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The National Competition Council

The National Competition Council was established on 6 November 1995 by the *Competition Policy Reform Act 1995* following agreement by the Commonwealth, State and Territory governments.

It is a federal statutory authority which functions as an independent advisory body for all governments on the implementation of the National Competition Policy reforms. The Council's aim is to 'improve the well being of all Australians through growth, innovation and rising productivity, and by promoting competition that is in the public interest'.

Information on the National Competition Council, its publications and its current work program can be found on the internet at www.ncc.gov.au or by contacting NCC Communications on (03) 9285 7474.

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Abbreviations

ACT	Australian Capital Territory
ACTEW	Australian Capital Territory Electricity and Water Corporation
ARMCANZ	Agriculture and Resource Management Council of Australia and New Zealand
ANZECC	Australian and New Zealand Environment and Conservation Council
CoAG	Council of Australian Governments
CPA	Competition Principles Agreement
CPI	Consumer price index
CSO	Community service obligation
DLWC	(former) Department of Land and Water Conservation (New South Wales)
DNRE	(former) Department of Natural Resources and Environment, now Department of Sustainability and Environment (Victoria)
DPIF	Department of Primary Industry and Fisheries (Tasmania)
DPIWE	Department of Primary Industries, Water and Environment (Tasmania)
DSE	Department of Sustainability and Environment
DWLBC	Department of Water Land and Biodiversity Conservation (South Australia)
EBITDA	Earnings before interest, tax, depreciation and amortisation
ERA	Economic Regulation Authority (Western Australia)
ESC	Essential Services Commission (Victoria)
ESCOSA	Essential Services Commission of South Australia

GPOC	Government Prices Oversight Commission (Tasmania)
INRM	Integrated Natural Resource Management
IPART	Independent Pricing and Regulatory Tribunal (New South Wales)
MDBC	Murray–Darling Basin Commission
MJA	Marsden Jacob Associates
NCC	National Competition Council
NCP	National Competition Policy
NECG	Network Economics Consulting Group
NRM	Department of Natural Resources and Mines (Queensland)
NWQMS	National Water Quality Management Strategy
ODRC	Optimised depreciated replacement cost
RAT	Recoverable amounts test
RMPAT	Resource Management and Planning Appeal Tribunal (Tasmania)
RUWA	Regional urban water authority
SEPP	State environment protection policy
SWMOP	State Water Management Outcomes Plan (New South Wales)
WSAA	Water Services Association of Australia
WRC	Water and Rivers Commission (Western Australia)

Findings and recommendations

Australia's water reform program is perhaps the most challenging aspect of the National Competition Policy (NCP). The program incorporates economic, environmental and social measures, and aims to achieve a more efficient, flexible, sustainable industry capable of delivering higher quality water with greater security of supply.

The water reform program, which was brought under the ambit of the NCP in 1995, requires governments to have implemented a range of reforms by 2005. These reforms include:

- changing the basis for pricing water services from property valuation systems (often with free water allowances) to systems directly related to the volume of water used, to better manage the demand for water;
- ensuring the prices charged for water and wastewater services cover the full cost of providing those services, to ensure sufficient provision for asset maintenance and refurbishment, while protecting against monopoly pricing by service providers;
- converting water allocation arrangements that were imprecise, attached to land ownership and often overallocated, to secure systems of water entitlements separate from land title;
- providing water specifically for environmental purposes, in recognition that overallocations in some systems threaten ecological processes and biodiversity;
- facilitating water trading to allow water to be used where it is most valued, to maximise the return to Australia from water use;
- requiring proposals for new investment in rural water infrastructure to undergo rigorous appraisal, to show that each project is economically viable and ecologically sustainable;
- better integrating natural resource management activities, including catchment management, in recognition of the interrelationship of soil, water and vegetation and the impact of a land use decision in one area on the whole of the river basin or region;
- improving water quality through a combination of market-based and regulatory measures, including water quality monitoring and catchment management policies and community consultation and awareness;

- clearly defining the roles of water industry institutions so the role of service provision and the roles of standards-setting and regulation do not overlap, to remove the potential for conflicts of interest;
- ensuring that water and wastewater service providers (in metropolitan areas in particular) have a commercial focus, that services are delivered as efficiently as possible and that service providers seek to achieve international best practice;
- devolving greater responsibility for the management of irrigation areas to local constituents, subject to appropriate regulatory frameworks being established; and
- undertaking public education and consultation on the need for and benefits of water reform, particularly where change and/or new initiatives are contemplated.

This 2003 assessment is the fourth NCP assessment of governments' progress in implementing the water resource policy, following assessments in 1999, 2001 and 2002. The National Competition Council considered each government's progress in implementing reforms that Council of Australian Governments (CoAG) senior officials scheduled for assessment this year as well as matters that the Council had found in earlier annual NCP assessments to be incomplete. In assessing progress in these areas, the Council also recommended on 2003-04 competition payments.

The elements of the water reform program that the Council considered in 2003 encompassed:

- urban water pricing (full cost pricing and consumption-based pricing), institutional reforms (institutional separation, a commercial focus by water businesses, the local devolution of irrigation scheme management, and integrated catchment management arrangements), intrastate trading and the National Water Quality Management Strategy, which are the reforms that CoAG determined should be assessed in 2003;
- the implementation of appropriate environmental flow regimes in stressed and overallocated river systems in New South Wales, Victoria and Queensland, which the Council had found in previous NCP assessments to not be sufficiently advanced;
- the establishment by New South Wales of arrangements to deliver its system of water entitlements (the water access licence system and the register of water licences);
- new investments in water infrastructure in Queensland, South Australia and Tasmania, which need to be shown to be economically viable and ecologically sustainable;

- public education and consultation activity, which CoAG senior officials determined should occur in conjunction with other reforms; and
- the review and, where appropriate, reform of water legislation, in line with the Competition Principles Agreement requirement that the review and appropriate reform of the stock of legislation that restricts competition be completed by 30 June 2002.

In assessing governments' performance and recommending on competition payments, the Council accounted for the CoAG work under way. This work is focusing on the sustainability of Australia's river systems and water use, particularly on matters of resource security, water trading, the compatibility of jurisdictions' systems of water management, and change management. On 4 June 2003, the Deputy Prime Minister foreshadowed that a new intergovernmental agreement on water would be considered at the CoAG meeting in August 2003. The CoAG work led New South Wales to postpone the application of its water management arrangements and its new licensing and registry system to 1 January 2004. These New South Wales matters were due for assessment in 2003.

This 2003 NCP assessment also reports on governments' progress in implementing the reforms that will be assessed in 2004 and 2005. The 2004 assessment will consider rural water pricing, interstate trading arrangements, the conversion of existing water allocations to new entitlements systems, and progress in implementing environmental allocations. The 2005 assessment will consider governments' implementation of the entire package of reforms. While the Council found in this 2003 NCP assessment that progress was slow in some of the areas to be assessed in 2004 and 2005, it made no recommendations on competition payments on these matters.

All governments provided an annual report outlining their progress in implementing the CoAG water reform program. As in previous assessments, stakeholders also made important contributions. The Council received 16 written submissions for the 2003 NCP assessment, covering: water pricing, water management arrangements (including the security of entitlements systems and the adequacy of water provision to the environment), water trading and new rural water infrastructure projects.

New South Wales

Urban water and wastewater pricing

The four metropolitan urban water and wastewater service businesses — the Sydney Water Corporation, the Hunter Water Corporation, the Gosford City Council and the Wyong Shire Council — all set prices on a consumption basis to achieve full cost recovery (the Sydney Water Corporation will eliminate its few remaining property-based charges by June 2005). The Sydney Catchment Authority, which owns the headworks infrastructure and supplies bulk water to the Sydney Water Corporation, also sets prices on a full cost recovery basis. The Independent Pricing and Regulatory Tribunal regulates the prices of the services provided by the four urban businesses and the Sydney Catchment Authority. The tribunal's current price determinations apply to 30 June 2005.

New South Wales has 87 nonmetropolitan urban local government water and wastewater utilities with more than 1000 connected properties. About three-quarters of these utilities set prices that achieved full cost recovery in 2001-02. The utilities that are yet to achieve full cost recovery are relatively small, and collectively represent about 3 per cent of all property connections held by utilities with more than 1000 connections. About 70 per cent of water utilities with more than 1000 connections apply consumption-based pricing. Some of those yet to introduce fully consumption-based pricing impose an access charge and free water allowance, with a use-based charge for excess water consumption. These arrangements may approximate consumption-based pricing if the free water allowance is limited to the quantity needed to meet public health requirements and if there is an appropriate charge for discretionary use above the allowance. Several utilities are reducing their free water allowances. Although some still provide relatively high allowances, these utilities represent only a small proportion of the total number of water connections in the State.

New South Wales issued best practice pricing guidelines in February 2003, which will assist the remaining utilities to move to full cost recovery and adopt consumption-based pricing. In addition, the *Local Government Amendment (National Competition Policy Review) Act 2003* introduced best practice management guidelines for water and wastewater utilities. The management guidelines incorporate arrangements that increase the incentive for utilities to price appropriately. New South Wales anticipates an increased number of utilities to fully recover costs in 2003-04 as a result of the best practice pricing and management guidelines.

The Council considers that New South Wales achieved satisfactory progress against its urban water and wastewater pricing obligations for the 2003 NCP assessment.

The Council will look in the 2004 NCP assessment for substantial achievement of full cost recovery and broad application of consumption-based pricing by New South Wales water and wastewater utilities. While this achievement will require some advance on the outcomes in 2001-02, the Council accepts that the best practice pricing and management guidelines now in place are likely to lead to more local government utilities achieving full cost recovery and applying consumption-based pricing.

Water entitlements: access licences and the register of entitlements

At the time of the 2002 NCP assessment, New South Wales was converting its system of five-year licences under the *Water Act 1912* to a new system of 15-year access licences under the *Water Management Act 2000*. The Government was giving priority to converting licences for water sources covered by its first round of water sharing plans (which cover about 80 per cent of the State's water). Regulations under the Water Management Act define the arrangements for licence renewals. The Regulations give priority to existing licence holders, with licences expected to be renewed subject to standard environmental assessments. New South Wales was also working on a system for registering water rights at the time of the 2002 NCP assessment. The register is intended to give licence holders certainty in their right to water, such that access licences can be used as mortgage security in the same way that property can.

The new licensing and approvals system and the register were to be operational by January 2003. Following the Deputy Prime Minister's announcement on 4 June 2003 foreshadowing a new intergovernmental agreement on water, New South Wales deferred the application of its water management arrangements, including the commencement date for the new licensing system and registry, to 1 January 2004.

The Council defers the 2003 NCP assessment of New South Wales's implementation of its access licensing system and registry to February 2004.

Provision of water to the environment in stressed and overallocated systems

New South Wales gazetted water sharing plans for 35 surface water and groundwater systems, which allocate water for environmental purposes. The plans are due to commence on 1 January 2004, following the Government's decision to defer the plans' commencement by six months to accommodate CoAG work on the water industry. The foreshadowed CoAG work may alter the approach to some areas of the 1994 CoAG water agreement, including the allocation of water to the environment (which is a matter covered by the New South Wales water sharing plans).

Several aspects of the water sharing process in New South Wales suggest the likelihood of better environmental outcomes than are available under the State's former processes. The plans allocate water for extractive and environmental purposes, so recognise the environment as a legitimate user of water. For the unregulated rivers, the plans provide the first formal allocation of water to the environment. The plans were developed by water management committees, which had access to a range of scientific and other information, and involved an extensive public process. The plans incorporate processes for monitoring environmental outcomes and provide for increased environmental allocations if monitoring outcomes indicate this is warranted.

A key issue in New South Wales is the nature of the trade-offs made when the amount of water identified for environmental flows is less than the best available science recommends. The CoAG water agreement acknowledges the existing rights of water users, meaning that water management committees developing environmental flow regimes may recommend a flow regime that does not meet the scientifically recommended regime in the shorter term. Such decisions imply that the community has agreed to accept the potential consequences. The Council considers, therefore, that there must be sufficient public information on the environmental risks posed by the negotiated flow regimes to allow the community to understand and comment on the water management committee's decisions on water use. Moreover, the water management committees need to be representative of all interests, and the flow regime and associated river health activities must be likely to deliver recommended environmental flow objectives within a reasonable period.

New South Wales published summary guides and fact sheets on its water sharing plans, providing useful information for licence holders and the wider community. The guides and facts sheets indicate that the water sharing plans will provide improved environmental outcomes in most cases. New South Wales also intends to provide more detailed information on the environmental benefits of its water sharing plans in the near future.

The Council could not conclude from the information that New South Wales has provided to date whether the water sharing plans satisfy the CoAG requirement to allocate an appropriate amount of water to the environment. The guides and facts sheets (which were not intended to address the CoAG requirement) summarise the environmental water provisions in the plans, but only some provide information on the extent to which environmental flows (or recharge) will be improved and/or examples of the expected environmental benefits. Only a few of the guides indicate the extent to which the extraction limits and other rules in the plans are expected to lead to the sustainable use of the water source. The guides and facts sheets provide no information on the extent of the trade-offs made in deciding on environmental allocations or on the rationales for the trade-offs. They also provide little information on the manner in which the water management committees considered and incorporated the environmental science in developing the plans.

The Council defers the 2003 NCP assessment of New South Wales's actions to provide water for environmental purposes in stressed and overallocated river and groundwater systems to February 2004. The Council will consider recommendations on New South Wales' 2003-04 competition payments relating to the provision of water to the environment in stressed and overallocated systems in the deferred assessment. Until then, the Council will work with New South Wales to better understand the basis for and the effects of the environmental allocations in the gazetted water sharing plans. The Council will look for New South Wales to provide information to demonstrate that its water sharing plans will deliver environmental outcomes that (as required by the CoAG water agreement) are determined wherever possible using the best scientific information available. The Council will seek to understand the nature and extent of any socioeconomic trade-offs from recommended environmental flows.

Intrastate trade in water

The New South Wales Government's gazetted water sharing plans and the Statewide access licence dealing principles provide greater scope for trading than previously possible. The Government's decision to defer commencement of the gazetted water sharing plans and the new registry system until January 2004 will delay the commencement of water trading under the new arrangements. Trading will occur in the interim, however, under the Water Act.

The trading rules in the water sharing plans contain some restrictions on trading, not all of which appear to be related to a need to protect the environment or ensure the practical management of trading. Some constraints appear to be a response to socioeconomic concerns. Nevertheless, by developing its trading rules, New South Wales made sufficient progress against the CoAG obligations on water trading for this 2003 NCP assessment. The Council will work with New South Wales during 2003-04 to better understand the rationale for the trading rules and their consistency with CoAG obligations.

The prohibition on trade out of some irrigation districts in New South Wales is a significant constraint on both intrastate and interstate trade, and appears inconsistent with the CoAG obligations. In the 2004 NCP assessment, the Council will look for New South Wales to have substantially resolved this issue, accounting for the Murray–Darling Basin Commission’s current work on trading restrictions. Under the CoAG agreements, the New South Wales Government is ultimately responsible for ensuring the prohibition is removed or demonstrating that it is in the public interest.

The Council considers that New South Wales made sufficient progress against its CoAG obligations on water trading for the 2003 NCP assessment, noting the State’s progress with the water sharing plans.

The Council will revisit New South Wales’s intrastate trading arrangements in the 2004 NCP assessment when it considers interstate trade. In the 2004 assessment, the Council will look for substantive progress by New South Wales towards removing constraints on trade out of irrigation districts or replacing them with less-restrictive alternatives, and for New South Wales to report on the operation of the trading rules in the water sharing plans. Given the concerns with the timeliness of the previous trading approval processes, the Council will also expect New South Wales to report in 2004 on trading approvals (based on the first three months of operation of its new system).

Institutional reform

Structural separation

New South Wales transferred responsibility for State Water, previously a ring-fenced business unit within the (former) Department of Land and Water Conservation, to the Ministry of Energy and Utilities. This separation, which followed consultation with water users, clearly distinguishes between the manager of built assets and the natural resource regulator. The Independent Pricing and Regulatory Tribunal has responsibility for price regulation of the four urban water and wastewater service providers, the Sydney Catchment Authority and State Water. New South Wales annually benchmarks the performance of its nonmetropolitan urban water and wastewater providers, enabling customers to compare the standard of service of the different providers.

Integrated catchment management

New South Wales continued to make progress in implementing its integrated catchment management obligations. The Government's principal achievement since 2001 has been the development of 21 catchment blueprints covering the whole of the State. Other developments include: the improved coordination of natural resource management; bilateral agreements on the National Action Plan for Salinity and Water Quality and the Natural Heritage Trust extension with the Commonwealth Government; ongoing work by the Healthy Rivers Commission; and the Wentworth Group Report on land clearing and catchment-related issues.

The Council considers that New South Wales satisfactorily addressed its structural separation obligations.

The Council considers that New South Wales made satisfactory progress against its integrated catchment management obligations for the 2003 NCP assessment. The Council will next consider New South Wales's progress on integrated catchment management as part of its full assessment of water reform in 2005.

The Council concluded in previous NCP assessments that New South Wales had satisfied requirements to: ensure service delivery organisations in metropolitan areas have a commercial focus; ensure service providers implement performance monitoring arrangements; and devolve greater responsibility for the management of irrigation areas to local constituents.

National Water Quality Management Strategy

New South Wales continued to make progress in implementing the National Water Quality Management Strategy (NWQMS) framework, with significant developments since 2001 including:

- the Healthy Rivers Commission's development of long-term environmental objectives for a number of river systems, drawing on the NWQMS guidelines;
- the release of an Environment Protection Authority consultation paper on marine water quality objectives, drawing on the NWQMS guidelines;
- the establishment of the State Water Management Outcomes Plan to set overarching policy contexts, targets and strategic outcomes for water resources, with regard to the NWQMS requirements;
- the incorporation of water quality initiatives in water sharing plans;
- the release of an interim approach to reviewing, coordinating and streamlining water monitoring arrangements;
- the development of new water quality benchmarks in accord with the NWQMS methods;
- ongoing work on market-based measures to improve water quality; and
- the extended funding of stormwater management programs.

<p>The Council considers that New South Wales made satisfactory progress in implementing policies that reflect the NWQMS guidelines for the 2003 NCP assessment. The Council will next consider New South Wales's progress in this area as part of its full assessment of water reform in 2005.</p>

Legislation review and reform

The Water Management Act repealed a range of water industry legislation. (New South Wales's schedule of legislation review and reform activity lists 18 Acts that were repealed by the Water Management Act.) The Act considerably improves the State's water management arrangements (including the arrangements for water trading). While the Act's provisions on water licensing and trading, and the first round of water sharing plans, are now scheduled to commence on 1 January 2004, this deferral was made to accommodate foreshadowed CoAG work on a new intergovernmental water agreement.

<p>The Council considers that New South Wales has met its review and reform obligations relating to its stock of water industry legislation.</p>
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Public education and consultation

Public education and consultation activities by New South Wales relate to the development and implementation of water sharing arrangements, integrated catchment management activity, water and wastewater pricing, and structural reform matters.

New South Wales developed its State Water Management Outcomes Plan and its first round of water sharing plans via public processes. Preparation of the water sharing plans involved releasing draft plans for public consultation. Further, the water management committees considered public submissions prior to finalising their recommendations on water sharing arrangements. New South Wales appears to have made considerable effort to involve relevant environmental, social and economic stakeholders in preparing the water sharing plans, although it is not clear how much technical information on the scientific basis for the environmental flow regimes was made generally available.

In the 2002 NCP assessment, some individuals and organisations involved in developing the (then) draft water sharing plans commented adversely on a range of matters, including the timing of the release of the interim State Water Management Outcomes Plan, delays in the availability of advisory notes and delays in finalising the plan. Some water management committees also raised concerns about the timing of the release of key technical and scientific information. In this 2003 NCP assessment, some stakeholders reiterated their 2002 concerns about the consultation on the State Water Management Outcomes Plan and the development of the draft water sharing plans.

New South Wales undertook to monitor future processes for developing water sharing plans to ensure similar problems do not arise. The Government noted that the gazettal of the State Water Management Outcomes Plan and the experience gained from developing the first round of water sharing plans will help to inform the process for future plans. New South Wales published summary guides and fact sheets on almost all of its completed water sharing plans. These provide an overview of each plan, including the environmental water provisions.

New South Wales has 21 catchment blueprints that establish specific and measurable catchment targets covering biodiversity, water quality and flow, salinity, riverine ecosystems, soil health and native vegetation. Drafted by catchment management boards, the blueprints were endorsed by the New South Wales Government in 2002 following public consultation. All blueprints are public documents.

Independent economic regulation of the four urban metropolitan service providers, the Sydney Catchment Authority and State Water assists public understanding of the cause-and-effect relationship between infrastructure performance and standards of service and related costs. Similarly, the Government's best practice pricing guidelines and management guidelines for

local water and wastewater utilities, and its conduct of information seminars, should assist public understanding of this element of water reform. Before transferring responsibility for State Water from the (former) Department of Land and Water Conservation to the Ministry of Energy and Utilities, New South Wales consulted with water users.

The Council considers that New South Wales met its public education and consultation obligations for the 2003 NCP assessment.

Victoria

Urban water and wastewater pricing

There are four urban metropolitan providers of water and wastewater services in Melbourne. Melbourne Water is the wholesaler providing bulk water supply, sewerage treatment, drainage and floodplain management services to the three retail service providers, which are City West Water, South East Water and Yarra Valley Water. Outside of metropolitan Melbourne, 15 regional urban water authorities provide services to country towns. The regional urban water authorities supply about 30 per cent of the two million property connections in Victoria. The Council found in previous NCP assessments that Victoria's urban metropolitan water and wastewater services are recovering costs consistent with CoAG obligations but noted in those assessments that several regional urban providers were not operating on a commercially viable basis.

Victoria's 2001 price review of the State's water, sewerage and drainage services established a three-year price determination for these services (including regional urban services) from 1 July 2001 to 30 June 2004. The review sought to establish prices that would fall between a floor price that ensures commercial viability and a ceiling price that avoids monopoly rents, consistent with CoAG pricing principles. Victoria's cost recovery estimates indicate that all regional urban water authorities achieved at least the floor price for full cost recovery in 2002-03.

The Victorian Government is canvassing structural and pricing issues in a green paper review of the State's water industry. Among other things, the green paper will establish high-level pricing principles aimed at achieving sustainable water and wastewater businesses, clarify cost recovery issues and address related matters, including asset valuation, dividend arrangements, community service obligations, cross-subsidies and externalities. The Government will require its water businesses to apply the green paper cost recovery principles from 1 January 2004. Victoria will bring the water industry under the economic jurisdiction of the Essential Services Commission from 1 January 2004, with the commission's first price

determination for water to take effect on 1 July 2005. This will assist the achievement of appropriate and transparent pricing outcomes by all urban and rural water authorities.

The Council found in the 2001 NCP assessment that Victoria's widespread adoption of volumetric charges as part of a two-part tariff and the absence of free water allowances ensures water users across the State have a strong incentive to use water efficiently. The Council considered Victoria to have complied with its consumption-based pricing obligations.

The Council considers that Victoria has satisfactorily addressed its urban water and wastewater pricing obligations for the 2003 NCP assessment.
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Water entitlements: progress report

Under the *Water Act 1989*, bulk water entitlements are issued to rural and urban water authorities. A bulk entitlement defines the volume of water that an authority may take from a river or storage, the rate at which it may be taken and the reliability of the entitlement. Bulk entitlements are granted to rural water authorities for the regulated river systems, and to urban authorities irrespective of whether they are supplied by regulated or unregulated rivers.

In the regulated irrigation districts, bulk entitlements are issued to the rural water authorities as the basis for providing water to irrigators. Irrigators who pump directly from rivers require a licence to take and use water. Individual water rights in the irrigation districts are listed in a schedule to the bulk entitlement. In the unregulated river systems, water rights are provided through licences that allow the holder to divert water. In water supply protection areas, diversions are managed via streamflow management plans, which Victoria is developing on a priority needs basis. Streamflow management plans include rules covering the granting of new water licences and flow sharing (including environmental flows) under a range of flow conditions. Lower priority rivers are subject to Statewide management rules rather than a formal plan. Licences are also required to extract groundwater. Where water allocations exceed 70 per cent of the sustainable yield of an aquifer, the Government establishes a groundwater supply protection area and develops a groundwater management plan.

Bulk entitlements now cover approximately 85 per cent of the State's total water resources. Progress on the major systems still to be converted to bulk entitlements is slower than Victoria anticipated, principally as a result of the time taken to convert the Melbourne and associated systems and the need to achieve stakeholder consensus on the other river systems. Victoria expected to complete the conversions for all major systems (except the Loddon River and possibly Melbourne) by the end of 2003 and to grant all bulk entitlements by the end of 2004. For the unregulated rivers, three streamflow management plans were completed by March 2003. There were a further 28 plans in progress and 11 still to commence. Of the 28 plans in progress, Victoria

expected to complete 10 by late 2003. Victoria expected the rate of progress to improve now that it has developed a standard procedure for preparing the plans; it anticipates that all of the plans will be finished by June 2004. For groundwater sources, the Government had established 18 water supply protection areas by March 2003, and was seeking declaration for a further four areas. Victoria had approved seven groundwater management plans by March 2003, and expected to submit a further seven plans for approval by mid-2003. Initial meetings of consultative committees were being held in the remaining four areas.

The Department of Sustainability and Environment maintains a register of bulk entitlements, which is publicly available. Rural water authorities are required to maintain registers of water entitlements in irrigation districts and of licences for diversions from unregulated rivers. Third party interests can be noted on the registers.

Provision of water to the environment

The key environmental flow obligation for Victoria for this 2003 NCP assessment was to have in place flow rehabilitation strategies that make adequate environmental provisions for the Thomson, Macalister, Maribyrnong and Lerderderg rivers and Badger Creek — five of Victoria's stressed river systems. At the time of this assessment, Victoria had completed flow rehabilitation plans for two of these systems (the Maribyrnong and Lerderderg rivers) and determined a course of action for Badger Creek, and it anticipated that flow rehabilitation plans for the Thomson and Macalister rivers would soon be completed.

Victoria decided not to implement the flow rehabilitation plan for the Maribyrnong River, considering that the Statewide return in terms of environmental outcomes from flow restoration activities would be greater for other rivers. While noting that the recommended environmental flows are provided in most reaches of the river, Victoria considered that there is a need (as identified in the plan) for additional information before it commits funds to restoring flows in all reaches. The Government referred the Maribyrnong plan to the Port Phillip and Westernport Catchment Management Authority to incorporate specific actions to improve river health into its regional catchment strategy and river health planning processes. The Council has no information on the actions proposed by the catchment management authority. Instead of implementing the Maribyrnong plan, Victoria will implement a streamflow management plan for the King Parrot Creek. Victoria indicated that this plan provides a greater environmental outcome than the Maribyrnong plan for the level of commitment required.

Victoria committed funding to modify the Lerderderg Weir to enable it to pass fresher and flushing flows. The Lerderderg flow rehabilitation plan suggests that modification of the weir should meet environmental objectives. The course of action proposed for Badger Creek — the connection of Healesville to

an alternative source of supply — is also likely to meet environmental objectives. This work is scheduled for 2012. As an interim measure, Melbourne Water committed funding to undertake works to improve the health of Badger Creek.

Victoria established a technical audit panel to consider whether the information and method used in the development of environmental flows are the best available at the time, and whether the assessment of risks is properly done. The audit panel's reviews will be made public. Victoria also produced guidelines for the preparation of streamflow and groundwater management plans, which require reference committees to obtain comments from the technical audit panel, including comments on the risks to the environment of the committee's recommended flow regime. The draft plan must incorporate the comments before it is made available for public comment. In addition, the Department of Sustainability and Environment is making available environmental flow assessments and related documentation in its library and on the Internet.

A key issue in Victoria is the nature of the trade-offs made when the amount of water identified for environmental flows is less than the best available science recommends. The CoAG water agreement acknowledges the existing rights of water users, meaning that reference committees developing environmental flow regimes may recommend a flow regime that does not meet the scientific recommendation in the shorter term. Such decisions imply that the community has agreed to accept the potential consequences. The Council considers, therefore, that there must be sufficient public information on the environmental risks posed by the negotiated environmental flow regimes to allow the community to understand and comment on the community reference groups' decisions on flow regimes. Moreover, the community reference groups need to be representative of all interests and flow regime and associated river health activities should be likely to deliver recommended environmental objectives within a reasonable period. The audit panel and the information that Victoria proposes to make available should ensure information concerning environmental risks is publicly available as a basis for decisions on environmental flows.

<p>The Council defers the 2003 NCP assessment of Victoria's actions to provide water for environmental purposes (and to undertake other work on river health) for the Thomson, Macalister and Maribyrnong rivers to February 2004. The Council will consider recommendations on 2003-04 competition payments relating to the provision of water to the environment at the time of the deferred assessment. The Council will work with Victoria in the period until February 2004 to better understand the basis for, and the effects of, the environmental allocations in the flow rehabilitation plans and the impacts of the foreshadowed work on river health. In particular, the Council will look for Victoria to demonstrate that flow rehabilitation plans and/or river health activities appropriately address environmental water requirements.</p>
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Intrastate trade in water

Victoria has a well-established trading market for high security water, and trading plays an important role in the State's agricultural production. The Water Act and associated Regulations provide the basis for water trading within the State. The bulk of water trade (94 per cent in 1999-2000) takes place among irrigators in regulated systems. Unregulated systems account for only around 5 per cent of total water entitlements, and trade is correspondingly smaller. Almost 90 per cent of all permanent trade occurs in the large regulated systems in northern Victoria.

Water rights in Victoria are sufficiently specified to allow for efficient trade. While Victoria's registry arrangements do not provide indefeasibility or surety of title, third parties can register an interest in a water right. Trades may not be approved without the agreement of these third parties.

Victoria's water trading market has continued to develop since the 2001 NCP assessment. Adding to the scope for private trades and the use of brokers, Victoria extended the operations of its water exchange, Watermove, to temporary transfers throughout the State and to and from southern New South Wales. Victoria is considering options for the leasing of water. It also significantly improved the transparency of its trading arrangements. Victoria continues to progress the conversion of the existing rights of water authorities to clearly defined bulk entitlements. Outside the irrigation districts, it is specifying water entitlements in streamflow and groundwater management plans. Trading arrangements contain measures to protect the water rights of other users and the environment.

Victoria is reviewing two of the remaining constraints on water trading — (1) the requirement for water entitlements to attach to land and (2) the differential returns on bulk water supply — as part of its green paper review of the water industry. A further constraint is the provision that a transfer may be refused if it would result in more than 2 per cent (net) of the total water entitlement being transferred out of selected irrigation districts in a given year. This rule currently does not substantially impede trade in Victoria's irrigation districts, but is likely to become a more significant constraint as trade increases. Victoria's constraints on trading in the unregulated rivers appear to be transitional measures to mitigate adverse environmental effects pending finalisation of the streamflow management plans.

<p>The Council considers that Victoria made sufficient progress against its CoAG obligations on water trading for the 2003 NCP assessment. The Council will revisit Victoria's intrastate trading arrangements in the 2004 NCP assessment when it considers interstate trade. At that time, the Council will also consider the continuing appropriateness of the 2 per cent rule.</p>

Institutional reform

Structural separation

Victoria will bring the water industry under the economic jurisdiction of the Essential Services Commission from 1 January 2004. This will address the CoAG obligation on the structural separation of water industry management and regulation, and service provision. Victoria intends to develop obligations statements for its Melbourne metropolitan, regional urban and rural water businesses to clearly and formally articulate the businesses' obligations. It expects to issue the statements (which will be publicly available) by March 2004.

Devolution of irrigation scheme management

Rural customer consultative committees will continue to provide input to determining pricing proposals and service level requirements for the rural water authorities after the water industry is brought under the economic jurisdiction of the Essential Services Commission. Victoria indicated that it is committed to strengthening the committees and more effectively involving the broader customer base, to increase the transparency of negotiations on service levels and prices.

Integrated catchment management

Since the 2001 NCP assessment, Victoria has focused on reforming its administrative framework and reviewing regional catchment strategies. These initiatives are interrelated and aim to ensure integrated catchment management is administered in accord with the requirements of the National Action Plan for Salinity and Water Quality and the Natural Heritage Trust extension.

Victoria has in place, via its Victorian River Health Strategy, a means of coordinating the management of river health issues, including water quality and quantity issues. The strategy has been designed to align with the catchment management authority/regional catchment strategy framework, and reflects the administrative approaches and management processes required under the national action plan. Victoria's natural resource management framework facilitates a consideration of, and support for, land care practices to protect rivers with high environmental values. In particular, Victoria's action plan for second-generation land care (released in 2002) sets directions for the next 15 years.

There has been some delay in Victoria's review and renewal of regional catchment strategies against the State's original timetable. Catchment management authorities face the concurrent and interrelated tasks of revising their regional catchment strategies and developing river health strategies. Moreover, they are developing strategies against evolving national and State policy contexts, including the national action plan and the Natural Heritage Trust extension.

The Council considers that Victoria's decision to establish the Essential Services Commission, supported by the Government's introduction of relevant legislation into the Parliament, addresses Victoria's obligations on institutional structural separation for the 2003 NCP assessment. The Council will monitor Victoria's progress with establishing the Essential Services Commission in the 2004 NCP assessment.

The Council considers that Victoria made satisfactory progress against its integrated catchment management obligations for the 2003 NCP assessment. The Council will next consider Victoria's progress on integrated catchment management as part of its full assessment of water reform in 2005.

The Council concluded in previous NCP assessments that Victoria had satisfied requirements to: ensure service delivery organisations in metropolitan areas have a commercial focus; ensure service providers implement performance monitoring arrangements; and devolve greater responsibility for the management of irrigation areas to local constituents.

National Water Quality Management Strategy

Victoria is implementing the NWQMS framework via regional catchment strategies, river health strategies and action plans covering water quality, water quality monitoring, and wastewater and effluent management at the regional level. Significant developments since the 2001 NCP assessment, some of which are still under way, include:

- policy development in frameworks for setting regional water quality and river health targets through the Victorian River Health Strategy, with the NWQMS guidelines used as input in the development of targets;
- the proposed incorporation of risk-based environmental quality objectives, derived from objectives set out in the NWQMS;

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- the development of an assets register, drawing on the environmental values in the NWQMS;
 - the completion of the Catchment Condition Indicators project and its publication on a web site; and
 - the introduction of the Safe Drinking Water Bill in April 2003 and the proposed introduction of new regulatory measures and drinking water quality standards based on the NWQMS guidelines.

The Council considers that Victoria made satisfactory progress in implementing policies that reflect the NWQMS guidelines for the 2003 NCP assessment. The Council will next consider Victoria's progress in this area as part of its full assessment of water reform in 2005.

Legislation review and reform

Victoria commissioned an independent review of its water legislation and associated Regulations in 2001. The review examined the Water Act, the *Water Industry Act 1994*, the *Melbourne and Metropolitan Board of Works Act 1958*, the *Melbourne Water Corporation Act 1992* and associated subordinate legislation to identify all the key competitive restrictions in the provision of water and sewerage services. The review was undertaken via an extensive public process.

The review considered and recommended on: restrictions on the ability of the three urban retail water and sewerage licensees and authorities to perform functions and/or act outside defined areas; provisions relating to the allocation and trading of water entitlements; the powers of authorities and licensees, including the power to require connection to the sewerage system; the arrangements and criteria for issuing licences and permits; and consistency in legislation and regulation. The Government accepted the majority of the recommendations and work to progress implementation is under way, including legislative action and the development of financial and policy frameworks. The Government did not accept some of the review recommendations, including the progressive removal of links between the ownership of land and water and the removal of the 2 per cent trading rule.

Key outcomes include: the introduction of legislation to give effect to the economic regulation of the water industry by the Essential Services Commission; the release for public comment of legislative proposals to allow leasing of water entitlements; the canvassing of options for managing structural change; a commitment to review the requirement to own land as a condition of owning a licence; a commitment to review the differential rate of return on bulk water supplies before the Essential Services Commission sets prices for bulk water; and a commitment to develop a Statewide legislative framework, to be informed by the findings of the green paper review of the water industry.

Victoria had not implemented all recommendations of the NCP review of its water industry legislation, although it had made significant progress in several areas including vesting responsibility for the economic regulation of the water industry with the Essential Services Commission. The Government is considering most of the remaining matters in the green paper.

In the 2004 NCP assessment, the Council will look for Victoria to have implemented the key recommendations from the NCP review of its water industry legislation. The Council draws Victoria's attention to its comments on remaining constraints on water trading, some of which derive from Regulations under the Water Act. The Council will consider the 2 per cent rule in the 2004 NCP assessment.

Public education and consultation

Victoria addressed its obligations on public education and consultation for this 2003 NCP assessment through public programs on major reform issues.

- The Government consults with the community and stakeholders in developing and implementing bulk entitlements, streamflow management plans, groundwater management plans, river health plans and other natural resource management programs.
- The renewal of Victoria's regional catchment strategies involved considerable consultation with regional communities.
- Victoria's review of water industry legislation involved an extensive public process.
- The urban water businesses have customer consultation obligations via operating licences and water services agreements. Rural water authorities engage with their customers via water services committees.
- The Victorian Farm Dams (Irrigation) Review Committee held public meetings and public hearings across the State. It released a discussion paper for comment and considered submissions.
- The Government developed legislative proposals for a Statewide drinking water quality framework following the release of a proposals paper and a discussion paper, and the consideration of submissions from interested parties.

- The consultation process for establishing the Essential Services Commission included the release of an issues paper and a proposals paper for public comment.
- The Government adopted the Melbourne Water Resources Strategy with the objective of raising general awareness and understanding within the Melbourne area community of the need to change prevailing attitudes to water. The strategy aims at achieving the sustainable management of greater Melbourne's water resources over the next 50 years. The Government is also taking steps to raise community awareness of the need to conserve water supplies. The Victorian Water Industry Association is assisting in making educational material regarding water available to Victorian schools by cataloguing information developed and held by Victorian water businesses.

The Council considers that Victoria met its public education and consultation obligations for the 2003 NCP assessment.

Queensland

Urban water and wastewater pricing

There are 124 Queensland local governments that provide urban (metropolitan and regional) water services and 115 that provide urban wastewater services. Of the 124 water service providers, 68 operate businesses with more than 1000 property connections. The 18 largest local governments operate water businesses that account for over 83 per cent of the State's property connections.

The water and sewerage businesses of the 18 largest local governments are required under the *Local Government Act 1993* to achieve full cost-recovery. They must also apply consumption-based pricing unless they can show that this would not be cost-effective. The Queensland Government does not require the water and sewerage businesses of the other 106 local governments to implement the CoAG pricing reforms, although the Government provides financial incentives for local governments that implement reform and assists via its Business Management Assistance Program.

There is significant implementation of the pricing reforms beyond the 18 largest local governments. Data for 2001-02 and subsequent information provided by the Queensland Government indicate that 50 of the 68 water businesses with over 1000 connections achieved full cost recovery, while another 11 recovered most costs. (There was insufficient information to conclude on the remaining seven businesses.) All but one of the 18 largest businesses and all 11 of those with more than 5000 connections (apart from the 18 largest) achieved full cost recovery in 2001-02. The one exception among the 18 largest local governments, Thuringowa City Council, had only preliminary figures.

Implementation of consumption-based pricing for water services is similarly well advanced. Of the 18 largest businesses, 15 have implemented use-based pricing and two are proposing to do so by 2004-05. Townsville City Council has not implemented consumption-based pricing, but has a sufficiently robust case that this would not be cost-effective at the present time. Nine of the 11 local government businesses with more than 5000 connections (apart from the 18 largest) price on a consumption basis and one showed that it would not be cost-effective for it to price according to use. Some 22 of the 39 businesses with 1000–5000 property connections price their water service on a consumption basis, with a further eight proposing to do so, undertaking a cost-effectiveness study or operating a pricing regime with some use-based elements. NQ Water, which was established as a commercialised joint local government entity in July 2001, appears to have considered the CoAG cost recovery requirements in setting its cost recovery objectives.

Some 28 local governments in urban and regional areas apply a use-based trade waste charge, including all but three of the 18 largest local government service providers. One of these three has no trade waste emitters that are considered 'large' under the Queensland Government's model trade waste policy, while no information was available for another provider.

The Queensland Government is committed to complying with the requirement to identify and report cross-subsidies. There is likely to be significant disclosure of remaining cross-subsidies in 2003-04 via Queensland's *Local government comparative information* report. Queensland advised in previous NCP assessments that water and wastewater prices include the cost of natural resource management associated with water use, but provided no information to demonstrate the extent to which prices reflect these costs. Queensland is currently assessing natural resource management costs, as well as investigating the consequences for water pricing of externalities and scarcity. It is undertaking this work as part of a public review. Queensland is also reviewing the extent to which the Environment Protection Authority's charges reflect the costs it incurs in licensing wastewater businesses and monitoring their performance.

<p>The Council considers that Queensland met its urban water and wastewater pricing obligations for the 2003 NCP assessment.</p>
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Water entitlements: progress report

Under the *Water Act 2000*, water resource plans specify the rules for the allocation of water, water allocation security objectives and environmental flow provisions. The plans, which have effect for 10 years, are implemented through resource operations plans detailing day-to-day operational rules. Infrastructure operators must hold a resource operations licence and comply with the relevant resource operations plan.

Once a resource operations plan is approved, water licences under the previous system are converted to water allocations. A water allocation is an authority to take water in accordance with a water resource plan and resource operations plan. Water allocations are separate from land title, and their ownership, volume and location are clearly specified. A water allocations register records details of all water allocations and the corresponding interests and dealings. Compensation is payable under the *Water Act* if allocations are changed during the 10-year life of a water resource plan in a way that reduces the allocations' market value.

The Queensland Government intends to develop water resource plans and resource operations plans for all of its major water resources. It completed water resource plans for six river systems and expects a further three to be completed soon. At May 2003, Queensland had completed one resource operations plan — for the Burnett Basin. The State's most recent timetable indicates that some water resource plans and resource operations plans are not scheduled to be completed until after 2005, which is the date specified by CoAG for substantial implementation of water allocations for all river systems and groundwater sources.

<p>Queensland's water planning timetable may affect the State's ability to meet CoAG requirements on the allocation of water to the environment, to the extent that there are significant water sources for which the State's water planning process will not be complete by 2005. In the 2004 NCP assessment, the Council will look for Queensland to report on the significance of the water sources for which water resource plans and resource operations plans will not be completed until after 2005.</p>

Provision of water to the environment in stressed and overallocated systems

In the 2001 NCP assessment, the Council found evidence to suggest that the Condamine–Balonne Basin may have the characteristics of a stressed river system. It found that the draft water resource plan for the basin did not adequately address the identified environmental problems. At the time of the 2002 NCP assessment, the Queensland Government announced an independent scientific review of the assessment of the current and future condition of the Lower Balonne River system, and committed to act on the recommendations of the review.

The scientific review reported in February 2003, finding that the Lower Balonne system is in a reasonable ecological condition but may be overallocated. The review recommended arrangements for wetting national parks and wetlands within the system. It also proposed further research to refine environmental flow requirements. The Queensland Government committed to implement in full the recommendations of the review via a new water resource plan for the Condamine–Balonne Basin. The Government commenced this process, and anticipates that a draft water resource plan will be available for public consultation by August 2003. It expects the water resource plan (and the resource operations plan that will implement the water resource plan) to be finalised by mid-2004. Given that the issues concerning the condition of the basin emerged only in 2001, the Queensland Government's timetable is appropriate.

Queensland finalised a resource operations plan for the Burnett Basin in May 2003. The plan reserves allocations of water to be made available via the proposed Burnett Water Infrastructure Project, but will require amendment (once the detailed design of the infrastructure is known) to allow for the release of water. Under the plan, this amendment can be made without the usual public consultation process. The resource operations plan specifies, however, that amendments to accommodate the new infrastructure cannot be made until it is demonstrated that the supply of water would not have an impact on the water allocation security and environmental flow objectives in the water resource plan. Queensland will consult with water users before amending the resource operations plan to accommodate the design of the new infrastructure.

The Council considers that the Queensland Government is satisfactorily addressing its environmental obligations in relation to the Condamine–Balonne Basin. For the 2004 NCP assessment, the Council will look for Queensland to have finalised the Condamine–Balonne water resource plan (including appropriate environmental outcomes) and the resource operations plan.

The Council considers that the Burnett Basin resource operations plan is consistent with CoAG obligations on the provision of water to the environment. The Burnett Basin resource operations plan contains the safeguard that any amendment to provide for the release of water cannot occur until it is demonstrated that the supply of water would not have an impact on water allocation security and environmental flow objectives. Given the significance of the proposed Burnett Water Infrastructure Project, the Council considers it would be desirable for the Government to consult more widely than just with water users before amending the resource operations plan.

Intrastate trade in water

Queensland is in the early stages of permanent water trading. A trial of permanent trading commenced in the Mareeba Dimbulah scheme in 1999 and was extended to a small proportion of the water allocated in the Nogoa McKenzie scheme and to the lower parts of the Mary River scheme. At May 2003, Queensland had finalised one resource operations plan. Final resource operations plans are necessary to enable permanent trading (outside areas covered by the trading trial) and to define the water trading rules. Queensland's revised timetable for developing its resource operations plans indicates that plans for several basins will not be completed until after 2005.

Several provisions in Queensland's interim arrangements for permanent trades under the trading trial in the Mareeba Dimbulah, lower Mary River and Nogoa McKenzie schemes are inconsistent with the CoAG water trading obligations. In particular, an interim water allocation must be re-attached to land and the water transferred must be used for primary production or stock and domestic purposes. These are interim arrangements, however, pending finalisation of the relevant resource operations plans. The trading rules in the Burnett Basin resource operations plan appear to facilitate trading, with restrictions in the plan reflecting environmental and physical constraints.

The Council considers that Queensland made sufficient progress against its CoAG obligations on water trading for the 2003 NCP assessment. The Council will revisit Queensland's intrastate trading arrangements in the 2004 NCP assessment when it considers interstate trade.

Institutional reform

Queensland's major remaining institutional reform obligation relates to integrated catchment management. Queensland's recent focus appears to have been on revising the administrative framework to implement integrated catchment management in accord with the requirements of the National Action Plan for Salinity and Water Quality and the Natural Heritage Trust extension. Under the new arrangements, 14 regional bodies will develop and implement regional natural resource management plans, drawing on the work previously undertaken by catchment committees and regional strategy groups, and covering the whole of the State. Queensland's natural resource management framework — including, for example, land care initiatives to reduce broadacre clearing of remnant vegetation — appears to account for the protection of rivers with significant environmental values.

The Council considers that Queensland made satisfactory progress against its integrated catchment management obligations for the 2003 NCP assessment. The Council will next consider Queensland's progress on integrated catchment management as part of its full assessment of water reform in 2005.

The Council concluded in previous NCP assessments that Queensland had satisfied requirements to: structurally separate water institutions; ensure service delivery organisations in metropolitan areas have a commercial focus; ensure service providers implement performance monitoring arrangements; and devolve greater responsibility for managing irrigation areas to local constituents.

National Water Quality Management Strategy

Queensland continues to make progress in implementing the NWQMS framework. Developments since the 2001 NCP assessment, some of which are currently under way, include:

- progress towards developing environmental values, based on the NWQMS methods, for several major river systems;
- the development of measures to improve water quality monitoring and information dissemination;
- the implementation of the NWQMS principles in the South East Queensland Regional Water Quality Management Strategy; and
- a review of drinking water quality arrangements to align with the NWQMS guidelines.

The State continues to refine the Queensland Water Quality Guidelines, which have been in development for several years. Queensland expects to publish draft guidelines by the end of 2003.

The Council considers that Queensland is establishing appropriate processes, instruments and mechanisms to implement the key elements of the NWQMS. Progress in one important area — development of the Queensland Water Quality Guidelines — has been only gradual. The Council will next consider Queensland's progress in this area as part of its full assessment of water reform in 2005. In particular, the Council will look for the Queensland Water Quality Guidelines to be in place.

Legislation review and reform

The Queensland Water Act amended or repealed a range of water industry legislation. Queensland also reviewed and/or reformed several other water Acts.

The Council considers that Queensland met its review and reform obligations relating to its stock of water industry legislation.

Investment in new rural water schemes

The Queensland Government confirmed in June 2003 that it intends to proceed with the Burnett Water Infrastructure Project. As reported in the environmental impact assessment study for the project, the Government investigated other supply and demand management options but found that these would not adequately address the region's water requirements.

Except for the raising of the Ned Churchward Weir, the project passed through Queensland's environmental assessment processes. It was also approved by the Commonwealth Minister for the Environment and Heritage under the *Environment Protection and Biodiversity Conservation Act 1999*. Further, the Council concluded in the 2002 NCP assessment that the modified water resource plan for the Burnett Basin, which accommodates the project, complies with CoAG requirements. The final resource operations plan requires demonstration that the supply of water will not have an impact on the water allocation security and environmental flow objectives in the water resource plan.

Burnett Water and the Queensland Department of State Development commissioned studies of the economic and commercial aspects of the project. The economic analysis undertaken by Network Economics Consulting Group (NECG) as part of the environmental impact assessment process concluded that the project would deliver significant net economic benefits, estimated at A\$1.7–\$2.2 billion (at a real discount rate of 6 per cent). A subsequent study by ACIL Consulting supported the level of increase in agricultural production projected in the NECG study. In addition, PricewaterhouseCoopers' studies indicated that regional water demand would be sufficient to take up the new entitlements from the Burnett project and that these entitlements could be sold and/or leased at price levels that address CoAG requirements.

The findings in the NECG evaluation (the only work that is publicly available) were questioned by some stakeholders and, particularly in a study commissioned by the Queensland Conservation Council and the Australian Conservation Foundation. This study questioned the level of likely demand for water at CoAG-complying prices, particularly given the likelihood of depressed sugar and cane prices. The study also adopted a significantly higher estimate of environmental costs than the NECG evaluation. Based on available data, the study concluded that the project's rate of return would be lower than that required for it to be economically viable.

Queensland provided further work by NECG and PricewaterhouseCoopers in response to the criticisms of the project's viability. In a report to Burnett Water, subsequently provided to the Council, NECG stated that 'the Burnett River Dam is an economically and commercially robust project'. NECG advised that it considered the study commissioned by the Queensland Conservation Council and the Australian Conservation Foundation to have several deficiencies, including: incorrectly suggesting that CoAG requires 'upper bound' prices to be recovered from water users (whereas CoAG permits 'lower bound' pricing with transparent community service obligation funding and requires economic viability not commercial viability); seriously inflating environmental costs; overestimating the cost of water to irrigators; using a short-term and simplistic view of the economics of the sugar industry; assuming that the capital costs associated with the dam would be amortised over 25 years (compared with a dam life of at least 150 years) and that water entitlements would effectively have no value at that time; and ignoring demand for higher-priced, high security water. In correspondence to the Department of State Development sighted by the Council, PricewaterhouseCoopers made similar criticisms of the Queensland Conservation Council and the Australian Conservation Foundation study.

Accounting for the confidential studies and the further information provided by Queensland, the Council considers that Queensland met its CoAG obligation to show that the Burnett Water Infrastructure Project is economically viable. The Council considers that the Queensland Government showed that the Burnett Water Infrastructure Project is ecologically sustainable, with the exception of the raising of the Ned Churchward Weir, for which the environmental processes are still to be completed. For the raising of the weir, the Council considers that approval under Queensland's and the Commonwealth's environmental approval processes, and a commitment by Queensland to meet any conditions imposed as a result of these processes, would demonstrate compliance with the CoAG obligation on ecological sustainability.

Public education and consultation

Public education and consultation activities by Queensland that relate to this 2003 NCP assessment concern the development and implementation of water resource plans and resource operations plans, integrated catchment management activity, water and wastewater pricing and the Burnett Water Infrastructure Project. Queensland undertakes extensive public consultation in preparing water resource plans and resource operations plans, in line with the requirements of its Water Act. The Council notes, in particular, Queensland's response to criticisms in the 2001 NCP assessment about the need for greater transparency of changes to water resource plans between the draft and final plans. Regarding this issue, Queensland released its first two consultation reports, following the finalisation of the water resource plans for the Barron River and the Pioneer Valley in December 2002. Each report includes: a summary of the content of the plan (including differences between the draft and final plans) and the plan's implications; a record of the consultation undertaken in developing the plan; a summary of the issues raised during the consultation process; and an explanation of how the final plan addressed those issues. The reports are available on the Department of Natural Resources and Mines' web site.

The Council considers that Queensland met its public education and consultation obligations for the 2003 NCP assessment.

Western Australia

Urban water and wastewater pricing

There are three major providers of urban water and wastewater services in Western Australia: the Water Corporation, Aqwest and the Busselton Water Board. The Water Corporation, which is by far the largest business, provides public water supply, sewerage, drainage and irrigation services to 1.7 million people in 300 towns and communities throughout Western Australia. There are also 20 local government authorities operating sewerage schemes, several of which provide services to large numbers of residential properties.

The Council recognised in the 2001 NCP assessment that Western Australia's metropolitan urban water and wastewater services are recovering costs, but raised concerns about the lack of transparency of the State's pricing process and about whether future pricing would continue to address CoAG obligations. At the time of the 2001 NCP assessment, Western Australia indicated a commitment to establishing an independent economic regulator that would deal with the economic regulatory aspects in the water sector, particularly price regulation. The Council indicated that the establishment of an independent regulator to recommend on the application of the CoAG pricing principles to water and wastewater businesses would address Western Australia's pricing and institutional reform obligations.

Western Australia has the Economic Regulation Authority Bill 2002 before the Parliament at the time of publication. The Economic Regulation Authority will be an independent pricing and regulatory body with coverage of several industries that are currently regulated by Ministers, sector specific regulators and public sector officials. Its functions will include recommending to the Government on tariffs and charges for government monopoly services. Western Australia intended the authority to commence on 1 July 2003, but the Bill has been delayed in the Legislative Council. The Government advised that it is committed to establishing the Economic Regulation Authority and, in anticipation, would develop a draft reference that refers water and wastewater pricing for consideration by the authority.

The City of Kalgoorlie–Boulder is not required to pay certain taxes or tax equivalents, and so does not recover taxes (or equivalents) in wastewater prices. This is unlikely to have a significant effect: Kalgoorlie–Boulder's geographic isolation means that businesses are not likely to relocate to the area if wastewater prices are relatively lower than in other regions. The Council would be concerned, however, if there were widespread inconsistencies in prices across the water and wastewater industry as a result of differences in the treatment of taxes.

Western Australia advised in previous NCP assessments that prices include natural resource management costs, but provided no information to demonstrate the extent to which this is occurring or to show that water and wastewater prices reflect an appropriate proportion of the cost of mitigating environmental problems associated with water use. Western Australia is contemplating means to better identify and cost natural resource management activity relevant to the use of water. Such work would be a useful step towards understanding better the costs of mechanisms aimed at natural resource management, and particularly the possibilities for dealing with external costs via pricing.

The Water Corporation, Aqwest and the Busselton Water Board now apply two-part tariffs for all water services, consistent with the CoAG consumption-based pricing obligations. Western Australia applies charges for residential wastewater customers across the State based on gross rental value. The Water Corporation will publish information on the distribution of wastewater charges in its annual report. The Water Corporation and the Western Australian Department of Treasury and Finance are to determine a means of illustrating cross-subsidies.

The Council considers that Western Australia has not demonstrated compliance with the CoAG water pricing principles. Western Australia would meet its pricing obligations if it establishes the Economic Regulation Authority and provides a reference to the authority to investigate (against the CoAG pricing principles) and recommend on water and wastewater pricing for at least the Water Corporation and ideally also Aqwest and the Busselton Water Board.

The Council considers that Western Australia's approach to wastewater pricing — setting charges on the basis of property gross rental value — does not contravene the CoAG requirement for use-based pricing. The approach may, however, result in cross-subsidies between different classes of consumers, particularly if waste discharge is relatively uniform across the residential sector. The Government recognises this possibility and has undertaken to identify and transparently report cross-subsidisation.

The Council recommends that 10 per cent of Western Australia's competition payments for 2003-04 be suspended. It recommends that the suspension be lifted and the suspended monies be reimbursed when the Western Australian Government establishes the Economic Regulation Authority and announces comprehensive terms of reference for an investigation of water and wastewater pricing and related matters against the CoAG pricing principles.

The Council will assess Western Australia's progress with urban water and wastewater pricing again in the 2004 NCP assessment, when it will look for Western Australia to have established the Economic Regulation Authority and for the authority to have completed an investigation of water and wastewater pricing by the Water Corporation (and ideally also Aqwest and the Busselton Water Board).

Water entitlements: progress report

Water rights are sufficiently well specified in Western Australia. Licences are issued for between five and 10 years or for an indefinite period. There is also a presumption that fixed-term licences will be renewed if licence conditions are met. Most water management plans are still to be finalised or are under review. Apart from those assessed as being a low priority, almost all plans are scheduled to be completed by 2005.

Western Australia has a register of water licences and entitlements, which is maintained by the Water and Rivers Commission. Although the register does not provide indefeasibility of title, it does allow the entitlement holder to register third party interests. A copy of the register is available for public viewing at Water and Rivers Commission offices or on request from the commission. An Internet register has been developed but is not yet operational.

The Water and Rivers Commission may issue a direction overriding all other rights recognised by the *Rights in Water and Irrigation Act 1914*. This increases the risk to entitlement holders and may have an impact on the value of water entitlements. Since the 2001 NCP assessment, the commission has issued only one such direction, in the form of a 'water shortage order' restricting the watering of lawns and gardens to certain times. In practice, the commission's power appears not to have been used in a manner that would significantly influence the value of water rights. The requirement for the commission to disclose its reasons for a direction, along with the ability of water users to appeal to a tribunal, should help minimise the risk for water entitlement holders.

Provision of water to the environment: progress report

Western Australia derives most of its water supply from groundwater. The State has no stressed river systems. Western Australia's approach to allocating water to the environment (formalised in the Rights in Water and Irrigation Act) is delivered via a tiered system of statutory water management plans (regional, subregional and local). Environmental water provisions are set in the plans either as notional or interim allocation limits, or as formal assignments if the water resource is highly or fully committed. Water management plans continue indefinitely, with review every seven years (or later if water use has not increased). Most water management plans are still to be finalised or are under review. Western Australia advised that the planning process is on track against the revised implementation program agreed in the 2002 NCP assessment.

Intrastate trade in water

Western Australia has established a fully operational system for water trading. It has policy guidelines for water trading and an interim subpolicy to guide the operational management of trading. Trading is not permitted without the agreement of registered third party interests. The Water and Rivers Commission has the role of collecting and providing market information until the market further develops. The Rights in Water and Irrigation Act and the *Environment Protection Act 1986* contain measures to protect environmental values. Trade is concentrated in the South West Irrigation Scheme, reflecting the infancy of trading and the low level of demand for trading in the many parts of the State where water resources are not fully allocated.

In addition to environmental protection measures, the Rights in Water and Irrigation Act contains provisions that may constrain trade in water entitlements, including: scope for local by-laws to prohibit trades (although none exists at present); a requirement that a licence holder must be an owner or occupier of land or have access to land; and a time limit for water entitlements to be used (before the entitlement may be forfeited). These provisions appear to be a response to concern about potential speculation in the water market and the possible adverse environmental impacts of water trading. They have the potential, however, to reduce the security of entitlements and constrain the movement of water to its highest value use.

The Water and Rivers Commission's draft policy guidelines on the management of unused entitlements suggest the commission is formalising and clarifying the existing arrangements rather than countenancing substantial change. The draft policy guidelines retain the capacity for the commission to recoup and re-issue unused entitlements, and to not approve trade in entitlements that have not been used. Even where trading is established in an area (in which case the commission generally does not recoup entitlements acquired through trading), the draft guidelines retain the capacity for the commission to recoup entitlements in the event of anticompetitive or speculative behaviour.

The Water and Rivers Commission may also refuse trades to prevent monopolies in water. In other industries, such matters are left to regulation under fair trading laws. The capacity for the Water and Rivers Commission to refuse approval for a trade because it would lead to monopolisation would be unlikely to conflict with CoAG water trading objectives, however, if the commission applies an appropriate competition test in reaching its decision.

Western Australia requires its subregional and local area water management plans to be compatible with the Statewide transferable water entitlements policy guidelines or to address potential conflicts or limitations on the implementation of the guidelines. Because most water management plans are still to be finalised or are under review, the Council did not conclude on the extent to which the trading rules in the plans address CoAG water trading obligations in this 2003 NCP assessment.

The Council considers that Western Australia made sufficient progress against its CoAG obligations on water trading for the 2003 NCP assessment. Several provisions in Western Australia's trading arrangements raise questions about consistency with CoAG water trading obligations, but these currently do not constrain trade.

The Council will consider the extent to which Western Australia's water trading environment meets CoAG obligations in the 2004 NCP assessment. In that assessment, the Council will consider: any relevant directions by the Water and Rivers Commission; restrictions on who can hold a water licence; provisions affecting the ability of financial institutions to obtain ownership of entitlements in the event of default; any local by-laws introduced to prohibit water trade; the Water and Rivers Commission's final policy guidelines on the management of unused entitlements; the commission's power to refuse trades to prevent monopolies in water; the commission's annual review of the effectiveness of the trading policy guidelines; the timeliness of approval processes for applications to trade; and the trading rules in subregional and local area water management plans.

Institutional reform

Western Australia's institutional reform obligations for this 2003 NCP assessment concern the separation of the roles of water institutions, integrated catchment management and the increased devolution of management responsibility for irrigation schemes.

Structural separation

Western Australia has a Bill before the Parliament (at the time of publication) to establish the Economic Regulation Authority to undertake a range of economic regulatory functions, including recommending to the Government on tariffs and charges for government monopoly services. The Bill provides scope for the Government to refer to the authority for inquiry any matter relating to a regulated industry, including the electricity, gas, rail and water industries. In anticipation that the Economic Regulation Authority will be established, Western Australia is developing a draft reference for the authority to consider water and wastewater pricing. (See also the discussion above on pricing.)

Devolution of irrigation scheme management

Western Australia has three main irrigation systems: the South-West Irrigation Cooperative, the Carnarvon Irrigation Scheme and the Ord Irrigation Scheme. The management of the South-West Irrigation Cooperative, which includes both the Preston Valley and the South-West Irrigation District and supplies water used to irrigate more than 9700 hectares, is devolved to local constituents.

In August 2001, the Water Corporation and the Carnarvon Irrigation Cooperative signed an operation and management contract providing for the transfer of the Carnarvon Irrigation Scheme to the irrigation cooperative by 30 June 2003 (subject to Government approval). The transfer will give the Carnarvon Irrigation Cooperative responsibility for retail water service delivery and for operation, maintenance and renewal of the pipe distribution system and service connections.

On 1 July 2002, the management of the Ord Irrigation Scheme was transferred from the Water Corporation to the Ord Irrigation Cooperative; by December 2003, the assets will also be transferred. Following the transfer, the Water Corporation will continue to supply the Ord Irrigation Cooperative with bulk water under a water supply agreement. The Ord Irrigation Cooperative will own, operate and maintain the Ord Irrigation Scheme (stage 1) distribution system and will have responsibility for retail water service delivery to growers in the scheme. The Water Corporation will continue to own, operate and maintain the M1 channel (the main irrigation channel) and the Hillside Levies.

Integrated catchment management

The impetus for natural resource management policy in Western Australia is dryland salinity. The Salinity Action Plan 1996 led to the creation of a State Salinity Council and five regional natural resource management groups. In accord with national and State policy frameworks, including the National Action Plan for Salinity and Water Quality and the Natural Heritage Trust extension, Western Australia's focus on salinity has evolved into a broader natural resource management framework that encompasses catchment issues. Consistent with this, the Government replaced the State Salinity Council with a new community-based body: the Natural Resource Management Council. A Western Australian Government senior officers group on natural resource management — representing the Department of Agriculture, Conservation and Land Management, the Water and Rivers Commission, the Department of Environmental Protection, the Ministry for Planning and the Department of Land Administration — provides whole-of-Government policy coordination.

Western Australia's progress on integrated catchment management since the 2001 NCP assessment has been slow. All regional groups had developed natural resource management strategies by 2001, but the Government had not endorsed any strategies under State processes. The Government argued that this delay is due to its lack of access to the accreditation mechanisms under the National Action Plan for Salinity and Water Quality. (The new accreditation mechanisms are not available to Western Australia until the Western Australian Government reaches a bilateral agreement with the Commonwealth Government.) Western Australia has now received Natural Heritage Trust extension funding which should enable it to refine its regional strategies in anticipation of a bilateral agreement on the national action plan.

Western Australia is developing the Waterways WA framework to facilitate the consideration of, and support for, land care practices to protect rivers with high environmental values. It expects to finalise the framework in 2003.

The Council does not consider that Western Australia's current arrangements for regulation of water and wastewater pricing and service standards satisfy CoAG obligations. The creation of the Economic Regulation Authority and the announcement of terms of reference to allow the authority to recommend on water pricing, however, would address Western Australia's structural reform obligations for the 2003 NCP assessment (see also the Council's comments on pricing and its recommendations on 2003-04 competition payments).

The Council considers that Western Australia made satisfactory progress against its obligations to devolve greater responsibility to local constituents for the management of irrigation areas for the 2003 NCP assessment.

Western Australia's progress in implementing its integrated catchment management obligations is slow. Most recently, the delays may have arisen because the State has no access to the new accreditation mechanisms under the National Action Plan for Salinity and Water Quality. The Council will assess Western Australia's progress on integrated catchment management again in the 2004 NCP assessment, when it will look for evidence of significant progress. The Council will also look for the Waterways WA framework to be in place in accord with the milestone proposed by Western Australia.

National Water Quality Management Strategy

Western Australia completed preparatory and development work on NWQMS implementation, including publishing the State Water Quality Management Strategy implementation plan that sets out the State's processes for achieving its water quality objectives. Generally, however, Western Australia's implementation of the NWQMS is slow. In particular, the State does not propose to implement some key NWQMS elements — including aspects relating to fresh and marine water quality and water quality monitoring — until 2003-04.

The Council considers that Western Australia is establishing appropriate processes, instruments and mechanisms to implement the key elements of the NWQMS. Progress in many areas has been only gradual; in particular, Western Australia is yet to implement the NWQMS guidelines for fresh and marine water quality (NWQMS paper no. 4) and water quality monitoring and reporting (NWQMS paper no. 7). The Council will reassess Western Australia's performance in the 2004 NCP assessment.

Legislation review and reform

Western Australia completed reviews of 32 of the 35 water industry regulatory instruments that it listed for NCP review. Of the remaining three, Western Australia has commenced one review and proposes to repeal two without review. The reviews recommended repeal of one instrument and reform of 18 others, and recommended no change or found no competition issues in 13 cases.

The Government endorsed the findings of each of the 32 completed reviews, mostly in 1999 or 2000. While it has some reform action under way, the Government has not yet completed all recommended reforms. The Government is reforming eight Acts via the Acts Amendment and Repeal (Competition Policy) Bill 2002, now delayed to 2003. These reforms will now be included in a second competition policy omnibus Bill in 2003. The Government is also drafting amendments or is developing drafting instructions for another six Acts, and has work under way on each of the remaining instruments.

The Council considers that Western Australia has not met its review and reform obligations under clause 5 of the Competition Principles Agreement in relation to water industry legislation.

The Council recommends that Western Australia's performance on water industry legislation be considered in conjunction with the other incomplete areas of Western Australia's legislation review and reform under the Competition Principles Agreement (as discussed in volume 1 of this 2003 NCP assessment report).

Public education and consultation

Western Australia provided no information on its public education and consultation activity for this 2003 NCP assessment. The Council received no indication from interested parties suggesting difficulties arising from inadequate consultation.

Under the amended *Water Services Coordination Act 1995*, the Economic Regulation Authority will monitor the performance of the water services industry and service providers. For the purpose of this monitoring, the authority will be required to consult with interested groups and persons.

The Council considers that Western Australia met its public education and consultation obligations for the 2003 NCP assessment.

South Australia

Urban water and wastewater pricing

SA Water is South Australia's primary supplier of water and wastewater services to Adelaide and country towns, providing services to over one million people in 2000-01. The prices of the services provided by SA Water are determined by the South Australian Cabinet on the recommendation of the Minister for Government Enterprises. The Government does not make publicly available the information it considers in determining prices, or the reasons for its pricing decisions. The Essential Services Commission of South Australia (ESCOSA) has no pricing oversight role for SA Water, and the Government does not propose that it will in the future.

While the South Australian Government considers that SA Water is pricing appropriately, the current pricing process offers no transparent evidence to demonstrate this and no assurance that future pricing will be consistent with CoAG pricing principles. The Council raised this matter in previous NCP assessments, suggesting that South Australia introduce arrangements such as independent price regulation of water and wastewater services and/or a public price-setting process. Price regulation by ESCOSA would give confidence that pricing decisions are based on efficient resource and business costs, and would allow independent and transparent consideration of pricing-related matters, including asset valuation, community service obligations, cross-subsidies, externalities and dividend distribution.

SA Water's current target dividend of 55 per cent of earnings before interest, tax, depreciation and amortisation means that the dividend it pays to the Government may exceed 100 per cent of after-tax profit. Frequent dividend payments that exceed 100 per cent of after-tax profit have the potential to undermine SA Water's long-term sustainability. The dividend paid by SA Water regularly exceeded 100 per cent of accumulated after-tax profits in recent years.

The South Australian Government committed to publish annual transparency statements on its decisions on SA Water's water and sewerage prices, with the first statement to address prices in 2004-05. The Government intends that the statement will establish the relationship of the pricing decisions to the CoAG pricing principles, provide information on SA Water's financial performance in the context of decisions on pricing and past and future expenditures, and address details of revenue, community service obligations, SA Water's capital expenditure program, and SA Water's profit and the distribution of that profit. ESCOSA is to review the processes involved in preparing the transparency statements and advise on the information supporting the pricing decisions. ESCOSA's report will form part of the transparency statements.

The Council considers that South Australia has satisfactorily addressed its urban water and wastewater pricing obligations for the 2003 NCP assessment.

The Council will consider South Australia's performance on urban water and wastewater pricing again in the 2004 NCP assessment, when it will consider whether pricing by SA Water satisfactorily addresses the CoAG pricing principles. In the 2004 assessment, the Council will take account of the South Australian Government's first annual pricing transparency statement. The Council will look for the statement to have considered water and wastewater pricing decisions against all of the CoAG pricing principles.

Water entitlements: progress report

South Australia completed water allocation plans covering all 15 prescribed water resource areas on its original implementation program. It converted water allocations to a volumetric basis in most areas of the State. The main area remaining is the South East Catchment, where revised water allocation plans and licence conversions will be completed in 2006, subsequent to the 2005 deadline set by CoAG. This is a significant catchment, having seven prescribed water resources. To assist in the conversion process in the South East Catchment, South Australia is installing meters in around 200 sites to obtain information on the volumes used by irrigators. The information from the metering project will be used in reviewing the water allocation plans in the catchment. The water licences in the catchment will then be converted to a volumetric basis in accordance with the revised water allocation plans.

The first stage of South Australia's upgraded water licence registry system will be implemented in 2003. South Australia expects the system to be fully implemented by 2004-05.

Provision of water to the environment: progress report

In prescribed areas, water allocation plans are the primary mechanism for providing water for the environment. Under the *Water Resources Act 1997*, the plans must provide for the sustainable allocation and use of the available water. Environmental water provisions are formally recognised and protected through the plans, which also include monitoring arrangements. Under the Act, the Minister may reduce the water allocations stipulated on licences to prevent damage to dependent ecosystems or a reduction in water quality.

South Australia's original implementation timetable included the River Murray water allocation plan completed in 2003. The River Murray plan specifies water for extractive uses and provides up to 200 gigalitres each year for wetland management purposes, with a further 22.2 gigalitres for environmental land management (in particular, for minimising the effects of rising saline underground water) in the Lower Murray Reclaimed Irrigation Areas.

South Australia prescribed two additional water resources in the South East Catchment: (1) the Tintinara Coonalpyn prescribed wells area and (2) the Morambro Creek prescribed watercourse and prescribed surface water area. The Tintinara Coonalpyn water allocation plan was adopted in January 2003. The South East Catchment Water Management Board is preparing the Morambro Creek plan, which is expected to be completed in 2004. South Australia recently prescribed the Great Artesian Basin (Far North prescribed wells area), Marne River and Saunders Creek, with the water allocation plans expected to be completed in late 2005 or early 2006. South Australia also proposes to prescribe water resources in the Baroota area near Port Germein, in Greenock Creek adjacent to the Barossa Valley, and on Kangaroo Flat on the northern Adelaide plains.

The Government announced a 'Save the Murray' levy of A\$30 a year for residential ratepayers and A\$135 a year for nonresidential ratepayers. The levy is to apply from October 2003 and is expected to raise A\$20 million a year. It is to be paid into a Save the Murray Fund. Around A\$10 million a year is to be spent on specific restoration programs, with the balance funding South Australia's contribution to a basin-wide initiative to provide water for increased environmental flows.

The Council draws the South Australian Government's attention to the need to progress the conversion of water allocations to volumetric licences in the South East Catchment. On the Government's current scheduling, this will not be completed until 2006, which is beyond the CoAG deadline.

Intrastate trade in water

South Australia's water rights are sufficiently specified to enable efficient trade. Licences are issued in perpetuity and are separate from land title. In irrigation areas, the irrigation trust holds the water-taking allocation. Whether the trust devolves all or part of this allocation to its members varies among the trusts. Where the allocation is devolved, subject to the trust's approval, the owner of an irrigated property may transfer all or part of their allocation to another landowner within the district or to the trust. An irrigation trust may trade all or part of its surplus allocation (the allocation held by the trust in excess of the sum of entitlements held by individual irrigators) to another party outside the trust. Outside the irrigation trusts, water licences are vested in the end users and are specifically recognised as personal property. The register of water rights includes provision for the registration of third party interests, and registered third parties must be notified before the Minister can approve a trade.

Permanent and temporary water trading occurs through a variety of mechanisms, including private trades, brokers and water exchanges. The Department of Water, Land and Biodiversity Conservation recently established a web site to improve the availability of water market information throughout the State and to facilitate contact between buyers and sellers. A range of measures protect the water rights of users and the environment.

The main outstanding water trading issue is the limitation on the volume of water that may be permanently transferred out of some irrigation districts. The Central Irrigation Trust's 2 per cent cumulative limit on the proportion of entitlements that can be permanently traded out of the trust's districts has been reached in five of the trust's nine districts. The trust also limits permanent transfers from a property to 25 per cent of the landholder's original water allocation. Other reported trading restrictions include a restriction on temporary trade out of the Central Irrigation Trust and on permanent trade out of other trusts. The Council understands that the trusts limit outwards trade to address concerns about possible adverse socioeconomic outcomes for their districts and to ensure their irrigation infrastructure operates efficiently. Trust members are also concerned about environmental outcomes and future uncertainty about the amount of water available for extraction.

While the trading rules are set by the irrigation trusts (rather than the South Australian Government), the CoAG water agreements place responsibility on the Government to facilitate trading to enable water to be used to maximise its contribution to national income and welfare, where socially, physically and ecologically sustainable. This qualification does not justify restricting trade, unless there is rigorous evidence to demonstrate that the restriction provides a net public benefit and is necessary to achieve the trust's objective. The institutional reform obligation relating to the devolution of irrigation scheme management envisages devolution on the basis that governments establish appropriate regulatory frameworks for local management.

The trading provisions in South Australia's water allocation plans are generally directed at facilitating trade in a manner that maximises economic benefits while protecting the environment and the interests of other water users. While trade in the area is significant, it seems likely that the reduction factor is restricting trade to some extent. Permanent and temporary transfers are subject to a 20 per cent reduction in the total volume of water allocations transferred, so the amount of water acquired by the buyer is 20 per cent less than that sold. Alternatives to reducing allocations upon transfer include the Government reducing allocations for all water licence holders in an area by a uniform percentage and/or buying allocations in the market. These alternatives are likely to be more effective in reducing water use to a more sustainable level without adversely affecting trade.

Despite some significant outstanding matters, the Council considers that South Australia made sufficient progress against its CoAG obligations on water trading for the 2003 NCP assessment. The Council will revisit South Australia's intrastate trading arrangements in the 2004 NCP assessment, when it will look for South Australia to have removed unjustified restrictions on trading.

<p>The limits on trade out of irrigation districts represent a significant constraint on both intrastate and interstate trade, and appear to be inconsistent with CoAG obligations. In the 2004 NCP assessment, the Council will look for substantive progress by South Australia towards removing constraints on trade out of irrigation districts or replacing them with a less restrictive alternative.</p>
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Institutional reform

South Australia's remaining institutional reform obligations concern the separation of the roles of water institutions, the increased devolution of management responsibility for the Lower Murray Reclaimed Irrigation Areas and integrated catchment management.

Structural separation

Unlike most other jurisdictions, South Australia has not imposed independent oversight of its major water and wastewater service provider's pricing and service standards. As discussed above in relation to pricing, this lack of transparency makes it difficult to be confident that actions by SA Water will be consistently based on the principles in the CoAG water agreement. Production of comprehensive annual public statements on pricing, as the Government has undertaken to do, will provide a means of addressing this matter.

Devolution of irrigation scheme management

The South Australian Government owns and operates nine of 24 irrigation schemes in the lower Murray, representing 70 per cent of the irrigation areas. The Government completed a major study of options for improved management and rehabilitation in the areas in June 2001. During 2002-03, the Government announced that it had approved the study's preferred option, which was rehabilitation of the most viable parts of the irrigation areas after restructuring the dairy industry. To assist with restructuring and rehabilitation works, the Government is providing financial assistance to eligible landowners. For irrigators in the Government irrigation districts, the conversion of the district into a private irrigation district is a condition of accepting the financial assistance for infrastructure rehabilitation.

The conversion of the Government irrigation districts into private irrigation districts will require the establishment of an irrigation trust (or several trusts). Irrigation and drainage infrastructure assets will be transferred to the trust. The trust will be responsible for the operation, maintenance and future replacement of the infrastructure. Levee banks and waterfront land will remain Government owned.

Integrated catchment management

South Australia continues to make progress in implementing integrated catchment management. Eight catchment areas cover 95 per cent of the State. Six of these have catchment water management plans in place and South Australia expects to adopt plans for the remaining two in 2004. The South Australian Water Resources Council reviewed the implementation of the catchment water management plans in 2002.

The Government released a discussion paper on natural resource management and a draft Bill to improve coordination by consolidating 72 regional natural resource management groups into eight boards. The Government also took some preliminary steps to improve natural resource management arrangements, including establishing the Department of Water, Land and Biodiversity Conservation, a central natural resource management council and a natural resource management integration project task-force.

The Council considers that the South Australian Government, by committing to produce annual transparency statements on its decisions on SA Water's water and wastewater prices, satisfactorily addressed its structural separation obligations for the 2003 NCP assessment.

The Council considers that South Australia made satisfactory progress against its obligations to devolve greater management responsibility for irrigation schemes for the 2003 NCP assessment. The Council will consider South Australia's progress with devolving management responsibility in the Lower Murray Reclaimed Irrigation Areas in the 2004 NCP assessment. It will look for South Australia to retain appropriate regulatory arrangements to ensure the restrictions on water trading out of other irrigation districts are not extended to the Lower Murray Reclaimed Irrigation Areas.

The Council considers that South Australia made satisfactory progress against its obligations on integrated catchment management for the 2003 NCP assessment. Given that South Australia is anticipating legislative action to rectify administrative inefficiencies in natural resource management in 2004, the Council will reassess South Australia's performance on integrated catchment management in the 2004 NCP assessment.

National Water Quality Management Strategy

The commencement of South Australia's Environment Protection (Water Quality) Policy in October 2003 is a significant milestone in the State's implementation of the NWQMS. The policy establishes protected environmental values and water quality criteria for fresh and marine waters, adopting NWQMS guideline methods.

The State Water Monitoring Coordinating Subcommittee continues to review regional water quality monitoring arrangements and there is work in individual catchments to improve monitoring. The subcommittee made recommendations in 2003 to improve the collection, management and provision of water information. The Environment Protection Authority's review of the State Ambient Water Quality Monitoring Program, scheduled for late 2003, should provide further guidance on work needed to improve the State's water quality monitoring arrangements.

The Council considers that South Australia made satisfactory progress in implementing policies that reflect the NWQMS guidelines for the 2003 NCP assessment. The Council will next consider South Australia's progress in this area as part of its full assessment of water reform in 2005.

Legislation review and reform

South Australia completed reviews of 13 of the 14 water Acts listed for NCP review. The Government approved repeal of the remaining Act (the *Loans for Fencing and Water Piping Act 1938*) without review, to occur in October 2003. The reviews recommended repealing four Acts, three of which have been repealed. The Government approved repeal of the fourth Act, scheduled for September 2003. The review of this legislation, the *Irrigation (Land Tenure) Act 1930*, did not identify any major issues, but recommended that the Act be updated and consolidated. In nine cases, reviews identified no competition issues requiring a change to legislation and/or recommended no change.

South Australia has substantially advanced its review and reform program for the water industry. It will complete its water legislation review and reform activity with the repeal of the *Irrigation (Land Tenure) Act* and the *Loans for Fencing and Water Piping Act*, which has been approved and is scheduled for later in 2003.

Given that South Australia scheduled the repeal of the two remaining Acts, the Council considers it has met its review and reform obligations relating to its stock of water industry legislation. In the 2004 NCP assessment, the Council will seek confirmation from South Australia that the scheduled repeals were undertaken.

Investment in new rural water schemes

The Clare Valley Water Supply Scheme involves the transfer of up to 7.3 gigalitres per year of filtered and treated River Murray water via a pipeline to the Clare Valley. The project involves the construction of 83 kilometres of new pipeline, two pumping stations and a 4-megalitre water storage. The scheme has three main objectives: to provide reticulated water to several townships; to enable improved water supplies to other areas of the Mid-North region; and to provide water to the Clare Valley region for irrigation and other bulk water purposes.

South Australia indicated that the initial impetus for the scheme was to provide township water supply and to augment the supply to other regions. It advised that the provision of irrigation water is necessary, however, to ensure the scheme is financially viable. The financial evaluation of the scheme assumes that over 95 per cent of the water will be used for irrigation. While initially expected to be undertaken by the private sector, the scheme proceeded as a SA Water project during 2002-03. Construction is expected to be completed in late 2003.

An ecological study of the project identified a number of potential adverse environmental effects, including: waterlogging and drainage hazard formation; increased stream baseflow and baseflow salinity in the vicinity of new and existing irrigation; the salinisation of the groundwater resource; the release of chloraminated water to the environment; disruption to the environment from the pipeline construction works; and ecosystem impacts resulting from changes to the water balance and salinity levels, including potential threats to endangered or vulnerable species.

The ecological study concluded, however, that importing River Murray water into the Clare Valley region for use in irrigation can be managed to avoid adverse environmental effects. The South Australian Government advised that water from the pipeline will not be able to be used until the issues identified in the study are addressed. SA Water wrote to the Council advising that it and the Department of Water, Land and Biodiversity Conservation are committed to implementing management measures to ensure potential impacts on the environment are appropriately controlled. These measures include permit/licensing requirements to avoid approvals in areas where there is an unacceptable risk of land degradation, subcatchment modelling, land capability mapping and an expanded groundwater and surface water monitoring program. The project does not require approval under the Environment Protection and Biodiversity Conservation Act.

There has also been an economic study of the Clare Valley project, which concluded that the project is commercially viable for SA Water. (SA Water is undertaking the project on a commercial basis and is not expecting Government subsidies.) The study concluded that the project is economically viable taking account of wider benefits and costs, with a net present value of A\$25.5 million (based on a discount rate of 7 per cent). SA Water advised that the economic evaluation incorporated an assessment of likely environmental costs in calculating capital costs but that ongoing regional monitoring costs (estimated to be \$66 000 annually) were not included. Accounting for these costs would not, however, alter the viability of the scheme.

The Council considers that the economic and ecological evaluations undertaken by South Australia address the CoAG requirements relating to new rural infrastructure. In the 2004 NCP assessment, the Council will consider the implementation of SA Water's undertakings on environmental management. For that assessment, the Council will seek a report from the South Australian Government on (1) how it has acted to address the matters raised in the ecological study and (2) the initial outcomes of the regional monitoring of groundwater and surface water. The Council may consider recommending a reduction in South Australia's competition payments in 2004-05 if the undertakings by SA Water are not delivered.

Public education and consultation

Public education and consultation activity by South Australia that relates to this 2003 NCP assessment mainly concerns the development and implementation of water allocation plans and catchment water management plans. The South Australian Government's decision to publish annual transparency statements on its decisions on SA Water's water and wastewater prices should assist public understanding of the cause-and-effect relationship between prices, infrastructure performance, standards of service and related costs, and assist SA Water to provide levels of service that represent the best value for money for the community.

The Council considers that South Australia met its public education and consultation obligations for the 2003 NCP assessment.

Tasmania

Urban water and wastewater pricing

All urban retail water and wastewater services in Tasmania are provided by local governments. The Tasmanian Government's Urban Water Pricing Guidelines for Local Government in Tasmania require local governments to set prices to recover costs. The guidelines also require local governments to report environmental costs incurred and community service obligations provided, and move to determine asset values on a fair value basis in accordance with the accounting standard AASB 1041.

The Government Prices Oversight Commission annually assesses local governments' compliance with the full cost recovery obligation in relation to water and wastewater services. The most recent assessment (for 2001-02) found that 21 of 28 local governments were in practical compliance with the full cost recovery obligation, including two that were in an agreed two-year transition to full cost recovery. All except two of the larger local governments were pricing within the cost recovery range. The local governments that the Government Prices Oversight Commission identified as not achieving full cost recovery in 2000-01 each committed to a strategy and timeframe for reaching full cost recovery. While the timeframes for this vary, each local government expects to achieve full cost recovery by the 2005 NCP assessment. Since the 2002 NCP assessment, the Tasmanian Government has assisted local governments to achieve full cost recovery. This assistance included conducting workshops for local government officers and the Government Prices Oversight Commission giving a presentation on water assets and the NCP.

Tasmanian local governments apply consumption-based pricing where cost-effective. In 1999, Tasmania subjected 34 schemes provided by local governments (selected according to a test developed by the Government Prices Oversight Commission) to cost-effectiveness studies, finding seven that should introduce a two-part tariff. A further 11 schemes committed to introducing a two-part tariff without a cost-effectiveness study. Of these 18, 17 subsequently introduced a two-part tariff. The one exception found, in a trial of metering subsequent to the initial work, that a two-part tariff would not be cost-effective. The larger local governments have trade waste agreements with large dischargers, or pricing regimes based on the volume and toxicity of discharge.

The Government Prices Oversight Commission audit of local government water and wastewater businesses for 2001-02 found that few local governments were reporting community service obligations. The audit also found that few local governments were identifying and funding own-use transfers, meaning that other water users were cross-subsidising local governments' water consumption. The audit noted, more generally, the potential for the absence of two-part pricing to create inefficiencies and cross-subsidies. Tasmanian Government officials indicated that the Government would develop a response to these and other issues raised by the Government Prices Oversight Commission.

<p>The Council considers that Tasmania achieved satisfactory progress against its urban water and wastewater pricing obligations for the 2003 NCP assessment. It will pursue matters relating to the transparency of pricing-related matters in the 2005 NCP assessment.</p>
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Water entitlements: progress report

Tasmania's *Water Management Act 1999* established a system of water entitlements whereby licences (and water allocations) are not legally attached to land titles and are transferable. Licences are specified in volumetric terms and also indicate the reliability of the water allocations. To obtain a water allocation, a person must generally hold a water licence. Licences are issued for 10 years, with a presumption of renewal, and are subject to a review of conditions after five years. The conversion of water rights under the previous system to licences and allocations under the new system is now largely complete. The Water Management Act established a register of licences, which includes provision for registering financial interests.

The *Irrigation Clauses Act 1973* (as amended in 1997 and 2001) established irrigation rights within irrigation districts. The rights are separate from land and transferable within the district. Only an owner or occupier of land in the district, or a person who may hold land in the district, may hold irrigation rights. A holder of an irrigation right who no longer owns or occupies land in the district must transfer the right within six months or forfeit it. (The Minister may give a single extension of six months.) Compensation is payable where it is necessary to reduce irrigation rights, such as where total allocations exceed the quantity of water available (as determined by a water management plan) or where there is inconsistency with the objectives of the Water Management Act.

Provision of water to the environment: progress report

Tasmania is addressing water allocations for the environment in two stages. The Department of Primary Industries, Water and Environment is determining environmental water requirements — the water required to sustain the ecological values of aquatic ecosystems at a low level of risk — to address the flow requirements for the State's rivers. For stressed (or more developed) water sources, the Government preserves an amount of water for the environment as determined by agreement or negotiation with the community and incorporated in a water management plan. The objectives of the Water Management Act include the sustainable use of the water resources and the maintenance of ecological processes and genetic diversity for aquatic ecosystems.

Tasmania identified 14 water sources for which it intends to develop water management plans. Environmental water requirements have been determined for all of these sources. The provision of water for environmental purposes depends, however, on the Government also developing the water management plans. At 30 June 2003, Tasmania had completed no water management plans, although the Great Forester River plan was almost finalised. Tasmania expected to substantially complete environmental water provisions for the water sources on its agreed implementation program by 2005.

Tasmania's 'farm dams policy' incorporates guidelines for assessing applications for new water allocations from watercourses, including for proposed dams (currently in draft form). The policy will also incorporate the outcome of work being undertaken by the Department of Primary Industries, Water and Environment on a system to identify and conserve Tasmania's significant freshwater conservation values.

The Government proposes to develop generic principles to guide the preparation of its water management plans. It considers that an agreement on the principles by the key stakeholders (including the Tasmanian Conservation Trust and the Tasmanian Farmers and Graziers Association) would greatly accelerate the development of water management plans.

Intrastate trade in water

Tasmania made significant progress in addressing its water trading commitments in 2002-03. It removed two restrictions on water trading identified by the Council in the 2001 NCP assessment as likely to be inconsistent with CoAG water trading commitments. At 30 June 2003, Tasmania had virtually completed the conversion of all former water rights (attached to land titles) to licences and allocations under the new legislation, removing a further constraint to trading.

Water market and trading administration does not appear to represent an impediment to trade. In the 2001 NCP assessment, the Council found that while Tasmania's register of water rights does not provide indefeasibility or surety of title, water rights are sufficiently well defined so as not to provide an impediment to trade. In addition, transfers require the consent of all parties with a registered financial interest in the water right. Tasmania has a register of licences, known as the Water Information Management System, which the Department of Primary Industries, Water and Environment maintains. Tasmania advised that trades are approved on average within seven days in Government-owned irrigation districts and within five to 14 days in unregulated systems, depending on third party interests. There are no Government impediments to the establishment of new trading mechanisms. Tasmania's arrangements also adequately address risks for the environment by requiring, for example, that transfers are consistent with the objectives of the water legislation and any relevant water management plan.

One remaining restriction on trading in irrigation districts is likely to be inconsistent with CoAG obligations — that is, the requirement that only an owner or occupier of land in the district may hold irrigation rights. Tasmania advised that this provision is intended to ensure water from publicly funded irrigation schemes is used for the purpose for which it was provided and to militate against speculation. The restriction is also likely, however, to affect the entry and activities of agents, brokers and other potential participants in the water trading market; as a result, it may reduce returns available to holders of irrigation rights and constrain the extent to which water is used for its highest value purpose. Tasmanian Government officials have indicated a preparedness to consider the continuing need for the measure. The Water Management Act includes a provision applying to unregulated systems that appears to have similar objectives, by providing scope for transfers to be refused if the quantity of water exceeds the amount that could be used sustainably for the intended purpose. The Council will look for Tasmania to consider the need for this provision.

The Council considers that Tasmania made sufficient progress against its CoAG obligations on water trading for the 2003 NCP assessment.

The Council will revisit Tasmania's intrastate trading arrangements in the 2004 NCP assessment when it will look for Tasmania to have removed the remaining restrictions on trading or demonstrated that they provide a net public benefit. In future assessments, the Council will consider the efficacy of trading rules in water management plans as the plans are finalised. The Council will also monitor the choice of water trading mechanisms and the availability of market information, which are likely to develop as trading in water increases.

Institutional reform

The Council raised several institutional structure issues in previous NCP assessments, including: the transparency of reporting on pricing and related issues (discussed above); the absence of mechanisms to address water service standard issues for local government water businesses; and the potential for conflicts of interest in Ministerial arrangements, given that the Minister for Primary Industries, Water and Environment is responsible for the Rivers and Water Supply Commission (the service provider) and for resource management and water allocations. Stakeholder participants in this 2003 NCP assessment expressed concerns about the interdependence of the roles of water resource management, standards setting, regulatory enforcement and service provision. Also relevant for this 2003 NCP assessment are Tasmania's institutional reform responsibilities to increase the local management of irrigation schemes and to adopt integrated catchment management.

Structural separation

Institutional arrangements appear to provide an adequate level of separation and, for a small jurisdiction, are consistent with CoAG obligations. The Rivers and Water Supply Commission, the Assessment Committee for Dam Construction and the Environmental Management and Pollution Control Board are effectively separate legal entities from the department and must comply with their own specific legislative requirements. Departmental representatives do not comprise a majority on either the Assessment Committee for Dam Construction or the Environmental Management and Pollution Control Board. In approving water management plans and water allocations the Minister must comply with the Water Management Act. As the portfolio Minister for the Rivers and Water Supply Commission, the Minister is bound by the *Government Business Enterprises Act 1995*.

Many Tasmanian local governments have mechanisms for handling complaints, and customers of local government water businesses have access to the Ombudsman. Tasmania is also considering arrangements for the handling of complaints as part of a wider review of the *Local Government Act 1993*. An issues paper, released in March 2003, indicates that the review is considering whether local governments should be required to adopt a formal complaints-handling procedure that has the confidence of their local communities. The review is also considering the case for establishing an independent complaints-handling body to deal with local government-related matters.

Devolution of irrigation scheme management

Tasmania transferred responsibility for the management of the Winnaleah Irrigation Scheme to local irrigators on 1 July 2003. The Rivers and Water Supply Commission retains ownership of the fixed assets (for water delivery and water storage). The Winnaleah irrigators are responsible for day-to-day scheme operations, administration and management (including price setting and staff management) and own the operational assets. Tasmania commenced discussions with local irrigators on devolving management responsibility for the South East Irrigation Scheme.

Integrated catchment management

Tasmania's work in catchment management since the 2001 NCP assessment appears to have focused on establishing an appropriate administrative framework. Tasmania enacted the *Natural Resource Management Act 2002* in November 2002 and established the Tasmanian Natural Resource Management Council in February 2003. The three regional natural resource management committees have commenced work. The State's natural resource management framework supports land care practices to protect rivers with high environmental values. The Tasmanian and Commonwealth governments signed a partnership agreement to implement integrated catchment management reforms in priority catchments as part of the National Action Plan for Salinity and Water Quality. Despite only limited on-the-ground progress since the 2001 NCP assessment, the State's resolution of the administrative framework for integrated catchment management should enable Tasmania to achieve appropriate catchment management outcomes.

The Council considers that Tasmania achieved satisfactory progress against its structural separation obligations for the 2003 NCP assessment. The Council will await the outcome of Tasmania's review of its Local Government Act before further considering the adequacy of complaints-handling processes for addressing concerns with the standards of service of local government water businesses.

The Council considers that Tasmania achieved satisfactory progress against its obligations to devolve greater management responsibility for irrigation schemes for the 2003 NCP assessment. The Council will consider Tasmania's progress with devolving management responsibility in the South East Irrigation Scheme in the 2004 NCP assessment.

The Council considers that Tasmania made satisfactory progress against its obligations on integrated catchment management for the 2003 NCP assessment. The Council will next consider Tasmania's progress on integrated catchment management as part of its full assessment of water reform in 2005.

National Water Quality Management Strategy

Tasmania continues to make progress in implementing the NWQMS framework, with significant developments since the 2001 NCP assessment including:

- the completion of the State Water Quality Monitoring Strategy;
- the setting of protected environmental values for most of the State's catchments, and pilot schemes to develop water quality objectives;
- further work on the State of River reports;
- the establishment of links between water quantity and water quality issues in water management plans and State of River reporting; and
- the implementation of wastewater and stormwater management strategies.

The Council considers that Tasmania made satisfactory progress in implementing policies that reflect the NWQMS guidelines for the 2003 NCP assessment. The Council will next consider Tasmania's progress in this area as part of its full assessment of water reform in 2005.

Legislation review and reform

Tasmania has essentially completed the review and reform of the 18 water Acts on its NCP program. Several Acts were repealed or amended by the Water Management Act. The Water Management Act established a system of transferable water entitlements and the Irrigation Clauses Act (as amended in 1997 and 2001) established district irrigation rights that are separated from land and transferable within the irrigation district. The Water Management Act includes a provision that allows transfers of water entitlements in unregulated systems to be refused if the quantity of water exceeds the amount that could be used sustainably for the intended purpose. The Irrigation Clauses Act imposes a requirement that appears to have a similar objective — that is the requirement that only an owner or occupier of land in the district, or a person who may hold land in the district, may hold irrigation rights. As discussed above, these provisions are likely to affect the development of the water trading market by limiting the activities of agents, brokers and other potential participants in the market: as a result, they may reduce returns available to holders of irrigation rights and constrain the extent to which water is used for its highest value purpose.

The Council considers that Tasmania has met its review and reform obligations relating to its stock of water industry legislation. For the 2004 NCP assessment, however, the Council will look for Tasmania to consider the need for provisions in the Water Management Act and the Irrigation Clauses Act that may impinge on the development of water trading.

Investment in new rural water schemes

In 2001, the Tasmanian Government announced an intention to proceed with the design of the Meander Dam project, 50 kilometres south west of Launceston. Water from the 43-gigalitre dam would be used primarily to increase the quantity and surety of irrigation water in the region. A mini hydroelectric power plant, connected to the State grid, is also proposed to operate at the site. The Tasmanian (A\$7 million) and Commonwealth governments (A\$2.6 million) are to contribute funding for the project.

At the time of the 2002 NCP assessment, the Tasmanian Government was assessing an application for a permit to commence construction of the Meander Dam under the statutory processes of the Water Management Act and the *Environmental Management and Pollution Control Act 1994*. The development proposal is also a controlled activity under the Commonwealth's Environment Protection and Biodiversity Conservation Act on the grounds of potential impacts on listed threatened species and communities, particularly the spotted tailed quoll and the plant species *Epacris aff. exserta*.

In a draft report in December 2002, an economic study commissioned by the Tasmanian Government concluded that the project would have a positive net present value estimated at A\$30.4 million (at a 6 per cent real discount rate).

The study also reported an alternative evaluation that found a lower, but still positive, estimated net economic benefit of A\$9.6 million.

In late 2002, Tasmania's Director of Environmental Management issued an environment protection notice enabling the dam to proceed (subject to conditions) and the Assessment Committee for Dam Construction issued a permit for the dam. In January 2003, however, Tasmania's Resource Management and Planning Appeal Tribunal set aside the dam permit and environment protection notice following an appeal by the Tasmanian Conservation Trust and a private party. The Tasmanian Government subsequently introduced legislation to overcome the tribunal's decision and permit construction of the dam. The *Meander Dam Project Act 2003*, passed in April 2003, reinstates the dam permit and environment protection notice and removes any right of further review or appeal.

In making a decision under the Environment Protection and Biodiversity Conservation Act, the Commonwealth Minister for the Environment and Heritage must consider relevant environmental impacts and social and economic factors. The Council understands that the Commonwealth Government commissioned further work on the economic, social and environmental impacts of the project, which includes investigating ecological evidence of the effects on the spotted tailed quoll and the *Epacris* species. The Commonwealth Government's approval process is still to be completed.

Tasmania commissioned further analysis and recently submitted two additional reports to assist the Commonwealth Government's assessment: an economic analysis and a report on the social and community impacts of the project. The economic analysis reviewed the economic work submitted to the Resource Management and Planning Appeal Tribunal and took into account analyses undertaken for the Tasmanian Conservation Trust and WWF Australia, and initial work from the Commonwealth Government's evaluation. Assessing the project against a variety of deliberately conservative assumptions, the economic analysis found that the project would provide net economic benefits to Australia. The study of social and community impacts concluded that the Meander Dam is likely to result in: positive economic benefits for the agricultural industry and for rural centres and areas; higher employment, including job opportunities for young people; increased vocational education opportunities, particularly in agricultural and related industries; and an overall strengthening of the sustainability of the Meander Valley community.

If the Commonwealth Government approves the project during 2003-04 (the Tasmanian Government's actions indicate it has decided to proceed with construction upon approval of the project by the Commonwealth Government), the Council would ordinarily assess Tasmania's compliance with the CoAG obligations on new rural infrastructure in the 2004 NCP assessment. The Council considers, however, that there are transparency benefits for both the Commonwealth and Tasmanian governments from the Council providing preliminary views on Tasmania's compliance before the governments make a final commitment to the Meander Dam project.

Otherwise, the two governments would be committing funds without full information on the implications of their decisions.

The Council's preliminary view on the economic evidence is that the recent work commissioned by Tasmania provides a robust case to show that the dam would be economically viable. The analysis accounted for relevant costs and benefits, used an appropriate discount rate and responded appropriately to the issues raised by other parties. Sensitivity analysis indicated that the project is economically viable under a wide range of conservative assumptions. The Council has insufficient information at this time, however, to reach a preliminary view on Tasmania's compliance with the requirements on ecological sustainability.

If the Commonwealth Government approves the project during 2003-04, then the Council will conduct a supplementary assessment to consider whether the project satisfies CoAG's economic viability and ecological sustainability requirements. In conducting the supplementary assessment, the Council will consider the economic and environmental studies undertaken by the Commonwealth and Tasmanian governments. It will also take into account the information provided by other parties, including the Tasmanian Conservation Trust and WWF Australia. Any Council recommendations on Tasmania's competition payments will relate to 2004-05.

Public education and consultation

Public education and consultation activity by Tasmania that relates to this 2003 NCP assessment mainly concerns the development and implementation of water management plans and water and wastewater pricing. Tasmania developed the water management plan for the Great Forester River using a public process. The Government publicly exhibited the draft plan for the catchment in the first half of 2002, providing an opportunity to better understand the issues of and processes for preparing water management plans. It established a local consultative group, including a representative of environmental groups, to assist in finalising the plan. The consultative group will continue to work with the Department of Primary Industries, Water and Environment on ongoing water management issues relevant to the plan. As a result of the Great Forester process, the department established similar consultative groups for other catchments.

In February 2003, the Government conducted workshops for local government officers across the State, to raise awareness of full cost recovery and related pricing obligations. Also in 2003, the Government Prices Oversight Commission gave a presentation on water assets and the NCP to a local government accounting seminar. The Government wrote to all local governments that provide water and wastewater services, encouraging them to test their 2003-04 rating policies against full cost recovery obligations.

The Council considers that Tasmania met its public education and consultation obligations for the 2003 NCP assessment.

Australian Capital Territory

Urban water and wastewater pricing

The ACT Electricity and Water Corporation (ACTEW) — a Government owned corporation — supplies metropolitan water and sewerage services in the ACT. ACTEW and AGL have formed a joint venture (ActewAGL) under which ACTEW retains ownership of water and wastewater assets, while service delivery is contracted to the partnership entity ActewAGL. The Independent Competition and Regulatory Commission regulates ACTEW's water and wastewater services, including service prices.

ACTEW earned a rate of return on combined water and wastewater assets of 6 per cent in 2001-02. ACTEW is subject to all Commonwealth and ACT taxes and tax equivalents. As an incorporated entity, it is bound by the *Corporations Act 2001*, which stipulates that dividends may be paid only from profits (including accumulated retained profits). The ACT Government applies a water abstraction charge of 10 cents per kilolitre. This covers the environmental costs of water use and the scarcity value of water, and applies to all customers.

ACTEW implements trade waste acceptance practices that allow for contracts with users of its services. The waste acceptance practices require users to contribute to the costs of monitoring and, in some cases as a transitional measure, to the costs of treating waste (based on the volume and strength of the discharge). ACTEW is developing a charging regime that accounts for the ACT's specific trade waste circumstances. The ACT Government advised that ACTEW's work will be submitted to the Independent Competition and Regulatory Commission for its review of ACTEW's water and wastewater charges for July 2004 to June 2009.

The Council considers that the ACT met its urban water and wastewater obligations for the 2003 NCP assessment.
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Water entitlements and the provision of water to the environment: progress report

The *Water Resources Act 1998* is the legal basis for the allocation of water, the issuing of licences to take water, and the determination of environmental flow requirements in the ACT. Water rights are separated from land title, are issued in perpetuity and provide the holder with a right to a share of the available resource. The Environment Management Authority maintains a register of licences and water allocations. There is no facility to record third party interests in an allocation, but the ACT advised that it can readily address this issue when the need arises.

The ACT's Water Resources Management Plan commenced in 2000. The plan sets out estimates of total water resources, environmental flow requirements and water available for consumption to 2010. Under the ACT's environmental flow guidelines, flows are protected up to the 80th percentile (that is, the flow that is exceeded 80 per cent of the time). For most subcatchments, extraction for consumptive use is limited to 10 per cent of flows above the 80th percentile. For water supply catchments, 100 per cent of flows above the 80th percentile are available for abstraction (except for spawning flows). Groundwater extraction is limited to 10 per cent of average annual recharge. There are no stressed or overallocated systems within the ACT.

The ACT component of the Murray–Darling Basin Ministerial Council cap on water diversions is still to be finalised. The Government anticipated reaching a final position on the cap during 2003.

Intrastate trading

There has been no water trading in the ACT or between the ACT and another jurisdiction. The lack of trade largely reflects the available resource and the relatively small industrial and agricultural sectors in the ACT compared with other jurisdictions. Interstate trade involving the ACT depends on the development of trading rules for the Murrumbidgee and Murray rivers and the finalisation of the Murray–Darling Basin Ministerial Council cap on water diversions for the ACT. There is no legislative restriction on trading: the Water Resources Act permits the permanent or temporary transfer of all or part of a water allocation with the approval of the Environment Management Authority. The ACT Government considers there is insufficient demand for trading to warrant developing intraterritory trading rules or an intraterritory market.

<p>The Council considers that the ACT met obligations on water trading for the 2003 NCP assessment. The lack of demand for water trading in the ACT means that the absence of trading rules does not currently affect trade. As water use and scarcity, and therefore the demand for trade, increase, trading rules will need to be developed. In the 2004 NCP assessment, the Council will consider the ACT's progress in finalising the Murray–Darling Basin Ministerial Council cap on water diversions and developing arrangements for interstate trade in water.</p>

Institutional reform

The Council considered several outstanding institutional reform matters in the 2002 NCP assessment, finding that the ACT had satisfactorily addressed all relevant structural questions. The Council found that the ACT finalised: a standard customer contract setting out the terms and conditions for the supply of water and sewerage services to customers, including the obligations on both ACTEW and customers; ACTEW's utility services licence, which includes ACTEW's obligations regarding its operations, the environment and its participation in benchmarking processes; and a range of industry and technical codes. The ACT demonstrated in the 2001 NCP assessment that ACTEW has a commercial operating focus. There are no public irrigation schemes in the ACT.

Reflecting its location within the Murray–Darling Basin, the ACT's catchment management framework encompasses the objectives in the Murray–Darling Basin Commission's 1990 *Natural Resource Management Strategy*. The ACT participates in the Murray–Darling Basin Initiative, including activities aimed at halting degradation and improving the quality of resource management in the basin. Lying within the Murrumbidgee River catchment, the Territory participated in the preparation of the Murrumbidgee catchment blueprint by the Murrumbidgee Catchment Management Board (based in New South Wales) and is developing its own integrated natural resource management plan that reflects the approaches in the blueprint. The ACT plan will be the basis for the ACT's participation in the National Action Plan for Salinity and Water Quality.

The ACT also has local level activity under way. It published subcatchment plans for Tuggeranong–Tharwa, Woden–Weston and the Southern ACT Catchment Group, and an implementation plan and support strategy for volunteers engaged in natural resource management.

<p>The Council considers that the ACT met all institutional reform obligations for the 2003 NCP assessment. The Council will next consider the ACT's progress on integrated catchment management as part of its full assessment of water reform in 2005.</p>
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National Water Quality Management Strategy

The ACT continues to implement the NWQMS framework, giving priority to areas of relevance to the Territory. The ACT became the first Australian government to formally regulate drinking water quality when, in 2001, it adopted the Australian Drinking Water Guidelines 1996. ActewAGL published its first annual report on drinking water quality in 2002. The ACT also published a draft policy for sustainable water resource management (including proposals to improve stormwater and waste management) and developed a draft policy for accepting nondomestic trade waste into the sewerage network, based on the NWQMS principles. The ACT is yet to implement the NWQMS guidelines for fresh and marine water quality (NWQMS paper no. 4) and for water quality monitoring and reporting (NWQMS paper no. 7).

The Council considers that the ACT is establishing appropriate processes, instruments and mechanisms to implement the NWQMS guidelines. The ACT's water quality standards and water quality monitoring arrangements do not fully reflect the 2000 revisions of the NWQMS guidelines for fresh and marine water quality (NWQMS paper no. 4) and water quality monitoring and reporting (NWQMS paper no. 7). The Council will next consider the ACT's progress in this area as part of its full assessment of water reform in 2005. The Council will look in particular for the ACT to have addressed the revised NWQMS guidelines for fresh and marine water quality and water quality monitoring and reporting.

Legislation review and reform

The ACT repealed all five water industry Acts that it identified for review in accord with the Competition Principles Agreement. The Water Resources Act is the legal basis for the allocation of water, the issuing of licences to take water, and the determination of environmental flow requirements in the ACT. The Act does not restrict water trading: the permanent or temporary transfer of all or part of a water allocation can occur with the approval of the Environment Management Authority.

The Council considers that the ACT has met its review and reform obligations relating to its stock of water industry legislation.

Public education and consultation

The ACT is addressing its public education and consultation obligations. The work by the Independent Competition and Regulatory Commission makes a significant contribution to the community's understanding of ACT water and wastewater prices and the relationship of prices to service quality and reliability. The commission established a price direction for ACTEW's electricity, water and wastewater charges for 1 July 1999–30 June 2004. Following a reference from the ACT Treasurer, the commission is currently investigating ACTEW's water and wastewater services, to provide for a price determination from 1 July 2004. This investigation (being undertaken in conjunction with a review of the prices of the electricity services provided by ActewAGL) is a public process. The commission released an issues paper in July 2003 as a first step in its public awareness program. The commission is seeking submissions and community views on all aspects of the price review.

The Council considers that the ACT met its public education and consultation obligations for the 2003 NCP assessment.

Northern Territory

Urban water and wastewater pricing

The Power and Water Corporation (PowerWater) provides the majority of the Northern Territory's urban water and wastewater services. Under the *Water Supply and Sewerage Services Act 2000*, the regulatory Minister (currently the Treasurer) is responsible for the economic regulation of PowerWater and the setting of service standards, on independent advice from the Utilities Commission.

PowerWater's water and wastewater operations earned income and community service obligation revenue sufficient to recover total operating, debt servicing and asset refurbishment costs in 2001-02, although it incurred operating losses in most urban centres (apart from Darwin) as a result of the Northern Territory Government's decision that PowerWater should impose uniform tariffs. PowerWater must operate in accord with the Territory's competitive neutrality policy framework, which incorporates taxes and rates (or equivalents). Under the arrangements for Government-owned corporations, dividends are agreed between the shareholding Minister and the PowerWater board. Asset consumption costs are calculated on a written-down replacement cost basis. They are also calculated on a replacement annuity basis for comparative purposes and to ensure compliance with CoAG cost recovery requirements.

Most environmental requirements imposed on PowerWater are conditions of extraction and discharge licences issued under the *Water Act 1999*. While a licence may be issued for up to 50 years, the controller of water may revise licence conditions in the light of ongoing water allocation planning and environmental monitoring programs. In addition, the controller of water may require a licensee, at the licensee's expense, to provide data. Operational environmental requirements are also imposed on PowerWater, including requirements relating to water quality and quantity monitoring and reporting, and the costs of pollution incident reporting. PowerWater's use of water resources is limited to water allocations defined in extraction licences, which are set at environmentally sustainable levels. This provision is intended to mitigate the adverse environmental implications of water consumption in the Territory. PowerWater's annual report contains details of its costs in complying with water allocation requirements and monitoring and reporting obligations.

Water charges in the Northern Territory are use based. There are no free water allowances, ensuring water customers face a price incentive to use water economically. PowerWater intends to phase out cross-subsidies: it reports the remaining cross-subsidies in its annual reports. The Northern Territory Government provides funding to subsidise water and wastewater charges for pensioners in all Northern Territory centres, and for services in the Katherine, Tennant Creek and Alice Springs regions to maintain uniform tariffs across the Territory.

Domestic and nondomestic wastewater charges are based on the number of sanitary units, which the Territory considers to be a good proxy for the volume and quality of waste discharged. PowerWater introduced a trade waste management system on 1 January 2002 that charges for trade waste discharged to PowerWater's sewerage system according to the volume and toxicity of waste.

The Council considers that the Northern Territory met its urban water and wastewater pricing obligations for the 2003 NCP assessment.

Water entitlements: progress report

The Northern Territory has established a comprehensive system of water entitlements, backed by the separation of water property rights from land title and by the specification of entitlements in terms of ownership, reliability, volume, transferability and, if appropriate, quality. Water entitlements are specified in surface water and groundwater extraction licences issued under the *Water Act*. Licences are generally issued for up to 10 years, with the Minister able to approve a longer period. Because water is not scarce, water licences have negligible value and trading does not occur.

The Territory's water rights registry system is a hard copy public database that contains details of licence holders, quantities of water and dates for renewal, but does not register third party interests. A capacity for third parties to register an interest is unlikely to be an issue in the Northern Territory until demand for water increases to the extent that water licences have some value. The Department of Infrastructure, Planning and Environment established a new electronic database to improve the administration of water licences. The department indicated that a formal policy for public access to water licence information (including access via the Internet) is to be prepared in accordance with the *Information Act 2002*, which commenced on 1 July 2003.

Provision of water to the environment: progress report

Water allocation planning in the Northern Territory occurs through an integrated regional resource management process covering both surface water and groundwater. Water allocation plans may be declared for water control districts. The plans include contingent allocations for the environment. The plans are set for 10 years and reviewed every five years. Water advisory committees oversee implementation of the plans.

The Northern Territory Government proposes to develop water allocation plans for four of its six water control districts. It finalised the plan for the Ti-Tree Water Control District in August 2002. The remaining three plans are expected to be finalised in 2003-04, within the CoAG timetable for completing water allocation arrangements.

At 30 June 2003, the Territory had progressed its scientific research on environmental water requirements. It had completed five research projects on environmental flows in the Daly and Douglas rivers and prepared a summary report on the projects. The Government advised that the summary and each report are being used to guide the drafting of the water allocation plan for the Daly River region and as references during the regional consultation on the plan.

Intrastate trade in water

At current levels of development, water supplies in the Territory are plentiful relative to demand. As a result, there is little, if any, demand for water trading and there has been no trade in licensed water entitlements. The Territory's legislation prohibits trade between consumptive and nonconsumptive water uses, to prevent environmental and cultural water allocations from being traded to water irrigators and other water users. In the 2001 NCP assessment, the Council accepted that this rule is consistent with CoAG requirements.

The Northern Territory foreshadowed two general restrictions on water trading in all its water allocation plans. For river systems, the trading of entitlements from downstream to upstream within a specific system will not be permitted without approval. The Territory advised that this requirement reflects concern that uncontrolled downstream to upstream trade could have an impact on environmental water provisions and adversely affect the environment. Upstream trade will be approved only after it has been demonstrated that there will be no impact on the environmental provisions of the relevant water allocation plan. For groundwater sources, trading of entitlements will be restricted to within-aquifer transactions, reflecting physical and environmental constraints.

At 30 June 2003, the Territory had finalised one water allocation plan — the plan for the Ti–Tree Water Control District. Trading of water entitlements is possible, therefore, only in this water control district. In the Ti–Tree plan, trading in groundwater is restricted to within-zone transactions. The Northern Territory Government advised that this provision reflects the management of the groundwater resources within separate zones and the need to limit extractions within each zone to a sustainable level.

The Council considers that the Northern Territory made sufficient progress against its CoAG obligations on water trading for the 2003 NCP assessment.

Institutional reform

Structural separation

On 1 July 2002, the Power and Water Authority became the first Government business to be covered by the Northern Territory's *Government Owned Corporations Act 2001*. The authority is now known as the Power and Water Corporation (or PowerWater). Under the Government Owned Corporations Act, PowerWater's board of directors is accountable to a shareholding Minister (currently the Treasurer) for the performance of the corporation through a formal statement of corporate intent. Under the Water Act, resource management, water allocation and environmental regulation are the responsibility of the Minister for Lands and Planning. Under the Water Supply and Sewerage Services Act, economic regulation and the setting of service standards are the responsibility of the regulatory Minister (currently the Treasurer) acting on independent advice from the Utilities Commission.

The Northern Territory Treasurer continues to be responsible for agreeing with PowerWater on dividends (but as the shareholding Minister rather than as Treasurer), as well as for setting prices (as the regulatory Minister). This vesting of responsibility for dividends and price setting in the one office theoretically provides a potential for higher prices and dividends, and therefore higher returns to the Northern Territory Government. In performing these two roles, however, the Treasurer is advised by different agencies — by the Northern Territory Treasury on dividends and by the independent Utilities Commission on price regulation — and must comply with the relevant legislation. Dividends are transparently reported (in PowerWater’s annual report, the statement of corporate intent and Budget papers), and the Utilities Commission is able to report publicly on pricing and in its annual report.

Commercial focus of the metropolitan service provider

In previous NCP assessments, the Council found that the predecessor of PowerWater, the Power and Water Authority, operated on a commercial basis. The new Government Owned Corporations Act enhances the commercial focus of PowerWater. It requires PowerWater to operate, as far as possible, on a basis similar to that of a private sector corporation.

Integrated catchment management

The Northern Territory has made some progress in integrated catchment management since the 2001 NCP assessment. The principal achievements are:

- bilateral agreements with the Commonwealth Government on the National Action Plan for Salinity and Water Quality and the Natural Heritage Trust extension;
- the publication of the Ilparpa Swamp Rehabilitation Plan (Alice Springs);
- the appointment of an advisory committee and extensive community consultation for the Darwin Harbour plan of management; and
- the introduction of new land clearing guidelines and controls.

The Northern Territory has published three catchment management plans, two of which are being reviewed for compatibility with the National Action Plan for Salinity and Water Quality and the Natural Heritage Trust extension. The Territory is developing three additional plans — including the Darwin Harbour plan, which will encompass a coastal marine protection strategy, a management plan for Darwin Harbour, and the protection of mangroves. The Territory advised that closer integration of water allocation and catchment management processes is unlikely in the near future, although the work program for the Ti-Tree Water Resource Strategy appears to take preliminary steps towards coordinating these processes. The Territory's natural resource management framework appears to facilitate support for land care practices to protect rivers with high environmental values. The focus on protecting high value rivers is likely to increase as a result of the Territory's participation in the national action plan and the Natural Heritage Trust extension.

The Council considers that the Northern Territory met its structural separation obligations for the 2003 NCP assessment. The Northern Territory's institutional arrangements provide an adequate safeguard against conflicts between regulatory and shareholder roles and, for a small jurisdiction, are consistent with CoAG obligations. The Council will, however, continue to monitor outcomes in future NCP assessments.

The Council considers that the Northern Territory made satisfactory progress against its obligations on integrated catchment management for the 2003 NCP assessment. The Council will next consider the Northern Territory's progress on integrated catchment management as part of its full assessment of water reform in 2005.

National Water Quality Management Strategy

The Northern Territory continues to implement arrangements that account for the NWQMS, principally via waste discharge licensing, water quality monitoring, and drinking water standards. It improved point source pollution management in 2002 by introducing the Trade Waste Management System and the Trade Waste Code. The Territory also contributed to the revised Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000, the Australian Guidelines for Water Quality Monitoring and Reporting 2000, and the NWQMS Guidelines for Sewerage Systems Sludge (Biosolids) Management and Guidelines for Sewerage Systems Overflows.

The Northern Territory addressed regulatory arrangements for drinking water following the 2001 NCP assessment, which questioned whether arrangements addressed the NWQMS objectives. The Territory introduced the Framework for Management of Drinking Water Quality, and PowerWater published the Territory's first comprehensive report on drinking water quality. The Territory's drinking water monitoring program is partly based on the 1987 Australian guidelines, rather than the 1996 guidelines. The NWQMS recognises, however, the practicalities and costs of sampling in widely dispersed minor centres by providing some scope for governments to adapt guidelines to their particular circumstances. PowerWater will review its drinking water monitoring program in 2003 to evaluate its effectiveness.

The Council considers that the Northern Territory made satisfactory progress in implementing policies that reflect the NWQMS guidelines for the 2003 NCP assessment. The Council will next consider the Northern Territory's progress in this area as part of its full assessment of water reform in 2005.

Legislation review and reform

The Northern Territory reviewed the Water Act and Regulations — the legislation providing for the use, control, protection and management of the Territory's water resources — in 2000. The review recommended no change to the legislation. The Territory also reviewed the Water Supply and Sewerage Act. This Act was repealed by the Water Supply and Sewerage Services Act, which retained the single service provider status of PowerWater and implemented an economic regulatory framework.

The Council considers that the Northern Territory met its review and reform obligations relating to its stock of water industry legislation.

Public education and consultation

The Council considers that the Northern Territory met its public education and consultation obligations for the 2003 NCP assessment.

Murray–Darling Basin Commission

In this 2003 NCP assessment, the main element of the water reform program that is relevant for the Murray–Darling Basin Commission is interstate water trading, which is a progress report issue. The commission is examining several issues relating to interstate trade in water, including the development of: a system of exchange rates to allow trading between regions and between different water entitlements in different States; adequate environmental controls for trading; efficient administrative arrangements for processing and approving trades; and a system of access to State-based registry systems to enable those interested in interstate trading to obtain the information necessary to conduct such trades. The commission is also undertaking work on barriers to interstate water trade, in consultation with governments. Recent work focused on two issues: (1) barriers to trade out of irrigation districts and (2) the impact (on interstate trade) of differential financial arrangements for bulk water between the States. The Council will consider further developments in relation to these issues when it assesses progress with interstate trading arrangements in the 2004 NCP assessment.

In 2004, the Council will also consider the implementation by River Murray Water of the recommendations of the independent review of its pricing arrangements undertaken in 2002. As part of this, the Council will consider the adequacy of reporting in the commission's annual report of each government's annual cost shares for River Murray Water and the corresponding bulk water volumes supplied in each State.