

MEMORANDUM OF UNDERSTANDING

WATER COMPLIANCE COLLABORATION IN THE MURRAY-DARLING BASIN

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1. PARTIES

- 1.1 The Murray-Darling Basin (the Basin) covers parts of Queensland, New South Wales, Victoria, South Australia and the Australian Capital Territory (collectively, the Basin States).
- 1.2 This Memorandum of Understanding (MoU) is between:
- (a) Inspector-General of Water Compliance
 - (b) Queensland Department of Regional Development, Manufacturing and Water
 - (c) NSW Natural Resources Access Regulator
 - (d) ACT Environment Protection Authority
 - (e) Victoria Department of Environment, Land, Water and Planning, as the representative of relevant Victorian regulators; and
 - (f) South Australia Department for Environment and Water, Water Licencing Branch,
- once signed by relevant representatives in section 8 (collectively, the Parties).

2. SCOPE, STRUCTURE, OPERATION, LEGAL EFFECT AND INTERPRETATION

COVERAGE

- 2.1 This MoU is between the Parties (as water compliance regulators in the Basin) and is intended to be limited to compliance matters within their relevant roles and responsibilities.
- 2.2 This MoU only relates to the geographic area of the Murray-Darling Basin and not to areas outside of the Basin that may also be regulated by the parties.
- 2.3 This MoU may be cited as "the MDB Water Compliance MoU".

STRUCTURE

- 2.4 This agreement is structured by:
- (a) This substantive head MoU sets out the high level values and principles underpinning relationships between compliance agencies in the Basin, which are unlikely to be subject to frequent change; and
 - (b) Schedules containing details that may be subject to more frequent change.
- 2.5 The schedules:
- (a) May relate to matters of approach, collaboration or procedure
 - (b) Are relevant to all Parties unless otherwise specified in the schedule
 - (c) May be added to or amended by any Party, with the prior written agreement of the Parties to which the schedule relates, under the existing MoU.

OPERATION

- 2.6 This MoU does not affect the legal functions, powers or responsibilities of any of the Parties nor does it create any other legal relations between the Parties.
- 2.7 Nothing in this MoU replaces or extends commitments entered into by relevant governments through intergovernmental agreements, such as the Basin Compliance Compact.

GIVING EFFECT

- 2.8 While recognising this MoU is not legally binding, the Parties will use their best endeavours to give effect to this MoU and commit to providing timely feedback when a Party is unable to act in accordance with this MoU.

INTERPRETATION

- 2.9 Unless otherwise defined in this document, terms used will have the same definitions as those set out in the *Water Act 2007* (Cth) (the Water Act).
- 2.10 References to a Department, an agency or an individual role in the following document extend to their appropriately authorised representatives, delegates and agents.
- 2.11 References to the agencies who are Parties to this MoU extends to relevant agencies responsible for the functions of the identified Parties (for example, where the portfolio arrangements change through a machinery of government process).

DISPUTES

- 2.12 As this MoU is not binding, there is no formal mechanism for resolving disputes. Parties will escalate within their respective organisations and work together to resolve differences in accordance with the principles in this MoU.

3. ROLES AND RESPONSIBILITIES

- 3.1 The Australian Constitution determines the primacy for water management roles and responsibilities. The functions and activities of state and Commonwealth water compliance agencies are complementary and, at times, overlap, albeit under separate regulatory frameworks.
- 3.2 The effective regulation of Basin water resources is underpinned by each relevant government's compliance arrangements so that Basin water resources are managed appropriately, as a whole.
- 3.3 Agency architecture and scope in each jurisdiction is optimised by the relevant government to deliver efficient and effective water compliance in that jurisdiction's context. Consequently, the roles and responsibilities of each water compliance entity vary significantly.
- 3.4 Nothing in this MoU seeks to imply a functional obligation on an agency which does not otherwise exist.
- 3.5 This section of the MoU is provided as a simple starting guide to improve understanding of the relationship between the Inspector-General and other water compliance agencies.

INSPECTOR-GENERAL OF WATER COMPLIANCE

- 3.6 The Inspector-General's functions and powers are detailed in the Water Act and the *Basin Plan 2012* (Cth) (the Basin Plan).
- 3.7 The Inspector-General's functions can be summarised as:
- (a) Enforcing compliance with the Water Act, the Basin Plan and water resource plans (see Water Act s215C(e));
 - (b) Monitoring and independent oversight of Commonwealth and Basin States performance of obligations in the Basin (see Water Act s215C(1)(a) - (c) and 215C(3)); and
 - (c) Engaging with Basin communities on the management of Basin water resources (see Water Act s215C(1)(d)).

- 3.8 The Inspector-General also has an administrative role to lead and facilitate solutions to complex interjurisdictional compliance matters, whilst avoiding unnecessary duplication of regulation for individual water users.
- 3.9 In combination the Inspector-General's functions and powers are intended to:
- (a) Provide independent and Basin-wide information and evidence of compliance;
 - (b) Support the objectives of the Water Act and Basin Plan;
 - (c) Check that responsible parties are doing what is committed and agreed to get the intended outcomes from the Basin Plan;
 - (d) Ensure that everyone in the Basin, from governments and their agencies to water users and others are complying with the Water Act, Basin Plan and water resource plans; and
 - (e) Make available to the public clear Information on how water is managed in the Basin.

BASIN STATE PARTIES

- 3.10 Basin States are responsible for developing water resource plans for accreditation under the Water Act, which include water sharing and management rules for their water resources.
- 3.11 Basin State parties are responsible for regulating water users within their jurisdictions and enforcing compliance with state water management rules, including those that were designed to implement the Basin Plan.

4. PURPOSE

- 4.1 The purpose of this MoU is to achieve a working relationship between the Parties to:
- (a) Deliver a cooperative, and, to the extent appropriate, collaborative approach to compliance with water management rules in the Basin;
 - (b) Support robust, comprehensive and complementary water compliance arrangements across the Basin; and
 - (c) Improve clarity around the Parties' respective roles and responsibilities in water management,
- in support of each Party's statutory functions and powers.

Note: Nothing in this MoU limits the ability of individual Parties to act as agencies or constrains Parties' autonomy, authority or jurisdiction (see clauses 2.6 and 2.7 for the legal effect of this MoU).

5. VALUES AND PRINCIPLES

- 5.1. The parties acknowledge the importance of the following values and principles in dealing with each other and undertaking their roles and responsibilities.

VALUES

- 5.2. The values promoted by this MoU are:
- (a) Integrity;
 - (b) Accountability;
 - (c) Fairness;
 - (d) Respect;

- (e) Trust; and
 - (f) Transparency.
- 5.3. The Parties recognise the importance of these values to collectively support community confidence in regulators and the rules and regulations they administer.
- 5.4. The Parties acknowledge that these values must also underpin interactions between each regulatory agency, to support community confidence in water management across the Basin as a whole.

PRINCIPLES

- 5.5. The core principles in this MoU are to:
- (a) Work cooperatively to uphold water laws across the Basin;
 - (b) Pursue consistent approaches to compliance across levels of government and borders where possible and appropriate;
 - (c) Undertake compliance in a way that is proportionate to the risk being addressed, noting this may range from risks at individual water user scale to risks to water management across the Basin;
 - (d) Make decisions supported by evidence;
 - (e) Be respectful and supportive of each other's roles and responsibilities;
 - (f) Operate professionally, honestly, openly and constructively to build relationships based on mutual respect;
 - (g) Seek opportunities to collaborate, consult and engage with other Parties, as relevant;
 - (h) Pursue efficiency and effectiveness, including by avoiding duplication;
 - (i) Communicate intentions clearly by supporting each other's planning processes for delivering respective responsibilities;
 - (j) Share expertise, experience, skills and knowledge to build regulatory capability and quality;
 - (k) Share information and lessons learned to build a continuous learning culture in water regulation;
 - (l) Provide transparency to enable public scrutiny; and
 - (m) Produce clear, simple and effective communications where possible and appropriate.

WORKING TOGETHER

- 5.6. The above values and principles will inform the schedules giving effect to this MoU.
- 5.7. A list of compliance contact officials who are responsible for implementing the actions identified in this MoU and associated work program will be maintained by the Inspector-General and made available to the Parties.

6. COMMENCEMENT AND REVIEW

- 6.1 This MoU commences in each jurisdiction on the date of signature by the representative of the relevant party (the execution date).
- 6.2 Any Party may withdraw from the MoU at any time by written notice.
- 6.3 The MoU may be ended, reviewed and/ or updated at any time with the agreement of all of the Parties.
- 6.4 The Parties may alter the content of the schedules, with the prior consent of the appropriately authorised officials within an affected agency, without the need for entering into a revised MoU.

7. PUBLICATION

- 7.1 The Office of the Inspector-General of Water Compliance will maintain this MoU, which will be published, along with the schedules, on the Inspector-General's website.

8. SIGNATORIES



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Inspector-General of Water Compliance
Date: 25 August 2022

Su Wild-River
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ACT Environment Protection Authority
Date:



Grant Barnes
Chief Regulatory Officer
NSW Natural Resources Access Regulator
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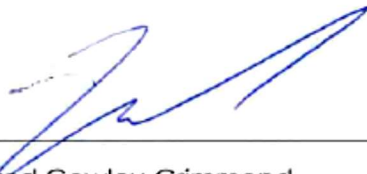


Troy Grant
Inspector-General of Water Compliance
Date: 25 August 2022

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