

## Office of the Chief Executive

Ref: EC00-000300

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 NSW Border Rivers (surface water) Water Resource Plan ('the proposed WRP').

As you are aware NSW formally gave the proposed WRP to the Authority on 24 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**.

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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 \_\_\_\_\_, 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:



# The grounds on which there are considered to be potential inconsistencies with the Basin Plan

Issue Ref.	Relevant Basin Plan provision	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
<b>Part 2</b>			
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>There are a number of errors and gaps in relation to the identification of hydrologically connected resources and the consideration of the management and use of those resources, as follows:</p> <ul style="list-style-type: none"> <li>Text for accreditation at s 3.3 of Schedule D references the New South Wales – Queensland Border Rivers Intergovernmental Agreement 2008 (IGA). The IGA was not provided to allow verification of claims regarding rules and arrangements described in Schedule D.</li> <li>The proposed WRP has a significant hydrological connection to the water resources of the Barwon-Darling Watercourse WRP area. Water resources in the Barwon-Darling are subject to the Floodplain Management Plan for the Barwon-Darling Valley Floodplain 2017, which governs the management and use of those water resources. There is no reference to the Floodplain Management Plan in the proposed WRP, and therefore appropriate regard to the management and use of water resources with a significant hydrological connection has not been demonstrated.</li> <li>Schedule 3 to the Inter-governmental Agreement on Implementing Water Reform in the Murray-Darling Basin contains formal arrangements to improve the management and protection of held environmental water that moves between connected water resource plan areas in the northern Basin, including those connected to the NSW Border Rivers. There is no reference to this agreement in the proposed WRP, and therefore appropriate regard to the management and use of water resources with a significant hydrological connection has not been demonstrated.</li> <li>The NSW Border Rivers WRPA is adjacent to the Gwydir surface WRPA (SW15). The proposed WRP does not describe the nature of this connection (i.e. whether there is a significant hydrological connection). Therefore, it is unclear whether appropriate regard has been given to the management and use of those resources.</li> <li>The assessment identifies that various sections of the proposed WRP identified as relevant to this requirement do not adequately address the consideration of the management and use of connected resources. For instance, an error in the method for calculating the annual permitted take volumes described in WRP s 5.6, and a gap in the material provided in WRP s 5.7)</li> <li>WRP s 2.2 and s 3.3 of Schedule D incorrectly refers to the Queensland Border Rivers – Moonie WRP area (SW17) as the Moonie-QLD Border Rivers WRP area.</li> </ul> <p>Therefore the requirement has not been met.</p>
<b>Part 3</b>			
3.1	10.08 (1)	<p>(1) A water resource plan must identify the following:</p> <p>(b) any classes of water access right that apply to the forms of take identified under paragraph (a);</p> <p>(c) the characteristics of each class of right including, where appropriate, the number of rights and any conditions on the exercise of the rights.</p>	<p>The assessment has identified the following inconsistencies in the material provided to address this requirement:</p> <ul style="list-style-type: none"> <li>For <u>take from regulated rivers</u>, Table 5-1 identifies the classes of water access right in the WRP area, and lists 'Regulated river (general security)'. While Schedule A identifies two separate classes within this class: regulated river (general security – A class) and regulated river (general security – B class) water access licences. Therefore, the listing of classes of water access rights is incomplete.</li> <li>For <u>take under basic rights</u>, column 4 of Table 5-1, which sets out the number of water access rights associated with each class of water access right, is blank. Noting these water access rights are identified in Schedule A and have volumes attributed in Column 5 of Table 5-1, a blank cell does not meet requirements.</li> <li>For <u>take under basic rights</u>, Column 6 of 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 <i>Water Management Act 2000</i> (NSW). As such, conditions for this component of <u>take under basic rights</u> have not been incorporated into the proposed WRP.</li> <li>For <u>take by runoff dams</u>, the conditions of the runoff dams listed as exempt in Schedule 2 of the Harvestable Rights Order are not further characterised. In addition, the Harvestable Rights Order has been incorporated for accreditation but has not been provided as part of the WRP package.</li> </ul> <p>The Authority also notes that for take by runoff dams (row 14), characteristics given are the Harvestable Rights Order as described under NSW Government Gazette 40 dated 31 March 2006, sections 53 and 54 of WMA 2000 and Part 5 of the two water sharing plans in Schedule A. The Authority notes that s 53 of WMA 2000 provides that:</p>



			<p>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>WRP Table 5-1 indicates that the number of water access rights applying to <u>take by run off dams</u> is identified by reference to Part 5 of the two water sharing plans comprising Schedule A. However, it is not clear how the harvestable rights which may require a licence are identified in Part 5 of either water sharing plan. Further information is required to clarify this matter. Further, the conditions of the dams listed as exempt in Schedule 2 of the Harvestable Rights Order are not further characterised.</p> <p>Due to the inclusion of incorrect characteristics and the omission of relevant classes, characteristics, and conditions referenced above, the requirements have not been met.</p>
3.2	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, with the exceptions noted below.</p> <p>As per the assessment above relating to s 10.08(1)(c), the conditions of the dams listed as exempt in Schedule 2 of the Harvestable Rights Order under <u>take by runoff dams</u> and take by runoff dams (excluding basic rights) as well as s 52 of the WMA 2000 for <u>take under basic rights</u> in Table 5-1. 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>
3.3	10.09(1)	(1) A water resource plan must identify the planned environmental water in the water resource plan and associated rules and arrangements relating to that water.	<p>Planned environmental water (PEW) has been identified in the NSW Border Rivers WRP area. However, there are rules that appear to operate to commit or preserve water for an environmental purpose, and arrangements relating to the identified PEW, that have not been included in the proposed WRP.</p> <p>In Schedule A (<i>Water sharing plan for the NSW Border Rivers Regulated River Water Source Order 2020</i>), omitted rules from text for accreditation include:</p> <ul style="list-style-type: none"> <li>• Clause 8(3) identifies 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 is therefore considered a rule or arrangement relating to PEW.</li> <li>• Clause 39(2)(a) ensures the Minister makes available water determination for general security licences (B class) to meet the provisions in Division 1 of Part 10 and thus act to preserve PEW.</li> <li>• Clause 60 sets out arrangements for determining delivery priorities for water orders, including with respect to the stimulus flows identified as PEW in Division 1 of Part 10.</li> </ul> <p>In Schedule A (<i>Water sharing plan for the NSW Border Rivers Unregulated River Water Source 2012</i>), omitted rules from text for accreditation include:</p> <ul style="list-style-type: none"> <li>• Clause 9(3) identifies 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 is therefore considered a rule or arrangement relating to PEW.</li> <li>• Part 8 Division 2 is referred to as establishing PEW in Part 4 that establish the daily access rules, where only clause 44 is incorporated in text for accreditation at s 4.1.1 (blue box on p 38)</li> <li>• Relevant parts of Schedule 1A that define access licences subject to the cease to take condition specified in clause 44 (3) of Part 8, Division 2</li> <li>• Clause 48 prohibits the granting of water supply work approvals that extracts water from a significant identified pool, lagoon, lake or wetland listed in Schedules 5 or 6. This provides protection for the environmental values of these lagoons and wetlands by prohibiting the ability to take water through works, and therefore preserves water for an environmental purpose, which falls within the definition of PEW in the <i>Water Act 2007</i> (Cth).</li> <li>• It is noted that for Clause 44 of the NSW Border Rivers unregulated water source, '<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.</li> </ul> <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>It is further noted that Text for accreditation at s 4.1.1 states:</p>

			<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, accounting etc. The aspects of the below rules 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, it is not possible to differentiate between aspects that are included and those that are not.</p>
3.4	10.10(1)	<p>10.10(1)</p> <p>(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 take for consumptive use during a water accounting period.</p>	<p>Text for accreditation at s 5.6 provides a formula as the method for determining the annual permitted take for the NSW Border Rivers SDL resource unit.</p> <p><u>Take from regulated rivers (excluding basic rights)</u></p> <p>The formula at WRP s 5.6 states that the annual permitted take calculation includes the following parameters:</p> <ul style="list-style-type: none"> <li>+/- trade in and out of the SDL resource unit</li> <li>- local reduction amount</li> <li>- shared reduction amount</li> <li>+ net SDL adjustment amount that is equal to supply contributions less efficiency contributions</li> </ul> <p>The necessary detail about the parameters and operation of the APT method are set out at WRP Table F-2, titled ‘Parameters for the method for determining Annual Permitted Take.’ Table F-2 states that the APT method relevant to take from a regulated river is determined by the application of the NSW Border Rivers APT model.</p> <p>Supporting information at WRP Schedule F (Water for consumptive use information) Attachment B (NSW Border Rivers Surface WRP – Modelling – Annual Permitted Take Scenario Report) ss 4.3.2 and 4.3.6 (p 11) identifies that these four parameters are part of the method for <u>take from regulated rivers</u>. The effect of having these parameters in both the annual permitted take formula (at text for accreditation at s 5.6) as well as in the method applied to determine <u>take from regulated rivers</u>, is that these parameters are double counted. This compromises the ability of the formula to correctly determine annual permitted take.</p> <p>Examination of the material in Table F-2 that provides for the operation of the ‘NSW Border Rivers APT Model’, and the determination of ‘Net NSW Border Rivers Trade’ 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"> <li>1. Inconsistent naming of model and model number</li> <li>2. Inconsistent naming of Attachment B to Schedule F</li> <li>3. Inconsistency between Table F-2 and Attachment B to Schedule F regarding the treatment of HEW entitlement trade</li> <li>4. Ambiguity in how the scaling factor applied in the model as described in Attachment B to Schedule F accounts for HEW, including any sustainable diversion limit (SDL) adjustment amount</li> <li>5. Inclusion of floodplain harvesting in the scaling factor that adjusts for environmental water recovery</li> <li>6. Inconsistent BDL volumes across model reports, which is a variable in the calculation of the scaling factor</li> <li>7. Inconsistency between Table F-2 and Attachment B to Schedule F regarding the adjustment for trade</li> <li>8. Additional class of water access right, ‘town water supplies’, that is not defined under a form of take</li> <li>9. Stock and domestic licensed method is not modelled as stated in Table F-2</li> </ol> <p>Further details about items above are provided in Appendix A below.</p> <p><u>Take from floodplain harvesting</u></p> <p>Attachment B to Schedule F s 4.3.6 outlines the ‘process of APT calculation’, which adds the scaled modelled component with unmodelled components and other adjustments. However, the floodplain harvesting method given in Table F-2 as the annual expression of the BDL model if an event occurs or zero if no event occurs is not provided for in s 4.3.6 and is therefore inconsistent with Table F-2. Instead, the BDL model is presented in WRP Schedule F (Water for consumptive use information) Attachment A (NSW Border Rivers SW WRP – Modelling – BDL Scenario Report). It is also inconsistent with text for accreditation at s 5.6 (blue box on pp 74-76) that defines only the APT or SDL model in the annual permitted take method. Therefore, this requirement is not met.</p> <p>Further, the scaling factor that is applied to the APT model output incorporates floodplain harvesting, which should be excluded from this calculation. Scaling for environmental water recovery is only to be applied to the form of take where the</p>

			<p>water recovery has occurred, that is mostly <u>take from regulated rivers</u>.</p> <p>The MDBA commissioned an independent model review which confirms that the APT model is the best available information, and the reported value may be updated with the Healthy Floodplains project. However, as identified above, the proposed WRP is inconsistent on what is the annual permitted take for this form of take. Therefore, this requirement is not met.</p> <p><u>Take by runoff dams (excluding and under basic rights)</u> It is noted that '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 for take by runoff dams. As such, it is unclear if exempt runoff dams, referred to in column 6 of row 15 of WRP Table 5-1. Consequently, there is insufficient information to determine if this annual permitted take method captures all <u>take by runoff dams</u>. Further column five of Table F-2 states 'the Basin Plan notes this to be 95 GL'. However, Schedule 3 of the Basin Plan notes this to be an estimate.</p> <p><u>Take under basic rights</u> Table F-2, row 8, column 5 states the domestic and stock basic rights is 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.</p> <p>The estimate in column three of 8.517 GL/y does not align with that given in Table 5-1 or the two water sharing plans that make up WRP Schedule A (Water Sharing Plan for NSW Border Rivers Regulated River Water Source Order 2020 and Water Sharing Plan for NSW Border Rivers Unregulated River Water Source 2012). This appears to be the result of misinterpreting 5.19 ML/day given in Schedule A (Water sharing plan for the NSW Border Rivers Unregulated River Water Source 2012) as ML/year. This erroneous volume is also presented in Table 3 of Attachment B to Schedule F that is part of text for accreditation in Table F-2 as well as Table F-3.</p> <p>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 and classes of water access right that apply in the NSW Border Rivers WRP area. However, as a result of the inconsistencies and discrepancies described above, the assessment is not satisfied that the method is sufficient to determine the annual permitted take.</p>
3.5	10.10(1)	<p>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>	<p><u>Consideration of the BDL estimates</u> The proposed WRP includes revised BDL estimates for the NSW Border Rivers SDL resource unit (SS23).</p> <p>The proposed WRP includes revised BDL estimates for <u>take from regulated rivers</u> and <u>take from floodplain harvesting</u>. The revised BDL estimate for take from regulated rivers is inconsistently identified in the relevant material as either 163.4GL/yr (Attachment A Table 3-1, p 6) or 159.8GL/yr (Attachment B Table 1 p 8) (a reduction from 188.4GL/yr).</p> <p>It is noted there is an error in the BDL estimate of <u>take under basic rights</u> in Attachment B Table 1 p 8, where volumes given for this form of take in Table F-2 do not align with Table 5-1 and further do not align with method description. Also, Attachment B Table 1 p 8 includes 0.6 GL/y of 'Town Water Supplies', which is not aligned with any form of take.</p> <p>Given the issues cited above about inconsistencies between the BDL modelling information it is not possible to identify which proposed BDL revised estimate is relevant and therefore cannot determine the appropriateness of the proposed BDL revised estimates.</p>
3.6	10.10(1)	<p>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>	<p><u>Consideration of the local reduction amount</u> Text for accreditation at s 5.6 (blue box on pp 74-76) sets out a formula for determining annual permitted take at the end of each water accounting period that includes '– local reduction amount'. Supporting information (p 137) at WRP Schedule F (Water for consumptive use information) states in relation to Table F-3 'Demonstration of APT method with the SDL' that:</p> <p>For this demonstration of the SDL as at 30 June 2019, the regulated rivers APT method includes adjustments that accounts for the local reduction volume of 1.9 GL/y and the SDL adjustment amount volume of 0 GL/y. For the purpose of this SDL demonstration, the SDL as at 1 July 2019 is given, assuming 62 GL/y of efficiency measures are complete in other SDL resource units so full apportioned supply contribution is applied.</p> <p>This incorporates an incorrect volume of 1.9 GL/y for the local reduction amount. The local reduction amount is part of the</p>

			<p>annual permitted take method for take from regulated rivers and is double counted in the proposed WRP.</p> <p>This conclusion is not affected by the fact that the assessment has not been able to confirm proposed BDL revised estimates, which in turn means the SDL cannot be confirmed. The operation of the scaling factor in s 4.3.2 of Attachment B of Schedule F is also unclear due to the 'Required SDL reduction' parameter in the scaling factor formula not being defined but assumed to include the local reduction amount.</p>
3.7	10.10(1)	<p>10.10(1)</p> <p>(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>	<p><u>Double counting of the shared reduction amount</u></p> <p>For NSW Border Rivers SDL resource unit the current shared reduction amount is 0 GL/yr and therefore the SDL volume is based on the applicable shared reduction amount.</p> <p>However, text for accreditation at s 5.6 (blue box on p 74-76) sets out a formula for determining annual permitted take at the end of each water accounting period that includes '– shared reduction amount'. Supporting information (p 137) at WRP Schedule F (Water for consumptive use information) states in relation to Table F-3 'Demonstration of APT method with the SDL' that:</p> <p style="padding-left: 40px;">For this demonstration of the SDL as at 30 June 2019, the regulated rivers APT method includes adjustments that accounts for the local reduction volume of 1.9 GL/y and the SDL adjustment amount volume of 0 GL/y. For the purpose of this SDL demonstration, the SDL as at 1 July 2019 is given, assuming 62 GL/y of efficiency measures are complete in other SDL resource units so full apportioned supply contribution is applied.</p> <p>As such, the shared reduction amount is part of the annual permitted take method for take from regulated rivers and, though it is zero volume, is double counted in the proposed WRP.</p> <p>This conclusion is not affected by the fact that the assessment has not been able to confirm proposed BDL changes, which in turn means the SDL cannot be confirmed. The operation of the scaling factor in s 4.3.2 of Attachment B of Schedule F is also unclear where the 'Required SDL reduction' parameter in the scaling factor formula is not defined but is taken to include the shared reduction amount.</p>
3.8	10.10(1)	<p>10.10(1)</p> <p>(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>	<p><u>Consideration of the SDL adjustment amount</u></p> <p>The SDL adjustment amount is part of the annual permitted take method for take from regulated rivers. This is defined in more detail in supporting information at ss 4.3.2 and 4.3.6 of Attachment B to Schedule F (pp 11 and 12 respectively), where s 4.3.2 refers to a scaling factor to adjust for the 'Required SDL reduction' and s 4.3.6 adjusts for 'Net SDL Adjustment amounts'. These two sections thus double count the SDL adjustment amount as the 'modelled components of APT' listed in s 4.3.6 are already inclusive of the 'Required SDL reduction'. However, it is not clear if the 'Required SDL Reduction' variable in the formula to determine the scaling factor formula (p 11) includes the SDL adjustment amount as this parameter is not explicitly defined.</p> <p>Consequently, the annual permitted take method formula, while appearing to be a formula that changes over time, is over-accounting for the effect of any SDL adjustment amounts. This means the annual permitted take method will not operate as intended.</p>
3.9	10.10(1)	<p>(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>	<p>Noting the issues identified in the annual permitted take method and the inability to confirm BDL changes, the annual permitted take method for the NSW Border Rivers SDL resource unit (SS23) in the NSW Border Rivers WRP area does not represent and operate as 'best available information which means this requirement is not met.</p>
3.10	10.10(2)	<p>(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>	<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. This is because the annual permitted take methods described at WRP Schedule F (Water for consumptive use information) Table F-2 contain inconsistencies that mean the annual permitted take methods do not operate as the best available information and it cannot be verified that the method as it applies to each form of take has regard to the water resources available during the water accounting period. Consequently, this requirement is not met.</p>
3.11	10.10(2)	<p>(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>	<p>For take under basic rights, the relevant annual permitted take component is equal to the long-term annual average estimate of take and is the baseline diversion limit (BDL). However, as it is not possible to verify the BDL estimates for take under basic rights (item 3.5 above), 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>Assessment against the annual permitted take method for take from regulated rivers at s 10.10(1) has found inconsistencies</p>



			<p>in the method which means this requirement is also not met.</p> <p>Assessment against the annual permitted take method for take from floodplain harvesting at s 10.10(1) has found inconsistencies in the method which means the requirement is also not met.</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>
3.12	10.10(3) 10.12(1)(a)	<p>10.10(3) The method must:</p> <p>(a) account for the matters in subsection 10.12(1);</p> <p>10.12(1)(a): 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>The APT method does not account for all forms of take and all classes of water access right due to the following inconsistencies:</p> <ul style="list-style-type: none"> <li>For take from regulated rivers, it is unclear if 'Town Water Supplies' falls under this form of take as it is separately listed in WRP Schedule F (Water for consumptive use information) Table F-3 but not included in Table 5-1.</li> <li>For <u>take from watercourse</u>, special additional high flow access licences are a water access right listed in Table 5-1, but is not listed in the APT method described at Table F-2.</li> <li>For <u>take by runoff dams</u>, 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 APT method described at Table F-2.</li> <li>For <u>take under basic rights</u>, domestic and stock rights and native title rights are detailed in the annual permitted take method in Table F-2. However, the volume given in Table F-2 for this form of take does not align with the volumes derived from applying the method described in Table F-2.</li> </ul>
3.13	10.10(3) 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)(a): 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>	<p>For 10.12(1)(d), Table F-4 accredited text in column 3 states 'The net volume of consumptive water traded into and out of the NSW Border Rivers SDL resource unit (SS23) at 30 June'. Column 4 supporting information details WSP clauses in Schedule A that define trade rules in the NSW Border Rivers SDL resource unit. However, Table F-2 states that the net volume traded will be zero, which is inconsistent with Attachment B to Schedule F that defines the adjustment for trade between Queensland and NSW Border Rivers.</p> <p>Therefore, this requirement has not been met.</p>
3.14	10.10(3) 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)(a): 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>	<p>Table F-4 refers to clauses in the NSW Border Rivers Regulated WSP. While the identified clauses relate to the management of hydrologically connected resources, there is no material in Table F-4 that addresses how the APT method accounts for hydrological connections with surface water or groundwater resources. Further, assessment of material incorporated into the proposed WRP to meet s 10.05 requirements has found that proper regard to connected water resources has not been demonstrated. This causes a consequential inconsistency for the requirement to account for water resources with a significant hydrological connection.</p> <p>Therefore, this requirement has not been met.</p>
3.15	10.10(3) 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)(a): 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>Note: paragraph (g) includes what is commonly known as a growth-in-use strategy.</p>	<p>The Authority notes that supporting information at s 4.3.2 (p 11) of Attachment B to Schedule F states:</p> <p>Scaling makes the annual permitted take independent of the current level of utilisation and ensures that the method meets the requirements of 10.12(1) (g) as far as the permitted take method is part of the growth-in-use strategy. A permitted take method will only work as a growth-in-use strategy when used in conjunction with an SDL compliance mechanism and the necessary water sharing plan rules to give effect to the compliance outcomes.</p> <p>However, the scaling factor does not give effect to the annual permitted take method consistent with any growth in use responses implemented. The Authority is therefore not satisfied that this matter is accounted for in the annual permitted take methods. Further, assessment of material to meet s 10.10(1) has found that the formulation of the scaling factor referred to at s 4.3.2 of Attachment B to Schedule F is not clear and consequently this requirement is not met.</p>
3.16	10.10(3)	<p>(3) The method must:</p> <p>(b) be consistent with the other provisions of the water resource plan.</p>	<p>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 take under basic rights and Table F-2.</p> <p>Therefore, this requirement is not met.</p>
3.17	10.10(4)	<p>(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.</p>	<p>The proposed WRP indicates that Table F-3 provides the demonstration for this requirement. The assessment has identified the following inconsistencies in Table F-3 of the proposed WRP:</p> <ul style="list-style-type: none"> <li>Table F-3 includes floodplain harvesting as a water access right for regulated river take, not as a separate form of take with separate SDL and APT values defined.</li> </ul>

			<ul style="list-style-type: none"> <li>• ‘Town Water Supplies’ is given as a separate form of take in column 1 of Table F-3, which is additional to the forms of take listed in Schedule 3 of the Basin Plan and additional to the forms of take identified in other parts of the proposed WRP.</li> <li>• The volume of take under basic rights included in Table F-3 does not align with the annual permitted take method described in WRP Schedule F (Water for consumptive use information) Table F-2 and is thus internally inconsistent.</li> </ul> <p>As the demonstration does not represent take by floodplain harvesting, the water access right ‘town water supplies’, and take under basic rights consistently with annual permitted take, this requirement has not been met.</p>
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.	<p>Due to the errors noted at item 3.17 above regarding in for <u>take from floodplain harvesting</u>, <u>take under basic rights</u>, and <u>town water supplies water access rights</u> as set out in Table F-3, the results do not show that the method will result in the SDL for the unit is met.</p> <p>There are also issues with the scaling factor that allows for the SDL to change with any amendments to SDL adjustment amounts under s 23B of the <i>Water Act 2007</i>. 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 scaling factor 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 <a href="https://www.mdba.gov.au/basin-plan-roll-out/sustainable-diversion-limits/sdl-adjustment-proposals-state-projects">https://www.mdba.gov.au/basin-plan-roll-out/sustainable-diversion-limits/sdl-adjustment-proposals-state-projects</a>; as at 30 June 2019 available at <a href="https://www.mdba.gov.au/sites/default/files/Register-of-measures-30-June-2019.pdf">https://www.mdba.gov.au/sites/default/files/Register-of-measures-30-June-2019.pdf</a>). The register of measures is established under s 7.13 of the Basin Plan, where s 7.13(2) states the register will also include any adjustment to amounts that result from reconciliation adjustments in 2024 as required under s 10.10(5)(c) and any further amendments to the Basin Plan under s23B of the Commonwealth Water Act (s 7.11(1)). This does not meet requirements.</p>
3.19	10.10(5)	<p>(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:</p> <p>(a) for a water accounting period beginning on or after 1 July 2019 – the SDL as it stood on 30 June 2019; and</p> <p>(b) for a water accounting period beginning on or after 1 July 2022 – the SDL as it stood on 30 June 2022; and</p> <p>(c) for a water accounting period beginning on or after 1 July 2024 – the SDL as it stood on 30 June 2024.</p>	<p>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> method. Therefore, the annual permitted take formula cannot operate as intended.</p> <p>There are also issues with the scaling factor that allows for the SDL to change with any amendments to SDL adjustment amounts under s 23B of the <i>Water Act 2007</i>. Currently the scaling factor 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 <a href="https://www.mdba.gov.au/basin-plan-roll-out/sustainable-diversion-limits/sdl-adjustment-proposals-state-projects">https://www.mdba.gov.au/basin-plan-roll-out/sustainable-diversion-limits/sdl-adjustment-proposals-state-projects</a>; as at 30 June 2019 available at <a href="https://www.mdba.gov.au/sites/default/files/Register-of-measures-30-June-2019.pdf">https://www.mdba.gov.au/sites/default/files/Register-of-measures-30-June-2019.pdf</a>). The register of measures is established under s 7.13 of the Basin Plan, where s 7.13(2) states the register will also include any adjustment to amounts that result from reconciliation adjustments in 2024 as required under s 10.10(5)(c) and any further amendments to the Basin Plan under s23B of the Commonwealth Water Act (s 7.11(1)).</p> <p>Therefore this requirement is not met.</p>

3.20	10.12(1)	<p>(1) For paragraph 10.10(3)(a), the following matters must be accounted for:</p> <ul style="list-style-type: none"> <li>(a) all forms of take from the SDL resource unit and all classes of water access right;</li> <li>(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;</li> <li>(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;</li> <li>(d) subject to subsection (3)—trade of water access rights;</li> <li>(e) water resources which have a significant hydrological connection to the water resources of the SDL resource unit;</li> <li>(f) circumstances in which there is a change in the way water is taken or held under a water access right;</li> <li>(g) changes over time in the extent to which water allocations in the unit are utilised;</li> </ul> <p>Note: Paragraph (g) includes what is commonly known as a growth-in-use strategy.</p> <ul style="list-style-type: none"> <li>(h) water sourced from the Great Artesian Basin and released into a Basin water resource, by excluding that water;</li> <li>(i) water resources which are used for the purpose of managed aquifer recharge.</li> </ul>	<p>An assessment of the responses for s 10.12(1)(a)-(i) is provided under s 10.10(3)(a) of this notice, 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 text provided does not address each matter in letter (a) to (i) and the requirement is not met.</p>
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"> <li>(a) take under basic rights; or</li> <li>(b) take by runoff dams; or</li> <li>(c) net take by commercial plantations;</li> </ul> <p>does not exceed the level specified in column 2 of Schedule 3 for that form of take.</p>	<p>WRP s 5.4 refers to Column 2 of Schedule 3 of the Basin Plan as setting the basic rights volume. However, there is no volume for basic rights in the NSW Border Rivers surface WRP area given in Schedule 3 of the Basin Plan. A long term annual average take volume for take under basic rights is incorporated at WRP Table 5-1 and WRP Schedule F (Water for consumptive use information) Tables F-2 and F-3. However, this volume has not been identified for the purposes of s 10.13(1). As a result, this requirement is not met.</p> <p>Therefore, as the volumetric limit for <u>take under basic rights</u> is not correctly identified it is not possible to confirm whether this quantity has or is likely to increase for the purposes of s 10.13(2).</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"> <li>(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</li> <li>(b) take by the forms of take affected by the changes are capable of: <ul style="list-style-type: none"> <li>(i) being accurately measured (for example, through the use of a meter); or</li> <li>(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</li> </ul> </li> <li>(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.</li> </ul>	<p>Text for accreditation at WRP s 5.4 states that:</p> <p style="padding-left: 40px;">the long-term average annual quantity of water that can be taken under basic rights, by runoff dams and by commercial plantations is limited to the volume specified in column 2 of Schedule 3 of the Basin Plan (2012) for the NSW Border Rivers SDL resource unit.</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. In addition, the assessment against s 10.13(1) finds that the volumetric limit for take under basic rights is not correctly identified.</p> <p>Therefore, the assessment cannot confirm whether this quantity has or is likely to increase. Consequently, the assessment cannot confirm if the requirements of s 10.13(2)(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>Text for accreditation at s 5.5 refers to Table F-1 as providing methods for the determination of annual actual take. The annual actual take method for each form of take given in Table F-1. However, the assessment has found that the relevant method does not apply the best information available at the time for each form of take as detailed below:</p> <p><u>Take from floodplain harvesting</u></p> <p>Table F-1 column 3 states the method for this form of take is:</p> <p style="padding-left: 40px;">The modelled sum of water taken by all actual floodplain harvesting (regulated) and actual floodplain harvesting (unregulated) in the NSW Border Rivers SDL resource unit (SS23) for the relevant water year.</p>

			<p>Supporting information in column five of Table F-1 notes this method is:</p> <p>The annual actual take will be determined at the end of each water year as:</p> <ul style="list-style-type: none"> <li>- If a floodplain harvesting event has not occurred the annual actual take will be zero</li> <li>- If a floodplain harvesting event has occurred the annual actual take will be equal to the annual average volume determined by the annual permitted take model (Table F-3).</li> </ul> <p>However, Table F-3 does not present the annual average actual take modelled volume using the annual permitted take model for <u>take from floodplain harvesting</u>. As assessed against s 10.10(4) in Table F-3, <u>take from floodplain harvesting</u> is incorrectly listed as a class of water access right against <u>take from regulated rivers</u> and is not given a separate volume that aligns with WRP Schedule F (Water for consumptive use information) Attachment A (NSW Border Rivers SW WRP – Modelling – BDL Scenario Report) to demonstrate the annual permitted take method for this form of take, which is the BDL model.</p> <p>Further, Table F-3 presents the BDL model rather than the annual permitted take model, which is the annual actual method for this form of take. The reference to Table F-3 therefore does not support assessment of the annual actual take method for floodplain harvesting.</p> <p>The annual actual take method for <u>take from floodplain harvesting</u> as given in Table F-1 is the annual average of the annual permitted take model. This model is described in WRP Schedule F (Water for consumptive use information) Attachment B (NSW Border Rivers Surface WRP – Modelling – Annual Permitted Take Scenario Report), which is supporting information for the <u>take from regulated rivers</u> annual permitted take method. However, in Attachment B to Schedule F it is not clear how the application of the scaling factor, which includes <u>take from floodplain harvesting</u>, is applied or not to the annual average modelled component to give the annual actual take estimate for this form of take.</p> <p><u>Take under basic rights – domestic and stock</u> 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 Border Rivers SDL resource unit (SS23) in the relevant water year. At the start of the WRP this volume was estimated to be 8.517 GL from the Water Sharing Plan for the NSW Border Rivers Regulated River Water Source 2020 and the Water Sharing Plan for NSW Border Rivers Unregulated River Water Sources 2012.</p> <p>This is a new estimate of the BDL as no BDL estimate was given for <u>take from watercourses (under basic rights)</u> in Schedule 3 of the 2012 Basin Plan. However, supporting information at column 5 of Table F-1 states with respect to this method that:</p> <p>To NSW knowledge when WRP is accredited the BDL represents the best available information in regards to this form of take.</p> <p>In the absence of sufficient evidence to support how the new estimate has been derived, the inclusion of an estimate where none existed previously, without sufficient supporting evidence, does not constitute best available information.</p> <p><u>Take by runoff dams</u> Table F-1 states the method for this form of take is equal to the annual permitted take method in Table F-2. The method description at column three of Table F-2 is:</p> <p>The estimated annual runoff dams (under basic rights and excluding basic rights) permitted take will equal the long term average as specified for the NSW Border Rivers SDL resource unit (SS23) under Schedule 3 column 2 of The Basin Plan. This covers the water access right ‘Harvestable rights (runoff dam)’.</p> <p>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>
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			<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 for under other take, primarily provide an environmental benefit such as containing contaminated water on a mine site.</p> <p>The assessment 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>. Also take by runoff dams (excluding basic rights) are not referred to in this method. Therefore, it is not clear that this information represents best available information for determining annual actual take for <u>take by run off dams</u>. Consequently, this requirement is not met.</p>
3.25	10.15(3)	<p>(3) Where a determination for a form of take is made by estimating the quantity of water actually taken, the water resource plan must provide for the estimate to be done consistently with the method under subsection 10.10(1) that relates to that form of take.</p>	<p>Text for accreditation at WRP s 5.5 states that:</p> <p>where the method for the determination of annual actual take is estimated, it is consistent with the method in this WRP for the determination of annual permitted take under s10.10(1) of the Basin Plan.</p> <p>For <u>take from floodplain harvesting</u>, WRP Table F-1 column 5 states the method is equal to the 'annual average volume determined by the annual permitted take model (Table F-3)'. This reflects a long-term average estimate. However, the assessment notes that the WRP Table F-2 annual permitted take method for this form of take is equal to the 'annual expression of the Baseline Diversion Limit model for that water year'. This means the annual permitted take method reflects the climate for the relevant water year, while the annual actual take method reflects the long-term average over the historical climate conditions. This means the annual actual take method is not consistent with the annual permitted take method. Therefore, this requirement is not met.</p>
<b>Part 4</b>			
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. <b>Note:</b> 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>There are consequential inconsistencies due to issues relating to ss 10.05 (regard for connected water resources), 10.09 (identification of PEW) and 10.41 (regard to current and future risks). The inconsistencies related to:</p> <ol style="list-style-type: none"> <li>Insufficient demonstration of regard to connected water resources which means proper consideration of risks to EWRs and the need for rules cannot be confirmed (ss 10.05 and 10.41), including: <ol style="list-style-type: none"> <li>Connections to the adjacent Gwydir WRP area,</li> <li>Floodplain Management Plan for the Barwon-Darling Valley Floodplain 2017, and</li> <li>Interim Unregulated Flow Management Plan for the North-West (DWR 1992).</li> </ol> </li> <li>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)</li> </ol> <p>The consequential inconsistencies arising for assessment against ss 10.05, 10.09 and 10.41 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>
4.2	10.18 (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 priority environmental assets and priority ecosystem functions that depend on groundwater, the operation of the plan does not compromise the meeting of environmental watering requirements. <b>Note:</b> 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 water resource plan to include rules that specify:</p> <p>(a) the times, places and rates at which water is permitted to be taken from a groundwater SDL resource unit; and</p> <p>(b) resource condition limits, being limits beyond which the taking of groundwater will, for a priority environmental asset that depends on groundwater, compromise an environmental watering requirement;</p>	<p>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.</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>



		<p>and</p> <p>(c) restrictions on the water permitted to be taken (including the times, places and rates at which water may be taken) in order to prevent a resource condition limit from being exceeded.</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>	
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>(2) Without limiting subsection (1), regard must be had to whether it is necessary for the water resource plan to include rules that specify:</p> <ul style="list-style-type: none"> <li>(a) the times, places and rates at which water is permitted to be taken from a groundwater SDL resource unit; and</li> <li>(b) resource condition limits, being limits beyond which the taking of groundwater will compromise the discharge of water into any surface water resource; and</li> <li>(c) restrictions on the water permitted to be taken (including the times, places and rates at which water may be taken) in order to prevent a resource condition limit from being exceeded.</li> </ul> <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 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.</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 10.19 requirements means the proposed WRP does not have regard to 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.</p> <p>Therefore, the requirements of s 10.19(1) and (3) have not been 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> <ul style="list-style-type: none"> <li>(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</li> <li>(b) the overall hydraulic relationships and properties between groundwater and surface water systems, between groundwater systems, and within groundwater systems.</li> </ul> <p>(2) Without limiting subsection (1), regard must be had to whether it is necessary for the water resource plan to include rules that specify:</p> <ul style="list-style-type: none"> <li>(a) the times, places and rates at which water is permitted to be taken from a groundwater SDL resource unit; and</li> <li>(b) any zones in the water resource plan area where continued groundwater extraction will result in a long-term decline in groundwater levels; and</li> <li>(c) measures to prevent any long-term decline in groundwater levels in that zone, except where the groundwater is a non-renewable groundwater resource; and</li> <li>(d) for a non-renewable groundwater resource—the planned rate of decline in groundwater levels and the anticipated groundwater levels after 50 years from the commencement of the water resource plan; and</li> <li>(e) resource condition limits, being limits beyond which the taking of groundwater from the SDL resource unit will compromise the objectives in paragraphs (1)(a) and (b); and</li> <li>(f) restrictions on the water permitted to be taken (including the times, places and rates at which water may be taken) in order to prevent a resource condition limit from being exceeded.</li> </ul> <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 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.</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> <ul style="list-style-type: none"> <li>(b) if a risk of a kind referred to in subsection 10.41(1) has been</li> </ul>	<p>The assessment of material provided for the purposes of ss 10.17-10.20 has found that there is insufficient explanation for the regard to certain rules as identified in those assessments.</p>

		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.	Therefore, this requirement has not been met.
Part 5			
5.1	10.23(1)-(3)	<p>(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:</p> <p>(a) the water resources of the water resource plan area; or</p> <p>(b) water resources which are hydrologically connected to the water resources of the water resource plan area;</p> <p>whether on an activity-by-activity basis, or cumulatively.</p> <p>(2) If there are any such types of interception activity, the water resource plan must list those types.</p> <p>(3) 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 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>The proposed WRP identifies floodplain harvesting as an interception activity that has the potential to have a significant impact for the purposes of s 10.23. All other interception activities are stated to have a low risk and are therefore not listed for the purposes of s 10.23.</p> <p>However, Table 8-8 of Schedule D identifies a Medium risk for water available for other water users in unregulated water sources due to growth in interception by runoff dams for the Ottleys at Coolatai and the Severn at Fladbury.</p> <p>Consistent with MDBA Position Statement 5A, medium or higher risks associated with interception activities mean that activity is considered to be significant for the purposes of Part 5. As runoff dams have not been identified as a significant interception activity appropriate regard to the risk assessment relating to this interception activity has not been demonstrated.</p> <p>As set out in issue 2.1, not all hydrologically connected water resources have been identified. Due to this omission, it is not possible for appropriate regard to be demonstrated for the impacts of interception activities on hydrologically connected water resources.</p>
5.2	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>As the risk rating for interception by runoff dams concludes it is a significant interception activity, (see item 5.1), monitoring of a kind specified in s 10.24 should also be identified for the purposes of this section for runoff dams.</p> <p>Further, the monitoring for floodplain harvesting put forward in the accredited text at WRP s 5.7.4 relies on the APT and AAT methods. As set out in the assessment for Part 3, there are accreditation issues associated with the APT and AAT methods therefore there is a consequential inconsistency due to relying on these methods for monitoring.</p> <p>As set out in issue 2.1, not all hydrologically connected water resources have been identified. Due to this omission, it is not possible for the monitoring process to capture impacts on all hydrologically connected water resources.</p>
5.3	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>As the risk rating for interception by runoff dams concludes it is a significant interception activity (see item 5.1), actions to address impacts of a kind specified in s 10.25(1)(a)-(c) should also be identified for the purposes of this section for runoff dams.</p>
Part 6			



6.1	10.26(1)(a)	<p>A water resource plan must provide for environmental watering to occur in a way that:</p> <p>(a) is consistent with:</p> <p>(i) the environmental watering plan; and</p> <p>(ii) the Basin-wide environmental watering strategy</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). In particular, 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.</p> <p>Column 4 of Table E-2 identifies the NSW-Queensland Border Rivers Intergovernmental Agreement (2008) end of system flow outcome as an action/mechanism that contributes to meeting targeted environmental objectives 1, 2 and 4 (listed in column 1 of Table E-2). However, Table E-1 does not identify how the rules and arrangements in the NSW-Qld Border Rivers IGA (including those identified in Table E-2) are consistent with the EWP requirements set out in Chapter 8 of the Basin Plan and the BWS.</p> <p>In addition, it is unclear whether the action relating to the Border Rivers IGA end of system flow target has accounted for the additional water remaining in the stream as a result of water recovered in both the Qld and NSW Border Rivers SDL resource units. Further information is needed to clarify this matter, including whether the target will be adjusted to account for the new cross-border accounting arrangements outlined under Item 2 in Appendix A of Schedule 3 of the Basin Plan Implementation Agreement <a href="https://www.coag.gov.au/sites/default/files/agreements/iga-on-implementing-water-reform-mbd-9-august-2019.pdf">https://www.coag.gov.au/sites/default/files/agreements/iga-on-implementing-water-reform-mbd-9-august-2019.pdf</a></p> <p>As rules have been omitted, the proposed WRP does not provide for environmental watering consistent with the environmental watering plan and Basin-wide environmental watering strategy.</p>
6.2	10.26(2)	<p>For the purposes of subsection (1), the water resource plan must be prepared having regard to:</p> <p>(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; and</p> <p>(b) the views of local communities, including bodies established by a Basin State that express community views in relation to environmental watering.</p>	<p>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 3.5 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(1)	<p>(1) This section applies if:</p> <p>(a) there are 2 water resource plan areas that contain surface water; and</p> <p>(b) there is a surface water connection between the 2 areas.</p>	<p>Assessment of material incorporated into the proposed WRP to meet s 10.05 (regard to connected water resources) has found proper consideration of connected water resources has not been demonstrated (refer to item 2.1). Consequently, the proposed WRP has not properly identified connections to other surface water WRP areas for the purpose of s 10.27(1) and the requirement is not met.</p>
6.4	10.27(2)	<p>(2) The water resource plan for each of the areas must provide for the co-ordination of environmental watering between the 2 areas.</p>	<p>Text for accreditation at WRP s 4.4 references the entire New South Wales – Queensland Border Rivers Intergovernmental Agreement 2008 (the IGA) as the coordination arrangements with the adjoining Qld WRP area. As outlined in WRP s 1.5, only the specific provisions of any instruments referred to in such text form part of the proposed WRP for accreditation purposes. Therefore, the IGA is not incorporated as part of the proposed WRP and cannot be relied on to demonstrate co-ordination with the adjoining WRP area.</p> <p>It is noted that the accounting arrangements under the Basin Plan implementation agreement also help provide for the coordination of environmental water to the adjoining Barwon Darling WRP area, but this arrangement has not been referenced in the proposed WRP. The commitments made under Schedule 3 to the Inter-governmental Agreement on Implementing Water Reform in the Murray-Darling Basin are relevant to this requirement. On that basis, and because the proposed WRP makes no reference to the commitments under the IGA, the Authority is not satisfied that the proposed WRP has adequately provided for environmental watering between connected water sources.</p> <p>Further, as the proposed WRP has not identified all surface water connections to other WRP areas (refer to items 2.1 and 6.2), it is not clear that appropriate co-ordination arrangements are included with respect to connected surface water resources.</p>
6.5	10.28	<p>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>	<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 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 3.2 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>



			As a consequence, the Authority is unable to confirm whether the proposed WRP ensures that there is no net reduction in the protection of PEW.
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 WQ6 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 Barwon Region.' 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 Barwon Region'.</p> <p>It is assumed that the latter document should be the document listed for WQ6 Strategy 2 in Table 4-3 refers, 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(1)	(1) The WQM Plan must identify the water quality target values for the water resource plan area.	<p>Section 6 of the proposed WRP states that Tables 5-1 to 5-3 of Schedule H identify the water quality target values for the purposes of s 10.32. However, as a result of an apparent typographical error there is no Table 5-3 in Schedule H.</p> <p>As such, the water quality target values for water used for recreational purposes have not been included in the proposed WRP. Therefore, the requirement has not been met.</p>
7.3	10.32(2)(c)	(2) The water quality target values are the following: (c) for water used for recreational purposes—the values set out in section 9.18.	<p>Section 6 of the proposed WRP states that Tables 5-1 to 5-3 of Schedule H identify the water quality target values for the purposes of s 10.32. However, as a result of an apparent typographical error there is no Table 5-3 in Schedule H.</p> <p>As such, the water quality target values for water used for recreational purposes have not been included in the proposed WRP. Therefore, the requirement has not been met.</p>
7.4	10.33(1)	<p>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:</p> <ul style="list-style-type: none"> <li>(a) section 9.04 (Objectives of water dependent ecosystems);</li> <li>(b) section 9.05 (Objectives for raw water for treatment for human consumption); and</li> <li>(c) section 9.06 (Objective for irrigation water); and</li> <li>(d) section 9.07 (Objective for recreational water quality); and</li> <li>(e) section 9.08 (Objective to maintain good levels of water quality);</li> </ul> <p>unless there are no such measures that can be undertaken cost-effectively.</p>	<p>Table 4-3 of Schedule H sets out the measures that contribute to the objectives at ss 9.04-9.08 of the Basin Plan. Examination of Table 4-3 finds instances of material inconsistency between the strategies (column 2) and the water management actions and mechanisms (column 3), and the identified management plan (column 4). As a result of the inconsistencies in Table 4-3, it is the view of the Authority that full consideration has not been given to rules and measures that are desirable to address this requirement. Therefore, this requirement has not been met.</p> <p>Details of each inconsistency is provided below:</p> <p><b>10.33(1)(a)</b> The management actions <i>Provide a minimum release of 10ML/day from Pindari Dam to provide connectivity for downstream pools and riffles</i> for WQ2 Strategy 2 and WQ4 Strategy 2, and <i>Seasonal daily environmental releases from Pindari Dam</i> provided for WQ3 Strategy 4 and WQ4 Strategy 2, have an accompanying management plan listed as clauses 54(1a) or 54(1b) of Schedule A (<i>Water Sharing Plan for the NSW Border Rivers Regulated River Water Source Order 2020</i>) respectively. However, these clauses do not exist. It appears that a typographical error has occurred and that the references to the clauses in the water sharing plan should be clauses 54(1)(a) and 54(1)(b).</p> <p><b>10.33(1)(b)</b> Management action <i>Provide a minimum release of 10ML/day from Pindari Dam to provide connectivity for downstream pools and riffles</i> is provided for WQ2 Strategy 2. The accompanying management plan is listed as clause 54(1a) of Schedule A. However, this clause does not exist. It appears that a typographical error has occurred and that the references to the clauses in the water sharing plan should in fact be clauses 54(1)(a).</p> <p><b>10.33(1)(c)</b> Management action <i>Provide a minimum release of 10ML/day from Pindari Dam to provide connectivity for downstream pools and riffles</i> is provided for WQ2 Strategy 2. The accompanying management plan is listed as clause 54(1a) of Schedule A. However, this clause does not exist. It appears that a typographical error has occurred and that the references to the clauses in the water sharing plan should in fact be clauses 54(1)(a).</p> <p><b>10.33(1)(d)</b> 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</p>



			<p>WQ6 Strategy 2. The accompanying management plan is listed as 'Guidelines to management response to harmful algal blooms; for application in the Barwon Region' and is listed as a management plan for accreditation. The Authority assumes this refers to the document listed at row 7 of Table 4-2, <i>NSW Draft Algal risk management sub plan: Guidelines to management response to harmful algal blooms in the Barwon region</i>, but this document has not been provided as part of the proposed WRP and hence cannot be considered for accreditation. As such, Schedule H does not accurately specify measures that will contribute to the achievement of objectives for recreational water quality in s 9.07 of the Basin Plan.</p> <p><i>10.33(1)(e)</i>  Management actions <i>Provide a minimum release of 10ML/day from Pindari Dam to provide connectivity for downstream pools and riffles</i> for WQ2 Strategy 2 and WQ4 Strategy 2 and <i>Seasonal daily environmental releases from Pindari Dam</i> are provided for WQ3 Strategy 4 and WQ4 Strategy 2. The accompanying management plan is listed as clauses 54(1a) or 54(1b) of Schedule A (<i>Water Sharing Plan for the NSW Border Rivers Regulated River Water Source Order 2020</i>) respectively. However, these clauses do not exist. It appears that a typographical error has occurred and that the references to the clauses in the water sharing plan should in fact be clauses 54(1)(a) and 54(1)(b). 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 WQ6 Strategy 2 and is listed as a management plan for accreditation. The Authority assumes this refers to the document listed at row 7 of Table 4-2, <i>NSW Draft Algal risk management sub plan: Guidelines to management response to harmful algal blooms in the Barwon region</i>, but this document has not been provided as part of the proposed WRP and hence cannot be considered for accreditation.</p>
7.5	10.33(2)	<p>The measures must be prepared having regard to:</p> <ul style="list-style-type: none"> <li>(a) the causes, or likely causes, of water quality degradation identified in accordance with section 10.30; and</li> <li>(b) target values identified in accordance with section 10.32; and</li> <li>(c) the targets in Division 4 of Part 4 of Chapter 9.</li> </ul>	<p>As a result of the inconsistencies identified in the assessment of s 10.33(1), the proposed WRP is unable to demonstrate that the measures specified for the purposes of s 10.33(1) had complete and fulsome regard to the causes or likely causes of water quality degradation identified in s 10.30. Therefore, this requirement has not been met.</p>
Part 9			
9.1	10.41(1)	<p>(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.</p>	<p>As outlined in ss 10.41(2)(a)-(c), 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.</p>
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"> <li>(a) risks to the capacity to meet environmental watering requirements; and</li> <li>(b) risks arising from the matters referred to in subsection 10.20(1);</li> <li>(c) risks arising from potential interception activities</li> </ul>	<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>  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 considered the risks to the water resources in the NSW Border Rivers WRP area from those in the adjacent Gwydir WRP area. 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>  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 considered the risks to the water resources in the NSW Border Rivers WRP area from those in the adjacent Gwydir WRP area.</p> <p><i>10.41(2)(c)</i>  Text for accreditation at s 3.2 refers to the Consolidates Risk Tables and ss 4.5.1.4, 4.5.2.4, 4.5.3.2, 4.5.4.4, 8.2.1.4, 8.2.2.1, 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>



			<p>As set out in the assessment for s 10.23, Schedule D has identified medium risks associated with interception by runoff dams in Table 8-8. Any medium risks associated with interception activities signify a significant interception activity and require monitoring and actions to be specified as per s 10.24 and 10.25. As no monitoring or actions have been identified, the proposed WRP has not been prepared having regard to the risks set out in s 10.41(2)(c).</p> <p>Also, 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 Border Rivers WRP area from those in the adjacent Gwydir WRP area. 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(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><i>4.02(1)(a)</i></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 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 Border Rivers WRP area from those in the adjacent Gwydir WRP area. 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>4.02(1)(b)</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>Risks to raw water and their management strategies are identified in the Drinking Water Management Systems for the following water suppliers in the Border Rivers WRPA and will not be addressed further in this document.</p> <p>Section 7.5 then lists two 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>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(1)(c)</i></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> <p>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 Border Rivers WRP area from those in the adjacent Gwydir WRP area. 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>Text for accreditation at s 3.2 refers to sections 7.3, 7.4.4, 7.5, 7.6, 8.2.1.4, 8.2.2.1, 8.2.3.2, 8.2.4.3, 8.3.4 and 8.4.4 of Schedule D as providing the list of risk assessment outcomes relevant to this risk.</p> <p>Refer to the outcomes for s 4.02(1)(b) above.</p> <p><i>4.02(2)(b)</i></p>

			The assessment against s 10.53(1)(f) found 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.
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, 9.3 and 9.4), 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 Border Rivers WRP area from those in the adjacent Gwydir WRP area. 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> <p>Therefore, this requirement is not met.</p>
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 style="padding-left: 40px;">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)	The water resource plan must define the level of risk of each risk, using the following categories: (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 style="padding-left: 40px;">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 NSW Border Rivers 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)	A water resource plan must be prepared having regard to: 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 style="padding-left: 40px;">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>
9.10	10.43(3)	A water resource plan must be prepared having regard to: 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>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>Text for accreditation at s 7.1 refers to WRP Table 7-1, in relation to each class of water access right relating to the water sources of the NSW Border Rivers Surface WRP area, as containing the best estimate of the total long-term annual average quantity of water take that is measured.</p> <p>The assessment against s 10.44(a) has compared the listed classes of water access rights at column two of Table 7-1 against those listed at WRP Table 5-1 'Forms of take and their related access rights and characteristics in the NSW Border Rivers Surface WRPA' (pp 59-64). Table 5-1 is incorporated into the proposed WRP to meet the requirements of s 10.08 (identification of water access rights) of the Basin Plan.</p> <p>This comparison has identified several inconsistencies as follows:</p> <ul style="list-style-type: none"> <li>Table 7-1 identifies 'Take from an unregulated river' as a form of take and 'Unregulated river access licence' as a water access right. Table 5-1 attributes this type of water access right to 'Take from a watercourse' which is not identified as a form of take in Table 7-1.</li> <li>In addition, Table 5-1 includes the following water access rights under the heading of 'Take from a watercourse' that are not identified in Table 7-1: <ul style="list-style-type: none"> <li>Special Additional High Flow</li> <li>Domestic and Stock (licensed)</li> <li>Local Water Utility.</li> </ul> </li> <li>Table 5-1 identifies two water access rights (Domestic &amp; Stock and Native Title) for take under basic rights and no water access rights are identified for this form of take in Table 7-1.</li> <li>Table 5-1 identifies a water access right (Harvestable Rights) for take by run off dams but this water access right is not identified in Table 7-1.</li> <li>Table 5-1 does not identify the following water access rights as relevant to 'Take from regulated river' as indicated in Table 7-1: <ul style="list-style-type: none"> <li>'Domestic and stock - Domestic' or 'Domestic and Stock - Stock'.</li> </ul> </li> <li>For local water utility access rights applying to take from a regulated river, there is an inconsistency in volumes between Tables 5-1 and 7-1 of the proposed WRP. Table 7-1 indicates that the measured volume is 728.24 ML/year, averaged over the period 2004/5-2017/18. This measured volume is higher than the 620 ML of total volume issued to this class as identified in Table 5-1.</li> </ul> <p>Due to this discrepancy, and a lack of justification or explanation for the discrepancy, it is not possible to confirm the volume in Table 7-1 is an appropriate estimate of the long-term average quantity of water that is measured for this water access right.</p> <ul style="list-style-type: none"> <li>Text for accreditation at WRP Table 7-1 does not identify all forms of take and classes of water access right that have been identified for s 10.08, therefore it cannot be confirmed that the best estimates have been provided for the long-term annual average quantity of water taken that is measured.</li> <li>Text for accreditation at s 7.1 also states:</li> </ul>

			<p>Table F-1 and F-3 of this WRP detail 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, including interception activities.</p> <p>Table F-1 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. Instead it refers to the annual summing of all diversions under regulated river access licences listed in Table 5-2, 'Parameters for the Method for determining Annual Permitted Take'.</p> <ul style="list-style-type: none"> <li>Table F-3 is titled 'Demonstration of Annual Permitted Take method with the SDL' and 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. Some of the annual permitted take volumes listed in column four correspond with the quantities described in Table 7-1 for the same classes of access right where take is not measured. This corresponds with the information in column five of WRP Table F-2 for these classes of access right that describe that annual permitted take will equal the estimates in column two of Schedule three of the Basin Plan (baseline diversion limits). However, the volumes in column four of Table F-3 against the regulated river classes of access rights (listed as measured forms of take in Table 7-1) are not relevant to the s 10.44(a) requirement. This is because these volumes are the annual average permitted take as applied over a repeat of the historical climate conditions 1895 to 2009 (GL/year); these volumes are not estimates.</li> </ul> <p>Therefore this requirement is not met.</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>(b) the best estimate of the total long-term annual average quantity of water taken that is not measured.</p>	<p><u>Take by floodplain harvesting</u></p> <p>For take by floodplain harvesting column four of Table 7-1 states 'TBC' with reference to Table F-2 in Schedule F for the calculation method. Table F-2 in Schedule F sets out a method for determining Annual Permitted Take. However, the proposed WRP does not include a best estimate of the total long-term annual average quantity of water that is not measured by the form of take as is required for the purposes of s 10.44(b).</p> <p><u>Classes of Access Right (Table 7 1)</u></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>As a result of the omission of certain classes of water access rights and the inconsistencies relating to take by floodplain harvesting, this requirement has not been met.</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>(c) how the quantities under paragraphs (a) and (b) were calculated.</p>	<p><u>Take by floodplain harvesting</u></p> <p>Tables F-1 and F-2 specify methods relevant to the calculation of take by floodplain harvesting. However, the assessment of material provided for the purposes of s 10.44(b) has found that no estimate has been provided for take by floodplain harvesting that is not measured. Therefore, it cannot be verified that the method of calculation relating to floodplain harvesting is correctly stated.</p> <p><u>Classes of Access Right (Table 7 1)</u></p> <p>Consistent with the assessment of material to meet s 10.44(a) and (b), 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>As a result of the omission of certain water access rights, and take by floodplain harvesting, this requirement has not been met.</p>
10.4	10.45(1) and (2)	<p>(1) A water resource plan must specify measures for maintaining and, if practicable, improving:</p> <p>(a) the proportion of take that is measured in the water resource plan area; and</p> <p>(b) the standard to which take is measured.</p> <p>(2) The water resource plan must specify the timeframe for implementing the</p>	<p>The proposed WRP sets out arrangements for improving the proportion of take that is measured and the standard to which take is measured. Text for accreditation in s 7.1 indicates standards for measurement that must be applied by December 2022. However, Part 10, Division 2 of the <i>Water Management (General) Regulation 2018</i> states that for the water sharing plans as in force on 1 July 2019 the improved standards are to be applied by December 2021. As a result of this inconsistency, the requirement has not been met.</p>



		measures	
10.5	10.46(1)	A water resource plan must specify the monitoring of the water resources of the water resource plan area that will be done to enable the Basin State to fulfil its reporting obligations under section 13.14.	Column 3 of Table 7-2 specifies that the monitoring required to meet reporting obligations is set out in tables 1, 2 and 4 of Schedule J.  Schedule J does not contain a Table 2 or Table 4. Consequently, the required monitoring has not been identified.
<b>Part 12</b>			
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(a), (b) and (c).  Due to these gaps and errors in the information provided in the proposed WRP, this requirement has not been met.
<b>Part 13</b>			
13.1	10.51(1)(b), (2)	(1) A water resource plan must describe how the water resources of the water resource plan area will be managed during the following types of events: (a) an extreme dry period; (b) a water quality event of an intensity, magnitude and duration that is sufficient to render water acutely toxic or unusable for established local uses and values; (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). (2) If an event of a type listed in subsection (1) would compromise a Basin State's ability to meet critical human water needs in the water resource plan area, the water resource plan must set out measures to meet critical human water needs during such an event.	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 pages 80 - 81) is ss 1.3.3, 2.1 and 3.3 and Tables 1-1, 1-2, 1-3, 2-1 and 3-2 of Schedule G (Incident Response Guide).  However, examination of Schedule G has identified that it also includes Table 3-3 which 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  The assessment notes that the text for accreditations at s 5.8 to meet s 10.51(2) is unclear with respect to how the reference to 'town water supplies either rely on groundwater, or their own water supply' operates in conjunction with the measures incorporated to meet ss 10.51(1)(a) and (b) to meet critical human water needs during a type of event listed under s 10.51(1). There is uncertainty in how the text proposed for accreditation to address s 10.51(2) of the Basin Plan would operate in practice and therefore this requirement is not met.
<b>Part 14</b>			
14.1	10.52(2)	In identifying the matters set out in subsection (1), regard must be had to: (a) the social, spiritual and cultural values of Indigenous people that relate to the water resources of the water resource plan area ( <i>Indigenous values</i> ); and (b) the social, spiritual and cultural use of the water resources of the water resource plan area by Indigenous people ( <i>Indigenous uses</i> ); as determined through consultation with relevant Indigenous organisations, including (where appropriate) the Murray Lower Darling Rivers Indigenous Nations and the Northern Murray-Darling Basin Aboriginal Nations.	Statements in text for accreditation at s 1.3.1 refers to material in Attachments A to F of Schedule C as meeting this requirement. The Northern Basin Aboriginal Nations (NBAN) advice notes the following issues with the relevant statements. NBAN considers that: (a) as this WRP sits in the northern Basin, MLDRIN needs to be removed from this sentence. At best, NBAN provided overarching and high-level advice about the Nation-based approach to consultation. This expression must be clarified (WRP page 6 – reference to NBAN and MLDRIN). (b) identifying values and uses may be the first step in having regard to them, but that identification alone is not sufficient evidence for how regard was had.  The NBAN advice further states: NBAN Delegates are of the view that the Border Rivers Surface Water WRP lacks evidence of how regard to Aboriginal values and uses was had.  Although the proposed WRP has identified social, spiritual and cultural values and uses, and partially as result of the NBAN advice, the assessment is unable to determine that adequate regard to these values and uses has been had. Further evidence clarifying how regard was had to the identified values and uses when developing the outcomes and objectives is necessary.
14.2	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 [in letters (a) to (f)]	The NBAN advice states that text for accreditation needed to: (a) ensure consultation directly and intentionally elicited First Nations views and input about each of those matters and then (b) demonstrate how regard to those views occurred  Noting the NBAN concern that the proposed WRP and associated documentation provided limited demonstration of regard to the Nation views as a result of the timing of the consultation, and consequential concern of how regard was had to their views for all matters in 10.53(a) to (f), the assessment is not able to confirm that regard was had to the views of all relevant Indigenous organisations with respect to all matters identified in section 10.53.  Therefore, this requirement is not met.



14.3	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>The NBAN advice considers that text for accreditation provides no evidence that the Nation groups were asked about their views with respect to native title matters in relation to water resources, and how regard was had to such views (if collected). The NBAN advice further notes that rather than contacting applicants and the claimant group directly, it suggests that consultants merely went through NTS Corporation and that another potential avenue (though not necessarily explored in the preparation of this WRP) is a desktop search.</p> <p>On the basis of the advice from the NBAN and consultation delegates regarding the shortcomings of the consultation as represented in the proposed WRP and Schedule C, the assessment is not satisfied that the views of all relevant Indigenous organisations with respect to native title rights, native title claims and Indigenous Land Use Agreements provided for by the <i>Native Title Act 1993</i>, in relation to the water resources of the water resource plan area, were considered in the preparation of the WRP.</p> <p>Therefore, the requirement is not met.</p>
14.4	10.53(1)(b)	registered Aboriginal heritage relating to the water resources of the water resource plan area	<p>The NBAN advice states that reliance on Local Aboriginal Land Councils is inappropriate because they do not have cultural authority to make decisions on behalf of the Traditional Owners of individual Nations.</p> <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.</p> <p>As a result of the issues outlined above, the assessment 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>
14.5	10.53(1)(c)	inclusion of Indigenous representation in the preparation and implementation of the plan	<p>The NBAN Delegates observed that the explanatory text in the proposed WRP does include some commitments and objectives for the future that align with the input and priorities of First Nations. However, they consider that insufficient detail is provided in this section (and indeed, throughout all the WRP documentation) about the substance of these commitments and ongoing engagements. In addition, the NBAN advice notes that there is no evidence to how regard has been given to the views of Indigenous organisations in the implementation of the plan.</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.</p> <p>Further, it is not clear that the views identified have been given genuine, proper and realistic consideration in the preparation of the proposed WRP.</p> <p>Therefore, the requirement is not met.</p>
14.6	10.53(1)(d)	Indigenous social, cultural, spiritual and customary objectives, and strategies for achieving these objectives	<p>The assessment acknowledges that there are objectives, and (where relevant) activities or actions that may be interpreted as strategies for achieving those objectives, included in Attachments A to D, and Attachment F of Schedule C (but not Attachment E). However, they are not clearly identified as strategies for achieving identified objectives. NBAN advice also expressed concern about the lack of clear statements identifying strategies for achieving identified objectives and the lack of evidence in the WRP or Schedule A that the objectives and strategies had informed the WRP.</p> <p>The NBAN advice expresses concern about the lack of clear statements identifying the strategies for achieving the identified objectives, nor what, if any, commitment the NSW Government is making in relation to the objectives and strategies, and rated this requirement as 'Absent'.</p> <p>Therefore, although the Authority is satisfied the development of the proposed WRP has had some regard to the views of</p>



			<p>relevant Indigenous organisations with respect to Indigenous social, cultural, spiritual and customary objectives, it is not satisfied that genuine, proper and realistic regard has been had to the views, particularly including of relevant Indigenous organisations with respect to strategies for achieving these objectives.</p> <p>Therefore, this requirement is not met.</p>
14.7	10.53(1)(e)	encouragement of active and informed participation of Indigenous people	<p>Noting that ‘active and informed participation’ is not defined either in the Basin Plan or the WRP, the NBAN advice observed that:</p> <p style="padding-left: 40px;">It is hard to see how active and informed participation was encouraged given other comments in this report, noted earlier, that relate to insufficient notice of workshops and poor resourcing to facilitate engagement</p> <p>And:</p> <p style="padding-left: 40px;">... insights from just two Nations, particularly those from the reports themselves, disprove the accredited text’s claim that Section Four demonstrates “how the consultation process is viewed as informed participation”</p> <p>While the Authority considers that there is some evidence of efforts to undertake consultation in a culturally appropriate manner, as a result of the concerns identified in the NBAN advice regarding the engagement approach, and the lack of evidence regarding preparing participants to be actively informed, the assessment is not able to confirm that the proposed WRP was prepared having regard to the views of the relevant Indigenous organisations regarding the encouragement of active and informed participation of Indigenous people.</p> <p>Therefore, this requirement is not met.</p>
14.8	10.53(1)(f)	risks to Indigenous values and Indigenous uses arising from the use and management of the water resources of the water resource plan area	<p>NBAN advice notes that text for accreditation states that risks to Aboriginal values and uses ought to be cited in accredited text as this underpins and explains these risks. NBAN advice queried whether the WRP had been developed with proper regard for Aboriginal people’s views about identified (and possibly other) risks.</p> <p>The NBAN advice asserts that data yielded during consultation ought to have been directly incorporated into Schedule D and treated and managed as other risks identified in the WRPA. It also asserts using risks identified in Schedule D as a substitute for identifying and assessing risks to First Nations’ water uses and values is not appropriate. The NBAN Delegates interpreted this disjuncture between the identified risks in the Nation consultation reports on the one hand and the silence about these risks in the Risk Assessment (Schedule D) on the other hand as a lack of regard to First Nations’ views about risks arising from water use and management.</p> <p>Finally, NBAN stated that to show evidence that the WRP itself was prepared with regard to (i.e. genuine, proper and realistic consideration of) these risks or First Nations views about them, they needed to be treated comprehensively in the Risk Assessment (Schedule D).</p> <p>Although the Authority’s assessment found that some risks have been identified, it is not satisfied that there is evidence that genuine, proper and realistic consideration of these risks has been had.</p> <p>Therefore, this requirement is not met.</p>
14.9	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 the two different Water Sharing Plans that make up Schedule A to the NSW Border Rivers WRP (the <i>Water Sharing Plan for the NSW Border Rivers Regulated River Water Source 2020</i>) and (the <i>Water Sharing Plan for the NSW Border Rivers Unregulated River Water Sources 2012</i>), articulates a set of objectives, strategies and performance indicators ‘to maintain the spiritual, social, customary and economic values and uses of water resources by Aboriginal people’.</p> <p>However, the assessment considers that it is not clear that these provisions, in themselves, demonstrate a consideration of the views of Indigenous people regarding ‘cultural flows’.</p> <p>The NBAN advice notes the following issues with the material included for this requirement:</p> <ol style="list-style-type: none"> <li>1. There are few listed objectives and outcomes with few specific references to cultural flows and some implicit references to ideas and principles that underpin cultural flows. As the WRP does not clarify the meaning of ‘cultural flow’ it is not clear which of the objectives are relevant for s 10.54 purposes.</li> <li>2. The assessors doubted that explicit questions to illicit views about cultural flows were even asked during consultation given the lack of specific materials about cultural flows from the perspectives of Aboriginal organisations and people in the Nation consultation reports.</li> <li>3. NBAN’s advice noted that the Githabul and Ngarabal reports failed to mention cultural flows at all. The Gomeroi report</li> </ol>

			<p>included an objective about cultural flows, as noted above, and the Kwiambul report a full section. There were minimal references in the other reports.</p> <p>The assessment notes NBANs concerns regarding these matters and considers that there is some evidence of efforts to demonstrate regard for the views of Indigenous people with respect to cultural flows. However, as a result of the concerns identified in the NBAN advice regarding the overall engagement approach, the assessment is not able to confirm that appropriate regard has been had to the views of Indigenous people with respect to cultural flows.</p> <p>Therefore, this requirement is not met.</p>
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Appendix A. Inconsistency in the annual permitted take method (s 10.10(1) of the Basin Plan) for take from regulated rivers

#	Issue name	Issue description
1	Inconsistent naming of model and model number	Text for accreditation at s 5.6 (blue box on pp 74-76) interchangeably uses the terms 'NSW Border Rivers APT model', 'APT model' and 'SDL model', which are all taken to be the 'APT model' described in Table F-2 for <u>take from regulated rivers</u> and detailed in Attachment B to Schedule F.  Table F-2 row 2, column 3 identifies the model as 'BorderRivers_2018_09_06.rsproj'. However, Attachment B to Schedule F that is referenced by title name in column 5 of Table F-2 ('NSW Border Rivers Water Resource Plan Annual Permitted Take Scenario report'), identifies 'BorderRivers_2019_10_30.rsproj' as the annual permitted take model (s 5, p 15), which is inconsistent.
2	Inconsistent naming of Attachment B to Schedule F	Table F-2, row 2, column 3 further states: 'Estimates of the unmodelled entitlement/take types are also included in Table 3 of the Sustainable Diversion Limit Scenario Model.' The SDL scenario model is taken to be the annual permitted take scenario described in Attachment B to Schedule F. Table 3 is assessed under the unmodelled forms of take below.
3	Inconsistency between Table F-2 and Attachment B to Schedule F regarding the treatment of HEW entitlement trade	Table F-2 row 3, column 3 describes the method for 'NSW Border Rivers Regulated HEW' which states this variable is equal to the HEW allocation volume plus/minus HEW entitlement trade. Table F-2, row 3, column 5 refers to 'the Sustainable Diversion Limit Scenario Model report', which is taken to be Attachment B to Schedule F though the titles differ. S 4.2 of Attachment B to Schedule F states the HEW portfolio is modelled as a consumptive use, and s 4.3.2 scales model output by a scaling factor to give consumptive take. This is inconsistent with Table F-2 that does not define any HEW entitlement trade.
4	Ambiguity in how the scaling factor given in Attachment B to Schedule F accounts for HEW, including the sustainable diversion limit (SDL) adjustment amount	While the adjustments to the modelled diversions is not given in Table F-2, Attachment B to Schedule F defines the scaling factor in s 4.3.2. One variable in the calculation of the scaling factor is the 'Required SDL reduction'. However, it is not explicit if this variable includes the local and shared reduction amounts and the SDL adjustment amount.
5	Inclusion of floodplain harvesting in the scaling factor that adjusts for environmental water recovery	The scaling factor variables 'BDL' and 'CURR', include <u>take from regulated river</u> and <u>take from floodplain harvesting</u> that is 203.5 and 209.6 rather than 159.9 and 160.2. With 'Required SDL reduction' of 7 GL, this gives scaling factor of 0.94 rather than 0.95. This changes the APT value for <u>take from regulated rivers</u> as the scaling factor is only applied to this form of take.  Attachment B to Schedule F defines a scaling factor in section 4.3.2 (p 11), which adjusts the model target to the SDL. However, the scaling factor includes in its determination the parameters 'BDL' for the BDL long-term estimate and 'CURR' for the APT model long-term estimate, which include <u>take from floodplain harvesting</u> . These two parameters should only be the <u>take from regulated rivers</u> estimates. Further, the scaling factor should then only be applied to the modelled <u>take from regulated river</u> diversions. This is because each form of take can then be individually reported on and separately assessed. Further, environmental water recovery does not occur from <u>take from floodplain harvesting</u> .
6	Inconsistent BDL volumes across model reports, which is a variable in the calculation of the scaling factor	For <u>take from regulated rivers</u> different updated BDL changes are described (Attachment A to Schedule F, Table 1 p 8 and Attachment B to Schedule F, Table 3-1 p 6) without clear indication which change is the one being proposed for approval. However, the BDL volume given in Attachment B is used to determine the scaling factor.
7	Inconsistency between Table F-2 and Attachment B to Schedule F regarding the adjustment for trade	Table F-2 row 3, column 3 describes the method for 'Net NSW Border Rivers Trade', which 'will be 0' as stated in column 3. However, this does not align with Attachment B to Schedule F that states adjustment for consumptive trade from Queensland using a "state of use" approach and that is part of the APT method (ss 4.3.5 and 4.3.6, p 12).
8	Additional class of water access right, 'town water supplies', that is not defined under a form of take	'Town water supplies' is given as a usage category with a long-term value of 0.6 GL/y unmodelled in Table 1 of and defined as form of take in Table 4 of Attachment B to Schedule F as well as in WRP Table F-3. However, it is not included in Table 5-1 as a class of water access right, so it is not clear to which form of take – <u>take from regulated river</u> or <u>take from watercourse</u> this usage is attributed to. This is inconsistent with the given a method for each form of take. Table F-2 (row 2, column 3) described stock and domestic licenced water access rights, which are not listed in Table 3 of the APT scenario report. However, town water supplies are listed in this table and may represent stock and domestic licenced water access rights.
9	Stock and domestic licensed method is not modelled as stated in Table F-2	Table F-2 includes stock and domestic licensed class of water access right in column 3 as part of the model. However, Attachment B to Schedule F at footnote 9 states this licence is 'Not represented in modelling' (Table 5, p 16), which is inconsistent with Table F-2. Further, noting the share components in the water sharing plan for this water access right is 1,275 (also given in Table 5-1) and the description in Table 5 is 1,001, it is not clear what is the annual permitted take method for this class of water access right.