

Our ref: BN24/5404

Your ref: INT24/73283 and INT24/73284

Professor Hugh Durrant-Whyte  
Commissioner  
Natural Resources Commission  
GPO Box 5341  
SYDNEY NSW 2001

By email: [Hugh.Durrant-Whyte@nrc.nsw.gov.au](mailto:Hugh.Durrant-Whyte@nrc.nsw.gov.au)

24 July 2024

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Subject: **Audit of implementation of the Hastings and Bellinger unregulated and alluvial water sharing plans and Paterson regulated river water sharing plan**

Dear Professor Durrant-Whyte

I refer to your letter of 25 June 2024 concerning the audit of the implementation of the Hastings and Bellinger unregulated and alluvial water sharing plans and Paterson regulated river water sharing plan (WSPs or the Plans).

It is pleasing to note that the report included positive findings in relation to available water determination orders were largely issued and applied to accounts as required by the Plans; procedures and systems were generally in place to support the granting of specific purpose access licences, making of plan amendments, processing of dealings and implementing changes in mandatory conditions, but with some limits identified, relevant NSW Government bodies are continuing to make updates to their processes for water supply works approvals to address concerns raised by these, previous audits undertaken by the Commission; and mandatory conditions were largely applied as required by the Paterson Plan, with some gaps around metering and recording requirements.

It is also accepted that there are several areas where further work is required.

The Department of Climate Change, Energy, the Environment and Water – Water Group (DCCEEW Water Group or the department) has considered each of these findings and recommendations with suggested actions, and our detailed response is in the attached tables. Eighty-nine per cent of these recommendations are fully or partially agreed and accepted.

The minor exceptions to this are the recommendations in relation to the below findings (see enclosed documents for full details):

1. F5.1 data displayed in the WaterInsights Portal.
2. F8.1 clauses 44(25) and 44(26) regarding in-river dam pools and runoff harvesting dam pools.

In finalising the audit, the NRC consulted the department on the draft responses where the department had partially agreed with either the finding or recommendation and noted the following progress

1. In relation to R1.1 (Hastings, Bellinger and Paterson Plans) the NRC noted that the DCCEEW Water Group has reviewed and since implemented actions following the audits. NRC has updated its recommendation 'finalise development' for the report.

2. In relation to R2.1 (Hastings and Bellinger Plans)/R3.1 (Paterson Plan) the NRC revised the recommendation for the Long Term Average Annual Extraction Limits (LTAAEL) and assessment the compliance should be supported by specific water use data and other assessments methodologies where required for the Hastings, Bellinger and Plans
3. In relation to R5.1 (Hastings and Bellinger Plans)/ the NRC noted DCCEEW – Water Group resourcing and revised the recommendation be progressed ‘over time considering resourcing requirements and competing priorities.
4. In relation to R8.1 (Hastings and Bellinger Plans) and the NRC revised recommendation includes ‘amending discretionary conditions’ or ‘amending plans’ to ensure all relevant mandatory conditions are applied to all licences. For the Paterson Plan, the NRC note DCCEEW Water Group will complete work to notify licence and approval holders of mandatory conditions. The revised recommendation notes the draft procedure includes a ‘notification date’ will be agreed and documented.
5. In relation to R8.3 (Hastings Plan) the NRC revised recommendation notes DCCEEW Water Group will address gaps in application of mandatory conditions through ‘water metering reforms’.

The department has already undertaken work to finalise actions against these recommendations post the audit being completed.

The department is also progressing work that will contribute to addressing matters identified in this and other audits including:

1. development of monitoring and evaluation frameworks for water sharing plans which will inform plan assessment and monitoring (Recommendation R1.1 – Hastings, Bellinger and Paterson Plans)
2. monitoring of economic and social performance indicators commenced, for water quality evaluation reports that the department is finalising (Recommendation R1.2 – Hastings, Bellinger and Paterson Plans)
3. rolling out a method that uses remote sensing data to determine water take, in accordance with LTAAEL requirements (R2.1 – Hastings and Bellinger Plans)
4. updated mandatory conditions for the system operation rules and reviewing discretionary conditions (R2.1a – Paterson Plan)
5. processes relating to granting access licences (Recommendations R4.1 – Paterson Plan)
6. procedures and systems relating to water supply work approvals (Recommendations R6.1, R6.3a – Hastings and Bellinger Plan)
7. notification of mandatory conditions (Recommendations R8.1, R8.2 – Hastings, Bellinger and Paterson Plans)

The department continues to work collaboratively with WaterNSW to ensure consideration and implementation of NRC recommendations.

I understand that WaterNSW is reviewing the NRC audit report and is in the process of developing actions to address the six recommendations assigned to them for the Paterson

**Department of Climate Change, Energy  
the Environment and Water**



Plan and the seven recommendations assigned to them for the Hastings and Bellinger Plans. Where joint actions are required, WaterNSW commits to working with the Department of Climate Change, Energy, the Environment and Water (DCCEEW) in the implementation of these recommendations. A further separate response will be provided by WaterNSW, including a more detailed description of the proposed actions and realistic timeframes to address the recommendations.

The outcomes of this work, along with the Commission's audit, will inform the next steps in relation to these management plans. If your office requires any additional information or to discuss these matters further, please contact Giselle Howard, Executive Director, Water Planning, in the department, at [giselle.howard@dpie.nsw.gov.au](mailto:giselle.howard@dpie.nsw.gov.au).

I would like to thank the Commission for its work in this important process.

Yours sincerely,

A handwritten signature in black ink that reads "Amanda Jones".

**Amanda Jones**  
Deputy Secretary Water  
Water Group

ENCL

- Final audit findings and recommendations relevant to DCCEEW Water for Hastings and Bellinger Plans
- Final audit findings and recommendations relevant to DCCEEW Water for Paterson Plan

## Attachment D

**Table 1: Audit findings and recommendations relevant to DCCEEW Water**

- *Water Sharing Plan for the Hastings Unregulated and Alluvial Water Sources 2019 (Hastings Plan)*
- *Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources 2020 (Bellinger Plan)*

No.	Final Findings	No.	Final Recommendations	DCCEEW Water response
F 1.1	DCCEEW is investing substantial effort into the monitoring, evaluation and reporting (MER) of water sharing plans. Progress has been made in developing processes and systems to track performance indicators. However, the MER framework and method statements have not been finalised. DCCEEW are developing manuals for environmental MER plans (in draft), social and economic MER plans (finalised), and cultural MER plans (not yet developed). Draft methods statements for tracking of environmental and water quality outcomes indicates that the types of key evaluation questions may vary according to the evaluation effort ranking given to a Plan. DCCEEW has yet to finalise the evaluation effort for the Hastings and Bellinger plans.	R 1.1	DCCEEW to finalise development of systems and processes to facilitate monitoring of performance indicators established in the Plans and enable evaluation of Plans' performance against objectives.	<p>Partially Agree with finding Method manuals have been finalised for evaluating surface water environmental, water quality social and economic outcomes. Methods for groundwater outcomes are currently being developed. Methods to evaluate outcomes for First Nations have not yet commenced.</p> <p>Agree with recommendation As part of the NSW Water Sharing Plan Evaluation Program the department has developed a draft water sharing plan evaluation framework. Methods for the evaluation of social, economic, environmental and water quality have been finalised for surface water resources. An update of the social and economic method and an additional environmental and water quality method to include groundwater resources are currently being developed and tested and will be finalised by December 2024.</p>

F 1.2	<p>Some monitoring and data collection is occurring across the Plans to enable monitoring against performance indicators, including sampling of extent of fish and platypus species and changes to groundwater dependent ecosystems. However, existing monitoring has gaps across environmental, economic, Aboriginal cultural, and social and cultural performance indicators across the surface water and alluvial water sources of both Plans.</p>	R 1.2	<p>DCCEEW to monitor and evaluate performance indicators to measure the success of the strategies to reach the objectives set out in Part 2 of the Plan, and to use generated data to support decision making for plan implementation.</p>	<p>Partially Agree with finding The department has commenced collection of data to inform evaluation of economic and social indicators. Examples of economic indicators include data on changes and trends in water trade, industry water use, local economies and industry value. Examples of social indicators include data collected from DCCEEW’s WSP Social Benchmarking survey about amenity, wellbeing, attachment to water and livelihoods.</p> <p>Agree with recommendation The department is leading the collection of social, economic, environmental and water quality performance indicators for water sharing plans in NSW. Monitoring of economic and social performance indicators have commenced, including Monitoring of environmental performance indicators is reported through the Water Science Environmental Outcomes Monitoring and Research Program (EOMRP) with annual reports published on the website. This monitoring information is used in the Environmental and water quality evaluation reports that the department is currently finalising the method and undertaking review.</p>
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F 2.1	<p>DCCEEW has not determined annual extraction at the completion of each water year or assessed compliance with the long-term average annual extraction limits (LTAAELs) in the Hastings and Bellinger Plans. The rollout of the NSW non-urban metering reforms will generate improved data to assist in the determination of annual extraction and LTAAEL assessments for these Plans. DCCEEW has indicated it is developing a methodology to undertake LTAAEL compliance in the unregulated and alluvial coastal plans in the absence of metering data. This LTAAEL methodology had not been developed or implemented in the Hastings and Bellinger Plans at the time of completion of the audits.</p>	R 2.1	<p>DCCEEW to manage Long Term Average Annual Extraction Limits (LTAAEL) and assess LTAAEL compliance for the Hastings and Bellinger Plans in accordance with Part 6 of each plan. This should be supported by:</p> <ul style="list-style-type: none"> <li>(a) water use data from the rollout of the non-urban metering reforms</li> <li>(b) other assessment methodologies in the absence of comprehensive water use data, if required.</li> </ul>	<p>Agree with finding and recommendation The department is rolling out a method that uses remote sensing data to determine water take, in accordance with the LTAAEL requirements of the plan. The Bellinger and Hastings will be completed, and assessed thereafter, before the term of plan replacement</p>
F 3.1	<p>DCCEEW has applied a standard 100% or 1ML per share on 1 July across both Plans. Part 6 of the Plan requires that where LTAAEL exceedance is 5% or greater, allocations are to be reduced for unregulated river, unregulated river (high flow) and aquifer access licences. LTAAEL compliance was not undertaken, as such any consideration of a need for a reduction to water allocated to accounts did not occur in the Hastings and Bellinger Plans.</p>	R 3.1	<p>DCCEEW to implement R 2.1 and use the LTAAEL compliance assessment to inform Available Water Determinations adjustments as required by Part 6 of each Plan.</p>	<p>Agree with finding and recommendation As LTAAEL assessment advice is provided (R2.1), it will be used in available water determinations accordingly (R3.1). This will commence before plan replacement.</p>

F 5.1	<p>DCCEEW advised that water licence holders can determine their eligibility to take water according to flow class thresholds by viewing gauge data on the WaterNSW WaterInsights portal for the relevant gauges specified in the Plans. It also advised that where flow class thresholds do not apply to licences but other flow-related rules are detailed in the Plan, licensees are to apply visual cues. This may include licensees observing river flow in a location closest to the groundwater work, to assess whether take is permitted. Clause 41(3) in the Belling Plan and Clause 43(4) in the Hastings Plan also require the provision of advice on flow class restrictions where gauge data is inaccurate. The Commission has identified instances of missing data against gauges identified in the Plan. The audit did not receive any evidence to enable the assessment of whether take was occurring according to the flow class thresholds specified by the Plans and applied to licences.</p> <p>DCCEEW and WaterNSW have advised that changing the way information is presented in the WaterInsights portal would require significant resourcing and would need to be managed against competing priorities. Providing clarity when water users can take water would be beneficial for unregulated systems</p>	R 5.1	<p>DCCEEW to work with WaterNSW to develop a tool to clearly communicate to water licence holders which flow classes are in effect to assist them in determining when take is permitted. This work should be progressed over time, considering resourcing requirements and competing priorities. The tool should build on the gauge data already available in the WaterInsights Portal</p>	<p>Agree with finding Partially agree with recommendation The department supports clear communication with licence holders to make it easier for them to determine when take is permitted, however the proposed approach is a significant step change in the way data is displayed in the WaterInsights Portal. The department has limited resourcing and consider there are other more immediate priorities.</p>
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across NSW and it is important to take steps to progress this work, while considering other resource requirements.



F 6.1	<p>DCCEEW and WaterNSW have procedures and systems for governing the water supply work approval process, however this audit identified gaps relating to the explicit documentation and assessment of certain rules under Part 9 of the Plans.</p> <p>During the audit period, manuals, procedures and assessment summary sheets did not require specific assessment against, or explicit documentation of compliance against, all the water supply works approval provisions. Compliance with Plan provisions should be explicitly documented for all assessments.</p>	R 6.1	<p>DCCEEW and WaterNSW to finalise updates to their procedures and systems governing the water supply work approval process.</p> <p>DCCEEW and WaterNSW to continue to update processes and templates to assess and explicitly document compliance with the provisions for water supply works approvals under Part 9 of the Plans, including rectification of gaps identified in R 6.2 and R 6.3 below.</p>	<p>Agree with finding and recommendation</p> <p>The Departments Licensing and Approvals team did not receive any applications for the Hastings/Bellinger during the period audited (apart from an application for a truck mounted surface water pump). An example of the assessment template for the documentation of how the Part 9 WSP rules have been met has been provided previously for the inland groundwater sharing plan audits. DCCEEW is currently reviewing and updating Licensing and Approvals procedures and process. This work is anticipated to be completed by June 2025.</p>
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<p>F 6.2</p>	<p>The Plans require assessment of potential sources of contamination near water supply works, including the requirements (in Schedule 5 in the Hastings Plan and Schedule 2 in the Bellinger Plan):</p> <p>a) “on-site sewage disposal systems and septic tanks,  b) any site that has been declared to be significantly contaminated land under the Contaminated Land Management Act 1997,  c) any sites that are or have been the subject of an activity listed in Table 1 of the contaminated land planning guidelines published under the Environmental Planning and Assessment Act 1979 from time to time”.</p> <p>The Commission did not sight evidence of assessment of Hastings Plan Schedule 5(b) or (c), or Bellinger Plan Schedule 2(c) for relevant sampled works approved by WaterNSW. WaterNSW and DCCEEW have previously advised there is no process for assessment of (c) and that processes have not been updated since the last audit.</p>	<p>R 6.2a</p>	<p>WaterNSW to develop a process to support the assessment and documentation of compliance against the Plans' schedule requirement for assessment of contamination sources including “any site that is or has been the subject of an activity listed in Table 1 of the contaminated land planning guidelines published under the Environmental Planning and Assessment Act 1979 from time to time”.</p> <p>R 6.2b After completion of R6.2a, WaterNSW to assess and explicitly document compliance against the Hastings Plan’s schedule requirement for assessment of contamination sources including:  a) any site that has been declared to be significantly contaminated land under the Contaminated Land Management Act 1997,  b) any sites that are or have been the subject of an activity listed in Table 1 of the contaminated land planning guidelines published under the Environmental Planning and Assessment Act 1979 from time to time.</p>	
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F 6.3	<p>The Plans require assessment of water supply work approvals located near groundwater-dependent culturally significant areas under Hastings Plan Clause 55 and Bellinger Plan clauses 58 and 59(1)(d). DCCEWW and WaterNSW have previously identified that there are currently no processes to provide sufficient information to allow an assessment of groundwater-dependent culturally significant areas. DCCEWW has identified the need to <i>“develop a program to identify and enhance protection of groundwater-dependent cultural sites and values in a culturally appropriate way.”</i></p>	R 6.3a	<p>DCCEEW to continue developing a process to support the identification of groundwater-dependent culturally significant areas to enable assessments of potential impacts from proposed water supply work approvals.</p>	<p>Agree with finding and recommendation</p> <p>The database currently available for water regulation officers to search for Aboriginal culturally significant sites is the Aboriginal Heritage Information Management System. Groundwater dependence will depend on the nature of the site.</p> <p>Under Action 2.1.1 of the NSW Groundwater Strategy, NSW will develop a program to identify and enhance protection of groundwater-dependent cultural sites and values in a culturally appropriate way. The first step is codesigning the NSW Aboriginal Water Strategy with First Nations/Aboriginal people throughout 2024. This will help to frame groundwater specific implementation activities.</p>
	<p>The Commission did not sight evidence demonstrating assessments of groundwater-dependent culturally significant areas for any of the relevant water supply work approvals processed by WaterNSW during the audit period.</p>		<p>R 6.3b Upon completion of R 6.3a, WaterNSW to assess and document compliance with the provisions under Part 9 of the Plans for water supply works near groundwater-dependent culturally significant areas.</p>	

<p>F 8.1</p>	<p>While most mandatory conditions required to give effect to the take of water required by the Hastings Plan were observed on licences, there were gaps in application relating to clauses 44(25) and 44(26) regarding in-river dam pools and runoff harvesting dam pools. DCCEEW do not know the location of relevant structures and these conditions cannot currently be implemented as drafted. Discretionary conditions were applied on some of the sampled licences to give effect to these mandatory conditions.</p>	<p>R 8.1</p>	<p>DCCEEW should ensure all relevant mandatory conditions are applied to all licences. Gaps could be addressed by amending discretionary conditions resulting from the replacement of Water Act 1912 entitlement conditions regarding the passing of flows through structures where plans require these to be mandatory conditions. Or, amending plans if provisions cannot be implemented and more appropriate provisions should be established.</p>	<p>Agree with finding Partially agree with recommendation in relation to clauses 44(25) and 44(26). Mandatory conditions have not been applied to give effect to these provisions because we currently do not know where the relevant structures are located. This has been logged as an issue for consideration in terms of plan drafting and may be addressed over time.</p> <p>Agree with recommendation in terms of changing certain discretionary conditions into mandatory conditions. However, we do not propose to make this change until the plan is remade or amended and notification to licence holders is required, as we have limited resources and we do not think this is a high priority. This is because the rules are being given effect (albeit by discretionary conditions rather than mandatory conditions) and there is no risk of the discretionary conditions being appealed because an appeal can only be made within 28 days of the condition being imposed, and these conditions were imposed on the conversion of the former Water Act 1912 entitlements in 2019.</p>
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F 8.2	While some mandatory conditions required to give effect to the take of water required by the Bellinger Plan were observed on licences, there were gaps in application relating to groundwater take for one sampled water access licence as WaterNSW had not assigned it to a management zone in the Water Licencing System.	R 8.2	WaterNSW to complete the review water access licences in the Bellinger Plan area to ensure all licences have been assigned to a management zone where relevant, and therefore relevant mandatory conditions applied.	
F 8.3	While some mandatory conditions regarding record keeping required by the Hastings Plan were observed on licences and works approvals, there were no mandatory conditions covering clauses 66(2)(a)(iii) on licence or 67(2)(b)(vii) on works approvals. The impact of this omission is, however, expected to be low in the short term considering the logbook template prompts the required information and in cases where the same logbook entries are used as for the water supply works, the information would be recorded in accordance with its logbook conditions. Further, these conditions are anticipated to be repealed with the roll-out of the non-urban metering reforms and will be superseded by this process. In addition, the mandatory condition relating to decommissioning of works approvals had not been updated with the amendment of clause 68A in July 2023.	R 8.3	DCCEEW to review and address gaps in the application of mandatory conditions in the Hastings Plan with the roll-out of the non-urban water metering reforms, including amending clause 68A regarding decommissioning for water supply works approvals.	Agree with recommendation and finding DCCEEW will review and address gaps in the application of mandatory conditions in the Hastings Plan with the roll-out of the non-urban water metering reforms, including amending clause 68A regarding decommissioning for water supply works approvals.