WRP has identified some objectives and outcomes, due to the inability to confirm material because of the missing consultation reports; referencing errors in relation to the Barapa Barapa, Wadi Wadi and Yorta Yorta Nations; and the concerns raised in the MLDRIN advice, the Authority cannot confirm that the proposed WRP has identified the objectives and outcomes for the management of the water resources of the WRP area for all Indigenous people that have been identified as associated with the WRP area.</p> <p>Therefore, this requirement has not been met</p>
14.2	10.52(2)	<p>In identifying the matters set out in subsection (1), regard must be had to:</p> <ul style="list-style-type: none"> (a) the social, spiritual and cultural values of Indigenous people that relate to the water resources of the water resource plan area (Indigenous values). (b) the social, spiritual and cultural uses of the water resources of the water resource plan area by Indigenous people (Indigenous uses); 	<p><u>Referencing errors</u> There are three referencing errors relating to the consideration of values and uses:</p> <ul style="list-style-type: none"> • Table 6 of Attachment B. Barapa Barapa Nation Consultation Report lists the social, spiritual and cultural values for this Nation, and is not included in text for accreditation. • Table 2 of Attachment G. Wemba Wemba Nation Consultation Report lists the social, spiritual and cultural values for this Nation, and is not included in text for accreditation. • Section 5.1 of Attachment I. Yorta Yorta Nation Consultation Report lists the social, spiritual and cultural values for this Nation, and is not included in text for accreditation. <p><u>Missing consultation reports for the Barkandji Maljangapa, Tati Tati and Weki Weki First Nations</u> As per issue 14.2 above.</p> <p>MLDRIN's advice to the Authority expresses the view that, although values and uses have, to some extent, been identified and listed, it is not clear how these matters were considered to inform the development of the objectives and outcomes. In particular, the advice suggests that it is not clear that the consultation clearly covered the content of water sharing plans that the proposed WRP indicates is informed by the identified objectives and outcomes. MLDRIN also noted that consultation alone is not sufficient demonstration that</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>regard was had in identifying objectives and outcome; and, that the consultation process was inadequate and therefore did not adequately include all values and uses in the proposed WRP.</p> <p>MLDRIN disagrees with the NSW assertion in text for accreditation at WRP s 1.3.1 that the identified objectives and outcomes informed Part 2 of each of the WSPs at WRP Schedule A. MLDRIN considers the Part 2 clauses are generic across inland NSW WSPs and are not reflective of the objectives, outcomes, values and uses identified during consultation or as documented in the consultation reports.</p> <p>Although the Authority finds that the proposed WRP has identified some social, spiritual and cultural values and uses, due to the inability to confirm material because of the missing consultation reports; referencing errors in relation to the Barapa Barapa, Wemba Wemba and Yorta Yorta Nations; and the concerns raised in the MLDRIN advice, the Authority is not satisfied the proposed WRP has demonstrated regard to the social, spiritual and cultural values and uses of the water resources of the WRP area in relation to these nations when identifying the matters set out in 10.52(1).</p> <p>Therefore, this requirement is not met.</p>
14.3	10.53(1)	A water resource plan must be prepared having regard to the views of relevant Indigenous organisations with respect to the matters identified under section 10.52 and the following matters:	<p><u>Missing consultation reports for the Barkandji Maljangapa, Tati Tati and Weki Weki First Nations</u> As per issue 14.2 above, and is a potential inconsistency for all requirements in s 10.53.</p> <p>MLDRIN's advice raises concerns regarding the timing and nature of the consultation undertaken. Relevantly, the advice points out that the consultation was undertaken late in the WRP development process which raises doubt about whether meaningful regard could have been given to the matters relevant to Basin Plan requirements generally. Concerns were also expressed about insufficient time, resources and information being provided to allow these matters to be properly considered. In addition, participants report not being asked by the NSW Government or their consultants about sections 10.53(1)(a) to (f).</p> <p>Material for s 10.52 failed to adequately identify the relevant objectives and outcome and associated values and uses of some Nations due to referencing errors and missing consultation reports. For this reason, and because of the concerns noted by MLDRIN with respect to this section, the Authority is unable to confirm whether this requirement is demonstrated for all NSW Murray and Lower Darling WRP area First Nations. Further, the proposed WRP does not satisfactorily demonstrate regard to the views of all Indigenous organisations identified as relevant to this WRP area with respect to s 10.52 matters.</p> <p>As a result, the Authority is not able to confirm that regard was had to the views of all relevant Indigenous organisations with respect to matters identified in section 10.53.</p>
14.4	10.53(1)(a)	Native title rights, native title claims and Indigenous Land Use Agreements provided for by the Native Title Act 1993 in relation to the water resources of the water resource plan area.	<p><u>Error in text for accreditation</u> WRP Schedule C Table 2 lists the consultation outcome for s 10.53(1)(a) as:</p> <p>Discussions on native title rights, native title claims and Indigenous Land Use Agreements and the Native Title Act 1993 in relation to the water resources of the Murrumbidgee area were held throughout the consultation.</p> <p>As text for accreditation at s 1.5 states that Schedule C has been incorporated in its entirety for accreditation, the erroneous reference above to the Murrumbidgee area is an error in text for accreditation.</p> <p>The MLDRIN advice states that consultation relating to native title matters was inadequate. Some Nation organisers reported that native title matters were discussed (to varying degrees), and that the approach to collection of these views was ad hoc and inconsistent.</p> <p>In addition, as noted in item 3.2 above, one of the Native Title Determinations relevant to this matter is incorrectly referenced in the</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>proposed WRP and associated water sharing plan.</p> <p>Material for s 10.52 failed to adequately identify the relevant objectives and outcome and associated values and uses of some Nations due to referencing errors and missing consultation reports. For this reason, and because of Further, the proposed WRP does not satisfactorily demonstrate regard to the views of all Indigenous organisations identified as relevant to this WRP area with respect to s 10.52 matters.</p> <p>While the views of some relevant Indigenous organisations has been sought in relation to some native title rights, native title claims and Aboriginal Land Use Agreements, due to the missing consultation reports and concerns noted by MLDRIN with respect to this requirement, the Authority is unable to confirm whether this requirement is demonstrated for all relevant Indigenous organisations.</p>
14.5	10.53(1)(b)	Registered Aboriginal heritage relating to the water resources of the water resource plan area.	<p>The proposed WRP includes some evidence that heritage matters did arise during consultation, but it is not clear whether or how views about registered Aboriginal cultural heritage relating to water were collected from any Aboriginal organisations or First Nations people, or how those views were genuinely, properly and realistically considered in the development of the WRP.</p> <p>In addition, the assessment notes that it is unclear whether the cultural or sacred sites identified and considered during consultation are registered Aboriginal Heritage as defined in s 10.53(2) for the purposes of this requirement.</p> <p>The accredited text refers to NSW's existing cultural heritage management system to respond to this requirement (ie. the Aboriginal Heritage Information Management System (AHIMS)). However, it is unclear whether this covers all registered Aboriginal Heritage (under Commonwealth or State law), relevant to the WRP area. As a result of the issues outlined above, coupled with missing consultation reports and shortcomings raised by MLDRIN with regards to demonstrating regard to the views of Indigenous organisations (discussed in the assessment of s 10.53(1) above) the Authority is not satisfied that the views of the relevant Indigenous organisations in relation to registered Aboriginal heritage have been given proper regard, and the requirement is not met.</p>
14.6	10.53(1)(c)	Inclusion of Indigenous representation in the preparation and implementation of the plan.	<p><u>Error in text for accreditation</u> WRP Schedule C Table 2 lists the consultation outcome for s 10.53(1)(c) as:</p> <p>NBAN provided direct input via recommendations on the appropriate Traditional Owners to engage. This resulted in the relevant Traditional Owners for the Murrumbidgee WRP area being represented. More details on Indigenous representation can be found in Attachments A to H.</p> <p>As text for accreditation at section 1.5 states that Schedule C has been incorporated in its entirety for accreditation, the erroneous reference above to the Murrumbidgee area and the absence of a reference to MLDRIN are errors in text for accreditation. As Attachment A has not been included in the WRP package, the reference to it in text for accreditation is also an error.</p> <p>The Authority's assessment is satisfied that material demonstrates that the views of some relevant Indigenous organisations have been sought in relation the inclusion of Indigenous representation in the preparation and implementation of the plan. However, as result of the error in Table 2 of Schedule C, and in light of the concerns raised by the MLDRIN advice regarding the limited nature of the consultation process shortcomings raised by MLDRIN with regards to demonstrating regard to the views of Indigenous organisations, it is not clear that the views of all relevant organisations have been sought. Further, it is not clear that the views identified have been given genuine, proper and realistic consideration in the preparation of the proposed WRP. Therefore, the requirement is not met.</p>
14.7	10.53(1)(d)	Indigenous social, cultural, spiritual and customary objectives, and strategies for achieving these objectives.	<p><u>Referencing errors</u> There are three referencing errors:</p> <ul style="list-style-type: none"> Table 8 of Attachment B. Barapa Barapa Nation Consultation Report identifies the desired objectives and outcomes and is not included in text for accreditation.

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<ul style="list-style-type: none"> Section 7.3.1 of Attachment F. Wadi Wadi Nation Consultation Report identifies the desired objectives and outcomes and is not included in text for accreditation. Section 5.2 of Attachment I. Yorta Yorta Nation Consultation Report identifies the desired objectives and outcomes and is not included in text for accreditation. <p>The MLDRIN advice states:</p> <p>the NSW Government needed to have regard for Aboriginal peoples' views on social, cultural, spiritual, and customary objectives as well as strategies for achieving these ... Participants assessed that this was not sufficient evidence or explanation of how their views were considered during WRP development, let alone in a proper[,] genuine and realistic manner.</p> <p>Noting the referencing errors set out against the assessment for s 10.52 and the MLDRIN advice, the Authority is not satisfied the developed of the proposed WRP has had regard to the views of relevant Indigenous organisations with respect to certain Indigenous social, cultural, spiritual, and customary objectives. Further it is not clear that all views of relevant Indigenous organisations have been considered with respect to such objectives, particularly in relation to strategies for achieving these objectives. Nor is it clear that they have been given genuine, proper and realistic consideration for this requirement. For these reasons, and as a result of the missing consultation reports and shortcomings raised by MLDRIN with regards to demonstrating regard to the views of Indigenous organisations (discussed in the assessment of s 10.53(1) above); this requirement has not been met.</p>
14.8	10.53(1)(e)	Encouragement of active and informed participation of Indigenous people.	<p>MLDRIN's advice to the Authority states:</p> <p>Most Nation organisers did not feel that the NSW Government encouraged active and informed First Nations participation, nor did most feel that the NSW Government was open to or considerate of their (or others') views about ways to encourage this kind of participation. Additionally, participants were of the view that the WRP materials did not adequately demonstrate how the NSW Government had regard for First Nations' views on such matters ... Not only did the approaches and (in)actions <i>discourage</i> [original emphasis] active and informed participation, but in some ways, they also <i>denied</i> [original emphasis] opportunities for all appropriate Elders and Traditional Owners to participate.</p> <p>With the exceptions noted by the Wadi Wadi Nation Organisers, many participants noted that the focus on collecting information (rather than discussing how that information might inform the WRP development), combined with poor attempts to convey crucial water planning information discouraged participation in water planning.</p> <p>While the views of some of the relevant Indigenous organisations has been sought in relation to encouraging active and informed participation of Aboriginal people, due to the missing consultation reports, shortcomings raised by MLDRIN with regards to demonstrating regard to the views of Indigenous organisations (discussed in the assessment of s10.53(1) above), the Authority is not able to confirm that regard was had to views of all relevant Indigenous organisations with respect to the encouragement of active and informed participation of Indigenous people. Therefore, the requirement is not met.</p>
14.9	10.53(1)(f)	<p>Risks to Indigenous values and Indigenous uses arising from the use and management of the water resources of the water resource plan area.</p> <p>Note: For examples of the principles that may be applied in relation to the participation of Indigenous people, see the document titled 'MLDRIN and NBAN Principles of Indigenous Engagement in the Murray-Darling Basin'.</p>	<p><u>Referencing errors</u></p> <p>There are two referencing errors:</p> <ul style="list-style-type: none"> Table 7 of Attachment B. Barapa Barapa Nation Consultation Report identifies the risks to the values and uses and is not included in text for accreditation. Section 5.2 of Attachment I. Yorta Yorta Nation Consultation Report identifies the risks to the values and uses and is not included in text for accreditation. <p>The MLDRIN advice states:</p>

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>one Nation asserted that ... the NSW Government was the biggest risk to their values and uses, given that it did not do the research or data collection in time for their [Nation] views to be considered and to influence the WRP development.</p> <p>and</p> <p>...evidence of how NSW had proper, genuine, and realistic regard for these views in the preparation of the WRP was deemed poor by workshop participants. That is, participants asserted that identifying risks in the First Nations Consultation Reports does not equate to having regard to them, or to Traditional Owners' views about them.</p> <p>While the views of some of the relevant Indigenous organisations has been sought in relation to risks to Aboriginal values and Aboriginal uses arising from the use and management of the water resources of the WRP area in respect of the matters in 10.52, due to the missing consultation reports and shortcomings raised by MLDRIN with regards to demonstrating regard to the views of Indigenous organisations (discussed in the assessment of s 10.53(1) above), the Authority is not able to confirm that risks have been identified for all relevant Nations or that there is evidence that genuine, proper and realistic regard of these risks has been given.</p>
14.10	10.54	A water resource plan must be prepared having regard to the views of Indigenous people with respect to cultural flows.	<p>Assessment of text for accreditation to meet s 10.52 of the Basin Plan(as set out in WRP s 1.3.1) has confirmed that each Part 2 of WRP Schedule A (the <i>Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2020</i>, the <i>Water Sharing Plan for the Murray Unregulated Rivers Water Sources 2011</i> and the <i>Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 2011</i>) sets out clear objectives, strategies and performance indicators 'to maintain, and where possible improve, the spiritual, social, customary and economic values and uses of water by Aboriginal people'.</p> <p>However, the Authority considers that it is not clear that this provision in itself, demonstrates a consideration of, or regard for, the views of Indigenous people regarding 'cultural flows' identified in text for accreditation and the Nation Consultation Reports.</p> <p>The MLDRIN advice states:</p> <p>Participants agreed that "having regard" to First Nations' views on Cultural Flows in preparing a WRP requires more than simply recording matters raised in consultation and attaching that information to the WRP.</p> <p>and</p> <p>participants also raised concerns about the two explanatory paragraphs that occur immediately before the accredited text for 10.54 (<i>NSW Murray & [sic] Lower Darling SW WRP</i>, pages 56-57). Participants were wary that, as written, this information could imply – or be interpreted as implying – that the NSW Government has had regard for Indigenous views about cultural flows by maintaining existing environmental water management arrangements. Participants strongly rejected the suggestion that maintaining existing environmental water (planned or held) provisions "ensures the ongoing replenishment of cultural water flows"</p> <p>and</p> <p>Fundamentally, without cultural flows, cultural practices and events are disrupted ... Given this, MLDRIN sees that the cultural flows as a "key theme" cannot be treated separately from the fact that cultural flows do not exist under NSW's current water management framework. From the WRP documentation, it is not clear or evident if or how the NSW Government acknowledged or had genuine, meaningful, and proper consideration for this inseparable cultural flow issue.</p> <p>For these reasons, coupled with missing consultation reports and shortcomings raised by MLDRIN with regard to demonstrating regard to the views of Indigenous organisations (discussed in the assessment of s 10.53(1) above), results in the requirement not being met.</p>
14.10	10.55	A water resource plan must provide at least the same level of protection of Indigenous values and Indigenous uses as provided in: (a) a transitional water resource plan for the water resource plan	Text for accreditation at WRP s 4.6 refers to Table 4-2 to demonstrate some of the arrangements that operated in the nominated transitional and interim WRPs and that have been retained or improved in the proposed WRP.

Issue Ref.	Relevant Basin Plan provisions	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
		<p>area; or</p> <p>(b) an interim water resource plan for the water resource plan area.</p>	<p>The assessment has established the transitional WRP listed for accreditation are older transitional WRPs that were subsequently superseded. The most recent version of the transitional WRP, as listed in Schedule 5 of the Water Regulations 2008, is the <i>Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2016</i>.</p> <p>As such, the Authority is unable to undertake a formal assessment of this section of the Basin Plan using them, and therefore the requirement is not met.</p>