



Australian Government



Inspector-
General of
Water
Compliance

Water Resource Plan Compliance and Enforcement Framework

July 2025

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Inspector-General of Water Compliance
GPO Box 3090 Canberra ACT 2601

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Glossary

Term	Definition
Audit	The systematic analysis of compliance with statutory obligations and/or with standards, using a planned, repeatable method, applying professional scepticism and using evidence to assess compliance. Audits may be conducted by the Inspector-General, the Audit Body or an Appointed Auditor. Generally, the Audit Body conducts audits as scheduled by an audit workplan, while an appointed auditor will be used for ad-hoc audits depending on the Audit Bodies capacity. The Inspector-General conducts audits according to the Audit Framework.
Basin	The geographic location of the Murray-Darling Basin
Basin Plan	<i>Basin Plan 2012</i> (Cth)
Basin State	Basin State is defined in the Water Act and means New South Wales, Victoria, Queensland, South Australia and the Australian Capital Territory ¹ .
Basin State agency	An agency of a Basin State is defined in the Water Act and means a State Minister, a Department, and certain other types of State government bodies. ² Basin State agencies are required by the Water Act to not act inconsistently with the Basin Plan and any water resource plan. ³
Basin governments	Basin governments refers to New South Wales, Victoria, Queensland, South Australia, the Australian Capital Territory and the Commonwealth.
Commonwealth agency	An agency of the Commonwealth is defined in the Water Act and means a Commonwealth Minister, a Department, and certain other types of Commonwealth government bodies. ⁴
Investigation	An investigation gathers evidence and assesses whether evidence supports that a non-compliance or a contravention of a statutory obligation or failure to perform a commitment has occurred. An investigation may include activities ranging from desktop review of lines of evidence, to carrying out of inspections, or assembling an evidence brief for prosecution.
Regulated entities	Those persons (including the Commonwealth and Basin States, as well as organisations and companies) subject to commitments and obligations.

¹ Water Act s 4

² Water Act s 4

³ Water Act ss 35,59

⁴ Water Act s 4

Term	Definition
Regulated entities responsible for implementation of water resource plans	Under the Water Act ⁵ , the Basin Officials Committee (BOC), an agency of a Basin State, an operating authority, an infrastructure operator and the holder of a water access right are subject to water resource plan commitments and obligations.
Schedule 12 and Matter 19 Reporting.	The Basin Plan ⁶ requires Basin States to report annually on “Matters” identified in Schedule 12 of the Basin Plan, including Matter 19 – “compliance with water resource plans”.
Sustainable Diversion Limit (SDL)	The maximum long-term annual average quantities of water that can be taken on a sustainable basis, from the Basin water resources. ⁷
Water access right⁸	<ul style="list-style-type: none"> a. Means any right conferred by or under a law of a State to do either or both of the following: <ul style="list-style-type: none"> (i) to hold water from a water resource; (ii) to take water from a water resource; and b. without limiting paragraph (a), includes the following rights of the kind referred to in that paragraph: <ul style="list-style-type: none"> (i) stock and domestic rights; (ii) riparian rights; (iii) a water access entitlement; (iv) a water allocation; and c. includes any other right in relation to the taking or use of water that is prescribed by the regulations for the purposes of this paragraph.
Water Act	<i>Water Act 2007</i> (Cth)
Water resource plan	A water resource plan is a plan accredited or adopted under the Water Act. It sets out the rules for how water is used at a local or catchment level, including limits on how much water can be taken from the system, how much water will be made available to the environment, and how water quality standards can be met. Basin States also operate various water plans made under their own legislation (e.g. NSW water sharing plans or South Australian water allocation plans). While there is significant overlap in content, these are State instruments and not the same as water resource plans.
Water resource plan areas	Water resource plan areas are defined in the Basin Plan. ⁹

⁵ Water Act s 59

⁶ Basin Plan s 13.14 Reporting requirements for Basin States, the Department etc, which links to Schedule 12.

⁷ Water Act s 22(1)

⁸ Water Act s 4

⁹ Basin Plan ss 3.05-3.07

Term	Definition
Water resource plan commitment	Many provisions of accredited components of water resource plans imply a commitment by the Basin State (or an agency of the Basin State or Infrastructure Operator) to complete an action by a stated time (or ongoing). The Inspector-General intends to monitor compliance with commitments, irrespective of whether they do or do not constitute a statutory obligation under the Water Act.
Water resource plan obligation	<p>The Water Act provides that the Murray-Darling Basin Authority (MDBA), and any other agency of the Commonwealth, must perform its functions, and exercise its powers, consistently with, and in a manner that gives effect to, a water resource plan for a water resource plan area.¹⁰</p> <p>The Water Act provides that the Basin Officials Committee (BOC), an agency of a Basin State, an operating authority, an infrastructure operator or the holder of a water access right must not: (a) do an act ... if the act is inconsistent with the water resource plan for the area; or (b) fail to do an act ... if the failure to do that act is inconsistent with the water resource plan for the area.¹¹</p> <p>Contravention of the Water Act may concern water resource plan provisions that are restrictive obligations (e.g. conditions, limits), operational requirements (e.g. maintaining registers, implementing plans, measures and strategies), triggered management obligations (e.g. extreme events, responding to risks or water quality triggers) or outcomes inconsistent with the intention for water resource plans to give effect to the Basin Plan.¹² The Inspector-General intends to monitor compliance with obligations established by accredited text of water resource plans.</p>

Note: this glossary is a collation of key terms used within this Water Resource Plan Compliance and Enforcement Framework.

¹⁰ Water Act s 58. Note that similar obligations apply with respect to the Basin Plan (Water Act s 34)

¹¹ Water Act s 59. Note that similar obligations apply with respect to the Basin Plan (Water Act s 35)

¹² Inspector-General Water Compliance Regulatory Policy



1 Introduction

1.1 Purpose and audience

Water resource plans are essential to the implementation and operation of the *Basin Plan 2012* (Basin Plan). The role of the Inspector-General of Water Compliance (the Inspector-General) includes ensuring compliance with water resource plans. This Water Resource Plan Compliance and Enforcement Framework (the Framework) outlines the Inspector-General's role and objectives in relation to ensuring compliance with water resource plans. The Framework articulates the Inspector-General's expectations and approach to exercising statutory powers and functions for water resource plan compliance.

The Framework describes the approach to be taken by the Inspector-General, the response pathways if water resource plan non-compliance issues are detected, as well as a proposed approach to refine and improve existing monitoring and reporting to address water resource plan compliance. For Basin State agencies and Commonwealth agencies including the Murray-Darling Basin Authority (MDBA), the Framework articulates the Inspector-General's expectations, requirements, and approach regarding performance by Basin States and Commonwealth agencies of their functions relating to water resource plan compliance, monitoring and reporting.

Defining the way the Inspector-General approaches water resource plan compliance provides stakeholders an understanding of how the implementation of water resource plans is being monitored. This essential function offers transparency and builds confidence for Basin communities, including; First Nations Australians, irrigators, peak bodies, industry representatives, environmental stakeholders and communities outside the Basin.

This Framework will be regularly reviewed and updated as required.

In this Framework:

- Chapter 1 sets out the purpose and audience of the Framework, the context of the Basin Plan, water resource plans and the commitments and obligations of the Commonwealth and Basin States, the compliance context for water resource plans, the Inspector-General's Regulatory Policy and other frameworks, the central role of Basin States' compliance and implementation, together with how water resource plan commitments and obligations take effect.
- Chapter 2 describes the Inspector-General's role, powers and functions under the *Water Act 2007* (Cth) (the Water Act), together with the roles and responsibilities of the Basin States and the MDBA under the Water Act, Basin Plan and water resource plans.
- Chapter 3 describes the Inspector-General's approach to water resource plan compliance and enforcement, including specific application of and links to the Inspector-General's Regulatory Policy, Sustainable Diversion Limit Compliance Framework and Audit Framework. The considerations and criteria for a risk-based approach and an effective approach to water resource plan compliance and enforcement are considered, while recognising and committing to continuing a respectful and robust working relationship with Basin States and Commonwealth agencies.
- Chapter 4 identifies the role of and criteria for water resource plan compliance monitoring and reporting, describes reporting mechanisms and identifies reporting needs for water resource plan compliance, together with a proposed pathway for continual improvement of water resource plan compliance reporting to be routine and fit-for-purpose, as an enduring foundation for assuring compliance.
- Chapter 5 describes governance, relationships and transparency arrangements for water resource plan compliance and enforcement.

1.2 Murray–Darling Basin context

The Murray–Darling Basin (the Basin) is a geographic region of national economic, social, cultural and ecological importance. The health and success of the Basin and its contribution to social, economic, environmental, and First Nations cultural outcomes are underpinned by the effective management of its water resources. Under the Water Act, the Basin Plan has been established to achieve these outcomes. The majority of the Basin Plan's measures take effect through water resource plans developed and implemented by the Basin States. The Commonwealth and Basin State governments have agreed to implement the Basin Plan and associated reforms. As part of this, Basin States agreed to develop water resource plans for assessment by the MDBA and accreditation by the Commonwealth Minister for Water.¹³

The integrity of the Basin's legislative framework depends on its implementation in ways that are compliant with relevant laws and that deliver the intended outcomes for Basin communities, industries and riverine environments. As such, the Inspector–General was established to monitor and enforce compliance with the national laws and to hold Basin State and Commonwealth agencies to account in relation to their management of Basin water resources.

Implementation of water resource plans and compliance with water resource plans are critical to implementation of the Basin Plan and to the achievement of its objectives and outcomes. Water resource plans are developed to meet a range of requirements¹⁴ set out in the Basin Plan, including:

- application of sustainable diversion limits (SDLs)
- sustainable use and management of water resources
- management of interception activities
- planning for environmental watering
- water quality objectives and measures
- management of certain specific types of trade of water access rights
- approaches to addressing risks to water resources
- measuring take and monitoring water resources
- reviews of water resource plans
- identification of information used to prepare water resource plans
- management of extreme events
- identification of, and regard for, First Nations values and uses.

Water management in general is led by the Basin States, however, the Water Act has established a role for the Commonwealth. Basin States have different approaches to regulating water resources within their jurisdiction. Each Basin State has evolved in different ways in relation to policy and legislative design, which has resulted in different governance and institutional arrangements between Basin States.

Water resource plans provide a critical link between the management of water resources in the Basin's interest and Basin State agency arrangements for water resource management that are shaped by regional and local conditions. Confidence and assurance in the implementation of and compliance with water resource plans underpins trust and confidence in the implementation of the Basin Plan.

¹³ Intergovernmental Agreement on Murray–Darling Basin Water Reform 2008, Schedule B: "Basin States [will] develop new ... water resource plans consistent with the Basin Plan ... [and] submit [water resource plans] to the Authority for accreditation by the Minister."

¹⁴ Basin Plan Chapter 10 Water Resource Plan Requirements

1.3 Compliance context for water resource plans

Water resource plan compliance is required to ensure implementation of the Water Act and the Basin Plan.

The Inspector-General has the function to monitor and provide oversight of Basin State agencies' implementation and compliance with water resource plans.¹⁵

Although the Inspector-General's role is relatively new, some areas of Basin water management have been subject to scrutiny, assurance and accountability processes for some time. For example, the SDL compliance process builds on decades of experience with the Basin-wide 'Cap' on surface water diversions. Both the 'Cap' and salinity management were subject to annual independent assurance checks before the Basin Plan was established. In 2018, Basin States and the Commonwealth agreed to a Compliance Compact under which they would implement a range of actions to improve compliance and confidence in water management and agreed to report progress against these commitments.¹⁶ In addition, Basin States have their own review, audit and assurance processes. However, independent water resource plan compliance and enforcement has not previously occurred at the Basin scale.

The Inspector-General recognises that achieving optimal scrutiny, monitoring and compliance needs to consider the balance of roles between Basin governments and the Inspector-General. The Inspector-General recognises complexities, efficiencies, existing reporting and will exercise a range of tools (described in Chapter 3) to achieve compliance outcomes. Nevertheless, the Water Act clearly provides for the Inspector-General to exercise oversight and where necessary enforcement. It is recognised that water resource plan compliance requirements have been in place for a relatively short time. This Framework confirms expectations that Basin State agencies and others will exercise and monitor water resource plan compliance.

1.4 Inspector-General's Regulatory Policy and other Frameworks

The Inspector-General has set out the overall approach to performing its roles and responsibilities in a Regulatory Policy.¹⁷ The Policy describes when the Inspector-General becomes involved, principles for the management of Basin water resources and regulatory principles, regulated entities, regulatory tools and triggers for regulatory action.

The Regulatory Policy outlines nine regulatory principles:

- 1 Outcomes based
- 2 Proportionality and efficiency
- 3 Responsiveness and flexibility
- 4 Transparency and accountability
- 5 Independence
- 6 Communication and engagement
- 7 Mutual responsibility
- 8 Cooperation across jurisdictions, and
- 9 Awareness of the broader regulatory environment.

¹⁵ Water Act, Section 215C (b)(iv)

¹⁶ The Compliance Compact commitments are due to be met and to expire by June 2025. The Inspector-General intends that reporting under the Compact will be replaced by Compliance Performance Reporting by Basin States to the Inspector-General.

¹⁷ [Regulatory Policy October 2023 \(igwc.gov.au\)](#)

The Regulatory Policy also describes how the Inspector-General will adopt a risk-informed decision-making approach.

For SDL compliance, the Inspector-General has outlined its expectations and approach in the SDL Compliance Framework.¹⁸ Importantly, water resource plan implementation and compliance will be a relevant consideration in the Inspector-General's assessment of SDL compliance, Basin States claims for 'reasonable excuse' and action plans to address excess take.¹⁹ This link is further articulated in Chapter 3.6.

The Inspector-General has developed an Audit Framework to describe the approach to exercising audit powers and functions. Under section 73L (1) of the Water Act, the Inspector-General has the power to conduct periodic audits to assess the extent of compliance with either or both of the Basin Plan and water resource plans. The subject matter of the audit must relate to an assessment of the extent of compliance with either or both the Basin Plan or a water resource plan. An audit may assess compliance in relation to one aspect of either or both of the Basin Plan or a water resource plan or assess compliance in relation to multiple aspects of either or both of these plans. As described in Chapter 3 of this Framework, audits are an important component of routine, business as usual Inspector-General activities, to focus increased scrutiny on water resource plan compliance priorities identified by the Inspector-General in the Strategic Plan and Annual Work Plans.

1.5 Water resource plan compliance and enforcement

The objective for this Framework is to provide clarity of and transparency to the Inspector-General's regulatory role and approach and to clearly establish the Inspector-General's expectations for Basin State agencies and the MDBA. Specific regulatory decisions on water resource plan compliance and enforcement will be made on a case-by-case basis. This Framework supports outcomes consistent with the Regulatory Policy to provide assurance that water resource plans are being complied with so that the outcomes intended from the Water Act and Basin Plan are being delivered.

Compliance with water resource plans is an obligation under the Water Act (see Chapter 2 of this Framework).²⁰ Water resource plans are instruments of Commonwealth law and activate the Inspector-General's role to enforce compliance.²¹ After a water resource plan is accredited and sets commitments or obligations, the Inspector-General has a suite of monitoring, risk assessment, and compliance tools such as inquiries, audits, and investigations available to undertake compliance and enforcement.

Figure 1.1 provides an indicative conceptual infographic of how water resource plan commitments or obligations take effect.

¹⁸ [Sustainable Diversion Limit Compliance Framework \(igwc.gov.au\)](https://www.igwc.gov.au)

¹⁹ Note that SDL non-compliance in itself is not a contravention of the Water Act. See the SDL Compliance Framework

²⁰ Water Act ss 58 and 59

²¹ Note however that the Water Act sets other compliance obligations including with the Basin Plan (s 34 and s 35) and that the Inspector-General's powers and functions may be activated by other matters in addition to whether a water resource plan is in place.

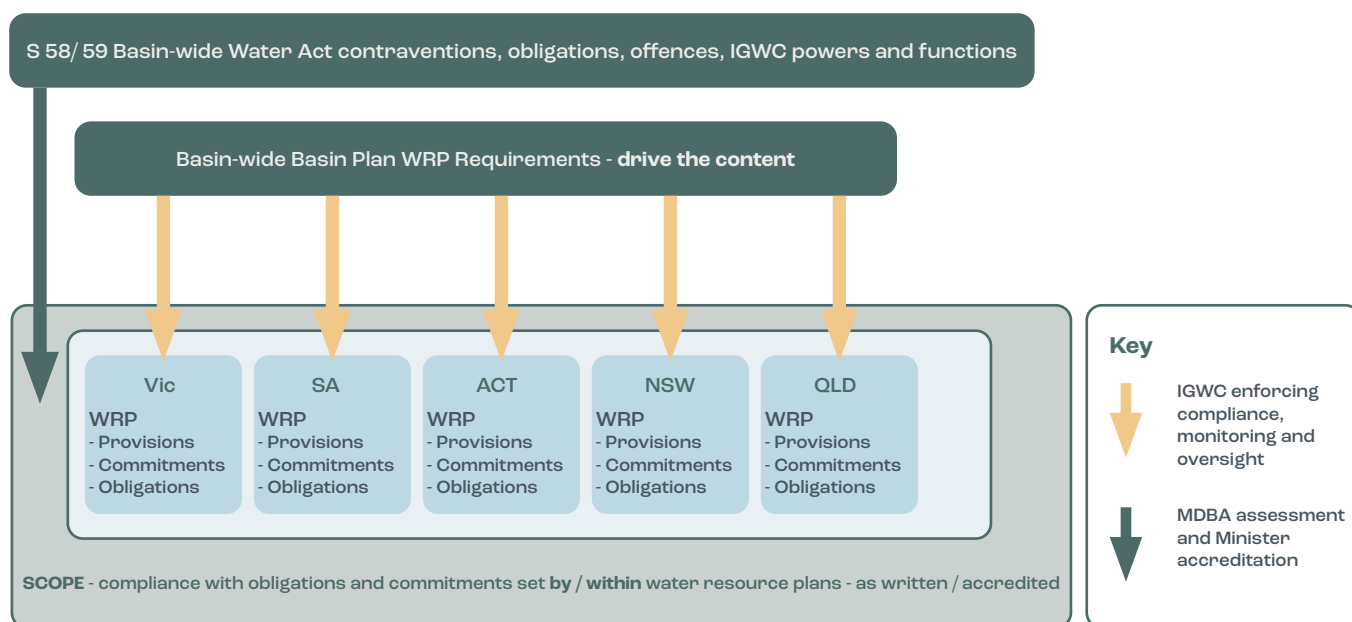


Figure 1.1 How water resource plan commitments and obligations take effect (indicative and conceptual)

Principles, outcomes, and objectives for water resource plans are not set out explicitly in the Basin Plan, nor in the water resource plans themselves. However, it is clear that the Water Act and Basin Plan intend that water resource plans give effect to parts of the Basin Plan and achieving the Basin Plan's objectives and outcomes. Therefore, when considering the impact of an alleged non-compliance on outcomes, the Inspector-General would consider the impact on objectives and outcomes of the Basin Plan.

2 Roles and responsibilities

2.1 Functions and powers of the Inspector-General

The Inspector-General of Water Compliance is a Commonwealth statutory role established under the Water Act.

The Inspector-General's functions and powers are set out in the Water Act²² and can be summarised as:

- a. Enforcing compliance with the Water Act, the Basin Plan and water resource plans; and
- b. Monitoring and providing independent oversight of Commonwealth and Basin State agencies' performance of commitments and obligations in relation to management of Basin water resources under the Water Act, Basin Plan and water resource plans;
- c. Engaging with Basin communities on the management of Basin water resources.

The Inspector-General's functions focus on transparency and accountability to ensure there can be trust and confidence in the management of Basin water resources. The Inspector-General's role in enforcement of compliance with the Water Act and Basin Plan is further outlined in the Regulatory Policy.

The Inspector-General's powers to undertake investigations and audit and to gather evidence are set out in detail in Parts 10AA and 10AB of the Water Act. The Inspector-General's enforcement powers (that is, responses to non-compliance) are set out in Part 8 of the Water Act. Limitations on actions that the Inspector-General can take are described in section 2.2.

2.2 Inspector-General's role in water resource plan compliance and enforcement

The Inspector-General was created to serve as a strong and independent regulator of Australia's largest water resource – the Murray-Darling Basin. The Inspector-General's role was established to strengthen compliance, increase transparency, and improve trust. The Inspector-General is the integrity agency for implementation of the Water Act and the Basin Plan within the Murray-Darling Basin.

Following accreditation of a water resource plan, the Inspector-General's regulatory role is to monitor and assess water resource plan compliance and undertake enforcement using a suite of compliance tools such as inquiries, audits, and investigations. This includes specific compliance powers to establish standards and guidelines in relation to the management of Basin water resources. The Inspector-General is a "regulator of regulators" and does not duplicate the role of Basin State regulatory agencies.

The Inspector-General also drives a continuous improvement culture across water compliance and water management in the Basin, including through the establishment of the Regulatory Leaders Forum which includes representatives from Basin State agencies.

In the absence of an accredited water resource plan, the Inspector-General can provide oversight and exercise scrutiny and accountability under other powers and functions with respect to the Water Act, Basin Plan, Intergovernmental Agreements, integrity matters and engaging with Basin communities.

²² Water Act, s 215C

There are statutory limitations on the Inspector-General. This includes limitations in taking enforcement action against Commonwealth or Basin State agencies due to the operation of section 12 of the Water Act. Basin State agencies cannot be prosecuted for an offence, subject to civil proceedings or given an infringement notice. This does not apply to a company in which the Commonwealth or Basin State agency, or certain Commonwealth or Basin State bodies corporate hold an interest in.

2.3 Roles and responsibilities – MDBA

The MDBA has a foundational role to assess water resource plans submitted by a Basin State agency as to whether they meet Basin Plan requirements, and recommend to the Commonwealth Minister whether a water resource plan should be accredited.²³ The MDBA must (on an annual and 5-yearly cycle) evaluate the effectiveness of the Basin Plan against its objectives and outcomes, with reference to matters in Schedule 12 of the Basin Plan. Commencing in 2026, the MDBA must review the Basin Plan every 10 years. However, once a water resource plan has commenced, the Water Act provides that the MDBA must perform its functions, and exercise its powers, consistently with, and in a manner that gives effect to, a water resource plan for a water resource plan area.²⁴

The Inspector-General's role is to oversight and monitor compliance and to enforce compliance with the Water Act, Basin Plan and water resource plans and to hold Commonwealth and Basin State agencies to account in their management of Basin water resources.

2.4 Roles and responsibilities – Basin State governments

The Water Act provides that the Basin Officials Committee (BOC), an agency of a Basin State, an operating authority, an infrastructure operator or the holder of a water access right must not: (a) do an act ... if the act is inconsistent with the water resource plan for the area; or (b) fail to do an act ... if the failure to do that act is inconsistent with the water resource plan for the area.²⁵ Persons or agencies with water resources policy, management, administration and regulatory roles in the Basin are 'agencies of a State'.

While water resource plans may set commitments and obligations that apply to a range of entities, the role of Basin State agencies in implementing water resource plans is critical to their effectiveness in achieving Basin Plan objectives and outcomes, while also being critical to the integrity of the legislative framework for Basin water resources management. In addition, the five Basin States are both 'regulated entities' and (in practice) regulators of water resource plans.²⁶ Basin States and their agencies are regulated entities in that an action, or lack of action, must not be inconsistent with commitments and obligations set out in a water resource plan. Basin States also regulate the obligations on water access right holders, infrastructure operators and others to ensure compliance with Basin State legislation. In practice, these obligations implement many of the Basin State arrangements that give effect to Basin Plan water resource plan requirements.

The Inspector-General expects that Basin States will actively exercise their commitments and obligations for implementation of and compliance with water resource plans and will monitor, report and demonstrate compliance status. Basin States' roles in the monitoring and reporting of water resource plan compliance are further addressed in Chapter 4 of this Framework.

²³ Water Act ss 53-67. The Minister may also request the MDBA prepare a water resource plan for adoption (ss68-70). Note that the scope of this Framework does not include the assessment and accreditation of water resource plans.

²⁴ Water Act s 58. Note that this obligation applies to any agency of the Commonwealth

²⁵ Water Act s 59

²⁶ This paper is focused on WRP compliance not Basin Plan compliance per se. This paper is focussed on s.59 of the Water Act (effectively an obligation to act consistently with water resource plans), not s.35 (effectively an obligation to act consistently with the Basin Plan).

The Inspector-General has made the following statement about their role with respect to Basin States and their regulatory agencies:

The Inspector-General recognises the complexity in relationships with the Basin State agencies water compliance regulators, where the collective enforcement of all relevant water laws underpins the effective management of the Basin water resources in the national interest. Under this approach, Basin States are responsible for administering and enforcing Basin State laws, while the Inspector-General is responsible for ensuring that this is done in a way that complies with the Water Act and is consistent with the Basin Plan and water resource plans.²⁷

As noted, under the Water Act,²⁸ the BOC, an operating authority, an infrastructure operator and the holder of a water access right are subject to water resource plan obligations. These entities, along with Basin States and the Commonwealth, are collectively defined in this Framework as 'regulated entities responsible for implementation of water resource plans.'

2.5 Working with Basin States, Commonwealth agencies and other regulated entities

The Inspector-General will continue open, robust and respectful engagement with Commonwealth and Basin State agencies and other regulated entities. This includes working with and communicating with all government agencies to enable and support compliance.

The Regulatory Policy (see Section 1.4 of this Framework) describes the Inspector-General's overall approach to enforcing compliance with the Water Act and to hold Commonwealth and Basin State agencies to account in their management of Basin water resources. The Inspector-General will act using an approach that is risk-based, outcomes-focussed, and will operate as a responsive regulator (informed by behaviours, patterns of contraventions and level of harm associated with contraventions).

The Inspector-General must operate in the context of complex relationships, as an independent integrity agency, but working with Basin State agencies in the national interest. The Inspector-General relies on Basin State agencies for targeted, timely, and relevant information to inform its approach and responses, but has access to information gathering powers if required. The Inspector-General operates using influence, engagement, monitoring, oversight, assessment, reporting, assurance and compliance roles. The Inspector-General may apply different regulatory approaches to the same issue, based on the prevalence of an issue, compliance history, consequences, likelihood and differences between or within a jurisdiction.

The Inspector-General applies the Regulatory Policy principles to water resource plan compliance as described in Table 1.

²⁷ [Regulatory Policy October 2023 \(igwc.gov.au\)](#)

²⁸ Water Act s 59

Table 1. Application to water resource plan compliance of the principles in the Regulatory Policy.

Principle	Application to Water Resource Plan Compliance
1. Outcomes based	In prioritising water resource plan compliance regulatory activity, the Inspector-General will consider compliance issues and allegations that have the greatest impacts and risk to Basin Plan outcomes (i.e. the risk of harms). However, note that other regulatory considerations also apply, such as culpability and risks to the regulatory framework.
2. Proportionality and efficiency	In prioritising water resource plan compliance regulatory activity, the Inspector-General will consider the need for proportionate response to the scale of a compliance issue, the risk of harm to outcomes of a potential or alleged breach and the efficient use of Commonwealth and Basin State agency resources. However, note that other regulatory considerations also apply, such as culpability and risks to the regulatory framework.
3. Responsiveness and flexibility	In conducting water resource plan compliance regulatory activities, the Inspector-General will seek to respond promptly to emerging issues or potential or alleged breaches and consider flexibility in the regulatory response.
4. Transparency and accountability	<p>The Inspector-General publishes an Annual Work Plan and other reports as required by the Water Act.</p> <p>The Inspector-General publishes policies and frameworks to describe their approach and publishes the outcomes of audits, investigations and reviews.</p> <p>The Inspector-General has outlined in a Strategic Plan how transparency and accountability will be delivered.²⁹</p>
5. Independence	In conducting water resource plan compliance regulatory activities, the Inspector-General will seek to respond promptly to emerging issues or potential or alleged breaches and consider flexibility in the regulatory response.
6. Communication and engagement	<p>The Inspector-General will maintain open, robust and respectful engagement with Commonwealth and Basin State agencies and other regulated entities. The Inspector-General publishes an Annual Work Plan as required by the Water Act. The Inspector-General will, where appropriate, work with Basin State agencies to plan activities in advance so as to optimise use of resources, while noting that the Inspector-General's powers and functions for investigation of potential or alleged breaches can be activated without notice.</p> <p>The Inspector-General engages with Basin States and other stakeholders consistent with their powers and functions, to promote transparency and compliance with water resource plans.</p>

²⁹ [2023-26 Strategic Plan \(igwo.gov.au\)](#)

Principle	Application to Water Resource Plan Compliance
7. Mutual responsibility	<p>The Inspector-General expects all regulated entities, including Basin States and the Commonwealth to exercise, enable, promote and facilitate water resource plan compliance.</p> <p>The Inspector-General aims to promote mutual responsibility between regulator and regulated entities.</p> <p>The Inspector-General will work together with regulated entities to understand issues where commitments and obligations (or what constitutes compliance) are not clear.</p> <p>The Inspector-General will operate procedural fairness with regulated entities, including alerts ahead of public statements and where appropriate an opportunity to comment.</p>
8. Cooperation across jurisdictions	<p>The Inspector-General maintains open, robust and respectful engagement with Basin States, Commonwealth agencies and other regulated entities, including multi-lateral engagement in shared river systems.</p>
9. Awareness of the broader regulatory environment	<p>The Inspector-General recognises Basin State agency regulatory actions with state-based regulators.</p> <p>The Inspector-General will have regard to a Basin State's own audit, assurance and monitoring processes where they concern Basin State legislation that is accredited text of water resource plan.</p> <p>The Inspector-General will have regard to the actions of other regulators or policy agencies that may interact with the role of the Inspector-General in relation to water resource plan compliance. Examples may include the MDBA's role in review of the Basin Plan, the Australian Competition and Consumer Commission's role in relation to water market rules and the role of reforms and intergovernmental agreements on the wider approaches to management, use and regulation of water resources in Australia.</p>

3 Approach to water resource plan compliance and enforcement

3.1 Risk-based approach

The Inspector-General has outlined in the Regulatory Policy that a risk-based approach is taken to oversight, compliance and enforcement of the Water Act, Basin Plan and water resource plans. The Inspector-General uses evidence to inform decision-making.

The Inspector-General's annual compliance priorities are developed using a comprehensive risk assessment. The annual compliance risk assessment considers information from a wide range of sources, including compliance intelligence, outcomes from previous audits, information from stakeholders, and the timing and status of key Basin Plan activities and implementation. The work program is designed to ensure that the compliance effort is aligned to address the risks and priorities identified in compliance priorities.

The Inspector-General focuses on compliance with water resource plan provisions by applying a risk-based approach to compliance and enforcement. The Inspector-General identifies and assesses risks to water resource plan compliance in terms of their likelihood and consequences for Basin Plan objectives and outcomes. Assessed higher risks will be a primary (but not the only) factor to guide priorities for compliance activity.

Compliance risks may be identified in terms of the outcomes at risk (the harms), in terms of specific water resource plan commitments and obligations, in terms of external drivers of risk (such as climate or markets for example) or in terms of risks to community confidence in water resource management and compliance.

In respect to risks and outcomes, it is important to recognise that the Inspector-General's role is to consider risks and Basin Plan outcomes with respect to risks to outcomes posed by non-compliance or non-implementation of water resource plans. Considering risks to outcomes or harms is also essential in developing a proportionate response to potential non-compliance and allocating resources for investigations and audit most effectively.

The Inspector-General identifies risks to water resource plan compliance using a range of information and data, including Basin Plan reporting, SDL compliance reporting under section 71 of the Water Act, Basin States' own audit, assurance and regulatory activities and information, reports disclosed to the Inspector-General, publicly available data, as well as other information and data.

The Inspector-General's risk-based approach will also consider risk assessment undertaken by Basin States as part of water resource plan preparation and determined levels of risk (particularly medium and high). This risk assessment is undertaken by Basin States to identify risks to the condition and availability of water resources for all users (including the environment) of the water resource plan area. This risk identification, assessment and a management strategy to treat a medium or higher-level risk is an accredited part of each water resource plan.

In considering risks to compliance and the appropriate regulatory responses, the Inspector-General is committed to independence, objectivity and impartiality.

3.2 Escalation pathway and proportionality of response

3.2.1 Proportionate response

In the Regulatory Policy, the Inspector-General outlines a responsive model that is dynamic and allows versatility in managing adverse regulatory outcomes based on the identification of the best remedy for the particular situation, allowing the Inspector-General to:

- Respond in a way that is proportionate to the risk
- Respond in a way that best addresses the problem and/or delivers the intended outcome
- Escalate regulatory action
- De-escalate regulatory action
- Minimise costs associated with a response.

Under this approach, the type of regulatory action the Inspector-General takes gets progressively more significant in response to greater risks. The escalation level is therefore informed by the level of harm and the proportionate effort for the type of intervention required.

3.2.2 Escalation pathway

The Framework includes a 'compliance pyramid' escalation pathway adapted to the water resource plan compliance context. This is shown in Figure 3.1, indicating proportionate responses under different circumstances.

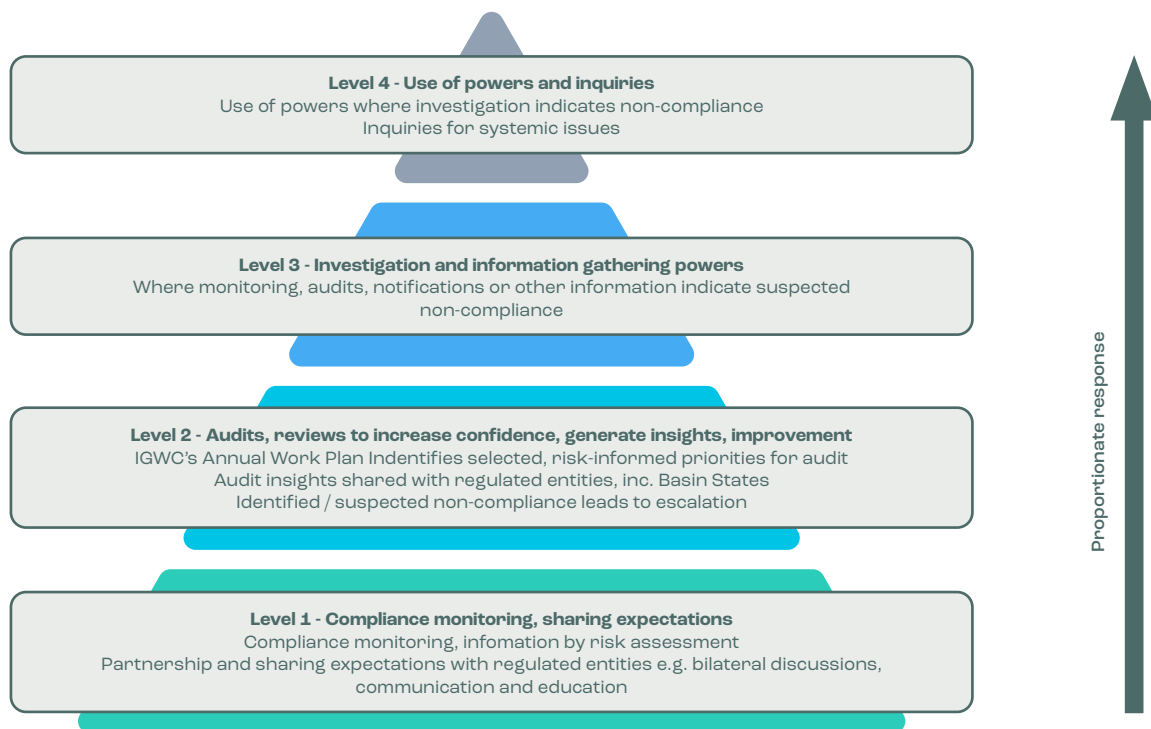


Figure 3.1 Indicative compliance pyramid and escalation pathway for this Framework.

Note that the compliance pyramid provides guidance for judgement-based decisions by the Inspector-General on which regulatory action to take, and there is no obligation to escalate sequentially through the levels.

In general, at lower levels, the Inspector-General will work effectively with regulated entities to address non-compliance pro-actively and set clear expectations. At higher levels, the Inspector-General will take effective intervention or enforcement action.

The Inspector-General has broad discretion in when and how to use regulatory powers to respond to potential or alleged water resource plan non-compliance, including whether to escalate between levels in the Framework.

As with other regulators (including Basin State regulators), the Inspector-General determines an appropriate response by assessing impact, risk, culpability, context and risk to the regulatory framework. The nature of the assessment depends on the circumstances of the particular potential or alleged non-compliance. The Inspector-General makes this assessment independently, while taking into account the best available information.

The application of regulatory discretion and judgement by an independent regulatory decision-maker represents best practice.

For any regulatory response, procedural fairness applies and the regulated entity potentially subject to action would have an opportunity to respond. The Inspector-General publishes the outcome of regulatory actions when these are resolved.

3.2.3 Description of levels in the escalation pathway

Under this escalation pathway:

- **Level 1** represents routine business as usual whereby the Inspector-General monitors compliance (including through Basin State's compliance monitoring and reporting, and other means available to the Inspector-General) and is informed by a compliance risk assessment.
 - Level 1 operates as a partnership, as appropriate, with Basin State agencies and other regulated entities and builds their understanding of the Inspector-General's legislated role and compliance and enforcement responsibilities. Equally, the Inspector-General learns and builds an understanding of Basin States' (and other regulated entities') activities and challenges. This level includes bilateral discussions with Basin States (and other regulated entities) responsible for implementation of water resource plans and in relevant multilateral forums, including the Regulatory Leaders Forum or Basin Officials Committee.
 - It is expected that Basin States and their related entities (departments, agencies, ministers, authorities and state-owned corporations) intend to comply with the Water Act, Basin Plan and water resource plans. Nevertheless, sharing the Inspector-General's expectations with Basin States is an important and necessary component of activity at Level 1. Engagement by the Inspector-General with Basin States supports Basin State compliance. As Level 1 is routine business as usual, it continues alongside all other levels of escalation.
 - The Inspector-General continues to work with the MDBA and Basin States to improve compliance reporting as a whole and take into account other reporting and opportunities to increase efficiencies, avoid duplication and improve fitness for purpose, taking into account reporting for Matter 19, section 71 (SDL Compliance) and metering report cards.

- With a more generic regulatory framework, this level would also include educating water access right holders about compliance responsibilities. However, for water resource plans, Basin States carry out this function as the primary regulators of compliance and enforcement of individual water access right holders. This means that the Inspector-General does not intend to conduct such educational activities with water access right holders, unless Basin States are not undertaking their role or there is an agreement with the Basin State that the Inspector-General could play a beneficial role.
- Level 1 relies on continual improvement of existing compliance monitoring and review of available reports, reviews and obligated data reporting, assuring the public and influencing compliance, while being proactive. Monitoring and reporting is essential to routine activity at Level 1. This is covered in more detail in Chapter 4 of this Framework.
- For regulated entities responsible for the implementation of water resource plans, monitoring and reporting of compliance through existing channels, together with open communication mean that the Inspector-General is well informed and may reduce the need to escalate actions. The Inspector-General will seek to access and improve over time existing channels of routine compliance monitoring, audit, assurance and reporting. This includes Basin States' own monitoring, audit and assurance activities and reporting under the Water Act (e.g. section 71), Basin Plan (e.g. Schedule 12), metering report cards and compliance performance reporting.
- Until fit-for-purpose monitoring and reporting is in place, the Inspector-General considers Level 2 as the starting point. Therefore, the highest priority is improvement of fit-for-purpose water resource plan compliance monitoring and reporting (see Chapter 4 of this Framework).
- **Level 2** also represents routine business as usual, but with a focus on selected priorities (informed by a routine water resource plan compliance risk assessment³⁰) which are subject to audits and reviews by the Inspector-General. The risk assessment and other information provide a rationale and evidence base for selection of the priorities. The Inspector-General may request further information from the regulated entities responsible for implementation of water resource plans to explain implementation and compliance. This may be part of a review or assurance report, not an audit as such.
 - In addition, at Level 2, audits and other examination activities serve to focus increased scrutiny on those priorities, with audit reports and findings providing increased confidence of compliance, generating insights and supporting continual improvement by Basin States and other regulated entities. Level 2 therefore focusses on use of 'examination tools' to deter and correct, while also being proactive. Examination tools may include audits, compelling provision of information using powers, enforcement notices, enforceable undertakings, public warning notices and warning letters.³¹
 - The Inspector-General's audit workplan will be advised in advance and targeted, consistent with the Inspector-General's published Strategic Plan and Annual Work Plan. Audits may be Basin State-specific or may be Basin-wide theme-based.
- **Level 3** represents suspected non-compliance. It is therefore the level at which the Inspector-General may commence an investigation, use information gathering powers and authorised compliance officers. This may include using powers compelling provision of information and powers to enter premises, search premises, examine or observe any activity, inspect, examine and make copies of, or take extracts from, any documents, securing evidence, asking questions, conducting tests or taking samples.³² It is expected that Basin States and their related entities (and other regulated entities) would make every effort to comply and to work pro-actively with the Inspector-General, in order to avoid the need for escalation to Level 3.

³⁰ See Section 3.1 **Risk-based approach**

³¹ Examination tools are described in more detail in the Regulatory Policy.

³² The Inspector-General's powers are established in Parts 10AA and 10AB of the Water Act

- If a change in State legislation makes part of a water resource plan ineffective, the Inspector-General may commence an investigation or take other regulatory measures to ensure necessary actions are taken. If appropriate, the Inspector-General will encourage the Basin State to submit an amended water resource plan to the MDBA for assessment and accreditation.
- **Level 4** represents alleged non-compliance (i.e. sufficient evidence to establish a case). At this level, the Inspector-General will utilise the appropriate powers and responses, noting that the Water Act restricts the responses available to the Inspector-General for taking action with respect to Basin governments. For example, the Inspector-General may apply to court for a declaration that a person has committed a contravention of the Water Act or regulations, may seek an enforceable undertaking from a person, and (for entities other than Basin governments) may seek civil penalties, enforcement notices, public warning notices or injunctions. The Inspector-General's powers are established in Parts 10AA and 10AB of the Water Act.
- It is expected that Basin States and their related entities (and other regulated entities) would make every effort to comply and to work pro-actively with the Inspector-General, in order to avoid the need for escalation to Level 4.
- The Inspector-General will consider the use of powers and responses in proportion to the significance and potential impact of the non-compliance, as well as the likely effectiveness of the response in achieving future compliance. The Inspector-General will work collaboratively with the relevant jurisdiction to endeavour to address and resolve any instances of non-compliance before enforcement action is considered. This would happen at any point below Level 4.
- For systemic issues, the Inspector-General may consider convening and inquiry. This is discussed further in Section 3.4 of this Framework.

3.3 Role of audits

Audits include the systematic analysis of compliance with a water resource plan, or part of a water resource plan. An audit provides assurance that relevant government agencies are complying with their water resource plan commitments and obligations. Audits also enable the Inspector-General to develop an evidence-base for prioritising activities and interventions.

Audits may take place at Level 2 and Level 3 of the escalation pathway. Audits can be proactive, supporting monitoring and assurance of compliance. Audits can also be responsive, assessing compliance of a target issue or water resource plan that has emerged from other information.

Under section 73L of the Water Act, the Inspector-General may conduct (or appoint or engage someone to conduct) an audit into compliance with the Basin Plan and/or water resource plans. The purpose of audits is to form a view, based on the information obtained in conducting the audit, on whether a person or agency:

- has acted or is acting in accordance with water resource plans
- has arrangements that have been established and/or operate in accordance with water resource plans.

The Inspector-General uses audit and assurance as one of a number of tools to support the performance of their functions. It is used as part of the tools specific to 'examinations' to proactively or reactively provide assurance that regulated entities are complying with and performing their commitments and obligations or exercising their powers. As outlined in the Regulatory Policy, audits are compliance focussed and used for systemic analysis of compliance with water resource plans. This provides assurance that relevant government agencies are complying with their water resource plan commitments and obligations.

The Inspector-General has developed an Audit Framework for publication. The Audit Framework describes the audit standards³³ and processes the Inspector-General will follow when undertaking audits, including auditees being provided with an opportunity to respond to findings prior to audit finalisation. The Inspector-General's approach to audits has been demonstrated in audits published to date.³⁴

3.4 Inquiries

The escalation pathway, Level 4, includes the Inspector-General's powers to convene an inquiry.³⁵ It is expected that inquiries would be limited to systemic issues and more likely intended to inform review and reform of legislation or Basin water resource management arrangements.

An inquiry could be effective in drawing attention to and seeking evidence for systemic or widespread compliance issues and problems and/or a formal assessment of the performance of functions, commitments or obligations by regulated entities responsible for implementation of water resource plans.

An inquiry can explore the drivers behind relevant government agencies' activities or decision-making (as relevant), enabling the Inspector-General to identify causes of non-compliance or performance issues and provide clear recommended actions for improvement.

3.5 Other compliance and enforcement responses

The types of regulatory activities that might be considered in an escalation pathway (Levels 3 and 4) are identified in the Regulatory Policy.³⁶

In deciding the appropriate compliance tools for a response, the Inspector-General considers matters including:

- whether the potential non-compliance is within the Inspector-General's jurisdiction (or should be referred to another agency)
- whether there are other activities or processes that could be leveraged off or that duplicate the activity (this could be another Commonwealth or Basin State agency)
- prospects of successful intervention
- most appropriate escalation pathway
- attitude of the regulated entity to compliance
- capacity of the Inspector-General in light of resources and other priorities.

3.6 Relationship to SDL Compliance Framework

Implementation of and compliance with water resource plan commitments and obligations is a key consideration for the Inspector-General in assessing SDL compliance.

³³ Auditing and Assurance Standards Boards auditing and assurance standards: ASAE 3000 Assurance Engagements Other than Audits or Reviews of Historical Financial Information; ASAE 3100 for specific Compliance Engagements; ASQM1 Quality Management for Firms that Perform Audits or Reviews of Finance Reports and Other Financial Information, or Other Assurance or Related Services Engagements.

³⁴ [Audits | Inspector General of Water Compliance \(igwc.gov.au\)](#)

³⁵ Part 10AB of the Water Act.

³⁶ [Regulatory Policy October 2023 \(igwc.gov.au\)](#)

The Inspector-General has published the SDL Compliance Framework, which outlines the Inspector-General's role and objectives in relation to ensuring compliance with the SDLs and articulates the Inspector-General's expectations and approach to exercising statutory powers and functions for SDL compliance. The importance, centrality and complexity of SDL accounting and compliance assessment for Basin Plan outcomes, merits the specific compliance framework that has been developed to cover this key component of the Basin Plan and water resource plans.

The Water Resource Plan Compliance and Enforcement Framework is designed to be consistent with and complementary to the SDL Compliance Framework. Both frameworks are designed to be consistent with and informed by common regulatory principles and statutory functions.

As identified in the SDL Compliance Framework, an excess on the Registers of Take or SDL non-compliance, is not in itself a direct contravention of the Water Act or regulations, or the Basin Plan or a water resource plan.³⁷ However, acting inconsistently with the Basin Plan or a water resource plan is a contravention of the Water Act.

Water resource plans are a critical vehicle for and component of implementing SDLs, as they provide the following:

- provisions establishing methods to determine annual permitted take that, over the long term (the historical climate conditions) will result in meeting the SDL for each SDL resource unit
- provisions to determine actual take in a water accounting period
- rules (including, if applicable, rules for water allocations) that ensure that actual take does not exceed permitted take in a water accounting period as far as practicable
- water accounting rules, including provision to respond to 'growth in use'
- limits on interception.

The concept of 'reasonable excuse' was introduced in the Basin Plan because the SDL compliance threshold may be exceeded as a result of consumptive water take in an SDL resource unit, even though all the rules in the relevant water resource plan have been complied with, or in circumstances that are determined to be beyond the Basin State's control. In these cases, a Basin State may choose to submit (to the MDBA and the Inspector-General) a report claiming a reasonable excuse and setting out the reasons the excess has occurred.

Under the Basin Plan,³⁸ a Basin State is taken to have a reasonable excuse for an excess if the excess arises as the result of the operation of the water resource plan for the SDL resource.³⁹ The SDL Compliance Framework (Chapter 3) sets out the Inspector-General's expectations if a Basin State claims this reasonable excuse. Specifically, the Basin State's report needs to establish that the excess has arisen because of the necessary or automatic operation of the water resource plan.

³⁷ See the SDL Compliance Framework for a full definition of SDL Compliance terms.

³⁸ Basin Plan Chapter 6

³⁹ Note that a reasonable excuse is also taken to occur if excess arises as a result of circumstances beyond the Basin State's control - see SDL Compliance Framework (Basin Plan s 6.11(4) (surface water); s 6.12C(4) (groundwater))

In considering SDL compliance, reasonable excuse claims and Basin State 'action plans', the Inspector-General expects that the basis of an action plan should be implementation of arrangements provided for in the water resource plan to apply the SDL, including arrangements to account for and manage suspected, or actual growth-in-use and for increases in use by basic rights and interception activities.⁴⁰ Where the excess arises as the result of the operation of the water resource plan, the Inspector-General expects that the Basin State action plan should include either a proposal to amend the water resource plan, or explain why the Basin State considers this is not required.

3.7 Water resource plan commitments, obligations and enforcement

The Water Act establishes an obligation to not act inconsistently with a water resource plan.⁴¹ As noted earlier in this Framework, water resource plans necessarily vary according to different Basin State legislative and policy frameworks, and in addition are not documented in a consistent form, are complex and include subsidiary documents that also establish commitments and obligations. Commitments and obligations and the responsible parties for them are not always unambiguously defined, as might be expected in a legislative regulatory framework.

In considering whether to take regulatory action for a water resource plan related contravention of the Water Act, the Inspector-General considers the approach outlined in the Regulatory Policy together with the risk-based approach, escalation pathway and examination activities and responses. Specifically, with respect to a suspected or alleged non-compliance, the circumstances outlined at Level 3 and Level 4 of the escalation pathway would be relevant (but not binding) to inform a decision to take enforcement action. The Inspector-General considers the use of powers and responses in proportion to the significance and potential impact of the alleged non-compliance, as well as the likely effectiveness of the response in achieving future compliance.

In addition, while the Water Act binds the Crown,⁴² it limits the regulatory actions that can be taken against the Crown. The Crown includes Commonwealth and Basin State governments, their Minister and agencies.

A finding of "non-compliance" may be made in the absence of enforceability. In this case, the Inspector-General may make a statement or publish an audit or investigation with findings.

For enforcement action, the Inspector-General may accept an enforceable undertaking from a Basin State agency (or other regulated entities responsible for implementation of water resource plans) that the Inspector-General considers has taken action (or omitted to take action) that is a contravention of a provision within the Inspector-General's responsibility.⁴³ The Inspector-General may apply to a court for an injunction, for a declaration of a contravention, or for an order to enforce an enforceable undertaking.⁴⁴ As noted for Level 4 above, under the Water Act other regulatory enforcement actions and tools are available for non-Crown regulated entities.

The Inspector-General will work collaboratively with the relevant regulated entities responsible for implementation of water resource plans to attempt to address and resolve any instances of non-compliance before enforcement action is considered.

⁴⁰ Water resource plans are required to include arrangements that will ensure that actual take will not exceed permitted take, and that as a long-term average, permitted take will not exceed the SDL (Basin Plan s 10.11). Those arrangements must be able to respond to a range of factors, including so-called 'growth-in-use', regardless of the reason for any exceedance (Basin Plan s 10.12). Water resource plans are also required to maintain take under basic rights, by runoff dams and by commercial plantations at certain levels unless take by other forms of take is reduced (Basin Plan s 10.13).

⁴¹ Water Act s 59. Note that for Commonwealth agencies, the obligation is to give effect to the water resource plan (Water Act s58).

⁴² Water Act s 12

⁴³ Water Act s163

⁴⁴ Water Act s 140 and s144

3.8 Adaptation and continual improvement

It is recognised that water resource plan compliance requirements have been in place for a relatively short period of time. As noted earlier, Commonwealth oversight of Basin States' water management and the nature of water resource plans is a complex area. Assessing, monitoring, assuring and enforcing compliance with these Commonwealth instruments through the activities of both Commonwealth and Basin States is an area of relatively new activity.

The Inspector-General recognises that in this relatively new regulatory environment, establishing a regulatory approach that is well-understood by regulated entities will take time.

This Framework confirms the expectation that Basin States, the Commonwealth and other regulated entities will monitor and exercise water resource plan compliance. That is, the Basin States, the Commonwealth and other regulated entities are expected to apprise themselves of their commitments and obligations that arise from water resource plans, and to actively monitor, implement and assure their own compliance with those commitments and obligations.

The Inspector-General's initial compliance activities will focus on establishing and maintaining Level 1 and 2 activities described in section 3.2.2. The Inspector-General will be ready to escalate its compliance activities to Level 3 or higher within a reasonable timeframe if merited by specific circumstances.

During these initial activities, the Inspector-General will share and build understanding of the Framework with the MDBA, the Commonwealth and Basin States, including insights on limitations and weaknesses. This building of understanding is expected to improve efficiency and effectiveness in the implementation of water resource plans and the operation of regulatory activity under the Water Act.

The Inspector-General's priorities are published from time to time in the Inspector-General's Strategic Plan and Annual Work Plan, while noting that the Inspector-General can act on any compliance issues at any time. These priorities may be adjusted as part of adaptation and continual improvement.

3.9 Guidelines and Standards

The Inspector-General may issue guidelines relating to a range of matters, including the performance of commitments and obligations under water resource plans by an agency of a Basin State.⁴⁵ In addition, the Inspector-General may issue standards relating to measuring water taken from Basin water resources.⁴⁶ An agency of the Commonwealth or an agency of a Basin State must have regard to guidelines issued under 215V and standards issued under s 215VA of the Water Act. The Inspector-General must consult with Basin States prior to issuing such guidelines.

⁴⁵ Water Act S 215V

⁴⁶ Water Act s 215 VA

4 Water resource plan compliance monitoring and reporting

4.1 Role of compliance monitoring and reporting

Compliance monitoring and reporting plays a critical role for routine assurance of compliance, accountability of Basin agencies and transparency to Basin stakeholders. It is a key part of the mutual responsibility of Basin governments to implement the Basin Plan, water resource plans and Intergovernmental Agreements.

Water resource plan compliance monitoring and reporting is part of 'Level 1' routine business in the compliance pyramid (see Chapter 3). It is expected that Basin agencies will contribute to fit-for-purpose monitoring and reporting of water resource plan compliance. Until fit-for-purpose compliance monitoring and reporting is in place, the Inspector-General considers Level 2 activities, such as audits, as the starting point.

This chapter sets out the need for water resource plan compliance monitoring and reporting, proposes a high-level description of what fit-for-purpose reporting looks like and a pathway forward to establish compliance monitoring and reporting, including fit-for-purpose criteria. It is noted that the Water Act provides that the powers and functions of the Inspector-General include "to monitor and provide independent oversight of the performance by agencies of the Basin States of their obligations in relation to the management of Basin water resources under ...water resource plans."⁴⁷

The Regulatory Policy identifies monitoring as an important regulatory tool that is a proactive approach to assuring and influencing compliance with water resource plans. Outcomes of monitoring for compliance (among other information) will inform the Inspector-General on whether regulatory action or interventions are needed.

A reporting system provides a consistent and agreed information base. As reporting systems mature and become business as usual, there is less scope for disputing evidence and resourcing requirements become more routine and practical.

4.2 Criteria for water resource plan compliance monitoring and reporting

- The Inspector-General expects that fit-for-purpose water resource plan compliance monitoring and reporting meets the following criteria:
- Information and data are accessible in a timely manner.
- Clearly articulates the extent of compliance against specific commitments and obligations in the water resource plans (using quantitative data where available and fit-for-purpose), providing a level of confidence based on a standardised approach, supported by evidence that is trusted, verifiable and accessible. Where commitments or obligations are not being achieved, the reporting explains why, and the measures being implemented to ensure they will be met in the future.
- Meets the needs of the Inspector-General and Basin State agencies to assess compliance.
- Provides confidence and transparency to the Basin community.
- Compliance monitoring and reporting builds on existing arrangements and is to be improved over time to be fit-for-purpose, as described in the following section.

⁴⁷ Water Act s 215C (1) (b)(iii)

4.3 Reporting mechanisms

4.3.1 Basin Plan Schedule 12 Matter 19

The Basin Plan's Schedule 12 Matter 19 requires annual reporting by Basin States to the MDBA of "compliance with water resource plans".⁴⁸ The MDBA may publish guidelines⁴⁹ and enter into agreements⁵⁰ in relation to the reporting requirements. Basin States must report to the MDBA by 31 October annually.⁵¹ The MDBA must publish the Basin States' reports⁵² and must have regard to the reports when making an evaluation of the effectiveness of the Basin Plan.⁵³ The Schedule 12 Matter 19 water resource plan compliance reporting requirement arises from the assumption that reporting on water resource plan compliance will underpin evaluation of whether the Basin Plan is effective in achieving its objectives and outcomes.

The Inspector-General has identified that current reporting under Matter 19 is not fit-for-purpose for monitoring and assurance of compliance with water resource plans. To date, existing Matter 19 reporting guidelines include questions that are broad and do not meet the clarity requirements for monitoring water resource plan compliance, which may contribute to a lack of reporting consistency between Basin States.⁵⁴ During consultation undertaken to develop the Framework, most Basin States agreed that existing Matter 19 reporting guidelines do not meet the purpose for monitoring water resource plan compliance and may overlap with other reporting requirements.

The Inspector-General continues to work with the MDBA and Basin States to refine compliance Matter 19 reporting and guidance to improve fitness for purpose of the reporting. The proposed approach to water resource plan annual compliance reporting under Matter 19 is risk-based.

4.3.2 SDL Compliance reporting

Section 71 of the Water Act establishes annual reporting obligations that apply to Basin States for each water resource plan area. In summary, these obligations relate to the annual water available, the annual permitted take, the annual actual take, water trading transactions, water management arrangements, an assessment of compliance with the SDL and (in the event of non-compliance) the identification of actions by the Basin State. These obligations interact with the SDL Compliance Method provided in Chapter 6 of the Basin Plan. Basin States report annually to the MDBA by 31 October, which then provides the reports to the Inspector-General for an annual assessment of SDL Compliance.⁵⁵ More detail on these requirements is provided in the SDL Compliance Framework.

Reporting by Basin States under section 71 addresses some aspects of water resource plan compliance, with respect to application of the SDL. However, this reporting does not address other aspects of water resource plan compliance.

The Inspector-General considers that reporting under Schedule 12 Matter 19 is the most appropriate pathway to monitor and report water resource plan compliance. However, guidance for Matter 19 reporting should ensure there is no duplication of reporting that already occurs under section 71 of the Water Act.

⁴⁸ The obligation to report is established by Basin Plan s 13.14

⁴⁹ Basin Plan s 13.16

⁵⁰ Basin Plan s 13.15

⁵¹ Basin Plan s 13.15 provides that MDBA may enter agreements with Basin States that vary these requirements and timing

⁵² Basin Plan s 13.22

⁵³ Basin Plan s 13.05 (3)

⁵⁴ This statement relates to Schedule 12 guidance for Matter 19 as at May 2024.

⁵⁵ The MDBA may extend the period within which the report must be given by the Basin State (Water Act s 71 (2))

4.3.3 Basin States' existing compliance assurance reporting

Basin States already have their own compliance assurance systems and reporting, to assess and assure compliance with Basin State water management legislation. Some aspects of this assurance and reporting address compliance with legislation that is accredited as part of water resource plans.

Where Basin States have existing monitoring, audit, assurance and reporting arrangements that meet the needs and the criteria for fit-for-purpose water resource plan compliance monitoring and reporting, the Inspector-General is open to these being incorporated into Matter 19 reporting and associated guidelines. This may include confirming the Inspector-General's access to and visibility of Basin States existing assurance and compliance monitoring against accredited elements of Basin States legislation. This would help to improve compliance monitoring efficiency and multiple uses of existing data and reporting, thereby avoiding and removing any duplication.

4.3.4 Water Compliance Performance Reporting

The Inspector-General works with Basin States and their water regulators to develop and implement regular reporting of water compliance performance. This reporting concerns regulatory performance and is intended to provide visibility across the Basin of regulatory activity and outcomes in enforcing Basin State water legislation.

4.3.5 Metering Report Card

The Inspector-General works with Basin States to develop and implement regular reporting of metering reform across the Basin. This reporting addresses the proportion of take subject to metering and the quality of metering in terms of agreed standards.

4.4 Reporting needs for water resource plan compliance

The Inspector-General considers that the most appropriate and efficient way to establish fit-for-purpose water resource plan compliance monitoring and reporting is to collaborate with the MDBA and the Basin States to revise the MDBA's reporting guidelines for Basin Plan Schedule 12, Matter 19 - compliance with water resource plans.

The Inspector-General considers that working with the MDBA and Basin States to revise the guidelines for Matter 19 aligns with the intent of this element of the Basin Plan and provides efficiencies within an established process, governance and adaptive management. The requirement for the reports to be published provides accountability and transparency to the Basin community. The Basin Plan Chapter 13 and Schedule 12 requires annual reporting on Matter 19, while also providing for the MDBA to reach agreement with the Basin States and/or to publish guidelines in relation to reporting requirements.⁵⁶ Agreements and/or guidelines may vary the frequency of reporting of specific content.

The Inspector-General proposes consultation with the MDBA and the Basin States be framed around the following principles and elements for water resource plan compliance reporting guidelines:

- The Basin State (in consultation with the Inspector-General) identifies the commitments and obligations in each water resource plan and reports compliance with these commitments and obligations at an agreed frequency that is written into the reporting agreement or guidelines.

⁵⁶ The Basin Plan establishes the reporting requirements at s 13.14 in combination with Schedule 12, agreements in relation to the reporting requirements between the MDBA and Basin States or the Commonwealth at s 13.15 and for MDBA to publish guidelines in relation to the reporting requirements at s 13.16.

- The reporting guidelines should address the extent of compliance against specific commitments and obligations in the water resource plans (using quantitative data where available and fit-for-purpose), providing a level of confidence based on a standardised approach, supported by evidence that is trusted, verifiable and accessible.
- Reporting against the identified commitments and obligations should include target or commitment dates, responsible agencies, and the extent of compliance.
- Matter 19 reporting should address water resource plan commitments and obligations to report data, such as groundwater levels and water quality, unless these are reported under other Schedule 12 matters (e.g. matters 9, 10, 12 and 14).
- Reporting guidelines should address the need for transparency, while recognising and providing guidance on matters including privacy, confidentiality and evidentiary and other matters concerning regulatory actions.
- Where commitments or obligations are not being achieved, reporting should explain why, and what measures are being implemented to ensure they will be met in future.
- Water resource plan compliance monitoring and reporting builds on existing arrangements, is to be improved over time to be fit-for-purpose, improve efficiency and multiple uses of existing data and reporting, avoiding and removing any duplication. Existing arrangements include those under the requirements of the Water Act (e.g. section 71), the Basin Plan (e.g. Schedule 12 reporting), the metering report card, water compliance regulatory performance reporting to the Inspector-General, as well as existing Basin State arrangements.

4.5 Pathway forward for water resource plan compliance reporting

The Inspector-General will continue to work with the MDBA and the Basin States in a staged process, to adapt Matter 19 reporting required by the Basin Plan and to refine compliance reporting as a whole, in order to be fit-for-purpose for water resource plan compliance monitoring (i.e. meet the criteria described in Section 4.2).

The Matter 19 water resource plan compliance reporting is a preferred pathway for the Inspector-General to have access to routine compliance reporting. This is intended to complement and not duplicate section 71 reporting (SDL Compliance), existing Basin State assurance and metering report cards. The Inspector-General acknowledges that Matter 19 reporting information will also be used as one component supporting the MDBA's role in evaluating effectiveness of the Basin Plan.

The Inspector-General is open to considering a staged transition period in consultation with Basin States, where currently available information would be reported in the short term, while a staged transition period enables Basin States and the MDBA to establish arrangements to commence in the medium term for information not currently available. This will also allow time to take into account other reporting and opportunities to increase efficiencies, avoid duplication and improve fitness for purpose.

While noting that the Inspector-General can require direct reporting and develop its own statutory guidelines,⁵⁷ the preference is to develop one or more guidelines or practice notes in consultation with the MDBA and Basin States. Under all water resource plan compliance monitoring and reporting development scenarios, the Inspector-General will consult with Basin States and the MDBA prior to implementation.

⁵⁷ Water Act s 215V

5 Governance, relationships and transparency

5.1 Governance

The Inspector-General of Water Compliance is an independent statutory body and the key integrity agency for the Water Act. With this role comes a need to be transparent and publicly accountable.

Each year the Inspector-General is required to publish an Annual Work Plan, which sets out the key outcomes and priorities for the Inspector-General for that year, including in relation to water resource plan compliance.

5.2 Relationships

The Inspector-General has negotiated two Memoranda of Understanding with Commonwealth and Basin State agencies involved in compliance with water resource plans.

The Memorandum of Understanding – Water Compliance Collaboration in the Murray-Darling Basin⁵⁸ sets out the working relationship between the Inspector-General and Basin State regulatory agencies. It outlines the values and principles that all parties have agreed to. This Framework has been developed consistently with the Memorandum of Understanding.

Similarly, the Memorandum of Understanding – Collaboration Agreement⁵⁹ between the Inspector-General and the MDBA outlines the values, principles, and ways of working together that each organisation has committed to.⁶⁰

The Inspector-General conducts respectful and collaborative relationships with the Commonwealth and Basin States, while exercising powers and functions consistent with the Water Act.

The Inspector-General seeks to establish and maintain open, two-way communications with the Basin States, and to operate on a “no surprises” basis in ensuring compliance with the water resource plans. This includes encouraging the open exchange of information between the parties, and continuously improving compliance management approaches based on lessons gained through the application of this Framework.

5.3 Water resource plan compliance transparency and publication of annual reports

The Inspector-General wherever possible and appropriate will continue to publish and publicise the outcomes of water resource plan compliance and enforcement activities.

As described in Chapter 4 of this Framework, the Inspector-General's preference is that continual improvement of existing water resource plan compliance reporting occur under the Basin Plan reporting requirement Matter 19 of Schedule 12, to improve fitness-for-purpose. Reporting under Schedule 12 must be completed annually by Basin States and must be published by the MDBA. In addition, the Inspector-General will publish the outcomes of compliance audits on its website in a timely manner. As noted, while the Basin Plan requires annual reporting on Matter 19, the frequency of specific content may be varied as agreed with MDBA and the Basin States, as documented in guidance. In addition, this should complement and not duplicate other reporting.

⁵⁸ [Memorandum of Understanding Water Compliance Collaboration In The Murray-Darling Basin \(igwc.gov.au\)](#)

⁵⁹ [Memorandum of Understanding MDBA and Inspector-General Water Compliance](#)

⁶⁰ Note that for NSW, this Memorandum of Understanding is between the Inspector-General and the Natural Resources Access Regulator. The Inspector-General will engage with the NSW Department of Climate Change, Energy, the Environment and Water to support productive relationships concerning water resource plan implementation and compliance.

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