



Natural Resources Commission

Final report

**Audit of the implementation of the
Hastings and Bellinger unregulated and
alluvial water sharing plans**

June 2024



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Acknowledgement of Country

The Hastings and Bellinger Water Sharing Plan areas include the traditional lands and waters of the Birpai, Dunghutti and Gumbaynggirr Aboriginal nations. The Natural Resources Commission acknowledges and pays respect to the traditional owners, their elders and other Aboriginal people for whom these lands and waterways are significant.

The Commission recognises and acknowledges that traditional owners have a deep cultural, environmental and economic connection to their lands and waters. We value and respect their knowledge in natural resource management and the contributions of many generations, including their elders, to this understanding and connection.

List of acronyms

AWD	Available Water Determination
DCCEEW	NSW Department of Climate Change, Energy, Environment and Water
DPE-Water	(former) Department of Planning and Environment – Water
LRS	Land Registry Services
LTAEL	Long-term average annual extraction limits
MER	Monitoring, Evaluation and Reporting
MERI	Monitoring, Evaluation, Reporting and Improvement
ML	Megalitre
NRAR	Natural Resources Access Regulator
WAS	Water Accounting System
WAVE	Water Added Value Environment
WLS	Water Licencing System

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Executive Summary

The Natural Resources Commission (the Commission) has audited two NSW unregulated and alluvial water sharing plans (referred to in this report as ‘the Plans’) to ascertain whether the provisions of the Plans are being given effect to, as required under Section 44 of the *Water Management Act 2000* No 92 (the Act). The audited Plans are the:

- *Water Sharing Plan for the Hastings Unregulated and Alluvial Water Sources 2019* (Hastings Plan) – version effective from 11 December 2020
- *Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources 2020* (Bellinger Plan) – version effective from 30 June 2020.

Audit conclusion

While many of the Plan’s provisions are being implemented, the Commission considers that on balance the Plan provisions have not been given full effect.

The audit conclusion is based on the procedures performed and the evidence obtained. The Commission is of the view that the information presented fairly reflects Plan implementation.

Audit findings and recommendations

The Commission found that across most of the criteria assessed in this audit, the relevant NSW Government bodies generally have systems, processes and procedures in place that align with legislative requirements and support Plan implementation.

Key aspects of the Plan were being implemented, as outlined below:

- available water determination orders were largely issued and applied to accounts as required by the Plans
- procedures and systems are 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 below
- WaterNSW and DCCEEW have advised they are continuing to make updates to their processes for water supply works approvals to address concerns raised by this, and previous audits undertaken by the Commission audits.

Table 1 summarises the audit’s findings and recommendations for the partial and non-compliances, which are presented in detail in the sections below. The Commission has raised recommendations (R) only for material findings (F) relating to gaps in the implementation of requirements that result in the Plan not being given full effect. The auditor focused on the fundamental elements of plan implementation and did not explore the quality of implementation in detail in this audit.

Recommendations have been made considering the audit period and any information provided by auditees to reflect updated practices. The audit period is defined as the period from the commencement of the Plan to the date of the draft report submission to agencies, on 27 May 2023.

Given that the recommendations address gaps to legislative requirements, the Commission considers that all recommendations should be implemented as soon as practicable within a maximum timeframe of 12 months. However, the Commission considers that priority issues to be addressed by the audited agencies include:

- finalising systems and processes to facilitate monitoring of performance indicators (see **Finding 1.1**)
- managing Long-Term Average Annual Extraction Limits (LTAAEL) and assessing LTAAEL compliance (see **Finding 2.1**)
- progressing work to support the management of flow class provisions (**Finding 5.1**)
- finalising updates to the water supply works approvals process including:
 - process for identifying certain types of potentially contaminated land (see **Finding 6.2a**)
 - process for identifying groundwater dependent culturally significant areas (see **Finding 6.3a**).

Prioritising the performance indicator finding will support data availability for subsequent plan performance analysis. Addressing the other priority findings, which relate to broader system and process issues, will support the implementation of these Plans as well as other water sharing plans. The recommendations associated with these findings should be prioritised for implementation by the audited agencies.

The Commission undertook limited assurance sample testing, walkthroughs and interviews and examined roles and responsibilities, systems, processes, and procedures relevant to the audit criteria. Implementation was found to comply with legislative requirements except where the report identifies gaps. The Commission has provided the audit questions that were examined in each chapter of the report, along with symbols to identify compliance, partial compliance and non-compliance.

While this report discusses specific consequences for each criterion, the overarching consequence of not giving full effect to plan provisions is that the Plans' objectives are unlikely to be achieved in full. These objectives are intended to support environmental, economic, Aboriginal cultural and social and cultural outcomes.

The Commission's audits of water management plans under Section 44 of the Act provide assurance as to whether plan provisions are being given effect to. Giving effect to Plan provisions may support the water management principles set out in Section 5 of the Act. These audits may therefore contribute to assessing the contribution of plan provisions to the implementation of the water management principles of the Act. Due to the gaps in implementation in certain plan provisions, including the priority findings above, the water management principles set out in Section 5, such as 2(a), (d), (e) and 3(a) of the Act may be impacted.

Table 1 Audit findings and recommendations

Finding	Recommendation	Plan
Criterion 1: Have the relevant Government agencies implemented plan provisions relating to vision, objectives, strategies and performance indicators?		
<p>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.</p>	<p>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>	Hastings and Bellinger
<p>F 1.2 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>	<p>R 1.2 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>	Hastings and Bellinger
Criterion 2: Have the relevant Government agencies implemented plan provisions relating to long-term extraction limits?		
<p>F 2.1 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>	<p>R 2.1 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"> (a) water use data from the rollout of the non-urban metering reforms (b) other assessment methodologies in the absence of comprehensive water use data, if required. 	Hastings and Bellinger

Finding	Recommendation	Plan
Criterion 3: Have the relevant Government agencies implemented plan provisions relating to available water determinations?		
<p>F 3.1 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>	<p>R 3.1 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>Hastings and Bellinger</p>
Criterion 4: Have the relevant Government agencies implemented plan provisions relating to granting access licences?		
<p>No findings identified</p>		
Criterion 5: Have the relevant Government agencies implemented plan provisions relating to managing access licences?		
<p>F 5.1 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 Bellinger 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 across NSW and it is important to take steps to progress this work, while considering other resource requirements.</p>	<p>R 5.1. 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>Hastings and Bellinger</p>

Finding	Recommendation	Plan
Criterion 6: Have the relevant Government agencies implemented plan provisions relating to rules for water supply work approvals?		
<p>F 6.1 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>	<p>R 6.1 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>Hastings and Bellinger</p>
<p>F 6.2 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> <ul style="list-style-type: none"> a) <i>“on-site sewage disposal systems and septic tanks,</i> b) <i>any site that has been declared to be significantly contaminated land under the Contaminated Land Management Act 1997,</i> c) <i>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”.</i> <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 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 <i>Environmental Planning and Assessment Act 1979</i> 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:</p> <ul style="list-style-type: none"> a) any site that has been declared to be significantly contaminated land under the <i>Contaminated Land Management Act 1997,</i> 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 <i>Environmental Planning and Assessment Act 1979</i> from time to time. 	<p>Hastings and Bellinger</p>
<p>F 6.3 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). DCCEEW and WaterNSW have previously identified that there are currently no processes</p>	<p>R 6.3a DCCEEW to continue developing a process to support the identification of groundwater-dependent culturally significant areas</p>	<p>Hastings and Bellinger</p>

Finding	Recommendation	Plan
<p>to provide sufficient information to allow an assessment of groundwater-dependent culturally significant areas. DCCEEW has identified the need to “develop a program to identify and enhance protection of groundwater-dependent cultural sites and values in a culturally appropriate way.”</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>to enable assessments of potential impacts from proposed water supply work approvals.</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>	
Criterion 7: Have the relevant Government agencies implemented plan provisions relating to access licence dealing rules?		
No findings identified		
Criterion 8: Have the relevant Government agencies implemented plan provisions relating to mandatory conditions?		
<p>F 8.1 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 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 <i>Water Act 1912</i> 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>	Hastings
<p>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.</p>	<p>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.</p>	Bellinger
<p>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</p>	<p>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.</p>	Hastings

Finding	Recommendation	Plan
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.		
Criterion 9: Have the relevant Government agencies implemented plan provisions relating to amendments?		
No findings identified.		

1 Audit objectives and process

1.1 The Commission's role in auditing water management plans

The Natural Resources Commission (the Commission) is an independent body with broad investigating and reporting functions that aim to establish a sound evidence base to inform natural resource management in the social, economic and environmental interests of NSW.

Water management plans include:

- **water sharing plans** – establish the rules for sharing water between the environment and other water users. They also set rules for trading, water allocations and the management and granting of water access licences and water supply work approvals.¹
- **floodplain management plans** – provide the framework to coordinate flood work development to minimise future changes to flooding behaviour, and to increase awareness of risk to life and property from flooding.²

The Commission has a responsibility under Section 9 of the Act to fulfil its responsibilities in accordance with the water management principles and order of priority of water uses described in the Act.

1.2 Audit objective

The objective of this audit was to determine, in accordance with Section 44 of the Act, whether the provisions of two coastal unregulated water sharing plans (the Plans) are being given effect to:

- [Water Sharing Plan for the Hastings Unregulated and Alluvial Water Sources 2019](#) (Hastings Plan) – effective from 11 December 2020 and last amended 1 July 2023
- [Water Sharing Plan for the Bellinger River Area Unregulated and Alluvial Water Sources 2020](#) (Bellinger Plan) – effective from 30 June 2020 and amended 1 July 2023.

The Commission has audited the versions of the Plans in effect at the time of the audit. Plan amendments may occur in future which could alter clause references. Plan clause references in this report should therefore be read in conjunction with the Plans as made (and in force) on 27 May 2024. The areas of NSW covered by the Plans are shown in **Figures 1** and **2** below.

¹ Department of Planning and Environment (n.d.) [How water sharing plans work.](#)

² Department of Planning and Environment (n.d.) [Developing floodplain management plans.](#)

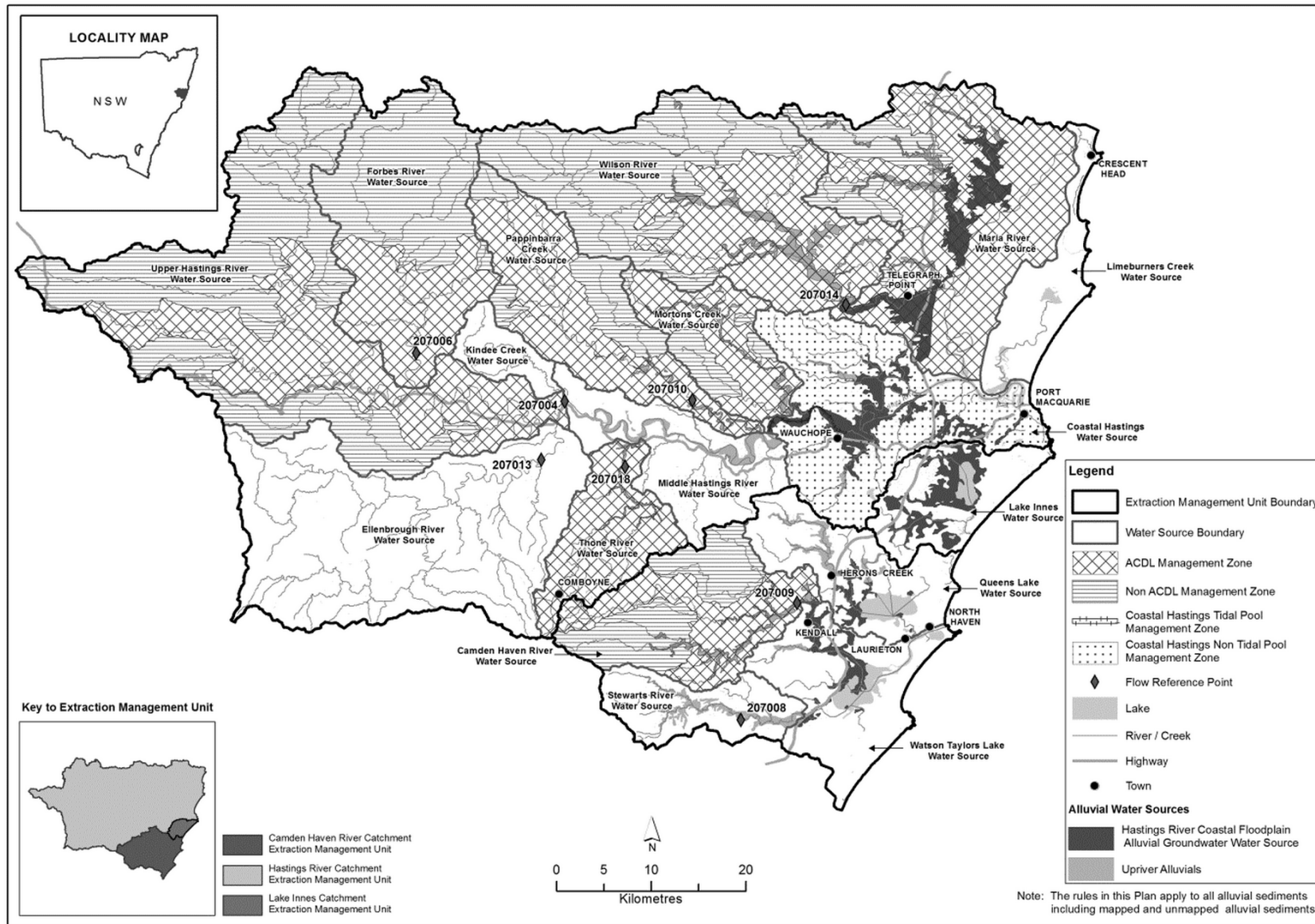


Figure 1 Hastings Plan area

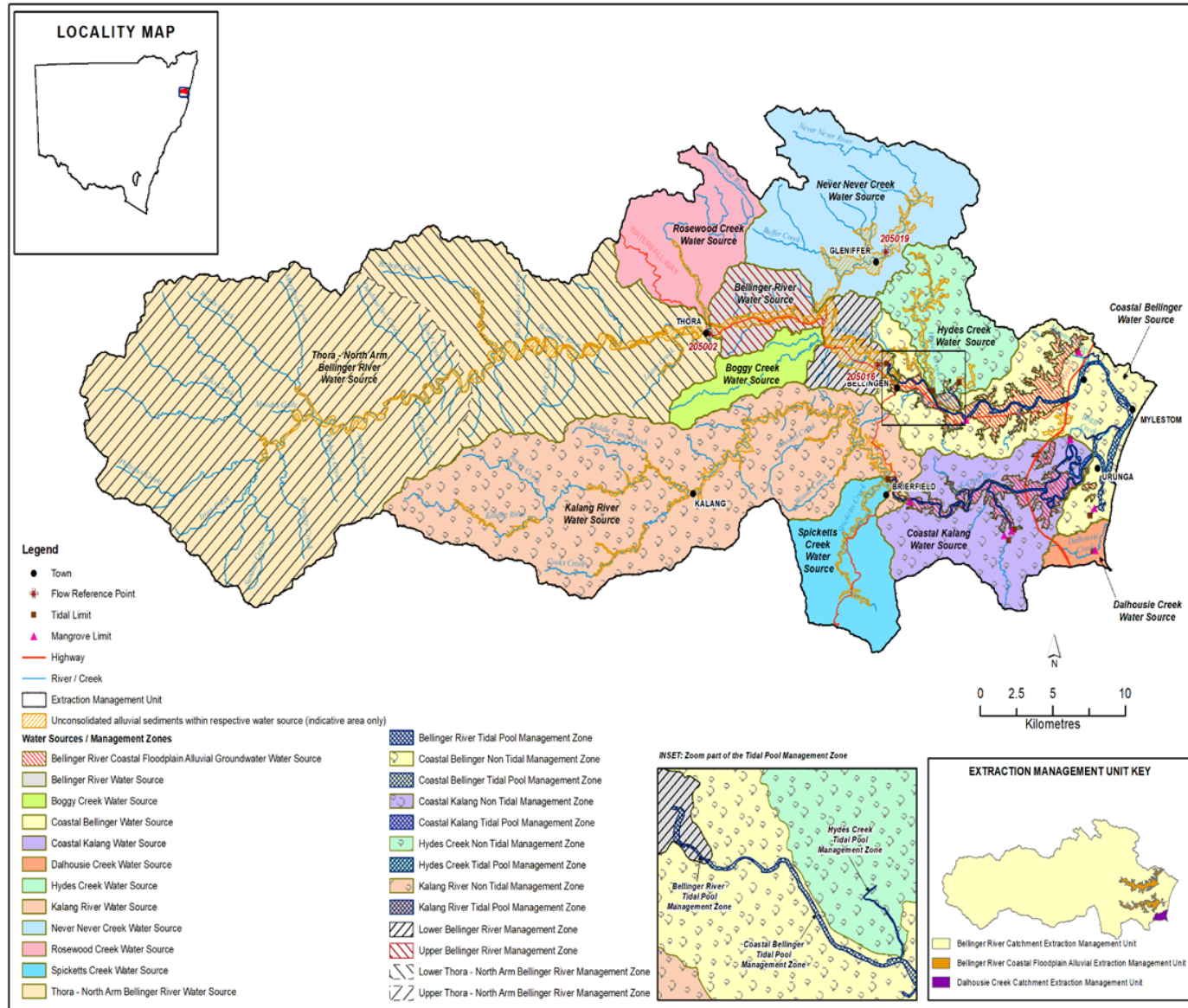


Figure 2 Bellinger Plan area

1.3 Audit criteria

Audit criteria were developed based on common parts of water sharing plans that the Commission considered warranted examination to ascertain whether provisions are being given effect to. The audit criteria are:

- **Criterion 1:** The relevant responsible parties have implemented plan provisions relating to vision, objectives, strategies and performance indicators
- **Criterion 2:** The relevant responsible parties have implemented plan provisions relating to limits to long-term average annual extraction limits
- **Criterion 3:** The relevant responsible parties have implemented plan provisions relating to available water determinations
- **Criterion 4:** The relevant responsible parties have implemented plan provisions relating to granting access licences
- **Criterion 5:** The relevant responsible parties have implemented plan provisions relating to managing access licences
- **Criterion 6:** The relevant responsible parties have implemented plan provisions relating to rules for water supply work approvals
- **Criterion 7:** The relevant responsible parties have implemented plan provisions relating to access licence dealing rules
- **Criterion 8:** The relevant responsible parties have implemented plan provisions relating to mandatory conditions
- **Criterion 9:** The relevant responsible parties have implemented plan provisions relating to amendments (where these are not optional) and there is evidence that identified amendments (which may include optional amendments) have been given due consideration.

The Commission's audits in regulated river systems have an additional criterion in relation to system operations, however this is not applicable to unregulated plans so there are nine criteria only for this audit.

The Commission developed audit questions to test relating to each criterion above, that align with the provisions of the Plans. Each criterion chapter includes a compliance summary table that contains the relevant plan clauses and audit questions that were examined, as well as a compliance rating. The compliance ratings used throughout the report are categorised as follows:

 = Compliant;  = Partially compliant;  = Non-compliant; **NA** = Not applicable

1.4 Auditee agencies

The key entities responsible for implementing water management plans in NSW are the:

- NSW Department of Climate Change, Energy, the Environment and Water, Water group (DCCEEW)
- WaterNSW
- Natural Resources Access Regulator (NRAR).

The responsibility for implementing the provisions described in the nine audit criteria above is assumed to rest with DCCEEW, except where other agencies have been identified as being

responsible. In June 2021, DCCEEW, NRAR and WaterNSW signed an agreement which clarifies their roles and responsibilities including those relating to water sharing plans and water supply work approvals.

Some agencies have changed name or role during the audit period. DCCEEW was formerly the Department of Planning and Environment – Water (DPE-Water). The Commission has adopted the name as of June 2024 of any responsible agencies throughout this report.

The Commission notes that NRAR was previously responsible for licensing and approvals for some customers including local councils, water utilities and state-owned corporations, State Significant Developments, State Significant Infrastructure and Aboriginal communities. However, this function was transferred to DCCEEW in mid-2022. In cases where the Commission has made audit findings relevant to the period where NRAR managed this licensing and approvals function, any recommendations have been directed to DCCEEW as the agency with the current responsibility.

1.5 Audit procedures

Audit procedures included:

- document review, including of overarching frameworks, procedures, guidelines, manuals, policies and reports
- walk throughs of material activities, including key systems and processes with system implementors and owners
- sampling of data or assessments
- interviews with process owners and implementors that give effect to plan provisions in DCCEEW, and WaterNSW.

These procedures were carried out on a test basis to provide sufficient, appropriate evidence to provide a limited assurance conclusion.

1.6 Audit standards

This audit was executed as a limited assurance engagement in accordance with the following standards:

- Standards on Assurance Engagements (ISAE) 3000 Assurance Engagements other than Audits or Reviews of Historical Financial Information
- ISAE 3100 Compliance Engagements
- Auditing Standard ASQM 1 Quality Management for Firms that Perform Audits or Reviews of Financial Reports and Other Financial Information, or Other Assurance or Related Services Engagements.

In accordance with these standards, the Commission has:

- complied with applicable ethical requirements
- planned and performed procedures to obtain independent assurance about whether the relevant responsible parties have implemented the plans, in all material respects, as evaluated against the audit criteria.

1.7 Limitations

This audit was a limited assurance engagement. The procedures performed in a limited assurance engagement vary in nature and timing and are of lesser extent than for a reasonable assurance engagement. As such, the level of assurance obtained in a limited assurance engagement is substantially lower than the assurance that would have been obtained through a reasonable assurance engagement.

Further, the audit cannot be relied on to comprehensively identify all weaknesses, improvements or areas of non-compliance. Inherent limitations mean that there is an unavoidable risk that some material matters may not be detected, despite the audit being properly planned and executed in accordance with the standards outlined in Chapter 1.6.

The audit was completed during the 2023-24 water year. Therefore, any audit questions requiring a full water year to be completed for the data or information to be available to assess compliance with provisions were not audited for the 2023-24 water year.

1.8 Exclusions

The audit has not provided an assessment against all provisions or parts in the Plans and does not assess the:

- introduction (Part 1)
- bulk access regime (Part 3)
- requirements for water (Part 5).

The audit has not examined or provided an opinion regarding:

- compliance or non-compliance of individual water access licence or water supply work approval holders
- whether the Plans are being implemented efficiently
- whether stated objectives in the Plans are being achieved
- whether the Plans are effective, appropriate or in line with the Act
- compliance with any legislation unrelated to the Act
- the role of the Natural Resources Access Regulator (NRAR) which independently sets its compliance and enforcement priorities in accordance with the *Natural Resources Access Regulator Act 2017*
- the role of any Commonwealth agencies or water agencies of other states or territories.

2 Criterion 1 – Performance indicators

Have the relevant responsible parties implemented plan provisions relating to vision, objectives, strategies and performance indicators?

Conclusion

Systems and processes to underpin the implementation of the Plans' performance indicators have progressed but have not all been finalised, with notable gaps including for Aboriginal cultural use.

DCCEEW has a large program of work underway to manage monitoring, evaluation and reporting (MER) of water resource plans and water sharing plans. DCCEEW is investing substantial effort in this area, and progress has been made in developing processes and systems to enable tracking of performance indicators. However, the MER framework and method statements have not been finalised. While some data collection is occurring, including for groundwater dependent ecosystems, fish species, and water trading data, there are notable gaps in data collection across all categories of indicator which will affect future plan evaluation.

2.1 Introduction

Part 2 of the Plans are made in accordance with Section 35(1) of the Act, requiring:

- a vision statement
- objectives consistent with the vision statement
- strategies for reaching objectives, and
- performance indicators to measure the success of strategies.

This audit examined Part 2 of each Plan. Part 2 requires one or more of the performance indicators to be assessed to measure changes or trends in the ecological condition, the economic benefits, the Aboriginal cultural use, and the social and cultural use of water over the term of the Plans. DCCEEW is responsible for the development, and review of management plans across NSW and is the lead agency responsible for developing and assessing performance indicators to measure the success of the strategies in meeting the Plan objectives. Other NSW Government agencies, including WaterNSW and DCCEEW - Environment and Heritage Group, have roles in collecting and evaluating data.

2.2 Compliance summary

The Commission considered two audit questions relevant to the Plans' performance indicator provisions. **Table 2** summarises the results of this analysis against these questions.

The Plans expire on 30 June 2029 (Hastings) and 2030 (Bellinger) after being in force for 10 years. Due to the early timing of the audit in the 10-year life of the Plans, the Commission considers it unreasonable to expect DCCEEW to have assessed performance indicators. However, as discussed in the next section, the Commission expects to see a plan for what data will be collected, how these data will be assessed, and some progress towards data collection.

Table 2 Compliance summary for compliance indicator provisions

Plan clauses	Audit questions for Criterion 1	Compliance
Hastings: Part 2, Cl 13 Bellinger: Part 2, Cl 10-13	Are there systems and processes in place to assess performance indicators?	✘
	Has monitoring and data collection commenced to enable assessment of performance indicators over the life of the Plans?	~

2.3 Findings

2.3.1 Systems and procedures are yet to be finalised

DCCEEW has a large program of work underway to manage monitoring, evaluation and reporting on water resource plans and water sharing plans. Methods manuals have been finalised for evaluating surface water environmental, water quality, social and economic outcomes. Methods for groundwater outcomes, which will cover the Plans’ alluvial systems, are currently being developed. Methods to evaluate outcomes for First Nations have not yet commenced. The *Surface Water Environmental and Water Quality Method Statement* and *Surface Water Social and Economic Method Statement* indicates that the types of evaluation questions, indicators and measures vary according to the evaluation effort ranking given to a water sharing plan. The WSP Monitoring, Evaluation, Reporting and Improvement (MERI) Advisory Group will determine these rankings which will be approved by the Chief Operating Officer based on the recommendations of the approved WSP Prioritisation Method ranking results. The ranking results consider various risks and issues, including water management issues, and consider available and future resources to undertake the evaluations.

The method statement notes that unregulated plans have low levels of water resource development and consequential environmental risks from extraction when compared to regulated systems. This results in unregulated plans potentially triggering a low evaluation effort, particularly if the actual extraction during the plan term was much lower than the allowable maximum. The *Surface Water Environmental and Water Quality Method Statement* applies an additional decision tool to consider how effort should be applied to water sources within an individual plan area.

DCCEEW are yet to finalise evaluation effort for the Hastings or Bellinger Plans. As such, it is unclear which key evaluation questions will be in place to undertake MER within the terms of these Plans. Given the method statements are yet to be implemented using the environmental, social, and economic MER approaches; the cultural MER is in development; and the lack of clarity of how the key evaluation questions will be applied to the Plans, the Commission considers that systems and processes are not currently in place to enable evaluation.

2.3.2 Monitoring has gaps across types of performance indicators

The structure of the Part 2 provisions of the Hastings and Bellinger Plans vary. Similar monitoring and data collection has occurred across both Plans, in relation to water quality and identification of groundwater dependent ecosystems. DCCEEW indicated that it intends to monitor changes to the spatial extent of groundwater dependent ecosystems via satellite and aerial imagery in coming years. DCCEEW advised eDNA sampling of fish and platypus distribution occurred in NSW coastal water sharing plan areas in spring 2023. Water quality sampling has occurred in one location in the Hastings Plan area.

DCCEEW has advised it has begun data collection to inform evaluation of economic and social indicators for both plans. 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 water sharing plan Social Benchmarking survey about amenity, wellbeing, attachment to water and livelihoods.

While Part 2 of the Bellinger Plan states that one or more indicators must be measured for monitoring against performance indicators, the Commission considers that collection of only one indicator would be insufficient. At a minimum, surface water indicators may not be appropriate to track performance of alluvial systems, and vice versa.

Existing monitoring for both Plans has gaps across environmental, economic, Aboriginal cultural, and social and cultural performance indicators. These include (but are not limited to):

- changes in flow regimes or extraction
- measurements of flows through tidal pools and into connected estuaries
- groundwater levels
- water quality measurements
- the recorded range or extent of target populations including native fish, native turtles and native vegetation communities
- change in the extent to which domestic and stock rights and native title rights requirements have been met.

The Commission considers that insufficient monitoring and data collection has occurred across most performance indicators in both the Hastings and Bellinger Plans over the first half of the plan periods.

2.4 Recommendations

The Commission makes two recommendations in relation to these findings.

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.
R 1.2	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.

3 Criterion 2 – Long-term average annual extraction limits

Have the relevant responsible parties implemented plan provisions relating to limits to long-term average annual extraction limits?

Conclusion

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 NSW non-urban metering reforms are expected to generate improved data and reporting on the volume of water taken, which may support future LTAAEL compliance assessments for these Plans. DCCEEW is developing a pilot project for an interim methodology to undertake LTAAEL compliance in unregulated and alluvial coastal plans in the absence of comprehensive water usage data.

3.1 Introduction

Part 6 of the Plans provide rules for the management of long-term average annual extraction limits (LTAAELs) for each extraction management unit. These clauses require that the volume of water taken in each extraction management unit must be determined following the end of each water year. The average extraction over a period of years is then calculated to compare it with the LTAAEL.³ If the average annual extraction is greater than the LTAAEL compliance trigger (five percent or more than the LTAAEL), then compliance actions must be taken to return average annual extractions to the LTAAEL. These actions may include a reduction in available water determinations for various licence categories.

DCCEEW is responsible for calculating annual extraction and average annual extraction, and undertaking LTAAEL compliance assessments across NSW.⁴

3.2 Compliance summary

The Commission examined five audit questions that relate to LTAAEL provisions. **Table 3** summarises the results of this analysis.

Table 3 Compliance summary for LTAAEL provisions

Plan clauses	Audit questions for Criterion 2	Compliance
Hastings: Part 6 Bellinger: Part 6	Are there procedures and systems in place to govern LTAAEL assessment and compliance in these Plans' extraction management units (EMUs) and the Hastings River Coastal Floodplain Alluvial Groundwater Source?	✘
Hastings: Cl 29 Bellinger: Cl 28	Has the LTAAEL been calculated and adjusted if required, for each EMU and the Hastings River Coastal Floodplain Alluvial Groundwater Source?	✘

³ Under clause 30(1), the Bellinger Plan must compare the average of annual extraction for the preceding three water years against the LTAAEL. Under clause 31(2) of the Hastings Plan, from the fourth year the Plan is in effect, the average of annual extraction over the preceding three water years must be compared against the LTAAELs.

⁴ DPIE (2021). [Extraction Limits – How the extraction limits work and differences](#)

Plan clauses	Audit questions for Criterion 2	Compliance
Hastings: Cl 30 Bellinger: Cl 29	Has annual extraction of each EMU and water source (incorporating all categories of access licences and basic landholder rights) been calculated for each water year?	✘
Hastings: Cl 31 Bellinger: Cl 30	Has compliance with LTAAEL been assessed for each of the EMUs and the Hastings River Coastal Floodplain Alluvial Groundwater Source for every year that it was required?	✘
Hastings: Cl 32-33 Bellinger: Cl 31	Were any EMUs or the Hastings River Coastal Floodplain Alluvial Groundwater Source non-compliant with the LTAAEL (in 2020-21, 2021-22 and 2022-23 for the Bellinger and in 2022-23 only for the Hastings)? If so, what actions were/are being undertaken? Were these actions in line with those outlined in the compliance with limits clause(s) of the plan?	NA ⁵

3.3 Findings

3.3.1 LTAAEL provisions have not been implemented for the audit period

DCCEEW indicated that there are no systems, processes, or procedures in place to support the implementation of plan provisions relating to LTAAEL in either Plan during the audit period. This includes systems and processes that would enable the determination of:

- volume of water taken within the extraction management units across the plans
- LTAAEL compliance assessment.

The accurate measurement and reporting of water use by all water users, or an appropriate assessment methodology, is required to determine annual extraction and undertake LTAAEL compliance.

There is currently limited metering of water use in the unregulated and alluvial systems in the Hastings and Bellinger Plans. Current Plan rules, through mandatory conditions provisions, require water users to record water usage via logbooks.⁶ However, while the keeping of logbooks is required by the Plans, the reporting of logbook information to WaterNSW is not required by the Plans. Data provided by WaterNSW indicated very low rates of water usage across the two Plan areas. NRAR is an independent water regulator which oversees the enforcement of water management laws in NSW. The keeping of logbooks may be checked on a risk basis by NRAR. NRAR indicated that during the audit period, routine visits to properties in the Hastings Plan area identified some issues with record keeping in logbooks. NRAR publishes information on how it ensures compliance and responds to breaches.^{7 8} The Commission's audits do not provide an opinion regarding compliance of holders of water access licences.⁹ The Commission considers that accurate water usage data is a key input for making assessments of compliance with LTAAELs.

In lieu of availability of accurate water usage data, DCCEEW indicated that it is developing a pilot project to undertake LTAAEL compliance in unregulated water sources. The Commission

⁵ No assessment of annual extraction, average annual extraction of LTAAEL compliance was undertaken by DCCEEW over the audit period. Therefore, the Commission was unable to determine whether EMUs were compliant with the LTAAEL, or whether compliance actions were in accordance with the provisions of the water sharing plan.

⁶ See **Chapter 9** on Mandatory conditions

⁷ NRAR (n.d.). [How we ensure compliance.](#)

⁸ NRAR (n.d.). [How we respond to breaches of the law.](#)

⁹ Natural Resources Commission (2023) [Audit framework for water management plan audits](#)

understands this project is ongoing with no finalised methodology in place at the time of this audit. LTAAEL compliance assessment methodologies and results of these assessments are available for Murray Darling Basin surface water regulated and unregulated rivers, the Greater Metropolitan Region unregulated river, and the Hunter Regulated River.¹⁰ The LTAAEL compliance methodology could act as an interim step, when in place, until the rollout of the non-urban metering rules is completed.

The NSW non-urban metering rules will generate metered water usage data and will also require annual reporting for water take that is exempt from metering requirements from 1 December 2024 for these Plans.¹¹ According to these requirements, water users that do not trigger a requirement for a meter must report water take within 28 days of the end of the water year [30 June].¹² This includes a six monthly reporting requirement for water users where no water take occurs.¹³ It may take some time to transition to the use of actual water use data for the purpose of determination of annual extraction and LTAAEL compliance assessments flowing from the changes associated with the non-urban metering rules. A significant delay would highlight the importance of finalising the interim methodology for LTAAEL compliance in these Plan areas.

3.4 Recommendation

The Commission makes one recommendation in relation to this finding.

R 2.1	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: <ul style="list-style-type: none">(a) water use data from the rollout of the non-urban metering reforms(b) other assessment methodologies in the absence of comprehensive water use data, if required.
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¹⁰ DCCEEW (n.d.). [LTAAEL compliance results.](#)

¹¹ DPE-Water (2022). [Metering extension for Coastal and Southern Inland Water Users.](#)

¹² DCCEEW (n.d.). [What water users need to know.](#)

¹³ *Ibid*

4 Criterion 3 – Available water determinations

Have the relevant responsible parties implemented plan provisions relating to available water determinations (AWDs)?

Conclusion

AWD orders were largely issued and applied to accounts as required by the Plans across the audit period.

Part 6 of the Plan requires that where LTAAEL exceedance is five percent or greater, AWDs are to be reduced for unregulated river, unregulated river (high flow) and aquifer access licences. LTAAEL compliance was not undertaken in these plans (see **Chapter 3**). As such any potential impacts on AWDs associated with LTAAEL compliance was not assessed under these Plans during the audit period.

4.1 Introduction

Available water determinations (AWDs) are governed by Part 6 of the Plans. They provide for allocations of water to be made to water access licences according to the amount of entitlement. Under these Plans, AWDs are 1 ML per unit share or 100 percent allocation according to the type of access licences.

DCCEEW is responsible for determining AWDs for all water sources and licence types in NSW. DCCEEW issues AWDs via a statutory water order that commences on 1 July of each water year or may alternatively be issued periodically throughout the year. These AWD orders are published on the DCCEEW website.¹⁴ DCCEEW prepares water allocation statements to accompany AWD orders. The water allocation statements are made publicly available and may include details such as past and future climate forecasting.¹⁵

AWD orders provide the authorisation for WaterNSW to credit accounts of licensed water users with the volume or share of water specified in the order.¹⁶ WaterNSW indicated that DCCEEW provides AWD details via spreadsheet to assist with administrative processing. WaterNSW applies AWDs to the accounts of all water access licences in its Water Accounting System (WAS).¹⁷

DCCEEW is responsible for reducing the AWD if an LTAAEL compliance assessment indicates that the LTAAEL has been exceeded in accordance with the plan provisions.¹⁸

4.2 Compliance summary

The Commission examined seven audit questions that align with the clauses of Part 6 of the Plans that relate to AWDs. The results of this analysis are shown in **Table 4**.

¹⁴ DCCEEW (n.d.) [Available water determinations](#)

¹⁵ DCCEEW (n.d.) [Water allocation statements](#)

¹⁶ DCCEEW (n.d.) [Allocations](#)

¹⁷ *Roles and Responsibilities Agreement: DPE Water, NRAR and WaterNSW*, [Schedule 1 – Version 1.3](#), p 15, Executed 30 June 2021.

¹⁸ DPIE (2021). [Extraction limits](#).

Table 4 Compliance summary for AWD provisions

Plan clauses	Audit questions for Criterion 3	Compliance
Hastings: Part 6 Bellinger: Part 6	Are there procedures and systems in place to govern the AWD process for these surface water and groundwater sources?	✓
Hastings: Cl 34 Bellinger: Cl 32	Were AWDs expressed correctly in AWD Orders in 2019-20 (Hastings only), 2020-21, 2021-22 and 2022-23?	✓
Hastings: Cl 34 Bellinger: Cl 32	Did the sum of AWDs exceed specified limits in 2019-20 (Hastings only), 2020-21 and 2021-22 (in AWD Orders or as applied to accounts)?	✓
Hastings: Cl 35	Were AWDs given at the commencement of the plan in line with the plan provisions for domestic and stock, local water utility, unregulated river, unregulated river (high flow) and aquifer access licenses?	✓
Hastings: Cl 36 Bellinger: Cl 33-37	Were AWDs given at the commencement of 2020-21, 2021-22 and 2022-23 and in line with plan provisions for domestic and stock, local water utility, unregulated river, unregulated river (high flow) and aquifer access licenses?	✓
Hastings: Cl 37	Were AWDs for domestic and stock, local water utility and aquifer access licences in the Hastings River Coastal Floodplain Alluvial Groundwater Source for 2019-20, 2020-21, 2021-22 and 2022-23 correctly calculated and made in accordance with plan requirements (including timing requirements)?	✓ ¹⁹
Hastings: Cl 32 and 33 Bellinger: Cl 30 and 31	If LTAAEL compliance actions were triggered, were AWD orders adjusted for unregulated river, unregulated river (high flow) and aquifer access licences in accordance with plan requirements?	✗

4.3 Findings

The Commission identified that AWD orders were largely issued and applied to accounts as required by the Plans across the audit period. The Commission identified two exceptions where AWDs had not been applied as required by the plans. Clause 35 of the Hastings plan stipulates that at plan commencement, an AWD of 200% or 2ML is to be applied to domestic and stock, local water utilities, unregulated river, unregulated river (high flow) and aquifer access licences. The Commission identified that an AWD of 1ML was applied to access licences in the Stewarts River, Mortons Creek and Wilson River Water Source in the Hastings plan. The Commission additionally identified that an AWD had not been applied to a single access licence as required by the Plan during the 2021-2022 water year. As both issues were rectified by WaterNSW during the audit, and the Commission does not consider that these had a material impact on plan implementation, the Commission has not proposed any recommendations in relation to these findings.

DCCEEW has applied a standard 100 percent or 1ML per share on 1 July across both plans, in all audited water years.²⁰ According to information made publicly available by DCCEEW, this is standard practice in unregulated rivers, where allocations or AWDs are viewed as an

¹⁹ Not applicable for the Bellinger Plan.

²⁰ With the exception of the 200% or 2ML per share component as required on plan commencement in the Hastings plan

administrative process.²¹ DCCEEW states that account limits and annual use limits, rather than allocations made through the AWD process, limit the volume of water that can be taken by water users.²² DCCEEW has not provided a risk assessment on which to base its assumption that an AWD equal to the maximum allowable under the plans is appropriate (as has occurred within these plans) without assessing use via water usage data (see **Chapter 3**).

Part 6 of the Plan requires that where LTAAEL exceedance is five percent or greater, allocations are to be reduced for unregulated river, unregulated river (high flow) and aquifer access licences. LTAAEL compliance was not undertaken in these plans (see **Chapter 3**). As such any consideration of a need for a reduction to water allocated to accounts via the AWD process did not occur in the Hastings and Bellinger plans. DCCEEW should undertake LTAAEL compliance assessment (see **Recommendation R 2.1**) to inform AWD as required by the plans.

4.4 Recommendations

The Commission makes one recommendation in relation to this finding.

R 3.1	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.
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²¹ DPE (2022). [Water allocations in unregulated river systems](#)

²² Ibid

5 Criterion 4 – Granting access licences

Have the relevant responsible parties implemented plan provisions relating to granting access licences?

Conclusion

DCCEEW has procedures and systems in place to manage the specific purpose access licence granting process for these Plans. These include a published application guide,²³ an application form,²⁴ and various procedural and policy documents.

No specific purpose access licences were granted in the Hastings and Bellinger Plans for the audit period. One aquifer access licence was granted in the Hastings Plan over the audit period. The granting of this licence occurred through the controlled allocations process outlined in Section 65 of the Act.

5.1 Introduction

Part 7 of the Plans set out provisions for the granting of specific purpose access licences. Examples of a specific purpose access licence included within these Plans are licences issued for Aboriginal cultural and Aboriginal Community Development purposes (unregulated river or aquifer)²⁵ or domestic and stock purposes.²⁶ Water sharing plans indicate that a specific purpose access licence must not be granted unless the share and extraction component of the licence is the minimum required for the proposed use.²⁷

DCCEEW manages the granting of most specific purpose access licence applications. For example, it manages the processing of applications and granting of licences to Aboriginal communities, local councils, water utilities and state-owned corporations.^{28 29}

In water sources that are not fully committed, the right to apply for an access licence can be provided through a controlled allocation order. This provides a right to acquire a water access licence for a specified water source by way of an auction, tender or other process described in the order.³⁰ DCCEEW manages the controlled allocation order process, which are published in the NSW Government Gazette. DCCEEW manages registration of interested parties and notification of controlled allocations via its website.³¹

WaterNSW manages the granting of the domestic and stock category (subcategory “domestic”) of specific purposes access licences.³²

²³ DPE (2022) [Guide to applying for a new water access licence with a specific purpose.](#)

²⁴ DPE (2022) [Application form: New water access licence with a specific purpose.](#)

²⁵ Section 38 of the Hastings and Bellinger Plan

²⁶ Section 38 of the Bellinger Plan

²⁷ DPE (2022) [Application form: New water access licence with a specific purpose.](#)

²⁸ DPE (n.d.) [How to apply for a water access licence](#)

²⁹ NRAR was previously responsible for the granting of specific purpose access licences. Responsibility for this function was transferred to DCCEEW during the audit period in mid-2022 (DCCEEW (2022) [Water news](#) – May 2022 – Issue 35).

³⁰ DCCEEW (n.d.) [Controlled allocation – about controlled allocations.](#)

³¹ DCCEEW (n.d.) [Controlled allocations.](#)

³² WaterNSW (n.d.) [Welcome to Water Applications Online.](#)

5.2 Compliance summary

The Commission examined nine audit questions relevant to the granting access licence provisions under the Plans and an additional question relevant to an Act requirement. The results of this analysis are shown in **Table 5**.

Table 5 Compliance summary for granting access licences provisions

Plan clauses	Audit questions for Criterion 4	Compliance
Hastings: Part 7 Bellinger: Part 7	Are there procedures and systems in place to govern the granting of specific purpose access licences?	✓
Hastings: Cl 38 Bellinger: Cl 38	Is it possible for water users to apply for: <ul style="list-style-type: none"> ▪ aquifer (subcategory "Aboriginal community development") access licences ▪ unregulated river (subcategory "Aboriginal community development") access licences ▪ Aboriginal cultural access licences? 	✓
Bellinger: Cl 38	Is it possible for water users to apply for unregulated river (tidal pool) or domestic and stock access licences in the Tidal Pool Management Zone in the specified water sources?	✓
Hastings: Cl 38 Bellinger: Cl 38	Were any specific purpose access licences that were granted in 2019-20, 2020-21, 2021-22 or 2022-23 assessed that the volume was the minimum required for the purpose?	
Hastings: Cl 38	Were any aquifer (subcategory "Aboriginal community development") access licence applications in 2019-20, 2020-21, 2021-22 or 2022-23 assessed and granted with a maximum of 34 ML per year share component?	
Hastings: Cl 38 Bellinger: Cl 38	Were any unregulated river (subcategory "Aboriginal community development") access licence applications in 2019-20, 2020-21, 2021-22 or 2022-23 assessed and granted within the maximum share component per year in the management zone in the water source?	NA ³³
Hastings: Cl 38 Bellinger: Cl 38	Were any Aboriginal cultural access licence applications in 2019-20, 2020-21, 2021-22 or 2022-23 assessed and granted with a maximum of 10 ML per year share component?	
Bellinger: Cl 38	Were any unregulated river (tidal pool) or domestic and stock access licence applications in 2020-21, 2021-22 or 2022-23 assessed and granted subject to the requirements as per Plan provisions?	
Hastings: Cl 39	Were any access licences granted under this Plan assessed against the requirements of Section 65 of the Act, that the right to apply for an access licence for a specified water management area or water source is to be acquired by auction, tender or other means specified in the order?	✓

³³ DCCEE did not receive or grant applications for specific purpose access licences for the Plans during the audit period

5.3 Findings

The Commission considers that the procedures and systems in place support the application, assessment and granting of specific purpose access licences as outlined in the Plan provisions over the audit period.

DCCEEW advised that no applications were received, assessed or granted for specific purpose access licences in the Hastings and Bellinger Plans during the audit period. As a result, Plan provisions that ensure:

- specific purpose access licences meet minimum volume requirements for their outlined purpose, and
- are in alignment with maximum share components established by the Plans
- could not be tested for the audit period.

The Commission identified that one aquifer access licence was issued via a controlled allocation order in the Hastings Plan in 2021.³⁴ The controlled allocation offered 38 unit shares in the Hastings River Coastal Floodplain Alluvial Groundwater Source via a tender process at a minimum cost of \$500 per share.³⁵ The Commission considers that the controlled allocation appeared to occur in a manner prescribed by an order made under Section 65 of the Act, as stipulated in Clause 39 of the Hastings Plan.

The Commission did not identify any instances of non-compliances or partial-compliances for the granting of specific purpose access licences. However, DCCEEW has indicated that it intends to develop purpose-built resources to improve the clarity of the application process and support the assessment of Aboriginal cultural access licences.³⁶ The Commission notes that current procedures and systems allow for the application and assessment of Aboriginal cultural access licences. The Commission supports improvements to existing application and assessment processes for Aboriginal cultural access licences and makes no recommendations as part of this audit.

³⁴ DPE (2022). [Controlled Allocation Order 2021 Outcomes](#).

³⁵ NSW Government Gazette (2021). [Number 522 – Electricity and Water, Friday 15 October 2021](#).

³⁶ DPIE (2020). [Regional Water Strategies Fact Sheet – NSW water management for Aboriginal people](#).

6 Criterion 5 – Managing access licences

Have the relevant responsible parties implemented plan provisions relating to managing access licences?

Conclusion

WaterNSW is operating its account management system according to the requirements in Part 8 of the Plans, based on the assessment of available data performed. The Commission considers that accurate water take data and mandatory reporting of water use is required to facilitate WaterNSW compliance against its operating licence. The Commission supports the roll out of the non-urban metering reforms, whereby all water licence holders will be required to undertake mandatory reporting of water use or where no water use has occurred.

Chapter 9 outlines the gaps found during the mandatory conditions assessment, which found that flow class provisions and any exemptions that are applicable to flow class provisions had largely been applied as conditions.

The Commission 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. The Commission supports the development of a communications tool to assist water licence holders in determining their eligibility to take water.

6.1 Introduction

Part 8 of the Plans provide rules for the operation of water allocation accounts. These include maximum water account debits imposed on licences to define the permitted annual take, and carryover provisions for water remaining in an account to be carried over from one year to the next. These provisions may vary between licence categories and water sources under each plan.

Under its Operating Licence, WaterNSW is required to keep a water allocation account for each access licence under Section 85(1) of the Act.³⁷ WaterNSW is also responsible for managing water allocation accounts³⁸ and therefore for implementing plan provisions under Part 8 for the operation of these accounts. Clause 17 of the Regulation sets out requirements in relation to debiting water allocations for WALs and carry over of water allocations to the next water year.

WaterNSW under condition 6.3.1 of its operating licence must determine the volume of water extracted by licence holders. “WaterNSW must determine the volume of water extracted by, or supplied to, each of its customers, at least annually, for the purpose of accurate account management, billing and reporting”.³⁹ This is consistent with agreed Roles and Responsibilities document⁴⁰ which indicates that WaterNSW will carry out Conferred Functions, and specifically under Table 1.2.2 will “establish and maintain water allocation accounts for all water access licences giving effect to the account rules” along with the crediting and debiting of retail water accounts for all licence holders.

³⁷ IPART (2022) [Water NSW operating licence 2022-2024](#), p 38.

³⁸ IPART (2022) [Water NSW operating licence 2022-2024](#), p 42.

³⁹ IPART (2022) [Water NSW operating licence 2022-2024](#), p 13

⁴⁰ Roles and Responsibilities Agreement: DPE Water, NRAR and WaterNSW, [Schedule 1 – Version 1.3](#), p 15, Executed 30 June 2021.

The Water Accounting System (WAS) is used by WaterNSW to manage water allocation accounts and a tool called the online Water Accounting System (iWAS) is available to licenced water users to access information and voluntarily report water take.⁴¹

The Commission audits the implementation of water sharing plans by the responsible government agencies. The Commission does not provide an opinion regarding the compliance of individual licence holders with their licence conditions. NRAR is the independent regulator responsible for compliance and enforcement of water users in NSW.⁴²

6.2 Compliance summary

The Commission examined nine audit questions relevant to the managing access licence provisions under the Plans. The results of this analysis are shown in **Table 6**.

Table 6 Compliance summary for managing access licences provisions

Plan clauses	Audit questions for Criterion 5	Compliance
Hastings: Part 8 Bellinger: Part 8	Are there systems in place to manage water access licence accounts?	✓
Hastings: Cl 40(2-3) and 41(2) Bellinger: Cl 39	Were the rules for maximum water account debit or limits to water taken under an access licence applied to accounts in line with the plan for each licence category and subcategory?	✓
Hastings: Cl 40(4) and 41(3) Bellinger: Cl 40	Were the correct carryover limits applied to accounts for each licence category and subcategory?	✓
Hastings: Cl 43 Bellinger: Cl 41	Were there systems in place to monitor gauges, track flow classes and notify water users of determined flow classes in the absence of data?	✗
Hastings: Cl 44 Bellinger: Cl 42-45	Were the access rules for taking of surface water given effect?	✗
Hastings: Cl 45	Were the access rules for the upriver alluvial sediments given effect?	✗
Bellinger: Cl 46-49	Were the access rules for taking of groundwater given effect?	✗
Hastings: Cl 46-47	Were the provisions on total daily extraction limits and individual daily extraction limits given effect?	NA ⁴³
Hastings U&A: Schedules 3-4 Bellinger U&A: Schedule 1	Were provisions contained in Schedules for licences correctly implemented?	✓

⁴¹ WaterNSW (n.d.) [Ordering water](#).

⁴² NRAR (n.d.) [Who we are](#).

⁴³ Clause 46 indicates that there were no TDELs in place at the time of Plan commencement. TDELs and IDELs were not in place during the audit period. The Plan does not indicate that it is a requirement to establish and implement TDELs or IDELs.

6.3 Findings

6.3.1 Account management system is being operated appropriately

The Commission has previously identified that the WAS has the functionality to manage the water accounts for access licences as required under the Act and Regulation.⁴⁴ As no systemic updates have been made to the WAS, the Commission has not undertaken sample testing to determine compliance against the Act and Regulation, with sample testing undertaken to determine implementation of Plan provisions. An assessment of a sample of water access licences in the Hastings and Bellinger Plans indicated that WaterNSW is operating its account management system according to the requirements in Part 8 of the Plans, based on an assessment of available data.

6.3.2 There is minimal water use reporting

The Commission notes that WaterNSW provided evidence indicating that there is minimal reporting of water usage data across both the Hastings and Bellinger Plans. The debiting of the water accounting system based on take is reliant on water licence holders providing any usage to WaterNSW, with water debited from accounts only when usage is reported. This may result in water licence holders receiving the full volume of carryover applied to their water licence account, where applicable, and in instances where licensees may not have reported take appropriately. The validity of this assumption, that the full volume of carryover may be applied to accounts, was not tested as part of this audit.

The impacts of non-reporting and a lack of accurate water take data has also been raised in relation to findings for LTAAEL (**Chapter 3**) and AWDs (**Chapter 4**). The non-urban metering reforms will trigger a requirement for water users to report their water take within these Plans after 1 December 2024.⁴⁵ The Commission considers that accurate water take data and mandatory reporting of water use will support WaterNSW compliance against its operating licence. The Commission supports the roll out of the non-urban metering reforms, whereby all water licence holders will be required to undertake mandatory reporting of water use or where no water use has occurred.⁴⁶ Given the non-urban metering reforms are to be implemented for these Plans by DCCEEW after 1 December 2024, the Commission has not made a recommendation in relation to this finding. The implementation of these reforms is expected to allow more comprehensive assessment of the implementation of debiting and crediting of carryover provisions in accounts in future audits.

6.3.3 Implementation of flow class provisions could not be demonstrated

An assessment of a sample of mandatory conditions found that flow class provisions and any exemptions that are applicable to flow class provisions had largely been applied to access licences. However, issues were identified in relation to application of mandatory conditions as these apply to:

- water take by in-river and off-river pools in the Hastings Plan
- passing of flows conditions in the Hastings Plan
- restrictions on take of water by an aquifer access licence in the Bellinger Plan.

These issues have been discussed as part of the mandatory conditions criterion (**Chapter 9**), with associated recommendations identified.

⁴⁴ NRC (2021). [Audit of the implementation of coastal unregulated and alluvial water sharing plans.](#)

⁴⁵ DPE-Water (2022). [Metering extension for Coastal and Southern Inland Water Users.](#)

⁴⁶ DCCEEW (n.d.). [What water users need to know.](#)

The Commission 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. 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. DCCEEW advised that where flow class thresholds do not apply to licences, but other flow-related rules are detailed in the Plans, licensees are to apply visual cues. This may include, for example, licensees observing river flow in a location closest to their groundwater work, to assess whether take is permitted. This information indicates that implementation of Part 8 Plan provisions is the responsibility of water licence holders.

The Commission's audits do not provide an opinion regarding compliance of holders of water access licences.⁴⁷ NRAR is an independent water regulator which oversees the enforcement of water management laws in NSW and is responsible for compliance with conditions on water access licences and supply works approvals. NRAR publishes information on how it ensures compliance and responds to breaches.⁴⁸ NRAR advised that it has not assessed compliance with any licence and approval conditions that implement the Plan requirements such as assessing compliance with flow class conditions, compliance with in-river dam approval bypass requirements or the extraction of small volumes of water permitted to be taken under the Hastings and Bellinger Plans. The audit has not examined or provided an opinion regarding NRAR's approach to compliance.

The Commission considered Plan provisions and resources currently available to support water licence holders to determine their eligibility to take water. Plan provisions identify take of water requirements that extend beyond the flow rates provided as gauge data on the WaterInsights portal, including additional requirements such as timing when take is permitted. This means that licensees are required to interpret both Plan provisions (via conditions on licences and approvals) and available gauge data to assess eligibility to take water. The Commission notes that Plan provisions indicate that the Minister is to advise on the applicable flow class where accurate flow data is not available.⁴⁹ The Commission has identified instances of missing data against gauges identified in the Plans that may have created difficulties for water users to assess whether they were permitted to take water. The Commission is not aware of any notifications issued to water users during the audit period to address instances where gauge data was not available and temporary flow class restrictions were put in place.

Due to the complicated nature of flow class thresholds, the Commission supports the development of a communications tool to assist water licence holders in determining their eligibility to take water. DCCEEW and WaterNSW already have a proactive process for the announcement and take of supplementary water. The Commission also understands that some water sharing plan areas are more actively managed (with online identification of when water licence holders can take water). The Commission supports similar processes being implemented in these Plans, to assist water users in the implementation of Plan rules.

⁴⁷ NRC (2023). [Audit framework for water management plan audits.](#)

⁴⁸ NRAR (n.d.). [How we ensure compliance.](#)

⁴⁹ Clause 41(3) in the Bellinger Plan and Clause 43(4) in the Hastings Plan

6.4 Recommendation

The Commission makes one recommendation in relation to this finding.

R 5.1	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 Water Insights Portal.
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7 Criterion 6 – Rules for water supply work approvals

Have the relevant responsible parties implemented plan provisions relating to rules for water supply work approvals?

Conclusion

WaterNSW and DCCEEW have been progressing improvements to the water supply works approvals process. WaterNSW updated their assessment checklists and procedures in July 2023, while DCCEEW's updates to the assessment checklists are due for completion June 2024.

Both agencies require additional processes to assess impacts from potentially contaminated land subject to activities published under contaminated land planning guidelines, and to assess impacts to groundwater-dependent culturally significant areas. DCCEEW has been working with its Aboriginal Water Program team on the latter and this work should be continued.

7.1 Introduction

Part 9 of the Plans, as well as the Act and Regulation, include rules for granting or amending water supply work approvals.⁵⁰ At the start of the audit period, NRAR and WaterNSW had responsibility for these rules. NRAR's role was transferred to DCCEEW in mid-2021.⁵¹ DCCEEW did not approve any water supply work approval applications during the audit period. NRAR retains the role to monitor and audit compliance with approvals, specifically detecting instances of non-compliance.⁵²

DCCEEW and WaterNSW are each responsible for undertaking all approval application tasks for their customers,⁵³ including considering how water sharing plan rules and requirements under the Act apply, and determining whether to grant or refuse an application.⁵⁴

DCCEEW provides technical hydrogeological advice and assessment for groundwater applications⁵⁵ via referral through the Water Actions Management System (WAMS). The Commission reviewed evidence provided in the WAMS assessments and other documents provided by the auditee agencies,⁵⁶ but considers that the water supply work approvals assessment summary sheets are the primary tool for assessing and recording compliance of individual water supply works applications with Plan provisions.

The Water Licencing System - Approvals Transaction Module is an automated workflow and storage system capturing all water supply work approvals applications and is used by assessment officers to assess applications. DCCEEW assessment officers must complete

⁵⁰ Broadly, sections 92 to 102 of the Act and clauses 25 to 28 of the Regulation.

⁵¹ DCCEEW (2022) [Water news](#) – May 2022 – Issue 35

⁵² NRAR (n.d.) [Licensing and approvals](#)

⁵³ DCCEEW assess and grant water supply work approvals for: water supply work approvals to government agencies including other NSW Government agencies, local councils and the Australian Government; state-owned corporations; major water utilities, water supply authorities, and local water utilities; licensed network operators under the *Water Industry Competition Act 2006*; mining companies; irrigation corporations; Aboriginal communities and businesses; floodplain harvesting; major developments (State significant developments and State significant infrastructure); schools and hospitals. WaterNSW is responsible for assessing and granting water supply work approvals to landholders, industries and developments that are not State significant development or State significant infrastructure.

⁵⁴ *Roles and Responsibilities Agreement: DPE Water, NRAR and WaterNSW*, [Schedule 1 – Version 1.2](#), p 20-21, Executed 30 June 2021.

⁵⁵ *Ibid*

⁵⁶ Including the triage process identifies which lower risk applications do not require referral for additional hydrogeological technical (WAMS) assessment, including those related to basic landholder rights and replacement water supply works.









necessary searches manually and record their results. WaterNSW also complete the searches manually, supported by ArcGIS. WaterNSW also maintain the NSW Water Register⁵⁷ which is required by the Act⁵⁸ to be available for public inspection and record every application and approval granted, extended, amended, transferred, surrendered, suspended or cancelled.

Each agency has a variety of internal guides, procedures and assessment summary sheets to support the water supply work approval process. These include agreed triage processes between DCCEEW and WaterNSW, WaterNSW’s draft *Assessments and Approvals Manual* (under development), DCCEEW’s *Process Guide – Water Supply Work and Use Approvals*, and both agency’s assessment summary sheets or checklists, application guides and forms.

7.2 Compliance summary

The Commission examined nine audit questions relevant to the water supply work approval provisions in the Plans. **Table 7** summarises the results of this analysis. The sections below present the findings and recommendations for the partial and non-compliances identified in **Table 7**.

Table 7 Compliance for rules for water supply work approvals

Plan clauses	Audit questions for Criterion 6	Compliance
Hastings: Part 9 Bellinger: Part 9	Are there procedures and systems in place for all responsible agencies to govern the water supply work approval process?	
Hastings: Cl 48-49 Bellinger: Cl 51-52	Were rules applying to the granting or amending of water supply work approvals for water supply works that take surface water implemented?	
Bellinger: Cl 50	Did the process of granting and amending water supply work approvals ensure that no more than minimal detrimental effect on a person’s ability to take water using an existing approved work and licences, and no more than minimal harm to public health and safety or to a water-dependent culturally significant area.	
Hastings: Cl 51 Bellinger: Cl 54	Were rules to minimise interference between water supply works implemented?	
Hastings: Cl 52 Bellinger: Cl 55	Were rules for water supply works located near contamination sources implemented?	
Hastings: Cl 53 Bellinger: Cl 56	Were rules for water supply works located near high priority groundwater-dependent ecosystems implemented?	
Hastings: Cl 54 Bellinger: Cl 57	Were rules for water supply works located near potential acid sulfate soils implemented?	
Hastings: Cl 55 Bellinger: Cl 58	Were rules for water supply works located near groundwater-dependent culturally significant areas implemented?	

⁵⁷ WaterNSW (n.d) [NSW Water Register](#)

⁵⁸ Section 113 of the Act

Plan clauses	Audit questions for Criterion 6	Compliance
Hastings: Cl 56 Bellinger: Cl 60	Were rules for replacement groundwater works implemented?	NA ⁵⁹

7.3 Findings

7.3.1 Procedures and systems are being updated to support the explicit documentation of assessments against Plan provisions

WaterNSW and DCCEEW have procedures and systems for governing the water supply work approval process, however this audit identified some gaps relating to the explicit documentation and assessment of certain rules for water supply works approvals under Part 9 of the Plans.

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 types of water supply work approval assessments.

WaterNSW and DCCEEW have previously advised that they have been updating their procedures and systems for processing water supply works approvals to address gaps with legislative requirements. DCCEEW provided an example assessment using their updated process during the last audit of inland groundwater plans, and have advised further updated procedures should be finalised by 30 June 2024, shortly after completion of this audit. WaterNSW updated their checklists and procedures in July 2023, have trained officers in the changes and have been implementing the new processes. This has addressed some gaps in the approvals process and documentation identified in previous audits by the Commission. Additional work is required to develop processes for assessing some types of potential contamination (see **Section 7.3.3**) and groundwater dependent culturally significant sites (see **Section 7.3.4**).

As the above processes were only implemented recently during the audit period, based on the sample of applications that were processed during the audit period and reviewed by the Commission, WaterNSW has:

- not adequately demonstrated assessment of potential harm (see **Section 7.3.2**),
- only partially given effect to provisions for assessing rules for water supply works near contamination sources (see **Section 7.3.3**), and
- not given effect to provisions for assessing distances of groundwater dependent culturally significant sites (see **Section 7.3.4**).

7.3.2 The process of granting and approving water supply works does not ensure there will be no more than minimal harm

Clause 97(2) of the Act requires that a water supply works approval cannot be granted unless adequate arrangements are in force to ensure that no more than minimal harm will be done to any water source, or its dependent ecosystems, from the construction or use of the proposed work. The Bellinger plan specifically refers to the Act and has a clause that sets out additional requirements (Clause 50, discussed below). The Hastings plan does not have an equivalent clause, but the requirements of the Act must still be met.

⁵⁹ No replacement groundwater works were sampled as part of this audit.

WaterNSW's updated assessment summary sheet (described in **Section 7.3.1**) requires explicit consideration of the criteria under clause 97(2) of the Act via the Act's water management principles.⁶⁰ DCCEEW has not yet finalised updates to its assessment summary sheets to include equivalent consideration of clause 97(2) of the Act. While DCCEEW did not approve any works beyond supply of a temporary water cart during the audit period for these plans, the Commission suggests DCCEEW addresses this requirement when updating their processes and procedures.

Under Clause 50 of the Bellinger Plan, water supply works must also not be approved or amended unless the assessing agencies are satisfied that there will be no more than:

- a) a minimal detrimental effect on the ability of a person to take water using an existing approved water supply work and any associated access licences, and
- b) minimal harm to public health and safety or to a water-dependent culturally significant area.⁶¹

There is the potential for greater than minimal harm or effect on the items listed under part (b) above, due to the gaps in assessment and documentation described below in this chapter relating to the assessment of contamination and groundwater-dependent culturally significant area provisions. Addressing the recommendations in this chapter will support alignment with relevant provisions under the Bellinger Plan by supporting the assessing officers' assessment of the likelihood and impact of harm occurring from the construction or use of a proposed water supply works.

7.3.3 Distances to all potential contamination source provisions were not assessed

The Plans require assessment of potential sources of contamination near water supply works, including, as required by the relevant schedules:

- d) *"on-site sewage disposal systems and septic tanks,*
- e) *any site that has been declared to be significantly contaminated land under the Contaminated Land Management Act 1997,*
- f) *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".⁶²*

There was evidence for the sampled works of assessment of on-site sewage disposal systems and septic tanks, including the use of internal triage documents and application of protective discretionary conditions. The Commission did not sight evidence indicating the assessment of (b) or (c) for relevant sampled works in the Hastings Plan, or (c) for relevant sampled works in the Bellinger Plan, as assessed by WaterNSW during the audit period. Both WaterNSW and DCCEEW previously advised that assessments were not being performed against (b), above. Further, WaterNSW and DCCEEW have previously indicated⁶³ that there have been no processes in place to assess distances to (c). Both agencies advised that assessment against item (c) will require additional work to develop a suitable process for determining compliance. WaterNSW previously advised that there has been no update to procedures since the last audit and they are working with DCCEEW to develop a process for this assessment.⁶⁴

⁶⁰ Clause 5 of the Act, as applied in the 'water management principles' section of the WaterNSW Approvals and Amendments Assessment Summary Sheets

⁶¹ Bellinger Plan Clause 50 and section 97(2) of the Act.

⁶² Clause 52 and Schedule 5 of the [Hastings Plan](#) and clause 55 and Schedule 2 of the [Bellinger Plan](#).

⁶³ Natural Resources Commission (2023) [Audit of the implementation of five inland groundwater sharing plans](#)

⁶⁴ *Ibid*

The Commission suggests that the differences in requirements between water sharing plans for checking contamination sources may increase the risk of assessment gaps and the complexity for assessing officers. For example, the recently audited inland groundwater⁶⁵ plans also required assessing distances to any site notified to the Environment Protection Authority under section 60 of the *Contaminated Land Management Act 1997*, but the Hastings and Bellinger plans do not include this requirement. Assessment processes should therefore cater for this variation between plans.

7.3.4 Current processes do not support the identification or assessment of potential impacts on groundwater-dependent culturally significant areas

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). DCCEEW 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. DCCEEW has identified the need to “develop a program to identify and enhance protection of groundwater-dependent cultural sites and values in a culturally appropriate way.”⁶⁶ The relevant DCCEEW team is currently working on developing this with officers in its Aboriginal Water Program.

DCCEEW and WaterNSW currently use an Aboriginal Heritage Information Management System (AHIMS) search to identify cultural sites for lack of a full process to identify culturally significant areas. All the relevant sampled assessments included an AHIMS search. However, agencies have previously indicated that these searches do not identify if sites or objects are groundwater-dependent and do not include a range of landscape features that may have cultural significance, such as waterholes, seeps, soaks and billabongs.⁶⁷ An AHIMS search is therefore not considered adequate to assess the potential harm to any groundwater-dependent culturally significant areas as required by the plans.

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. One of the sampled assessments set the AHIMS buffer to 0 m rather than 100 m as required by the Plan, another assessment however provided evidence of an additional heritage search showing a ‘cultural planting’ which was considered during the approval.

We further note that the Plans each have a note stating: “Groundwater-dependent culturally significant areas may be identified during the term of this Plan. Aboriginal people may also identify culturally significant areas when applications for new or amended water supply works are advertised. Potential groundwater-dependent culturally significant areas will be considered in the assessment of any application for a water supply work approval within the area of this Plan”. The advertisements made as part of the supply works assessment process which provide stakeholders with an opportunity to object to water supply work applications do not easily allow for identification of relevant groundwater-dependent culturally significant sites. The advertisements do not appear to be targeted to the relevant audiences and do not present information (such as a map) to aid an understanding of the location of the proposed works or their potential impacts to groundwater-dependent culturally significant sites. The Commission also made this observation in its last audit report for inland groundwater plans and does not raise a recommendation in relation to this observation in this current audit.

⁶⁵ Natural Resources Commission (2023) [Audit of the implementation of five inland groundwater sharing plans](#)

⁶⁶ DPE-Water (2022) [NSW Groundwater Strategy](#), page 62.

⁶⁷ Natural Resources Commission (2023) [Audit of the implementation of five inland groundwater sharing plans](#)

7.4 Recommendations

The Commission makes the below recommendations. Although NRAR was responsible for assessing water supply work approvals during part of the audit period, this function was transferred to DCCEEW in mid-2021 and any recommendations are therefore assigned to DCCEEW.

DCCEEW did not grant any water supply works under the Bellinger Plan in the audit period and only granted one in the Hastings Plan, for temporary supply to a water cart. The recommendations drawn from the sample of approvals assessed in the audit in this section have therefore been directed to WaterNSW. The recommendations drawn from the assessment of procedures and systems for governing the approvals process more generally have been directed to both WaterNSW and DCCEEW. As the approvals process is similar for both agencies, the Commission suggests DCCEEW also considers the relevance of the recommendations to WaterNSW for its own processes.

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 Recommendations 6.2 and 6.3 below.</p>
R 6.2a	<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 <i>Environmental Planning and Assessment Act 1979</i> from time to time".</p>
R 6.2b	<p>After completion of R 6.2a, WaterNSW to assess and explicitly document compliance against the Hastings Plan's schedule requirement for assessment of contamination sources including:</p> <ul style="list-style-type: none"> a) any site that has been declared to be significantly contaminated land under the <i>Contaminated Land Management Act 1997</i>, 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 <i>Environmental Planning and Assessment Act 1979</i> from time to time.
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>
R 6.3b	<p>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>

8 Criterion 7 – Access licence dealing rules

Have the relevant responsible parties implemented plan provisions relating to access licence dealing rules?

Conclusion

Access licence dealings have been processed in accordance with the requirements of the Plans and the *Access Licence Dealing Principles Order 2004*. WaterNSW has systems and processes that allow dealings to be assessed in line with these requirements.

8.1 Introduction

Rules governing access licence dealings are set in the Act, Regulation, *Access Licence Dealing Principles Order 2004* (ADLP) and relevant water sharing plans. Part 10 of the Plans provide specific Plan-based rules relating to various dealings. Dealing types established under the Act that are referenced by both Plans are 71O, 71Q, 71R, 71T, 71U, 71V and 71W, with 71S referenced only in the Bellinger Plan. The Commission has tested the implementation of Plan provisions for these types of dealings. Where the Plan is silent on a dealing type, the Commission has assumed that the dealing is not prohibited by the Plan. This means that the rules established by the Act, Regulation and ADLP are applicable to the dealing type.

The Commission did not undertake any assessment of 71M, 71N, 71P, 71QA, 71X or S74 dealings under this audit. These types of dealings are substantially administrative (71M, 71N, 71P, 71X, S74), or are not relevant to the Plans (71QA).

The Commission tested rules relating to dealings under the ADLP where possible. The Commission did not test requirements under the Act or Regulation for dealings under this audit which is focussed on assessing whether the provisions of the Plans are being given effect to.

WaterNSW is the principal agency responsible for managing dealings of water access licences and allocations. This includes responsibility for all dealings under the Act, with the exception of 71M and 71N dealings which are processed by Land Registry Services (LRS).⁶⁸ The Commission did not test the role of LRS under this audit. The Commission did not audit DCCEE's role during the audit period in relation to dealings, as this is a supporting role and WaterNSW has responsibility for undertaking all dealings and trade tasks for all persons.⁶⁹

WaterNSW currently uses the Water Licensing System (WLS) to process permanent dealings (such as 71Q and 71W dealings), and the Water Accounting System (WAS) to process temporary dealings (such as 71T). WaterNSW has projects occurring under the Water Added Value Environment (WAVE) program, with the intent to consolidate data platforms including licensing and usage data in the future.⁷⁰

8.2 Compliance summary

The Commission examined twelve audit questions that related to dealings provisions. No dealings occurred under the Bellinger Plan over the audit period. A sample of dealings was

⁶⁸ *Roles and Responsibilities Agreement: DPE Water, NRAR and WaterNSW*, [Schedule 1 – Version 1.2](#), p 16, Executed 30 June 2021.

⁶⁹ *Ibid*

⁷⁰ NSW Chief Scientist & Engineer (2020) [Review of water-related data collections, data infrastructure and capabilities](#).

selected for the Hastings Plan, which included 71Q and 71W dealings. The Commission tested the implementation of rules under the Hastings Plan and the ADLP. **Table 8** summarises the results of this analysis.

Table 8 Compliance summary for access licence dealing rules

Plan clauses	Audit questions for Criterion 7	Compliance	
		Hastings	Bellinger
Hastings: Part 10 Bellinger: Part 10	Are there procedures and systems in place to ensure dealings rules in the plans are followed and prohibited dealings do not take place?	✓	✓
Hastings: Cl 59 Bellinger: Cl 61	Were rules for the conversion of access licences to new category dealings (71O) applied?	NA ⁷¹	
Hastings: Cl 60 Bellinger: Cl 62	Were rules for assignment of rights dealings (71Q) applied?	✓	
ADLP 14 (2) to (3A)	Were the ALDP Order rules for 71Q trades applied?		
Hastings: Cl 61 Bellinger: Cl 63	Were rules for amendment of share component (change of water source, 71R) dealings applied?		
Bellinger: Cl 64	Were rules for amendment of extraction component (71S) dealings applied?	NA ⁷³	
ADLP 16 (2) to (3)	Were the ALDP Order rules for 71S trades applied?		NA ⁷²
Hastings: Cl 62 Bellinger: Cl 65	Were rules for assignment of water allocations (71T) dealings applied?	NA ⁷⁴	
ADLP 17 (2) to (5)	Were the ALDP Order rules for 71T trades applied?		
Hastings: Cl 63 Bellinger: Cl 66	Were rules for interstate access licence transfer and assignment of water allocations dealings (71U and 71V) applied?	NA ⁷⁵	
Hastings: Cl 64 Bellinger: Cl 67	Were rules for nomination of water supply works (71W) dealings applied?	✓	
ADLP 14 (2) to (10)	Were the ALDP Order rules for 71W trades applied?		

8.3 Findings

To assess if dealing rules were given effect, the Commission assessed a sample of dealings that occurred under the Hastings Plan during the audit period. The Commission found no gaps to requirements from the sample testing performed.

WaterNSW's systems and procedures also generally support assessment of plan rules for dealings. However, the Commission has previously made a recommendation for WaterNSW to update its processing of dealings to avoid the bundling of multiple dealing types. The Commission has indicated that this would best occur as part of the WaterNSW transition to

⁷¹ The audit sample did not identify any 71O dealings had occurred over the audit period in the Hastings Plan due the bundling of these dealings in the WLS.

⁷² WaterNSW indicated that no dealings occurred in the Bellinger Plan over the audit period.

⁷³ The audit sample did not identify any 71R or 71S dealings had occurred over the audit period in the Hastings Plan due the bundling of these dealings in the WLS.

⁷⁴ WaterNSW indicated no 71T dealings occurred in the Hastings Plan over the audit period.

⁷⁵ The Plans prohibit 71V and 71U dealings and these dealings were not identified across the audit period.

the new consolidated data platform under the WAVE program. Adopting an improved approach to documentation and categorisation of dealings data will improve data quality and support compliance processes. While the Commission continues to support this recommendation, a similar finding and recommendation has not been made as part of this audit as none of the bundled permanent dealings impacted by the current naming conventions under the Water Licensing System (71P, O, R, S and W dealings) are prohibited under the Hastings and Bellinger plans.

The Commission makes no recommendations for this criterion.

9 Criterion 8 – Mandatory conditions

Have the relevant responsible parties implemented plan provisions relating to mandatory conditions?

Conclusion

DCCEEW and WaterNSW have systems and processes in place to apply, manage and notify licence and approval holders of mandatory conditions, as relevant to their roles. The DCCEEW Standard Operating Procedure is expected to further support the management of mandatory conditions once completed in July 2024.

Provisions for mandatory conditions have partially been given effect during the audit period. Most mandatory conditions were given effect on water access licences and water supply work approvals, however there were some gaps in conditions applied to licences and approvals which should be resolved by DCCEEW and WaterNSW.

9.1 Introduction

Part 11 of the Plans provide requirements for mandatory conditions that must be applied to water access licences and water supply work approvals.

DCCEEW is responsible for managing mandatory conditions for existing access licences and water supply work approvals. Upon commencement of a new water sharing plan, DCCEEW is responsible for developing mandatory conditions that give effect to plan provisions, identifying the water access licences and water supply work approvals that the conditions apply to, and applying the conditions.⁷⁶ WaterNSW notifies all relevant water access licence and water supply work approvals holders of the changes to conditions.⁷⁷ It is worth noting that the Hastings Plan was the first water sharing plan made under the *Water Management Act 2000* for the Hastings area in 2019, and its commencement triggered conversion of access licences from entitlements under the former *Water Act 1912*.

WaterNSW and DCCEEW are each responsible for applying mandatory conditions during the process of granting any new water access licences or water supply work approvals for their customers.⁷⁸ The Water Licensing System (WLS) is the system in which mandatory conditions are applied to water access licences and water supply work approvals.

9.2 Compliance summary

The Commission examined 11 audit questions relevant to mandatory conditions provisions. **Table 9** summarises the results of this analysis. The Commission assessed the conditions that were in place at the time of audit analysis in early 2024, which included some testing of systems and processes. The Commission did not test mandatory conditions that may have applied earlier in the audit period. At the time of analysis, the non-urban water metering requirements under the *Water Management (General) Regulation 2018* did not apply to the Hastings or Bellinger plans.

The Commission sampled eight water access licences and eight water supply work approvals across the plans, covering both WaterNSW and DCCEEW customers and a range of licence

⁷⁶ *Roles and Responsibilities Agreement: DPE Water, NRAR and WaterNSW, [Schedule 1 – Version 1.2](#)*, Executed 30 June 2021, p10-11, 22.

⁷⁷ *Ibid*

⁷⁸ *Ibid*

types and water sources. Findings and recommendations for the partial compliances identified in **Table 9** are presented in the sections below.

Table 9 Compliance summary for mandatory conditions provisions

Plan clauses	Criterion 8 audit questions	Compliance	
		Hastings	Bellinger
Water access licences and water supply works approvals			
Hastings: Part 11 Bellinger: Part 11	Are there procedures and systems in place to govern the development, application and notification of mandatory conditions for water access licences and water supply work approvals?	✓	✓
<i>Water Management Act: s 66A and 67, s 100A and s 102</i>	Were holders of existing water access licences and water supply work approvals notified of their conditions under the Plans in a reasonable timeframe?	✓	✓
Water access licences			
Hastings: Cl 66(1)(a), 40 and 41 Bellinger: Cl 69(a), 39 and 40	Did the water access licences sampled have mandatory conditions to give effect to the general conditions required by the plan?	✓	✓
Hastings: Cl 66(1)(b) and 44 Bellinger: Cl 69, 43-49	Did the water access licences sampled have mandatory conditions to give effect to the take of water conditions required by the plan?	~	~
Bellinger: Cl 69	Did the water access licences sampled have mandatory conditions to give effect to the general conditions required by the plan?	NA	✓
Hastings: Cl 66 Bellinger: Cl 70	Did the water access licences sampled have mandatory conditions to give effect to the record keeping conditions required by the plan?	~	✓
Water supply works approvals			
Hastings: Cl 44 and 67 Bellinger: Cl 71-73	Did water supply work approvals sampled have mandatory conditions to give effect to the general conditions, metering and record keeping conditions required by the plan?	~	✓
Hastings: Cl 68(2)(a)	Did water supply work approvals sampled have mandatory conditions to give effect to the take of water required by the plan?	NA	NA
Hastings: Cl 68(2)(b-k), (3) and (4) Bellinger: Cl 76 and 60	Did water supply work approvals sampled have mandatory conditions to give effect to the construction conditions required by the plan?	NA	✓

Plan clauses	Criterion 8 audit questions	Compliance	
		Hastings	Bellinger
Hastings: Cl 68A Bellinger: Cl 75	Did water supply work approvals sampled have mandatory conditions to give effect to the decommissioning conditions required by the plan?	~	✓
Bellinger Plan: Cl 77	Did water supply work approvals sampled have mandatory conditions to give effect to the water quality condition required by the plan?	NA	✓

9.3 Findings

9.3.1 Procedures and systems are being updated

DCCEEW and WaterNSW generally have adequate procedures and systems in place regarding mandatory conditions. As recommended in other audits,⁷⁹ and to provide further clarity for officers, DCCEEW is developing a Standard Operating Procedure document to improve systems and processes for notifying licence and approval holders of mandatory conditions. DCCEEW has advised that the Standard Operating Procedure is due to be completed in July 2025.

DCCEEW has an existing target timeframe of eight months for notification of mandatory conditions after Plan commencement. The Commission examined evidence that WaterNSW actioned the notification process, which indicated that water access licence and water supply work approval holders appeared to have been notified of:

- the Hastings Plan’s commencement and of their mandatory conditions almost eight months after commencement
- the Bellinger Plan’s commencement and of their mandatory conditions almost nine months after commencement.

9.3.2 Water access licence conditions had gaps in application

Take of water

Both the Hastings and Bellinger plans had gaps in the mandatory conditions on access licences which give effect to the take of water provisions. These are detailed below.

While some mandatory conditions required to give effect to the take of water required by the Hastings Plan were observed on access licences, there were gaps in application relating to in-river dam pools and runoff harvesting dam pools:

- Three licences (of three potentially applicable sampled in the Hastings Plan) did not have the mandatory condition relating to clause 44(25)⁸⁰

⁷⁹ Natural Resources Commission (2023) [Audit of the implementation of five inland groundwater sharing plans](#)
⁸⁰ Hastings Plan clause 44(25), “Water must not be taken under an access licence from (a) an in-river dam pool, or (b) a runoff harvesting dam pool, created by a structure authorised by a water supply work approval, when flows or storage levels in that pool are at or less than a cease to take condition that was specified on the Water Act 1912 entitlement that the access licence replaces.”

- Three licences (of three potentially applicable sampled in the Hastings Plan) did not have the mandatory condition relating to clause 44(26).⁸¹

In-river and off-river pool conditions should generally apply to all surface water licences unless they are specifically exempt from these conditions. DCCEEW advised that one particular local water utility access licence replaced a *Water Act 1912* licence which did not have any cease to take conditions relating to pools. Mandatory conditions relating to 44(25) and 44(26) were not applied because DCCEEW do not know where the relevant structures are located and have advised this will be logged as an issue for consideration.

For two of the sampled WALs, the nominated water supply works approvals had discretionary conditions about the passing of flows through structures carried over from the replaced *Water Act 1912* licences. DCCEEW advised this is the approach that has been taken for similar provisions in all relevant water sharing plans. A mandatory condition prevails over a discretionary condition to the extent of any inconsistencies between them.⁸² Mandatory conditions give effect to the relevant management plan under the Act and do not allow the licence or approval holder to make a submission with respect to the condition.⁸³ For these reasons, it is important to apply conditions as mandatory conditions where required by the relevant plan, rather than as discretionary conditions.

In addition, DCCEEW indicated that using mandatory conditions, rather than discretionary conditions, allows the conditions to be found and managed in the WLS more easily, whereas discretionary conditions may be harder to identify and amend in future. This process should be revisited across all plans and DCCEEW should ensure all relevant mandatory conditions are applied to all licences.

For the Bellinger Plan, the four sampled licences had the relevant mandatory conditions to give effect to the take of water conditions required by the clauses 43-47 and clause 49 of the Bellinger Plan. However, the sampled aquifer access licence, did not have the mandatory condition required under clauses 48(1)(a) and 48(2), that "*Groundwater must not be taken in any of the following circumstances - (a) when flows in the relevant water source or management zone are in the Very Low Flow Class, (b) for 24 hours after flows in the relevant water source have risen from the Very Low Flow Class to A Class*". When advised of this suspected omission, DCCEEW advised that the Bellinger River Water Source's three management zones have their mandatory conditions linked and applied at the management zone level in WLS. The sampled WAL was not attributed to a management zone and therefore did not have the relevant conditions applied. WaterNSW must assign the appropriate management zone to correct this, and the conditions will then be automatically applied. WaterNSW should further investigate if other licences have not been assigned to a management zone or if this is a one-off error. WaterNSW advised that they have begun the process to address this issue.

Record keeping

While some mandatory conditions regarding record keeping required by the Hastings Plan were observed, there were gaps in application of some conditions to water access licences. The mandatory condition relating to clause 66(2)(a) was partially present on all four tested licences in the Hastings Plan, with the wording of the mandatory condition omitting the part of the condition specified by sub-clause 66(2)(a)(iii).⁸⁴ DCCEEW advised that this appears to be

⁸¹ Hastings Plan clause 44(26), "Water must not be taken from an in-river dam pool unless the in-river dam is- (a) constructed, operated and maintained in accordance with any conditions specified on the water supply work approval for the in-river dam, and (b) passing such flows in such circumstances as are specified on the water supply work approval for the in-river dam."

⁸² Section 66(2) of the Act for access licences and Section 100(2) of the Act for approvals.

⁸³ Sections 66 and 67 of the Act for access licences and Sections 100 and 102 of the Act for approvals.

⁸⁴ Hastings Plan clause 66(2)(a)(iii), "*the water supply work approval number of the water supply work used to take water on that date which is not present in the conditions.*"

an error and they will rectify it when the conditions are next updated for the non-urban metering roll out, with licensees provided written notice of the change before 1 December 2024. The impact of this omission is, however, expected to be low 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. The Commission therefore does not have a recommendation against this finding.

9.3.3 Water supply works approvals conditions were missing

General conditions, metering and record keeping

The sampled Hastings Plan licences included most of the relevant general and metering conditions, however the language in the relevant mandatory condition regarding record keeping did not mirror the Plan's requirements. Specifically, the mandatory condition relating to clause 67(2) regarding record keeping omitted requirement 67(2)(b)(vii)⁸⁵ on all four tested water supply works for the Hastings Plan. There is also a missing condition regarding record keeping on this access licences. As stated above, DCCEEW will rectify this when the conditions are next updated for the non-urban metering roll out, with licensees provided written notice of the change before 1 December 2024. The Commission therefore does not have a recommendation against this finding.

Decommissioning

The previous decommissioning clause in the Hastings Plan was removed during the audit period (1 July 2023), with clause 68A inserted in its place. While some of the sampled water supply works had their mandatory conditions related to metering amended during the audit period, the decommissioning condition⁸⁶ was not updated for the sampled work. The mandatory condition on that work complied with the Hastings Plan's previous provision. DCCEEW advised that the internal target for reflecting changed plan conditions on approvals is within eight months, based on priority. It has currently been 10 months since the amendment. The Commission notes that in this case, there is an existing decommissioning condition on the licence which covers similar requirements so the risk of impact from this delay is considered low.

The Commission recommends that the mandatory conditions regarding decommissioning of water supply works in the Hastings Plan are amended at the same time as changes to be made as part of the non-urban metering roll out, with licensees provided written notice of the change before 1 December 2024.

⁸⁵ Hastings Plan clause 67(2)(b)(vii), "where metering equipment has not been installed for use in connection with the water supply work, details of all pumping activities for the water supply work including pump running hours, pump power usage or pump fuel usage, pump start and stop times and pump capacity per unit of time".

⁸⁶ Mandatory condition MW3858-00001.

9.4 Recommendations

The Commission has three recommendations based on these findings.

R 8.1	DCCEEW should ensure all relevant mandatory conditions are applied to all licences. Gaps could be addressed by including amending discretionary conditions resulting from the replacement of <i>Water Act 1912</i> 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.
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.
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.

10 Criterion 9 – Amendments

Have the relevant responsible parties implemented plan provisions relating to amendments (where these are not optional) and is there evidence that identified amendments (which may include optional amendments) have been given due consideration?

Conclusion

DCCEEW has a range of procedures and systems in place to govern the amendment process for these Plans. These include amendment registers, an internal process guide, and a published protocol.

While some internal processes to support the review of in-plan amendment provisions were not in place at the start of the Plans, DCCEEW updated its internal processes to record and review in-plan amendment provisions in 2023 and is now using these processes. The Commission did not identify any instances where amendments in Part 12 of the Plans should have been made but were not implemented during the audit period.

10.1 Introduction

Section 45(1) of the Act allows for amendment of water sharing plans under four circumstances:


- where a water sharing plan provides for a future amendment
- if it is in the public interest to make an amendment
- to give effect to a relevant court decision, or
- to give effect to requirements of the *Water Act 2007* (Cth).

Part 12 of the Plans includes amendment provisions allowing amendments to be made to various Plan parts for specified reasons. DCCEEW manages amendment provisions and updates water sharing plans as required under Section 42 of the Act.⁸⁷


10.2 Compliance summary

The Commission examined two audit questions relevant to the Plans' amendment provisions. **Table 10** summarises the results of this analysis. Findings are presented in the section below. This audit focused on amendments under section 45(1)(b) of the Act, which relate to the circumstances and matters for amendment that are identified in the Plans. The audit has not explicitly tested other amendments described in the Act, although there may be common systems and processes that were tested.

Table 10 Compliance summary for amendment provisions

Plan clauses	Criterion 9 audit questions	Compliance
Hastings: Part 12 Bellinger: Part 12	Were there procedures and systems in place to govern the amendment process for these water sources?	

⁸⁷ DPE (2022) [Water sharing plan amendment protocol](#). The Minister for the Environment must concur with proposed amendments as required under Section 45(3) of the Act.

Plan clauses	Criterion 9 audit questions	Compliance
Hastings: Cl 69-79 Bellinger: Cl 78-79	Were any optional ⁸⁸ amendments given effect?	

10.3 Findings

DCCEEW has a range of procedures and systems in place to govern the amendment process for these Plans. These include the Water Management Hub (the Hub), an internal process guide, and a published protocol.⁸⁹ There are also official records of plan amendments (amendment orders) published on the NSW Legislation website.

These procedures and systems support the tracking, prioritisation and making of amendments to water sharing plans and have improved over time. Since the completion of the Commission’s last audit of water management plans in September 2023,⁹⁰ DCCEEW has updated and implemented the Hub, which includes a section dedicated to managing plan amendments. It integrates procedures and systems that govern the identification, recording, prioritisation and tracking of amendments to water sharing plans.

DCCEEW demonstrated how the Hub is used to manage plan amendments. The Commission found it can track amendments at different stages (proposed amendments, amendments in progress, amendments enacted, and those that have been rejected). DCCEEW was able to retrieve all amendments related to the Plans, including those that have been enacted, and a proposed amendment to the Hastings Plan that was reviewed but rejected.

DCCEEW’s internal process document for using the Hub and amending water sharing plans includes:

- entering amendment provisions into the Hub at plan commencement,
- reviewing, and prioritising amendment provisions (including considering amendment triggers, urgency, and risks of making or not making an amendment),
- updating amendment provisions in the Hub if changes occur, and
- reviewing requirements at plan replacement to determine if amendments are incorporated into a new plan.

The Plans contain provisions allowing them to be amended for specified reasons but do not include mandatory amendments.⁹¹ The Hastings Plan has had two amendment orders, in 2020 and 2023.⁹² The Bellinger Plan had one amendment order in 2023.⁹³ The Commission verified that the Hastings and Bellinger Plans were updated as per the amendment orders and observed how they could be tracked through the Hub.

The Commission considers that processes DCCEEW had in place at the time of the audit to manage amendment provisions are sufficient and therefore makes no recommendations in this section. We note that as the Hub has recently been implemented it is still in a testing

⁸⁸ The Plans contain provisions that state they may be amended for specified reasons (referred to in this report as ‘optional’ amendments). The Plans had no mandatory amendment provisions.

⁸⁹ DPE (2022) [Water sharing plan amendment protocol](#)

⁹⁰ Natural Resources Commission (2023) [Audit of the implementation of five inland groundwater sharing plans](#)

⁹¹ If the LTAAEL of the Hastings Plan is amended, clause 72(3) requires protection of the Hastings River Coastal Floodplain Alluvial Groundwater Source and its dependent ecosystems, and consistency with the Plan’s objectives to be maintained. The LTAAEL has not been amended.

⁹² [Hastings Amendment Order 2020, No. 718](#); and [Hastings Amendment Order 2023, No. 330](#)

⁹³ [Bellinger Amendment Order 2023, No. 325](#)

phase. DCCEEW has identified and is addressing some minor issues. The Commission also observed that DCCEEW does not have a flow chart or stepwise instructions outlining roles or responsibilities in the Hub, but was advised that all water sharing planners are aware of the system. As the system is new, DCCEEW is likely to identify further updates to enhance Hub functionality and should therefore continue to improve the system as required. It may also consider clarifying roles and responsibilities of parties involved in managing amendments.