



**Compliance and Enforcement Strategy
for
Groundwater and Surface Water Diversions**

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Acknowledgements

GWMWater respectfully acknowledges the Traditional Custodians of the lands and waterways throughout Victoria and pays its respects to their elders- past, present and emerging. GWMWater acknowledges the long standing connection between Indigenous peoples and their traditional lands and waters.

GWMWater also acknowledges the contribution made by the Victorian Department of Environment, Land, Water and Planning towards the development of this Strategy.

1. Introduction

Grampians Wimmera Mallee Water (GWMWater) is responsible for providing water and wastewater services to 72,000 people over 62,000km² in the Grampians, Wimmera and Mallee regions of Victoria, having one of the largest geographical footprints of all Victorian water businesses. GWMWater is also responsible for water resource management, including the licensing of take from unregulated surface water and groundwater resource units across its jurisdiction.

Water is a precious and limited resource. It is critical to our economy, environment and communities. This is why water needs to be managed fairly for all water users. To ensure fair and equitable access to the region's water supply for our customers, communities and the environment, we administer a risk-based approach to our compliance and enforcement activities, ensuring they are conducted in a responsive, open, accountable and consistent manner.

Compliance and enforcement are two separate concepts that work together to maintain the integrity of water markets and sustain public confidence in Victoria's water management. Compliance is a proactive regulatory activity where actions are taken to prevent breaches or offences from occurring in the first instance. Enforcement is a reactive regulatory activity that is triggered when breaches of the law are detected. Enforcement actions under the Victorian *Water Act 1989* include warning notices, suspension or cancellation of an authorisation (e.g. Take and Use Licence), and prosecution.

In Victoria, compliance and enforcement is carried out by the Minister for Water and water corporations such as GWMWater. Under the Victorian Water Act, the Minister for Water has delegated powers and functions for licence administration to water corporations. This means that in addition to GWMWater's function of supplying water and wastewater services to towns, and water to farms and industry through its rural pipeline networks, GWMWater is responsible for the compliance and enforcement of rules and legislative requirements surrounding the take and use of unregulated surface water and groundwater.

2. GWMWater's Role and Responsibilities

GWMWater has been delegated responsibility under the Victorian *Water Act 1989* and supporting policies and documents to manage the compliance and enforcement of water take from the resource units within its jurisdiction. The *Water Act 1989* is the main governing Act from which our compliance and enforcement responsibilities arise. The *Water Act 1989* operates to promote fair, efficient and sustainable use and management of Victoria's water resources for the benefit of water users, communities, the environment and the State.

In terms of compliance and enforcement, GWMWater is responsible for:

- Providing information to licence holders regarding licence condition obligations and relevant state policies.
- Monitoring the compliance of water users with their licence(s) or authorisation(s).
- Investigating any detected breach of the *Water Act 1989*.
- Responding to/investigating any reports alleging that possible breaches of the *Water Act 1989* may have occurred.
- Determining the extent of any enforcement action to be taken, and taking that action.

3. Purpose and Scope

This Compliance and Enforcement Strategy (the Strategy) provides for a responsive, open, accountable and consistent approach to compliance and enforcement across (non-urban) surface water and groundwater resource units within GWMWater's jurisdiction. This Strategy relates to compliance and enforcement of the Victorian *Water Act 1989*.

The Strategy follows the key principles and standards developed by the Victorian Department of Environment, Land, Water and Planning (DELWP) for compliance and enforcement in Victoria. These principles and standards can be found on the Department's website (<https://www.water.vic.gov.au/mdb/compliance/compliance-and-enforcement-frameworks>).

This Strategy applies to the take and use of water, and the water resource units across GWMWater's jurisdiction, with the exclusion of rural pipeline networks and urban or town supply. The water resource units this Strategy applies to are commonly referred to as *groundwater* and *unregulated surface water (inclusive of farm dams)*.

4. Compliance and Enforcement Approach

4.1 Methods Used to Encourage Compliance and Perform Enforcement Activities

GWMWater utilises a range of tools to encourage compliance, in particular through education and community engagement. Water users are encouraged to actively self-monitor their water use, and proactively take any action required to remain compliant with their respective authorisations and licences.

GWMWater's enforcement process provides a deterrent to non-compliance. Users who remain compliant are not subject to enforcement actions. The enforcement options available to GWMWater are summarised later in this section.

We encourage compliance by using methods such as:

- Education through direct communication, newsletters, information articles, and information published on our website
- Licence holder education and promotion of proactive water management
- Annual usage reports for groundwater and surface water diverters (where applicable)
- Providing access to near real time meter readings and water use information for meters fitted with telemetry
- Provision of ad-hoc water usage information upon request
- Visibility of GWMWater's monitoring, compliance & enforcement activities through on-ground presence
- Communication and reporting of compliance and enforcement activities through our annual report and website

We detect instances of non-compliance using methods such as:

- Monitoring and verifying water use through on-site meter reading and/or remotely acquired meter data (back-to-base telemetry)
- Routine and ad-hoc site inspections by GWMWater Officers
- Reports from the public of suspected illegal activity or possible non-compliance with the *Water Act 1989*

GWMWater utilise a range of enforcement options, including:

- **Warnings**
A verbal or written warning may be issued to the offending party in relation to a detected non-compliance with the *Water Act 1989*.
- **Notice of Contravention**
This is issued under section 151 of the *Water Act 1989*, and specifies the corrective action the offending party must take, and the timeframe in which the action must be taken.

- **Impose penalties for a breach of the *Water Act 1989***
A Penalty Infringement Notice (pending Regulations) may be imposed for non-compliances with the *Water Act 1989*. This Notice may be imposed in addition to requiring other corrective action be taken by the offending party.
- **Suspension or cancellation of licence**
For more severe non-compliances or repeat non-compliances, GWMWater may suspend or cancel a water licence or authorisation to take water, as permitted by the relevant sections of the *Water Act 1989*.
- **Prosecution**
Depending on the nature of the non-compliance(s), GWMWater may commence proceedings under the *Water Act 1989* to prosecute the offending party. Prosecution may also be pursued following an escalation process, where other enforcement action has been unsuccessful.

4.2 Risk-based Approach to Compliance and Enforcement

“A risk-based compliance system is one that identifies ‘at risk’ water resources, assesses the likelihood and consequences of harm, and makes sure that monitoring, detection and enforcement actions build as the risk to the resources increases. Having a risk-based approach does not mean that some level of non-compliance is acceptable. It means that water corporations’ resources are used efficiently by focussing more on areas and entities where there are the greatest compliance risks” (DELWP, 2019a).

4.2.1 Water Resource Unit Risk Rating

A risk assessment process has been used to assign a risk rating to each water resource unit managed by GWMWater. These risk ratings aim to identify the potential consequence to water resource units from instances of non-compliance.

The criteria used to determine the consequence to water resource units are based on the following:

- The extent to which the resource has been developed
- The impact on the resource from extractive activities
- The impact on the resource due to other factors

Table 1 and *Table 2* provide a summary of the risk ratings generated for each water resource unit, based on the criteria outlined above. These risk ratings have been generated using the risk rating matrix located in *Appendix 1*.

Table 1: Risk rating for groundwater resource units

Groundwater Resource	Risk level (Low, Medium, High)
Neuarpur Zone 1	Medium
Neuarpur Zone 2	Low
Apsley	Low
Langkoop	Low
Edenhope	Low
Ullswater	Low
Gymbowen	Low
Northern	Low
Yanipy	Medium
Murrayville	Medium
East Grampians	Low
West Grampians	Low
Upper Glenelg	Low
Upper Wimmera	Low
Avoca	Low
Wimmera - Mallee Sedimentary Plains	Low

Table 2: Risk rating for surface water resource units

Surface water Resource	Risk level (Low, Medium, High)
Wimmera River	Medium
Richardson - Avon River	Medium
Avoca River	Medium
West Wimmera	Low
Millicent Coast	Low

4.2.2. Prohibited Activities and Compliance threats

The risk rating for prohibited activities and compliance threats is assessed independently from the risk rating for water resource units. Instead, it takes into account static and dynamic risks. Static risks refer to factors within the regulatory framework, e.g. legislation. A static risk does not change in its nature, such as the extraction of water from a water resource unit without an authorisation to do so constitutes a non-compliance with the *Water Act 1989*, irrespective of the details of the specific case.

Dynamic risks are those specific to each case, with the consequence potentially differing for the same activity occurring in different circumstances. Dynamic risk factors could include the specific attributes of the water resource unit, and the compliance history of a water user.

Factors taken into consideration when determining the potential impacts of non-compliance are:

- Potential to impact the water resource unit, environment and other users
- Nature of the non-compliance
- Volume or extent of water resource taken or affected

Evaluation of a given prohibited activity or compliance threat against these criteria will result in a varying risk levels for a water resource unit, depending on the nature of the non-compliance and the severity of potential impacts.

Due to the wide range of potential impacts which could be caused by a prohibited activity or compliance threat, it is impractical to assign a generalised risk rating. The level of risk resulting from a prohibited activity or compliance threat may range from a low risk to a high risk, depending on the circumstances of the prohibited activity or compliance threat. Therefore, the risk associated with a prohibited activity or compliance threat must be assessed on a case-by-case basis.

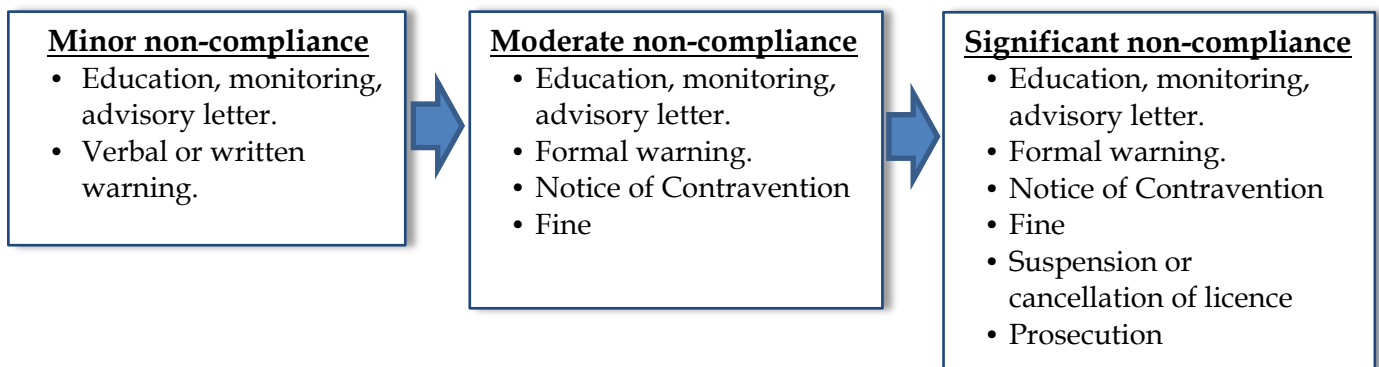
By dynamically assessing factors such as seasonal conditions, water resource unit condition and licence holder activity, a more robust assessment can be made of the potential for prohibited activities to occur or compliance threats be realised within a given season.

4.3 Escalation Pathway

GWMWater’s approach to compliance focuses on supporting licence holders to understand their obligations and responsibilities, through education and awareness as a first level. Whilst this is the preferred method of supporting compliance, any suspected possible non-compliances with the *Water Act 1989* will still be investigated.

Enforcement action will depend on the nature of the non-compliance, including; intent, impact and previous non-compliance(s). As the severity of a non-compliance increases, more than one method may be utilised. *Figure 1* provides an example of how enforcement action may escalate, and how multiple methods may be used, depending on the severity of a non-compliance.

Figure 1: Example of escalating enforcement action



4.4 Enforcement Roles and Responsibilities

There are two main work groups within GWMWater responsible for compliance and enforcement activities; Water Resources Division and Legal and Corporate Resources Division. The roles and responsibilities of each division are summarised below.

Encouraging Compliance:

The Water Resources Division is responsible for educating and informing licence holders of their obligation and responsibilities, and communicating the process for reporting suspected non-compliances. The Water Resource Division is also responsible for inspections and the monitoring activities which support compliance.

Detecting Non-Compliance:

Non-compliance is often detected through the monitoring programs described above. Non-compliance may also be detected following reports of suspected non-compliance from the general public. If a non-compliance is suspected or detected as a result of monitoring activities, the Manager Water Resources is responsible for initiating an investigation. If a non-compliance is suspected following a report of suspected non-compliance from the general public, the Manager Legal and Corporate Resources is responsible for initiating an investigation.

Responding to Non-Compliance:

In the event a non-compliance is confirmed, the Manager Water Resources is responsible for authorising an appropriate course of action. Enforcement action may involve both, the Manager Water Resources and Manager Legal and Corporate Resources, acting within their respective delegated authority.

4.5 Decision-making Process

GWMWater will investigate all complaints and allegations of suspected non-compliance with the *Water Act 1989*, irrespective of whether these relate to licensed users or other 'unlicensed' matters. Investigations will take into account individual factors such as a user's compliance history, intent, extent and impact of non-compliance, all of which will ultimately determine the course of action taken by GWMWater.

All documentation and notes associated with the investigation of suspected non-compliances, and enforcement action taken in relation to a confirmed non-compliances will be recorded and maintained in GWMWater's Record Management System.

GWMWater will use the assessment matrix outlined in *Table 3* to assign an investigation priority to each instance of suspected non-compliance. The priority rating informs how quickly investigation of a suspected non-compliance should be commenced. A description of each priority level is provided below the table.

Table 3. Priority rating matrix for investigation of suspected non-compliances

Water Resource Unit	Prohibited activity/compliance threat		
	<i>Low</i>	<i>Medium</i>	<i>High</i>
<i>High</i>	Medium	High	High
<i>Medium</i>	Low	Medium	High
<i>Low</i>	Low	Medium	Medium

Priority Descriptors

Low:

Suspected non-compliances assessed to be a low risk threat will be documented and investigated when resources are available to do so as a part of normal business duties. Normal business duties reflect the roles and responsibilities required of each employee to achieve business objectives. It is important to note that while resources will be prioritised to address high risk threats, low risk threats will not be neglected.

Medium:

Suspected non-compliances assessed to be a medium risk threat will be documented prioritised for investigation as a part of normal business duties. Time critical tasks considered core to business function may still be prioritised over investigation of medium risk threats. Medium risks threats will be documented and communicated to the relevant Manager.

High:

Suspected non-compliances assessed to be a high risk threat have the greatest potential to significantly impact other users, the environment and/or communities. Suspected non-compliances assessed to be a high risk threat will be investigated as a priority, with the relevant Manager(s) immediately notified. At this time, additional resources may be engaged to assist in the investigation.

5. Internal Review Process for Enforcement Decisions

A party who is subject to enforcement action by GWMWater may request an internal review of that action, and GWMWater commits itself to undertake such review.

The Manager Legal and Corporate Resources is the position responsible for conducting an internal review, and may utilise the Corporation's resources as required to undertake the review. The purpose of this review is to ensure the proper internal processes have been followed. The outcome of the review will be communicated back to the responsible Manager, who will inform the initiator of the review of any outcome.

GWMWater cannot review matters which have been decided by the Minister for Water, a Court, or the Victorian Civil and Administrative Tribunal.

6. Training

The training requirements for staff involved in compliance and enforcement activities are determined based on individual roles. Training needs are reviewed routinely through the performance planning process.

DELWP has produced a Compliance and Enforcement Manual and Authorised Field Officer Manual to support Water Corporations undertaking compliance and enforcement activities.

Key GWMWater staff with responsibilities for compliance and enforcement activities are:

- Manager Water Resources
- Manager Legal and Corporate Resources
- Senior Water Resources Officer
- Investigations Officer
- Water Resources Officer

7. Communication and Reporting

GWMWater communicates its compliance and enforcement activities in a transparent and accountable manner to staff, customers, licence holders and communities. We communicate and report on these activities through materials such as newsletters, annual reports and publishing information on our website.

GWMWater has established an internal process for reporting on compliance and enforcement activities to the GWMWater Board and its Water Resources sub-Committee.

8. Continual Improvement

GWMWater's Compliance and Enforcement strategy has been developed using DELWP's *Non-Urban Water Compliance and Enforcement Guidelines for Water Corporations* (DELWP, 2019a). This Strategy will be reviewed and updated as necessary every 4 years, or earlier if warranted.

GWMWater recognises the need for a collaborative compliance and enforcement system across Victoria to maintain public confidence in the equitable and effective management of the State's water resources. We aim to support this through the application of this Strategy, and focusing on continual improvement of our systems, in collaboration with DELWP and other Victorian water corporations.

9. Reporting a Suspected Offence or Non-compliance

To report a suspected non-compliance with the *Water Act 1989*, within GWMWater's jurisdiction, contact our **Water Investigations Officer** through any of following:

In person (GWMWater Office): 11 McLachlan St, Horsham, Victoria
Mail: PO Box 481, Horsham, VIC, 3402
Telephone: 1300 659 961
Email: info@gwmwater.org.au

10. References

DELWP. (2019a). *Non-Urban Water Compliance and Enforcement Guidelines for Water Corporations*. The State of Victoria Department of Environment, Land, Water and Planning.

DELWP. (2019b). *Fines and Penalties: Water Penalties and Fees*. The State of Victoria Department of Environment, Land, Water and Planning)

<https://www2.delwp.vic.gov.au/doing-business-with-us/fees-and-charges>

11. Appendices

11.1 Appendix 1

The following matrices have been used to generate risk ratings for each water resource unit. The risk rating legend was used to determine the overall risk rating of each water resource unit or catchment. These matrices are not static, and are subject to change following periodic review by GWMWater.

Risk Rating Legend

Risk Rating	Criteria met
High	3
Medium	2
Low	1

Groundwater Resource Units - Risk Rating Matrix

Management Zone	The extent of resource development (Up to PAV)	Is the aquifer quick to respond to extractive activities (regional influence)	Is the current resource declining due to extractive activities	Risk Rating
Neuarpur Zone 1	Y	N	Y	Medium
Neuarpur Zone 2	Y	N	N	Low
Apsley	Y	N	N	Low
Langkoop	Y	N	N	Low
Edenhope	N	N	N	Low
Ullswater	N	N	N	Low
Gymbowen	N	N	N	Low
Northern	N	N	N	Low
Yanipy	Y	N	Y	Medium
Murrayville	N	Y	Y	Medium
East Grampians	N	N	N	Low
West Grampians	N	N	N	Low
Upper Glenelg	N	N	N	Low
Upper Wimmera	N	N	N	Low
Avoca	N	Y	N	Low
Wimmera - Mallee Sedimentary Plains	N	N	N	Low

Surface Water Resource Units - Risk Rating Matrix

Management Zone	The extent of resource development (Up to PAV)	Are extractive activities likely to impact available surface water (localised influence)	Is the current resource declining due to extractive activities	Risk Rating
Wimmera River	Y	Y	N	Medium
Richardson - Avon River	Y	Y	N	Medium
Avoca River	Y	Y	N	Medium
West Wimmera Surface Water	Y	N	N	Low
Millicent Coast	Y	N	N	Low

The following risk matrix is used to demonstrate an example of the potential level of risk arising from a prohibited activity or compliance threat. The nature of the non-compliance and the particular water resource unit have a significant bearing on the resulting risk rating. As such, the risk rating for particular prohibited activities or compliance threats could be either low, medium or high.

Example of Prohibited Activity or Compliance Threat Risk Matrix

Prohibitive Activity / Compliance Threat	Could a large volume of water be taken through the breach (>50 ML)?	Was a large volume of water taken through the breach (>50 ML)	Potential to impact environment or third party users	Risk Rating*
Section 51 - Unauthorised extraction of water (irrigation or commercial application)	Y	Y/N	Y/N	Low / Medium / High
Section 51 - Unauthorised extraction of water (Domestic and Stock)	N	N	Y/N	Low
Section 67 - Unauthorised works (Irrigation or Commercial application), including alteration and maintenance.	Y	Y/N	Y/N	Low / Medium / High
Section 67 - Unauthorised works (Domestic and Stock), including alteration and maintenance.	N	N	Y/N	Low
Section 51 - Breaches of licence conditions	Y/N	Y/N	Y/N	Low / Medium / High
Section 67 - Breaches of licence conditions	Y/N	Y/N	Y/N	Low / Medium / High

* Potential risk rating, this does not consider the impact of an individual Prohibitive Activity or Compliance Threat.