

Office of the Chief Executive

Ref: EC00-000301

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 Alluvium (groundwater) Water Resource Plan ('the proposed WRP').

As you are aware NSW formally gave the proposed WRP to the Authority on 9 April 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

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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:

Attachment A—The grounds on which the Authority considers it should recommend that the Minister not accredit the proposed NSW Border Rivers Alluvium WRP

Issue Ref.	Relevant Basin Plan provision	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
Part 2			
2.1	10.04(5)	If a water resource plan is constituted by an instrument or text which contains additional material that is not part of the water resource plan, the water resource plan must identify that material.	The form of the proposed WRP (text for accreditation at WRP s 1.5) incorporates state instruments as cited in 'blue box text'. Consequently, where a reference to whole instruments is cited in blue box text without specifying relevant clauses or sections it has the effect of incorporating the entire instrument. This results in material that is not relevant to the proposed WRP being incorporated into the proposed WRP and results in consequential inconsistencies across several other parts. Specific examples are noted below in issues for Parts 3, 4,,8 and 10.
2.2	10.05	A water resource plan must: (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 (b) describe the way in which paragraph (a) was complied with.	Text for accreditation at WRP s 2.2 refers to the NSW-Queensland Border Rivers Intergovernmental Agreement 2008 but does not specify the relevant clauses or sections. As such the instrument is considered to have been incorporated in its entirety, resulting in a consequential inconsistency due to the application of s 10.04(5), as set out in issue 2.1. Connectivity between all SDL resource units is not described in the proposed WRP. Specifically, Schedule D of the proposed WRP does not describe connectivity between the NSW Border Rivers Alluvium SDL resource unit (GS32) and the Queensland Border Rivers SDL resource unit (SS24). Improved descriptions of connectivity with adjoining resources are needed to verify that any significant connections have been consistently identified and considered.
Part 3			
3.1	10.09(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.	Text for accreditation at WRP s 4.1.1 refers to the <i>Access Licence Dealings Principles Order 2004</i> but does not specify the relevant clauses or sections. As such the instrument is considered to have been incorporated in its entirety, resulting in a consequential inconsistency due to the application of s 10.04(5), as set out in issue 2.1.
3.2	10.09(1)	A water resource plan must identify the planned	The proposed WRP identifies planned environmental water (PEW) in the WRP area

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		environmental water in the water resource plan and associated rules and arrangements relating to that water.	<p>and associated rules and arrangements in place relating to PEW. The assessment has determined certain rules and arrangements in the <i>NSW Border Rivers Alluvial Groundwater Sources 2020</i> that protect PEW have not been identified:</p> <ul style="list-style-type: none"> • Clause 4(4), the High-Priority Groundwater-Dependent Ecosystems Map (GDE020_version1) (GDE Map) established at cl. 4(4) of Schedule A (<i>Water Sharing Plan for the NSW Border Rivers Alluvial Groundwater Sources 2020</i>) is a planned environmental water rule but has not been incorporated in the proposed WRP to meet s 10.09 requirements. The Authority also notes that this rule has not been incorporated through any other requirement in the proposed WRP (including Part 4 – see related issues 4.2, 4.4, 6.1 and 6.2). • Clause 8(3) of Schedule A, which identifies the strategies for achieving the targeted environmental objectives set out in the plan and links key clauses of Schedule A to these objectives. As such this clause is considered a rule or arrangement relating to PEW. • Clause 56, which places obligations on a supply work approval holder to construct any supply work consistent with specified standards - has not been incorporated as a PEW rule or arrangement. Bore construction standards are identified in the consolidated risk tables of the WRP Schedule D (Risk Assessment) as a ‘existing critical mechanism’ (rule) that mitigates against several water quality risks identified in the risk assessment. As such this rule is considered a rule or arrangement relating to PEW. • Part 10 of Schedule A has not been identified and incorporated as a PEW rule and arrangement. Part 10 of Schedule A limits or prohibits trade thereby contributing to the protection of PEW and has been incorporated into other proposed NSW WRPs for the purpose of s 10.09. <p>Therefore, not all PEW and associated rules and arrangements are identified, and this requirement is not met.</p>
3.3	10.10(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	The method outlined for subsection (1) provides for the maximum quantity of water available for consumptive take to be calculated at the end of the water accounting period. While the proposed WRP includes appropriate methods for determining the annual permitted take for each SDL resource unit, the proposed WRP does not clearly

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		during the period.	identify that the methods are to be applied at the end of the relevant water accounting period. Therefore, this requirement is not met.
3.4	10.10(3) and 10.12(1)(d) and (f)	For paragraph 10.10(3)(a), the following matters must be accounted for: (d) subject to 10.12(3) – trade in water access rights. (f) circumstances in which there is a change in the way water is taken or held under a water access right.	<p>In establishing a method for annual permitted take that is consistent with s 10.10, a WRP must take account of the matters set out in s 10.12.</p> <p>In addressing s 10.12(1)(d), the information relating to how trade should be accounted for under the annual permitted take method is inconsistent with other parts of the proposed WRP as assessment against ss 10.36 and 10.38 has found the requirements of the Basin Plan are not met.</p> <p>In addressing s 10.12(1)(f), the proposed WRP at section 2.1 of Schedule I indicates that take in the NSW Border Rivers Alluvium SDL resource units is managed under the WRP Schedule A (<i>Water Sharing Plan for the Border Rivers Alluvial Groundwater Sources 2020</i>) but does not specify the relevant clauses or sections. As such the instrument is considered to have been incorporated in its entirety, resulting in a consequential inconsistency due to the application of s 10.04(5), as set out in issue 2.1. Therefore these requirements are not met.</p>
3.5	10.10(3)(b)	The method must: be consistent with the other provisions of the water resource plan.	The assessment of material for the purposes of s 10.12(1)(d) and s 10.38 of the Basin Plan has found that there is inconsistent information in the proposed WRP relating to accounting of trade. Therefore, this requirement is not met.
Part 4			
4.1	10.18 (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, 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.</p> <p>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>Text for accreditation at WRP s 4.2 refers to clause 4(1) of Schedule A as the provision which incorporates the High-Priority Groundwater-Dependent Ecosystems Map (GDE020_version1) (GDE Map) and identifies priority environmental assets and priority ecosystem functions in the WRP area. However, clause 4(4) (not clause 4(1) as referenced in the proposed WRP) of Schedule A is the provision that incorporates the GDE Map. As the GDE Map is not incorporated, several of the rules and arrangements relating to setback distances for water supply works set out in the proposed WRP cannot have effect. The setback distances are designed to ensure enough water remains in the groundwater source to meet the environmental watering requirements of the identified GDEs. Therefore, this requirement is not met.</p> <p>The assessment of the material provided to address s 10.05 of the Basin Plan has determined that the proposed WRP (at s 3.3. of Schedule D) has not identified the</p>

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		<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; 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>	<p>nature of the connection between the NSW Border Rivers Alluvium SDL resource unit (GS32) and the Queensland Border Rivers SDL resource unit (SS24). Therefore, it is not clear that all material relevant to the management of significant hydrological connections and the impact on the need for rules to protect EWRs has been considered for the purposes of determining whether rules are needed. As such, the Authority cannot confirm that appropriate regard has been given to these matters for s 10.18.</p> <p>Text for accreditation at WRP s 4.1.1 refers to the <i>Access Licence Dealings Principles Order 2004</i> but does not specify the relevant clauses or sections. As such the instrument is considered to have been incorporated in its entirety, resulting in a consequential inconsistency due to the application of s 10.04(5), as set out in issue 2.1. Therefore, this requirement is not met.</p> <p>The assessment has determined that not all relevant PEW rules and arrangements are identified, as set out in issue 3.2 The reliance on the provisions to address the s 10.09 requirement as also meeting the s 10.18 requirement means the proposed WRP does not demonstrate that all of the rules are included that are needed to protect groundwater dependent PEAs/PEFs. Therefore, this requirement is not met.</p> <p>The assessment finds that in addition to not being incorporated as a PEW rule or arrangement, cl 56 of Schedule A is also a relevant rule for s 10.18(3) to reflect its inclusion as a 'current critical mechanism' that helps to mitigate relevant risks set out in the Consolidated Risk Tables of WRP Schedule D (Risk Assessment) (that is E16 – Bore construction standard), but has not been incorporated. Therefore, this requirement is not met.</p>
4.2	10.19(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, 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</p>	<p>Text for accreditation at WRP s 4.2 refers to clause 4(1) of Schedule A as the provision which incorporates the High-Priority Groundwater-Dependent Ecosystems Map (GDE020_version1) (GDE Map). The GDE map 'specifies the priority environmental assets and priority ecosystem functions that depend on groundwater, including hydrologically connected surface water systems'. However, clause 4(4) (not clause 4(1)) of Schedule A is the provision that incorporates the GDE Map. The effect is that PEAs and PEFs associated with 'hydrologically connected surface water systems' cannot be identified through reference to the high priority GDE map. This prevents the rules and arrangements incorporated to ensure the proposed WRP does not compromise the environmental watering requirements of these PEAs and PEFs having</p>

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		<p>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 compromise the discharge of water into any surface water resource; 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>	<p>effect.</p> <p>In addition, the assessment of the material provided to address s 10.05 of the Basin Plan has concluded that the proposed WRP (at s 3.3. of Schedule D) has not identified the nature of all connections with adjacent resources. Therefore, it is not clear that all material relevant to the management of significant hydrological connections and the impact on the need for rules to protect EWRs has been considered for the purposes of determining whether rules are needed. As such, the Authority cannot confirm that appropriate regard has been given to these matters. Therefore, this requirement is not met.</p> <p>Text for accreditation at s 4.1.1 refers to the <i>Access Licence Dealings Principles Order 2004</i> but does not specify the relevant clauses or sections. As such the instrument is considered to have been incorporated in its entirety, resulting in a consequential inconsistency due to the application of s 10.04(5), as set out in issue 2.1. Therefore, this requirement is not met.</p> <p>The assessment has determined that not all relevant rules and arrangements relating to PEW are identified, as set out in issue 3.2. Therefore, the reliance on the provisions to address the s 10.09 requirement as also meeting the s 10.19 requirement means the proposed WRP does not demonstrate that all of the rules are included that are needed to protect groundwater dependent PEAs/PEFs. Therefore, this requirement is not met.</p> <p>The assessment also finds that in addition to not being incorporated as a PEW rule or arrangement, cl 56 of Schedule A is also a relevant rule for s 10.19(3) to reflect its inclusion as a 'current critical mechanism' that helps to mitigate relevant risks set out in the Consolidated Risk Tables of WRP Schedule D (Risk Assessment) but has not been incorporated. Therefore, this requirement is not met.</p> <p>The assessment also notes that text for accreditation at WRP s 2.2 (blue box on page 16) incorporates cl 48 of Schedule A (<i>Water Sharing Plan for the NSW Border Rivers Alluvial Groundwater Sources 2020</i>).</p> <p>Clause 48 is also incorporated into the proposed WRP to meet requirements of s 10.38 of the Basin Plan (trade between SDL resource units). Assessment against s 10.38 has found the requirement is not met for a number of reasons including</p>

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			<p>that trade between SDL resource units is prohibited under the accredited Queensland Border Rivers-Moonie WRP.</p> <p>Consequently, cl 48 cannot operate as intended for the purpose of s 10.18(3) and the requirement is not met.</p>
4.3	10.20(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:</p> <p>(a) the overall structural integrity of the aquifer (whether within or outside the water resource plan area) arising from take within the long-term annual diversion limit for an SDL resource unit; or</p> <p>(b) the overall hydraulic relationships and properties between groundwater and surface water systems, between groundwater systems, and within groundwater systems.</p> <p>(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) any zones in the water resource plan area where continued groundwater extraction will</p>	<p>The assessment of the material provided to address s 10.05 of the Basin Plan has concluded that the proposed WRP (at s 3.3. of Schedule D) has not identified the nature of all connections with adjacent resources. Therefore, it is not clear that all material relevant to the management of significant hydrological connections and the impact on the matters relevant to s 10.20 has been considered for the purposes of determining whether rules are needed. As such, the assessment cannot confirm that appropriate regard has been given to these matters. Therefore, this requirement is not met.</p> <p>Text for accreditation at WRP s 4.1.1 refers to the <i>Access Licence Dealings Principles Order 2004</i> but does not specify the relevant clauses or sections. As such the instrument is considered to have been incorporated in its entirety, resulting in a consequential inconsistency due to the application of s 10.04(5), as set out in issue 2.1. Therefore, this requirement is not met.</p> <p>The assessment has determined that not all PEW and associated rules and arrangements are identified, as set out in issue 3.2. The reliance on the provisions to address the s 10.09 requirement as also meeting the s 10.18 requirement means the proposed WRP does not demonstrate that all of the rules are included that are needed to address the requirements of s 10.20.</p> <p>In addition to not being incorporated as a PEW rule or arrangement, cl 56 of Schedule A is also a relevant rule for s 10.20(3) to reflect its inclusion as a 'current critical mechanism' that helps to mitigate relevant risks set out in the Consolidated Risk Tables of WRP Schedule D (Risk Assessment) but has not been incorporated</p>

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		<p>result in a long-term decline in groundwater levels; and</p> <p>(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</p> <p>(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</p> <p>(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</p> <p>(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.</p> <p>(3) If the outcome of the requirement in subsection (1) is that such rules are necessary, the water resource plan must include those rules.</p>	<p>The assessment also notes that text for accreditation at WRP s 2.2 (blue box on page 16) incorporates cl 48 of Schedule A (Water Sharing Plan for the NSW Border Rivers Alluvial Groundwater Sources 2020).</p> <p>Clause 48 is also incorporated into the proposed WRP to meet requirements of s 10.38 of the Basin Plan (trade between SDL resource units). Assessment against s 10.38 has found the requirement is not met for a number of reasons including that trade between SDL resource units is prohibited under the accredited Queensland Border Rivers-Moonie WRP.</p> <p>Consequently, cl 48 cannot operate as intended for the purpose of s 10.18(3) and the requirement is not met.</p>

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4.4	10.22	<p>A water resource plan must:</p> <p>(b) if a risk of a kind referred to in subsection 10.41(1) has been identified in relation to the water resources of the water resource plan area—explain why rules addressing the risk have or have not been included in the plan.</p>	<p>The assessment of material provided for the purposes of ss 10.18-10.20 has found that there is insufficient rationale for the exclusion of certain rules as identified in those assessments and that there is an inconsistency between how regard to risk has been identified in the risk assessment and the rules subsequently incorporated into the proposed WRP to address the identified risks.</p> <p>Therefore, this requirement has not been met.</p>
Part 5			
5.1	10.23	<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>As set out in item 2.2 above, the proposed WRP has not identified all hydrologically connected water resources, and the assessment cannot determine that regard has been had for the potential for interception activities to have an impact on connected resources. As such the assessment cannot conclude that there would be no impacts of a kind which would require an interception activity to be listed for the purposes of s 10.23(2).</p> <p>As set out in the assessment for s 10.23(1), it is not possible for the proposed WRP to demonstrate appropriate regard for the matters in 10.23(3)(ii), as not all hydrologically connected water resources have been identified in the proposed WRP, and therefore regard cannot be demonstrated for impacts on those connected resources due to interception activities.</p> <p>Therefore this requirement has not been met.</p>

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		<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> <ul style="list-style-type: none"> (i) the water resources of the water resource plan area; and (ii) any water resources which are hydrologically connected to the water resources of the water resource plan area; <p>(c) the projected growth of the type of activity over the period for which the water resource plan will have effect.</p> <p>Note: The following are types of interception activity which may have the potential to have a significant impact on the water resources of a water resource plan area:</p> <ul style="list-style-type: none"> (a) interception by runoff dams; (b) interception by commercial plantations; (c) interception by mining activities, including coal seam gas mining; (d) interception by floodplain harvesting. 	
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> <ul style="list-style-type: none"> (a) the water resources of the water resource plan area; and (b) water resources which are hydrologically connected to the water resources of the water resource plan area. 	<p>Text for accreditation at s 5.6 states that s 10.24 is not applicable because no types of interception activity were found to have the potential to cause significant impact on water resources.</p> <p>As set out in the assessment for ss 10.05 and 10.23(1), not all hydrologically connected water resources have been identified. As such, it is unclear if the determination that there are no significant interception activities is valid, as appropriate regard for impacts on hydrologically connected water resources has not been demonstrated.</p> <p>Due to this uncertainty, it is not clear if monitoring should be identified for any</p>

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			interception activities. As no monitoring has been identified, the requirements of this section have not been met.
5.3	10.25	<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> <ul style="list-style-type: none"> (a) an impact of a type of interception activity compromises the meeting of an environmental watering requirement; or (b) an impact of several types of activity together compromises the meeting of an environmental watering requirement; or (c) there is an increase in the quantity of water being intercepted by a type of activity; after the commencement of the water resource plan. 	<p>Text for accreditation states that s 10.25 is not applicable because no types of interception activity were found to have the potential to cause significant impact on water resources.</p> <p>However, as set out in the assessment for ss 10.23 and 10.24, it is unclear if any interception activities should be identified.</p> <p>Due to this uncertainty, it is not clear if actions to address impacts of a kind specified in s 10.25(1)(a)-(c) should be identified for the purposes of this section for any interception activity. As no actions have been identified, the requirements of this section have not been met.</p> <p>Additionally, as set out in the assessment for s 10.24, it is not clear that any monitoring would identify impacts on all hydrologically connected water resources, and therefore it is not possible for actions to be triggered.</p>
Part 6			
6.1	10.26(1)	<p>A water resource plan must provide for environmental watering to occur in a way that:</p> <ul style="list-style-type: none"> (a) is consistent with: <ul style="list-style-type: none"> (i) the environmental watering plan; and (ii) the Basin-wide environmental watering strategy; and (b) contributes to the achievement of the objectives in Part 2 of Chapter 8. 	<p>The proposed WRP relies on the approaches to addressing Parts 3, 4 and 9 of Chapter 10 to meet the requirements of s 10.26(1). As set out above at issues 3.1, 3.2, 4.1, 4.2, 4.3 and 9.1-9.7, the requirements of those parts have not been met, and therefore there is a consequential inconsistency for s 10.26(1).</p>
6.2	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 for under State water management law immediately before the commencement of the Basin Plan.</p>	<p>The assessment has found that due to the exclusion of cls 4(4), 8(3) and part 10 of Schedule A from the proposed WRP, the assessment cannot confirm that the proposed WRP ensures that there is no net reduction in the protection of planned environmental water from the protection provided for under State water management law immediately before the commencement of the Basin Plan</p> <p>Therefore, this requirement has not been met.</p>

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Part 8			
8.1	10.36	This Part does not apply to water access rights of a kind that are not able to be traded under State water management law.	Text for accreditation at WRP s 5.7.2 refers to the <i>Water Management Act 2000</i> (NSW), the <i>Access Licence Dealings Principles Order 2004</i> and <i>Water Sharing Plan for the NSW Border Rivers Alluvial Groundwater Sources 2020</i> but does not specify the relevant clauses or sections. As such the instruments are considered to have been incorporated in its entirety, resulting in a consequential inconsistency due to the application of s 10.04(5), as set out in issue 2.1. Therefore, this requirement is not met.
8.2	10.36	This Part does not apply to water access rights of a kind that are not able to be traded under State water management law.	Text for accreditation at WRP s 5.7.2 states that: For the purpose of section 10.36 of the Basin Plan, water access rights and the circumstance of their tradability is determined through the WMA 2000 (S71), Access Licence Dealing Principles Order 2004, and rules within the Water Sharing Plan for the NSW Border Rivers Alluvial Groundwater Sources 2020. However, cl 48 of the Water Sharing Plan for the NSW Border Rivers Alluvial Groundwater Sources 2020 identifies that trade is prohibited unless in accordance with administrative arrangements agreed to, and implemented by, NSW and the other State or Territory. The necessary administrative arrangements are not in place and trade is prohibited under the accredited WRP of the adjoining state (Queensland). As such trade is prohibited in the NSW Border Rivers WRP area and as such the circumstances of the tradability of water access rights has not been established. Therefore, this requirement is not met.
8.3	10.38(1)	A water resource plan must set out the circumstances in which trade between 2 groundwater SDL resource units is permitted. In setting out the circumstances, a water resource plan must ensure that each condition set out in section 12.25 will be met in relation to proposed trade.	Text for accreditation at WRP s 5.7.2 states that: Trade is conditionally permitted if the trade is between the NSW Border Rivers Alluvium SDL resource unit and a connected Queensland groundwater SDL resource unit in accordance with the requirements of s 12.25 of the Basin Plan. However, the proposed WRP does not indicate whether water access rights in the two SDL resource units have substantially similar characteristics of timing, reliability and volume, as required by s 12.25(d) of the Basin Plan. Also, the process outlined in Figure

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			I-3 does not explicitly state that water access rights to be traded from one SDL resource unit to another will either have the same characteristics of timing, reliability and volume, or that there are measures in place to ensure this. Additionally, as outlined in s 10.36 of this assessment, the proposed WRP has not identified water access rights of a kind that are able to be traded. Therefore, this requirement is not met.
Part 9			
9.1	10.41(1)	A water resource plan must be prepared having regard to current and future risks to the condition and continued availability of the water resources of the water resource plan area.	<p>The assessment of the material provided to address s 10.05 of the Basin Plan has concluded that the proposed WRP (at s 3.3. of Schedule D Risk Assessment) has not identified the nature of all connections with adjacent resources. Therefore, this assessment is not satisfied that the risk assessment has had regard to all current and future risks to the water resources in the NSW Border Rivers Alluvium WRP area from those activities and risks in the adjacent WRP area.</p> <p>Additionally, as outlined in the assessment against ss 10.41(2(a-c)), (3), (4), (5) and (6), not all risks to which the risk assessment has had regard to have been addressed in the proposed WRP. Therefore, this requirement is not met.</p>
9.2	10.41(2)	Without limiting subsection (1), the risks include (where applicable): (a) Risks to the capacity to meet environmental watering requirements is listed in s10.41(4)	The assessment for s 10.05 has determined that the proposed WRP (at s 3.3. of Schedule D) has not clearly described the nature of all connections with adjacent resources, 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 Alluvium WRP area from those in the adjacent Queensland Border Rivers-Moonie WRP area (surface water). 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. Therefore, this requirement has not met.
9.3	10.41(2)	Without limiting subsection (1), the risks include (where applicable): (b) risks arising from the matters referred to in subsection 10.20(1)	The assessment for s 10.05 has determined that the proposed WRP (at s 3.3. of Schedule D) has not clearly described the nature of all connections with adjacent resources, 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 Alluvium WRP area from those in the adjacent Queensland Border Rivers-Moonie WRP area (surface water). The assessment can find no evidence to confirm whether risks that may cause structural damage to an aquifer arising from take within the long-term annual diversion limit for an SDL resource unit, outside the WRP area in the adjacent

Issue Ref.	Relevant Basin Plan provision	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			Queensland Border Rivers-Moonie WRP area (surface water) has been considered in the proposed WRP. Therefore, this requirement has not met.
9.4	10.41(2)	Without limiting subsection (1), the risks include (where applicable): (c) Risks arising from potential interception activities	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 Alluvium WRP area from those in the adjacent Queensland Border Rivers-Moonie WRP area (surface water). As such, the assessment cannot confirm whether all the risks arising from potential interception activities have been considered in the proposed WRP.
9.5	10.41(3)	In identifying risks for the purposes of subsection (1), regard must be had to: (a) risks identified in section 4.02	<p>When identifying risks for the purpose of s 10.41(1), it is necessary to have regard to various matters including risks arising from</p> <ul style="list-style-type: none"> - insufficient water being available for the environment - poor health of water-dependent ecosystems - insufficient water being available or not suitable for consumptive and other economic uses of Basin water resources, and - insufficient water being available for Aboriginal values. <p>The assessment for s 10.05 has determined that the proposed WRP (at s 3.3. of Schedule D) has not clearly described the nature of all connections with adjacent resources, and s 10.41(1) has identified that the proposed WRP has not considered the risks to the water resources in the Gwydir Alluvium WRP area from those in the adjacent NSW MDB Porous Rock WRP area. As such, the Authority cannot confirm whether all the risks arising from</p> <ul style="list-style-type: none"> - insufficient water available for the environment, and - poor health of water-dependent ecosystems <p>have been considered in the proposed WRP.</p> <p>The proposed WRP identifies risks relevant to risks arising as a result of insufficient water being available or not suitable for consumptive and other economic uses of Basin water resources. However as outlined in section 10.05 (issue 2.2), s 3.3 of Schedule D has not identified connections to the Queensland Border Rivers SDL resource unit (SS24) in the Queensland Border Rivers-Moonie (surface water) WRP area. The Authority also notes that the consideration of this connection is not considered in any of the cited sections of Schedule D relevant to this requirement. This includes risk R2 which explicitly considers risks with connected water resources.</p>

Issue Ref.	Relevant Basin Plan provision	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>The proposed WRP refers to the material addressing s 10.53(1)(f) to address this requirement. However, the assessment against s 10.53 of the Basin Plan (Indigenous consultation on WRPs) to which the text for accreditation at WRP ss 1.3.1 and 1.7 applies, has found requirements have not been met relating to the identification of risks to Indigenous values and uses. Therefore, the assessment cannot confirm that appropriate regard has been given to these matters when identifying risks under s 10.41(1).</p> <p>Therefore, this requirement is not met.</p>
9.5	10.41(4)	The water resource plan must list the risks identified for the purposes of subsection (1).	<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 Alluvium WRP area from those in the adjacent Queensland Border Rivers 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 has not been met.</p>
9.6	10.41(5)	The water resource plan must assess each risk.	<p>The assessment test is that the risks must be assessed according to the State’s chosen risk assessment method. WRP Schedule D indicates that the risk assessment was conducted using a combination of quantitative and qualitative methods. Material in Schedule D indicates that the risk assessment approach is not consistent with the state’s primary risk assessment methods.</p> <p>The assessment for s 10.41(4) has concluded that the list of risks provided for accreditation in WRP Table 3-1 does not contain all of the current and future risks, and therefore the Authority is not satisfied that each of these risks has been assessed according to the State’s chosen risk assessment.</p> <p>In addition, a qualitative assessment of the risks has been undertaken for risks associated with s 4.02(2)(b), as listed in s 7 of Schedule D and WRP s 1.3.1. However, assessment against s 10.53 of the Basin Plan (Indigenous consultation on WRPs) to which the text for accreditation at WRP ss 1.3.1 and 1.7 applies, has found requirements have not been met relating to the identification of risks to Indigenous values and uses. Therefore, it is not clear that all relevant risks have been identified and assessed in an appropriate manner.</p>

Issue Ref.	Relevant Basin Plan provision	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>As outlined in s.10.41(2) - (4) of this assessment, not all identified risks have been listed, which means that not all risks have been assessed according to the State's chosen risk assessment method.</p> <p>Therefore, this requirement has not been met.</p>
9.7	10.41(6)	<p>The water resource plan must define the level of risk of each risk, using the following categories:</p> <ul style="list-style-type: none"> (a) low; (b) medium; (c) high; (d) if it is considered appropriate, any additional category. 	<p>As noted above at issue 9.6, while not formally assessed and given the risk ratings listed in this subsection, a qualitative assessment of risks associated with s 4.02(2)(b) has been undertaken (as listed in s 7 of Schedule D and WRP s 1.3.1). While the Authority considers an qualitative assessment is acceptable in principle, assessment against s 10.53 of the Basin Plan (Indigenous consultation on WRPs) to which the text for accreditation at WRP ss 1.3.1 and 1.7 applies, has found requirements have not been met relating to the identification of risks to Indigenous values and uses. Therefore, it is not clear that all relevant risks have been identified and assessed in accordance with the State's chosen method and this requirement is not met.</p>
Part 10			
10.1	10.45(1) and (2)	<p>(1) A water resource plan must specify measures for maintaining and, if practicable, improving:</p> <ul style="list-style-type: none"> (a) the proportion of take that is measured in the water resource plan area; and (b) the standard to which take is measured. <p>(2) The water resource plan must specify the timeframe for implementing the measures.</p>	<p>Text for accreditation at WRP s 7.1 refers to the <i>Water Management Regulations 2018</i> (NSW) but does not specify the relevant clauses or sections. As such the instrument is considered to have been incorporated in its entirety, resulting in a consequential inconsistency due to the application of s 10.04(5), as set out in issue 2.1. Therefore, this requirement is not met.</p>
Part 12			
12.1	10.49 (1) and (2)	<ul style="list-style-type: none"> (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. 	<p>Text for accreditation at s 8 (blue box on page 62) states:</p> <p>For the purposes of section 10.49 and 10.50 of the Basin Plan, Table G-1 of Schedule G. identifies and describes information and methods used in developing this WRP that are not otherwise explicitly identified and described elsewhere in this Plan.</p> <p>However, examination of Schedule G (pp 73 to 74) found there is no Table G-1, and that Table 8-1 appears to be the correct reference but has not been incorporated into the proposed WRP.</p>

Issue Ref.	Relevant Basin Plan provision	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>Further, the assessment has established that there are gaps and errors in various sections of the WRP (as detailed in individual assessments of the Chapter 10 Parts). An example of inconsistencies that indicate the best available information has not been used are set out in this notice against ss 10.05, 10.09, 10.41.</p> <p>Due to the incorrect reference to Table G-1 and the gaps and errors in the information provided in the proposed WRP, this requirement has not been met.</p>
12.2	10.50	A water resource place must identify any significant method, model or tool that has been used to develop the water resource plan.	<p>Text for accreditation at s 8 (blue box on page 62) states: For the purposes of section 10.49 and 10.50 of the Basin Plan, Table G-1 of Schedule G. identifies and describes information and methods used in developing this WRP that are not otherwise explicitly identified and described elsewhere in this Plan.</p> <p>However, examination of Schedule G (pp 73 to 74) found there is no Table G-1, and that Table 8-1 appears to be the correct reference but has not been incorporated into the proposed WRP. Therefore this requirement is not met.</p>
Part 14			
14.1	10.52(2)	<p>In identifying the matters set out in subsection (1), regard must be had to:</p> <p>(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</p> <p>(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.</p>	<p>The NBAN advice states:</p> <p>The accredited text suggests that “regard to Aboriginal values and uses... is demonstrated through consultation with First Nations”. The assessors disagreed with this notion that simply conducting consultation constituted having regard to these values and uses within the WRP, especially seeing as consultation was already required as part of Basin Plan requirement 10.52. Therefore, NBAN Delegates are of the view that the Border Rivers Alluvium WRP lacks evidence of how regard to Aboriginal values and uses was had.</p> <p>The assessment notes the final rating in the NBAN advice is given as ‘Satisfactory’. Notwithstanding, this rating, it is clear from the commentary in the NBAN advice that the Traditional Owners did not feel appropriate regard had been demonstrated.</p>

Issue Ref.	Relevant Basin Plan provision	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>Although the assessment finds that the proposed WRP has identified social, spiritual and cultural values and uses, given 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.</p>
14.2	10.53(1)	<p>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)]</p>	<p>The NBAN advice states:</p> <p>To demonstrate that 10.53 had been met, and that regard to First Nations views about each of the matters in 10.53(1) had occurred during WRP development, the NSW Government 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 (see MDBA's <i>WRP Part 14 Guidelines</i>). The [NSW] <i>Border Rivers Alluvium WRP</i> documentation makes it clear that direct and intentional collection of Aboriginal peoples' views generally did not occur for matters in 10.53(1) related to Native Title, Aboriginal Heritage, Indigenous representation and active and informed participation.</p> <p>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.</p> <p>Therefore, this requirement is not met.</p>
14.3	10.53(1)(a)	<p>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>	<p>The NBAN advice states:</p> <p>The accredited text on p 11 of the <i>NSW Border Rivers Alluvium WRP</i> which addresses 10.53(1)(a) provides no evidence that the Nation groups were asked about their views with respect to native title matters in relation to water resources, let alone evidence about how those views were properly, genuinely or realistically considered in developing the WRP.</p>

Issue Ref.	Relevant Basin Plan provision	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>The Authority is satisfied that some, limited views of 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 WRP area, were considered in the preparation of the WRP.</p> <p>However, as a result of the issues raised by NBAN, the Authority is not able to confirm that genuine, proper and realistic regard was had to the views of all relevant Indigenous organisations with respect to the requirement of s 10.53(1)(a).</p> <p>Therefore, this 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>Text for accreditation at WRP s 1.7 refers to NSW's existing cultural heritage management system to respond to this requirement (i.e. the Aboriginal Heritage Information Management System (AHIMS)). However, it is unclear whether this covers all <i>registered Aboriginal heritage</i> (under Commonwealth or State law), relevant to the WRP area.</p> <p>The NBAN advice states:</p> <p>The accredited text does not describe if or how views about registered Aboriginal cultural heritage relating to waters 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>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 advice states it is (again): troubled by the framing of this input as 'NBAN being involved in the actual consultation'.</p> <p>The NBAN advice further states:</p>

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			<p>This evidence suggests that DPIE likely did not ask First Nations' views about Indigenous representation in plan preparation, and that certainly no regard was had for any such views even if they were asked. Further, there is no evidence to suggest there have been conversations or provisions for Indigenous representation in the implementation of the Plan.</p> <p>and</p> <p>the WRP accredited text does not address in any way how DPIE has had regard to the views of Indigenous organisations in the <i>implementation</i> of the plan.</p> <p>The assessment is satisfied that material demonstrates that the views of some relevant Indigenous organisations have been sought in relation the inclusion of Indigenous representation in the preparation and implementation of the plan. However, in light of the concerns raised by the NBAN advice regarding the limited nature of the consultation process it is not clear that the views of all relevant organisations have been sought.</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) there are some 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.</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. The NBAN advice states:</p>

Issue Ref.	Relevant Basin Plan provision	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>Overall, although the identification of objectives in the Nation consultation reports is welcomed, there is no evidence of how these objectives, or any strategies, were regarded in developing the Border Rivers Alluvium WRP or associated WSPs.</p> <p>Therefore, although the assessment is satisfied the development of the proposed WRP has had some regard to the views of relevant Indigenous organisations with respect to Indigenous social, cultural, spiritual and customary objectives. However, given the clear statements in the NBAN advice about the absence of demonstrated regard for the views Traditional Owners, the Authority is not satisfied that genuine, proper and realistic regard has been had to the views of all 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>The NBAN advice states:</p> <p>The Bigambul representative ... emphasised the rushed nature of the process and pointed out that dates were not negotiated with the Nation. Information already gathered was collated and then checked over with Bigambul participants, a process which the Bigambul representative didn't feel encouraged active engagement.</p> <p>and</p> <p>The Gomeroi assessor felt that the number of Gomeroi participants (thirty people at four workshops) was not high enough to indicate 'active and informed participation' ... it seems that Section Four [of the consultation reports] is not always a reliable indication of the views of Traditional Owners on the encouragement of their active and informed participation, but rather an outline of the process from the perspective of consultants and DPIE Water.</p> <p><u>Referencing error</u></p>

Issue Ref.	Relevant Basin Plan provision	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>Section 4 of Attachment F. Ngarabal Nation Report is entitled 'Finding: Themes' and it contains the outcomes of the consultation process. Further examination of Attachment F. Ngarabal Nation Report finds that the consultation process is outlined in Section 3. This section is not cited in text for accreditation, and this amounts to an error for accreditation purposes.</p> <p>While the assessment considers that there is some evidence of efforts to undertake consultation in a culturally appropriate manner, as a result of the concern identified in the NBAN advice regarding the engagement approach adopted and the referencing error, the Authority is not able to confirm that the proposed WRP was prepared having genuine, proper and realistic 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>The NBAN advice noted that the risks identified in accredited text are only partial, as a result of the lack of appropriateness (including cultural appropriateness) of the consultation process and the limited number of Traditional Owners consulted.</p> <p>The NBAN advice also states:</p> <p>Of particular concern was that the <i>Risk Assessment (Schedule D)</i> does not include, accommodate or even reference the risks identified in the consultation reports. This is a significant omission given that the <i>Risk Assessment (Schedule D)</i> is a crucially important component of the WRP that guides risk management for the [NSW] Border Rivers Alluvium WRPA. 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 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</p>

Issue Ref.	Relevant Basin Plan provision	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>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 assessment is satisfied 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, nor the views of relevant Indigenous organisations with these risks.</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>Text for accreditation at WRP s 4.4 states that:</p>

Issue Ref.	Relevant Basin Plan provision	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>this Plan will have regard to the views of Aboriginal people with respect to cultural connections to groundwater by including Attachments A to F of Schedule C (Consultation Information) and specific objectives and outcomes for Aboriginal people as specified in section 1.3.1 of this WRP.</p> <p>Examination of Schedule C Attachment F. Ngarabal First Nations Consultation Report found that there was no evidence of ‘Cultural flows’ or ‘Cultural water’ being discussed within this report. Consequently regard to the Aboriginal people’s views about cultural flows has not been demonstrated.</p> <p>The NBAN advice notes the following issues with the material included for this requirement:</p> <ol style="list-style-type: none"> 1. WRP s 1.3.1 does not ‘specify’ objectives and outcomes. Although this section references the National Cultural Flows Research Project report, this doesn’t explain how it informed consideration of cultural flows. 2. WRP does not clarify the NSW understanding of ‘cultural flow’. Assessors were also puzzled by the phrase ‘cultural connections to groundwater flows’, as opposed to the use of the phrase ‘cultural flows’. 3. The proposed WRP cites the inclusion of attachments to Schedule C as demonstration of regard to the views of Aboriginal people about cultural flows. However, a review of the consultation reports founds little evidence of direct discussion of cultural flows and expressed doubts as to whether questions about cultural flows were asked. Assessors found that attaching these documents to Schedule C to be unsatisfactory and insufficient evidence of how views about cultural flows were collected. 4. The <i>preparation</i> of the proposed WRP (not just the WRP itself) must have regard to the views of Indigenous people about cultural flows. <p>The assessment notes the low level of detailed distinction outside of the water sharing plans between ‘cultural flows’ and customary, social, spiritual and economic values and uses of water resources within the remainder of the WRP. It also notes that supporting text in the proposed WRP (p 37) states:</p>

Issue Ref.	Relevant Basin Plan provision	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			<p>Provisions for groundwater for cultural purposes are implemented through water sharing plans in NSW.</p> <p>However, the assessment considers that it is not clear that the provision, in itself, demonstrates a consideration of the views of Indigenous people regarding 'cultural flows'.</p> <p>Consequently, the assessment is not satisfied that there is evidence that the development of the WRP had genuine, proper and realistic consideration to the views of relevant Indigenous organisations with respect to cultural flows.</p> <p>Therefore, this requirement is not met.</p>
14.10	10.55	<p>A water resource plan must provide at least the same level of protection of Indigenous values and Indigenous uses as provided in:</p> <p>(a) a transitional water resource plan for the water resource plan area; or</p> <p>(b) an interim water resource plan for the water resource plan area.</p>	<p>Text for accreditation at s 4.4 states that:</p> <p>An interim WRP operated for the groundwater resources in the NSW Border Rivers Alluvium (<i>Water Sharing Plan for the NSW Border Rivers Unregulated and Alluvial Water Sources 2012</i>), which included some of the arrangements identified in Table 4-2. This plan retains or improves the protection of Indigenous values and uses.</p> <p><u>Referencing error in Table 4-2</u></p> <p>Column one of Table 4-2 is understood as listing the <u>current</u> relevant legislation or regulation. The assessment above considered the protection of Indigenous values and Indigenous uses provided for in NSW legislation and regulation at the time the proposed WRP was submitted, and as expressed in Schedule A, and compared them with the protections in the interim WRP to determine if the claim made in column 3 of Table 4-2 is correct.</p> <p>Column one cites the <i>Water Management (General) Regulation 2011</i> in rows 7 and 8. This regulation was repealed by the <i>Water Management (General) Regulation 2018</i>. This is an error in text for accreditation, and the Authority is unable to determine whether the claim made in column 3 of Table 4-2 is correct. NBAN also noted this error.</p>

Issue Ref.	Relevant Basin Plan provision	Requirement of Basin Plan provision	Description of the potential inconsistency (including references to relevant WRP material)
			As a result of this referencing error, the s 10.55 requirement is not met.