

1 Australia's water reform program: scope of the 2004 National Competition Policy assessment

Ten years ago, the Council of Australian Governments (CoAG) agreed to a water resource policy and strategic reform framework (CoAG 1994). It perceived a need to improve the efficiency of Australia's water supply and wastewater industry, address natural resource degradation and improve community understanding of the need to change how Australia had been using water. The National Water Initiative, to which most governments agreed in June 2004, complements and extends the 1994 reform framework (CoAG 2004).

Governments incorporated the 1994 water reform agreement into the 1995 National Competition Policy (NCP) as one of the 'related reforms' and asked the National Competition Council to oversee their progress with reform implementation. The NCP water reforms are broad ranging, covering natural resource management, water and wastewater pricing, more rigorous approaches to future investment, the separation of water access entitlements from land title, trading in entitlements, institutional reform and improved public consultation. Specifically, under the 1994 water reform agreement governments committed to:

- price water and wastewater services so businesses achieve full cost recovery, with prices set on a consumption basis where cost-effective
- create clearly specified water entitlements separate from land title
- recognise the environment as a user of water by allocating water specifically for use by the environment
- encourage intrastate and interstate trading in water entitlements
- implement market based and regulatory measures aimed at improving water quality
- integrate natural resource management and catchment management processes
- implement a range of institutional reforms, including separating the roles of service provision and standards setting and regulation, and ensuring better commercial performance by water businesses
- employ rigorous economic and environmental appraisal processes before new investment in rural water schemes

- conduct public education and consultation programs and ensure stakeholder involvement in significant change issues.

CoAG originally set a timeframe of five to seven years for implementing the 1994 reform program. It set broad compliance milestones: urban water pricing, the institutional reforms and allocations/entitlements (including allocations to the environment and trading of entitlements) were to be completed by 1998, along with rural water pricing by 2001. Following the 1999 tripartite meeting on water,¹ CoAG extended the timetable to 2005. In particular, governments were to substantially implement allocation and water trading arrangements for river systems and groundwater resources by 2005 (with arrangements for stressed and overallocated river systems to be determined by 2001).

CoAG asked the Council to assess governments' performance in implementing the water reform program in 1999 and again in 2001. CoAG subsequently asked the Council to conduct annual assessments, setting priorities for each assessment over the period 2003 to 2005:²

- The 2003 NCP assessment considered urban water pricing and cost recovery, institutional reforms, intrastate water trading, integrated catchment management and water quality arrangements.
- This 2004 NCP assessment has considered rural water pricing and cost recovery, interstate water trading and progress with environmental allocations. It has also considered matters that the Council found in the 2003 NCP assessment not to have been satisfactorily addressed.
- The 2005 NCP assessment is scheduled to consider governments' implementation of the whole 1994 water reform program.
- In each assessment, governments' performances are considered against their commitments to ensure new rural water schemes are economically viable and ecologically sustainable,³ and to undertake appropriate public education and consultation.

¹ The tripartite meeting on water was held in January 1999 by representatives of the National Competition Council, the High Level Steering Group on Water — augmented by representatives from the Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ) and the Australian and New Zealand Environment and Conservation Council (ANZECC) — and the Committee on Regulatory Reform to consider the implementation of the CoAG water reform framework. CoAG subsequently endorsed the recommendations from the meeting.

² The 2002 NCP water reform assessment considered governments' progress in only the areas that the 2001 NCP water reform assessment found were not satisfactorily advanced.

³ Under the National Water Initiative, signatory governments committed to show that all proposed water infrastructure projects satisfy economic and ecological appraisals before investment in the project occurs.

This 2004 NCP assessment is the Council's fifth water reform compliance assessment. The Council has also conducted supplementary assessments on issues in particular jurisdictions. NCP assessment and supplementary assessment reports are available on the Council's website (www.ncc.gov.au).

CoAG revised clauses of the 1994 agreement to extend the 1994 reform program to incorporate groundwater and storm/wastewater (known as the 1996 framework for the strategic reform of Australia's water industry).⁴ Governments excluded elements of the 1996 framework relating to the pricing of private withdrawals of groundwater and the use of storm/wastewater from NCP compliance assessment and recommendations on competition payments. However, the obligation to establish arrangements for groundwater resources that address CoAG's environmental water allocation and water trading objectives is relevant for NCP compliance and competition payments.

In August 2003, CoAG decided to refresh the 1994 water reform agenda with the aims of increasing the productivity and efficiency of water use, sustaining rural and urban communities, and ensuring the health of river and groundwater systems. It considered that investment in new, more efficient production systems was being hampered by uncertainty about the long term access to water in some areas. It recognised that fully functioning water markets could help to ensure investment is properly targeted and water is used for higher value and more efficient purposes, and noted that current arrangements are preventing water markets from delivering their full potential. CoAG also expressed concern about the pace of securing adequate environmental flows and adaptive management arrangements to ensure ecosystem health in Australia's river systems (CoAG 2003). In addition, the Australian Government and the governments of New South Wales, Victoria, South Australia and the ACT agreed in August 2003 to provide new funding of \$500 million over five years to address water overallocation in the Murray–Darling Basin.

On 25 June 2004, the Australian Government and the governments of New South Wales, Victoria, Queensland, South Australia, the ACT and the Northern Territory agreed to the National Water Initiative (CoAG 2004).⁵ The initiative confirmed the signatory governments' commitment to the 1994 water reform agreement but recognised that post-1994 developments, variation in jurisdictions' reform progress and expansions in knowledge provide an opportunity to enhance the 1994 agenda. The signatory governments expect that full implementation of the National Water Initiative will achieve:

- clear and nationally compatible characteristics for secure water access entitlements

⁴ Letter from the Prime Minister to Heads of Government, 10 February 1997.

⁵ The governments of Western Australia and Tasmania have not signed the Intergovernmental Agreement on a National Water Initiative.

- transparent, statutory-based water planning
- statutory provision for environmental and other public benefit outcomes, and improved environmental management practices
- the return of all currently overallocated or overused systems to environmentally sustainable levels of extraction
- the progressive removal of barriers to trade in water and the meeting of other requirements to facilitate the broadening and deepening of the water market to achieve an open trading market
- a clear assignment of the risk arising from future changes in the availability of water for consumption
- water accounting to meet the information needs of different water systems in terms of planning, monitoring, trading, environmental management and on-farm management
- policy settings that facilitate water use efficiency and innovation in urban and rural areas
- responses to future adjustment issues that may have an impact on water users and communities
- recognition of the connectivity between surface and groundwater resources with connected systems managed as a single resource.

To achieve these objectives, the signatory governments agreed on reform outcomes and committed to specific policy actions. Accordingly, the National Water Initiative outcomes and actions cover:

- water access entitlements and water planning frameworks
- water markets and trading
- best practice water pricing
- the integrated management of water for environmental and other public benefit outcomes
- water resource accounting
- urban water reform
- knowledge and capacity building
- community partnerships and adjustment.

As part of the National Water Initiative, signatory governments agreed to establish a new body — the National Water Commission — to advise CoAG on national water issues and to assist with the effective implementation of

the water reform program. They agreed that the National Water Commission would undertake the scheduled 2005 assessment of states' and territories' implementation of NCP water reform commitments.

The National Water Initiative encompasses all elements of the 1994 water reform agreement. It specifies governments' reform commitments in greater detail and, for aspects of water allocation and trading, extends the timeframe for implementing reforms beyond the 2005 end date for the 1994 program. The Council has considered CoAG's specification of reform obligations in the National Water Initiative as the relevant framework for the elements of the 1994 water reform agreement assessed in 2004, consistent with the approach it has taken throughout the NCP when CoAG has refined or further developed reform benchmarks. For the 1994 water reform matters assessed in 2004, the Council has considered that the National Water Initiative affects compliance benchmarks for the signatory governments as follows.

- Rural and regional surface water and groundwater systems are to price at the lower bound of full cost recovery in accord with governments' commitments under the 1994 water reform agreement, and to achieve upper bound pricing where practicable.
- Allocation arrangements that provide a better balance in water resource use for all stressed and overallocated surface water and groundwater systems covered by governments' NCP (1999) implementation programs are to be substantially completed by 2005. Under the National Water Initiative, signatory governments committed to water planning as a mechanism to assist in making water management and allocation decisions to meet productive, environmental and social objectives. Decisions about competing uses of water should involve judgments informed by the best available science, socioeconomic analysis and community input. Water planning by states and territories is to provide secure ecological outcomes and resource security outcomes.

While it states that NCP timelines are to be met (confirming signatory governments' commitment to completing allocation arrangements for stressed and overallocated systems in accord with their pre-existing NCP commitments), the National Water Initiative does not contain an explicit date for completing arrangements for the rivers and groundwater systems covered by governments' 1999 programs that governments did not identify as stressed or overallocated. In this 2004 NCP assessment, the Council has considered governments' progress toward substantial completion of arrangements for all water systems covered by their 1999 implementation programs. It has considered a government to have not satisfactorily met obligations on water allocations (including to the environment) where finalised arrangements (including water plans) have not been shown to provide appropriate allocations to the environment in accord with CoAG obligations, and the government has not taken or committed to action to address relevant issues.

- Institutional and regulatory arrangements that facilitate intra and interstate trade are to be implemented by 2007, with publicly accessible,

compatible systems for registering water access entitlements and trades in place by the end of 2006. Barriers to temporary trade are to be removed immediately. Except in the southern Murray–Darling Basin, barriers to permanent trade (up to an annual threshold of 4 per cent of an area’s total water entitlement) are also to be removed immediately, subject to a review by 2009 with full open trade by 2014 at the latest.

For the southern Murray–Darling Basin, the Australian Government, and the New South Wales, Victorian and South Australian governments have committed to take all necessary steps to enable exchange rates and/or tagging of water access entitlements, and to facilitate permanent trade out of water irrigation areas (up to an interim threshold limit of 4 per cent by June 2005), with a review in 2009 to consider raising the threshold.

Recognising that two governments did not sign the National Water Initiative, the Council has taken the following approach in this 2004 NCP assessment:

- The Council has regarded the 1994 water reform agreement obligations and 1999 tripartite meeting timeframes with the National Water Initiative commitments to outcomes, actions and timeframes as the framework for reporting on all states’ and territories’ progress with reform implementation.
- The Council has regarded the 1994 water reform agreement obligations and 1999 tripartite meeting timeframes with the National Water Initiative commitments to outcomes, actions and timeframes as the framework for assessing signatory governments’ compliance with reform obligations, for the purpose of recommending on 2004-05 competition payments. For the non-signatory governments (Western Australia and Tasmania), the Council has assessed their water reform compliance (and recommended on 2004-05 competition payments) against the 1994 water reform agreement obligations and 1999 tripartite meeting timeframes.

Two components of the National Water Initiative — (1) the development and implementation of water resource accounting systems and (2) the introduction of urban water efficiency measures — were not part of the 1994 water reform agreement. The Council, therefore, has not reported on governments’ progress in either area in this 2004 NCP assessment. In each case, deadlines for substantive action fall beyond 2004:

- Water resource accounting involves governments establishing standardised reporting formats that allow Australia to produce an annual water balance. The balance is to cover all significant water use and integrate the accounting of surface and groundwater use where there is significant interconnection. Agreed milestones involve governments benchmarking their accounting systems by mid-2005, implementing robust water accounting systems by the end of 2006 (including an environmental water register by mid-2006), developing and implementing metering and measuring actions by the end of 2007 and implementing systems to integrate the accounting of surface and groundwater by the end of 2008.

- Urban water efficiency reform involves governments implementing demand management measures and encouraging innovation in water use. The National Water Initiative specifies a range of actions to be implemented by the end of 2005 and the end of 2006.

1.1 Scope of the assessment

In accord with the 2004 water reform assessment priorities determined by CoAG and accounting for reform progress in previous NCP assessments and the reform benchmarks in the 1994 water reform agreement and the National Water Initiative, the 2004 NCP assessment has considered governments' actions to:

- achieve best practice water pricing by rural water businesses (all states and territories), and urban water and wastewater businesses (with matters remaining from the 2003 NCP assessment for New South Wales, Western Australia and South Australia)
- progress the establishment of systems of water access entitlements (all states and territories). One water entitlement matter remaining from the 2003 NCP assessment was the commencement of the water access licensing and registry systems in New South Wales.
- progress water management, including to allocate appropriate water to the environment, in the aquatic systems covered by jurisdictions' 1999 implementation programs
- encourage the development of water markets and trading in water entitlements (all states and territories). Some intrastate trading matters remained from the 2003 NCP assessment for all states and territories.
- progress appraisals of new water infrastructure where appropriate (Queensland, South Australia and Tasmania)
- conduct public education and consultation programs associated with the above reforms (all states and territories)
- satisfactorily progress other matters remaining from the 2003 NCP assessment
 - institutional reform matters (Victoria, Western Australia, South Australia and Tasmania)
 - aspects of the National Water Quality Management Strategy (Western Australia)
 - integrated catchment management arrangements (Western Australia and South Australia)

- the devolution of a greater degree of management responsibility for irrigation schemes to local constituents (Western Australia, South Australia and Tasmania)
- the adoption of reforms to water industry legislation as recommended by NCP reviews, in line with obligations under the Competition Principles Agreement, in Victoria, Western Australia, South Australia and Tasmania.

Water pricing

In the 1994 water reform agreement, governments committed to ensure their urban and rural water and wastewater businesses (including bulk water suppliers) set prices to achieve full cost recovery. They also committed to ensure businesses relate prices for water and wastewater services to the volume of water consumed, where this would be cost-effective.

In the National Water Initiative, governments confirmed their commitment to full cost recovery and consumption based pricing for water storage and delivery in both metropolitan and rural and regional systems:

- Metropolitan systems should continue to move towards upper bound pricing by 2008 (recognising some small community services may never be commercially viable but must be maintained to meet social and public health obligations).
- Rural and regional systems should achieve lower bound pricing in accord with governments' commitments under the 1994 water reform agreement, with continued movement towards upper bound pricing where practicable. Where full cost recovery is unlikely to be achieved in the long term and a community service obligation (CSO) is deemed necessary, governments are to publicly report the size of the subsidy and, where practicable, consider alternative management arrangements aimed at removing the need for an ongoing CSO.

In line with the decisions of the 1999 tripartite meeting on water, the Council's 2003 NCP assessment considered governments' compliance with urban pricing reform. This 2004 NCP assessment considered governments' implementation of their rural pricing commitments and the urban pricing matters remaining from the 2003 NCP assessment.

Full cost recovery

The Expert Group on Asset Valuations and Cost Recovery Definitions for the Australian Water Industry (1995) and the Standing Committee on Agriculture and Resource Management (1997) on the guidelines for the application of the pricing sections of the 1994 water reform agreement considered the full cost recovery objective should involve recovery of all

efficient resource pricing (including externalities) and business costs. After considering this work, Premiers and Chief Ministers defined full cost recovery revenue for the purpose of the 1994 water reform agreement as falling within a band of cost recovery:

- At a minimum, revenue from charges for water and wastewater services must recover operating and maintenance expenses, administration costs, provision for asset consumption, interest costs on debt, externality costs (defined as the natural resource management costs incurred by, and attributable to, a water business), taxes or tax equivalents, and dividends (if any) — the lower bound of cost recovery.
- At a maximum, revenue from charges for water and wastewater services must recover operating and maintenance expenses, administration costs, depreciation, externality costs (the positive and negative environmental externalities associated with water use), the opportunity cost of the business's investment in assets (calculated using a weighted average cost of capital), and taxes or tax equivalents — the upper bound of cost recovery.

The 1999 tripartite meeting on water decided that, where the following outcomes apply, the Council should consider a government to have complied with rural full cost recovery requirements:

- The business has achieved full cost recovery or has established a price path to achieve full cost recovery after 2001 with transitional community service obligations (CSOs) made transparent.
- For a business that is unlikely to achieve full cost recovery in the long term, the government has made transparent the CSO required to support the scheme.
- The government has made cross-subsidies transparent.

Full cost recovery

Water and wastewater businesses are to set prices to earn sufficient revenue to ensure their ongoing viability but avoid monopoly returns. To this end governments agreed that the following principles should apply:

- The jurisdictional independent pricing body should set or review prices or pricing processes for water storage and delivery, and report publicly.
- To be viable, a water business should recover at least the operational, maintenance and administrative costs, externalities (defined as the natural resource management costs attributable to and incurred by the water/wastewater business), taxes or tax equivalents (not including income tax), the interest cost on debt, dividends (if any) and provision for future asset refurbishment/replacement. Dividends should be set at a level that reflects commercial realities and simulates a competitive market outcome.

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- To avoid monopoly rents, a water business should not recover more than the operational, maintenance and administrative costs, externalities (defined as the positive and negative environmental externalities associated with water use), taxes or tax equivalent regimes, provision for the cost of asset consumption and cost of capital (the latter calculated using a weighted average cost of capital).
- Prices should be set on the basis of the level of revenue required by a water business based on efficient resource pricing and business costs. Circumstances may justify transition arrangements to that level. Cross-subsidies that are not consistent with efficient and effective service, use and provision should ideally be removed.
- Where service deliverers are required to provide water services to classes of customer at less than full cost, the cost of this should be fully disclosed and ideally paid to the service deliverer as a community service obligation.
- Asset values should be based on deprival value method unless an alternative approach can be justified, and an annuity approach should be used to determine medium to long term cash requirements for asset replacement/refurbishment.
- The treatment of community service obligations, contributed assets, the opening value of assets, externalities including resource management costs, tax equivalent regimes and any remaining cross-subsidies must be transparent.

References: 1994 CoAG water reform agreement, clauses 3(a)–(d); guidelines for the application of section 3 of the 1994 CoAG water reform agreement and related recommendations in section 12 of the expert group report (the CoAG pricing principles); Intergovernmental Agreement on a National Water Initiative.

Consistent with the recommendations of the reports of the expert group and the Standing Committee on Agriculture and Resource Management, the Council has interpreted the metropolitan pricing obligation under the National Water Initiative as requiring businesses, by 2008, to set prices to recover costs at least at a level close to (if not at) the upper bound full cost recovery. Water and wastewater pricing that achieves only lower bound cost recovery by 2008, without significant movement towards upper bound cost recovery, would not satisfactorily address pricing obligations because such pricing would indicate that the water business is failing to recover significant elements of efficient resource and business costs (including the cost of capital). Upper bound costs should be determined, transparently reported, and in cases where water businesses do not recover upper bound costs, under recovery recognised as a subsidy.

Most states and territories now subject their monopoly water businesses to price regulation by the jurisdictional economic regulator, whereby the regulator either determines maximum prices or recommends on a pricing structure for a decision by the relevant government via a public inquiry and reporting process.⁶ South Australia and Tasmania take a different approach from the other jurisdictions.

⁶ Victoria brought the water industry under the jurisdiction of the Essential Services Commission on 1 January 2004, with the first price determination to take effect on 1 July 2005. Western Australia created the Economic Regulation Authority (with jurisdiction for the water industry) on 1 January 2004 and has issued terms of reference for the authority to investigate urban water and wastewater pricing.

- The South Australian Cabinet each year sets the price of water and wastewater services provided by the state's major service provider (SA Water) after considering a pricing transparency statement addressing the CoAG pricing principles prepared by the South Australian Department of Treasury and Finance and reviewed by the Essential Services Commission of South Australia.
- In Tasmania, where business units of local governments provide water and wastewater services, the Government Prices Oversight Commission audits businesses' pricing decisions against the CoAG pricing principles and provides feedback to the Tasmanian Government and local governments on the application of the pricing principles.

One matter relevant to the adoption of (lower bound) cost recovery pricing that the Council considered in this 2004 NCP assessment is that Western Australia and the Northern Territory do not charge for a licence to extract water (surface water or groundwater). Work by the Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ) (subsequently endorsed by CoAG) indicates that CoAG intended governments to recover direct management costs from users and to consider the appropriate apportionment of indirect costs,⁷ making transparent any remaining subsidies. (CoAG excluded the application of these pricing objectives to private withdrawals of groundwater from NCP compliance assessment purposes.⁸) The National Water Initiative has confirmed CoAG's earlier view on appropriate cost recovery for water planning and management activities. Under the National Water Initiative, signatory governments have committed to identify all the costs of water planning and management and determine the proportion of costs that could be attributed to water access entitlement holders, with a view to determining consistent approaches to pricing and attributing the costs of water planning and management by 2006. Charges are to be linked as closely as possible to the costs of activities or products.

Consumption based pricing

The 1994 CoAG water reform agreement also required governments to ensure urban and rural water and wastewater businesses relate water prices to the volume of water used by introducing consumption based (or volumetric) pricing where this is cost-effective. Relating pricing to use creates a financial incentive to use water efficiently, thus encouraging water conservation, which

⁷ Direct management costs include the cost of operating water allocation regulatory systems (for example, licensing, day-to-day management and administration) and metering and water level monitoring that directly supports management. Indirect management activities include policy, investigation, assessment, monitoring, the maintenance of technical databases and related activities.

⁸ Private withdrawals include private providers and small cooperatives that extract water from bores for private use but exclude large cooperative arrangements (including trusts) that supply water wholesale as a commercial venture and that are subject to government control or direction or receive substantial government funding.

can defer investment in new water infrastructure and lead to potentially substantial financial savings and environmental benefits.

Under the 1994 CoAG water reform agreement, governments may ask service providers to provide services to customer classes at less than the full cost of the service. Where a government does this, to comply with CoAG obligations, it should disclose the cost of providing the services and fund them via a CSO paid to the service provider. Cross-subsidies that are not consistent with efficient and effective service should be eliminated, and those that are retained should be made transparent. (The Council does not assess governments' justifications for CSOs or cross-subsidies, but expects that CSOs and cross-subsidies will not undermine CoAG's overall policy objective of an efficient and sustainable water industry.)

Consumption based pricing

Water businesses are to set prices based on the volume of water supplied to encourage more economical water use. Urban businesses should implement a two-part tariff (comprising a fixed access component and a volumetric cost component) where this is cost-effective. Metropolitan bulk water suppliers should charge on a volumetric basis (or employ a two-part tariff with an emphasis on the volumetric component).

Reference: 1994 CoAG water reform agreement, clauses 3(a)–(c)

Most (metropolitan and regional) urban water providers (including metropolitan bulk water suppliers) now apply a two-part tariff, comprising a fixed access charge and a consumption based use component. The few providers not using a consumption based approach have shown that it is not cost-effective to price on this basis.⁹ In most jurisdictions, government-owned rural water businesses also adopt a consumption based approach. However, it is not clear that rural businesses in all jurisdictions are pricing on this basis.

Wastewater businesses commonly set charges on a volumetric basis for users who discharge a significant amount of waste or waste of high toxicity. They do this by linking charges to the volume of waste and/or pollutant/toxicity load. Because almost all of the cost of providing wastewater services to domestic and small commercial consumers is fixed, businesses generally adopt a fixed (rather than use based) charge for wastewater services for these user categories.

⁹ In previous NCP and supplementary assessments, the Council considered the case of the Townsville City Council, which does not set water prices for residential customers on a consumption basis. The Council found that analysis by the Queensland Competition Authority supported Townsville's approach, although the authority noted the desirability of Townsville keeping the case for consumption based pricing under review (NCC 2003b).

Water access entitlements

Under the 1994 CoAG water reform agreement, governments undertook to better define water entitlements and separate them from land title. Governments agreed to specify the amount of water available for extractive uses (in terms of ownership, volume, reliability, transferability and, if appropriate, quality).

Under the National Water Initiative, governments decided that the system of water access entitlements should, among other things, ensure the security and commercial certainty of the entitlement. Accordingly, for the consumptive use of water, signatory governments committed to implementing a system of statutory water access entitlements, where the entitlement is separate from land and is defined as a perpetual or open-ended share of the consumptive pool of a specified water resource. Water access entitlements must specify the essential characteristics of the water product and be exclusive, tradable or transferable, divisible or able to be amalgamated, mortgagable and enforceable. Entitlements are to be recorded in publicly accessible, reliable water registers. Governments committed to legislative and administrative action (where necessary) to achieve this outcome by the end of 2006.

New systems of water access entitlements

Governments are to establish comprehensive systems of statutory water access entitlements separate from land, being a perpetual or open-ended share of the consumptive pool of a specified water resource by the end of 2006. Water access entitlements must specify the essential characteristics of the water product and be exclusive, tradable or transferable, divisible or able to be amalgamated, mortgagable and enforceable.

References: 1994 COAG water reform agreement, clause 4; 1999 tripartite meeting; Intergovernmental Agreement on a National Water Initiative.

All governments have now legislated to establish systems of water access entitlements separate from land title. In some jurisdictions, water access entitlements are not yet specified as a perpetual share of the water available for consumption, reflecting the fact that the 1994 water reform agreement did not require this specification.

Implementing water access entitlements involves converting existing water allocations to the new entitlements systems, developing operational systems for registering entitlements, and developing and implementing water management plans for river systems and groundwater basins. Water management plans establish the amount of water that is available in a system and set out the arrangements for sharing that water among different users, including the environment.

This 2004 NCP assessment has reported on all governments' progress in implementing their water access entitlements arrangements. It also considered one matter remaining from the 2003 NCP assessment: the new access licensing and registry systems in New South Wales that commenced on 1 July 2004.

Water management

Under the National Water Initiative, signatory governments recognised that decisions about water management involve balancing economic, environmental and other interests. They accepted that they have ‘a responsibility to ensure that water is allocated and used to achieve socially and economically beneficial outcomes in a manner that is environmentally sustainable’. They agreed that water planning is a mechanism that assists them, with the community, to make water management and allocation decisions to meet (often competing) production, environmental and social objectives. CoAG’s broad objectives for water planning are to provide for:

- secure ecological outcomes by describing environmental and other public benefit outcomes for water systems and defining the appropriate water management outcomes to achieve those objectives
- resource security outcomes by determining the shares of the consumptive pool and the rules to allocate water during the life of the plan.

Arising from the 1994 water reform agreement, each government developed an implementation program in 1999. These 1999 programs identify the priority rivers and groundwater systems for which governments undertook to develop arrangements for the allocation and trading of water.¹⁰ Governments committed to substantially complete allocation and trading arrangements for all river systems and groundwater resources covered by their 1999 implementation programs by 2005.

Under the National Water Initiative, signatory governments confirmed their commitment to substantially complete allocation arrangements by 2005 for all river systems and groundwater resources that have been overallocated or are deemed to be stressed in accord with their 1999 implementation programs. The National Water Initiative set 2007 as the deadline for completing water plans for other systems that are overallocated, fully allocated or approaching full allocation, and 2009 as the deadline for completing plans for other systems that are not approaching full allocation. Signatory governments committed to make substantial progress by 2010 towards adjusting all overallocated and/or overused systems.

This 2004 NCP assessment has reported progress by governments towards completing allocation arrangements for the systems covered by their 1999 implementation programs and considered a sample of completed water plans in each jurisdiction. The Council has looked for governments to show that they have based allocations to the environment on the best available science, with any departures from the science based levels justified using robust socioeconomic evidence. The Council has sought to understand that governments have determined the volumes of water allocated to the

¹⁰ Appendix A contains governments’ 1999 programs for implementing allocation and trading arrangements.

environment on the basis of robust evidence, including socioeconomic evidence where the allocations depart from those recommended by the science. It thus considers outcomes that depart from those recommended by the science but are within a range that is reasonable based on robust socioeconomic analysis to be consistent with the 1994 CoAG obligation to allocate appropriate water to the environment. The Council does not conduct its own analyses or reassess the scientific and socioeconomic data.

Achieving secure ecological outcomes

CoAG recognised the environment as a legitimate user of water in the 1994 water reform agreement, acknowledging a need in all jurisdictions to arrest widespread natural resource degradation caused by water use. Governments committed to making an appropriate amount of water available for the environment in surface water and groundwater systems.

Under the 1994 agreement, governments agreed to allocate water to the environment — with the allocated amount determined, wherever possible, using the best scientific information available having regard to the water needs required to maintain the health and viability of river systems and groundwater basins. For rivers that have been overallocated or are deemed to be stressed, governments agreed that arrangements should provide a better balance in water use including appropriate allocations to the environment to enhance or restore the health of aquatic systems.

Governments undertook to have regard to the ARMCANZ/Australian and New Zealand Environment and Conservation Council (ANZECC) National Principles for the Provision of Water for Ecosystems for direction on how water management processes should allocate water for ecosystems. In broad terms, the national principles recognise that an adequate water regime is essential for maintaining natural ecological processes and biodiversity. They state that the provision of water for ecosystems should go as far as possible to meeting the water regime necessary to sustain ecological values, while recognising the existing rights of other water users.¹¹

Provision of water to the environment

Governments are to establish a sustainable balance between the environment and other uses of water, including formal provisions for the environment for surface water and groundwater systems.

In the 1994 CoAG water reform agreement, governments committed to determine environmental requirements using the best available scientific information wherever possible, and to have regard to the intertemporal and interspatial water needs required to maintain the health and viability of river systems and groundwater basins.

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¹¹ Appendix B discusses the Council's approach to considering how governments have implemented the CoAG obligations on allocating water to the environment, including regard for the ARMCANZ/ANZECC national principles.

For river systems that are overallocated or deemed to be stressed, governments committed to provide a better balance in water resource use, including appropriate allocations to the environment to enhance or restore the health of river systems. In establishing environmental allocations, governments undertook to have regard to the ARMCANZ/ANZECC National Principles for the Provision of Water for Ecosystems.

The 1999 tripartite meeting on water established a timeframe for governments to complete arrangements for environmental allocations.

For the second tranche [1999 NCP assessment], jurisdictions should submit individual implementation programs, outlining a priority list of river systems and/or groundwater resources, including all river systems which have been overallocated, or are deemed to be stressed and detailed implementation actions and dates for allocations and trading to the NCC for agreement, and to [CoAG] Senior Officials for endorsement. This list is to be publicly available.

For the third tranche [2001 NCP assessment], States and Territories will have to demonstrate substantial progress in implementing their agreed and endorsed implementation programs. Progress must include at least allocation to the environment in all river systems which have been overallocated, or are deemed to be stressed.

By 2005, allocations and trading must be substantially completed for all river systems and groundwater resources identified in the [1999] agreed and endorsed individual implementation programs.

The National Water Initiative confirmed signatory governments' commitment to preparing water plans for surface water and groundwater systems in which entitlements are issued. Water plans will be informed by judgments about the best available science, socioeconomic analysis and community input. Signatory governments committed to substantially complete allocation arrangements by 2005 for stressed and overallocated surface and groundwater systems covered by their 1999 implementation programs, and to complete water plans by 2007 for other systems that are overallocated, fully allocated or approaching full allocation and by 2009 for other systems that are not approaching full allocation.

References: 1994 CoAG water reform agreement, clauses 4(b)–(f); 1999 tripartite meeting; Intergovernmental Agreement on a National Water Initiative

Following the January 1999 tripartite meeting on water, CoAG senior officials agreed that each government, to demonstrate compliance with the obligation to allocate water to the environment, should:

- identify relevant surface water and groundwater sources in an implementation program in 1999
- finalise environmental allocations by 2001 for river systems that are overallocated or deemed to be stressed
- substantially complete allocations by 2005 for all river systems and groundwater resources covered by their 1999 implementation programs.

Under the National Water Initiative, signatory governments confirmed their commitment to substantially complete allocation arrangements by 2005 for the rivers and groundwater systems that are overallocated or deemed to be stressed and are identified in their 1999 programs, and to milestones in 2007 and 2009 for developing water plans for other systems.

Achieving resource security

Water users' concern about resource security — particularly the assignment of risk relating to future reductions in the availability of water for consumptive uses — has been evident in several jurisdictions as water planning has proceeded. The National Water Initiative defines the framework for risk management and outlines how the future risk of any reduction in water availability or reliability should be borne.

Under the National Water Initiative, an effective risk assignment framework is as follows:

- The new perpetual or open-ended share based water access entitlements system is established.
- Water plans have been transparently developed to determine the water allocation for the entitlements.
- There is regular reporting of progress with implementing water plans.
- A pathway for dealing with known overallocation and/or overuse is agreed.

The risks of any reduction in water availability or reliability are to be borne as follows:

- Water access entitlement holders are to bear the risk arising from a reduction in the consumptive pool resulting from seasonal or long term changes in climate, and from periodic natural events such as bushfires and drought.
- Water access entitlement holders are to bear the risks up to 2014 arising from bona fide improvements in the knowledge of water systems' capacity to sustain particular extraction levels.
- Risks arising from bona fide improvements in the knowledge of water systems' capacity to sustain particular extraction levels under comprehensive water plans commencing or renewed after 2014 are to be shared over each 10-year period, such that:
 - water access entitlement holders bear the first 3 per cent reduction in water allocations under water access entitlements
 - state/territory governments and the Australian Government share one-third and two-thirds respectively reductions of 3–6 per cent in water allocations under water access entitlements
 - state/territory governments and the Australian Government share equally reductions greater than 6 per cent in water allocations under water access entitlements.

- Governments are to bear the risk of any reduction in water availability or reliability that arises from changes in government policy, where that reduction is not previously provided for. In such cases, governments may recover this water in the most efficient and cost-effective way.

The National Water Initiative permits affected parties (including water access entitlement holders, environmental stakeholders and the relevant government) to adopt a different approach to risk sharing if they can agree to an alternative approach.

Water trading

Both the 1994 CoAG water reform agreement and the National Water Initiative recognise the importance of maximising the contribution of water to national income and welfare through water trading. The 1994 agreement required governments to implement arrangements for water trading once they settle water entitlements and to implement consistent trading arrangements to facilitate cross-border trading. The National Water Initiative reconfirmed the importance that governments are placing on water trading. It commits states and territories to establishing water market and trading arrangements that facilitate opportunities for trading within and between jurisdictions where water systems are physically shared or hydrological connections and water supply considerations permit trading.

Water trading

Governments must establish compatible institutional and regulatory arrangements to facilitate intra- and interstate trade by the end of 2007, including publicly accessible, compatible registry systems by the end of 2006. Governments are to immediately remove barriers to temporary trade. Also (except in the southern Murray–Darling Basin) governments are to immediately remove barriers to permanent trade out of water irrigation areas (up to an annual threshold limit of 4 per cent of the area's total water entitlement), subject to a review by 2009, and move to full open trade by 2014 at the latest.

In the southern Murray–Darling Basin, the Australian Government and the governments of New South Wales, Victoria and South Australia are to take all necessary steps to enable exchange rates and/or tagging of water access entitlements by June 2005. They are to establish an interim annual threshold limit of 4 per cent on permanent trade out of water irrigation areas, and undertake a review in 2009 to consider raising the interim annual limit.

References: 1994 CoAG water reform agreement, clause 5; Intergovernmental Agreement on a National Water Initiative.

CoAG senior officials asked the Council to assess governments' progress with intra- and interstate water trading in 2003 and 2004 respectively. The 2003 NCP assessment found that water entitlements can be traded temporarily (for an agreed number of seasons, including consecutively) or permanently in most jurisdictions. In some jurisdictions, it is also possible to lease rights with no limit on the duration of the lease.

Temporary trading of entitlements is now widespread in the Murray–Darling Basin jurisdictions. Permanent trading is embryonic, with permanent interstate trade currently operating only as a pilot project within a small area of the basin. There is not much permanent trading (separate from land sales) in Western Australia or Tasmania, and none (temporary or permanent) in the Northern Territory or the ACT. The reason is mostly that current allocations can satisfy demand for irrigation water.

Water entitlements systems and water planning arrangements are both important to the growth of trading. In some states the water entitlements systems require an entitlement holder to own land or be able to use the water that is traded. This may restrict the development of water markets by constraining the activities of third parties such as agents and water brokers. Water plans may contain the rules governing trading and establish the quantum of tradable volumetric allocations. As part of this 2004 NCP assessment, therefore, the Council has examined whether entitlements arrangements and the rules in water plans may unjustifiably constrain trading.

The Council's previous NCP assessments identified water trading restrictions that appear to be focused on outcomes other than environmental health or the physical constraints of water systems. The Council's 2003 NCP assessment noted, in particular, constraints on permanent trade out of irrigation districts in New South Wales, Victoria and South Australia. The Council signaled in that assessment that its 2004 NCP assessment would look for governments to have either removed these constraints or shown that the constraints provide a net benefit to the community.

Under the National Water Initiative, governments acknowledged the need to remove these institutional barriers to trade. The states and territories committed to take immediate legislative and administrative action to remove barriers to permanent trade out of irrigation areas (up to an interim limit of 4 per cent per year of the total water entitlement of the water irrigation area), subject to a review by 2009 and move to full and open trade by 2014 at the latest. In the southern Murray–Darling Basin, the Australian Government and the governments of New South Wales, Victoria and South Australia committed to take all necessary steps to enable exchange rates and/or tagging of water access entitlements by June 2005, and to establish an annual 4 per cent interim threshold limit on permanent trade out of water irrigation areas. They are to undertake a review in 2009 of the impact of trade under the interim threshold, to consider raising the interim limit.

The Council foreshadowed in the 2003 NCP assessment that it would finalise its assessment of all governments' implementation of reforms to intrastate trading arrangements (including the New South Wales, Victorian and South Australian matters) in 2004. Consistent with its approach of accounting for CoAG's further development of water reform benchmarks, the Council has considered the above commitments by the National Water Initiative signatory governments as relevant to the 2004 assessment of those governments' compliance with the 1994 CoAG water reform agreement obligations on intrastate water trading.

Investment in new and refurbished water infrastructure

The 1994 CoAG water reform agreement requires that future investment in new rural water schemes or extensions to existing schemes proceed only if governments show, prior to construction commencing, that the scheme will be economically viable and ecologically sustainable. The National Water Initiative extends these appraisal requirements to investment in all new and refurbished water infrastructure, subject to the recognition that some small community services will never be viable but will need to be maintained to meet social and public health obligations.

Appraisal of new and refurbished water infrastructure

Investments in new and refurbished water infrastructure are to be undertaken only after appraisal indicates that the new or refurbished infrastructure is economically viable and ecologically sustainable.

References: 1994 CoAG water reform agreement, clause 3(d)(iii); Intergovernmental Agreement on a National Water Initiative

In previous NCP assessments, the Council found that state and territory government mechanisms for appraising the economic and ecological aspects of water schemes appear to provide for appropriate independence, public consultation and scrutiny, and have enough flexibility to match the depth of analysis with the size and significance of the project. The Council's assessments therefore involve considering whether governments apply their approval processes appropriately, so robust economic and environmental assessments support any decision to build or refurbish water infrastructure. Evidence of ecological sustainability is relevant for all projects, while evidence of economic viability is relevant only where governments contribute funds to a project.

The economic viability test involves considering whether an infrastructure project will deliver an overall public benefit to Australia — that is, to be economically viable, a scheme must deliver a net benefit that accounts for the private (scheme related) and social (broader than the scheme) benefits and costs. Accordingly, while a project's commercial viability is an important element of the economic viability test, a project that is not commercially viable may still satisfy the economic viability test if there is robust evidence that the project will deliver a net social benefit that outweighs the costs of not being commercially viable. The Council looks for governments to demonstrate economic viability by having analysed all relevant economic and social costs and benefits,¹² including any costs of mitigating adverse environmental effects of the scheme. For large developments, a robust cost–benefit analysis is an effective way of meeting the CoAG obligation to demonstrate economic

¹² Economic viability assessments should discount cash flows using an appropriate discount rate such as a project-specific weighted average cost of capital.

viability. Appraisals should be based on the best information available, with any assumptions and limitations clearly stated.

The ecological sustainability test involves considering whether a project satisfies government ecological assessment processes and legislative requirements, including Australian Government processes under the *Environment Protection and Biodiversity Conservation Act 1999* where relevant. The Council looks for governments to demonstrate ecological sustainability by providing information on the nature of the assessment and decision-making processes as well as on mechanisms to monitor the development's impacts and compliance with environmental standards.

The 2003 NCP assessment considered new rural water projects in Queensland (the Burnett Water Infrastructure Project), South Australia (the Clare Valley Water Supply Scheme) and Tasmania (the Meander Dam). For that assessment, the Council foreshadowed that aspects of these projects might need to be considered further in the 2004 NCP assessment, depending on whether and how the projects proceeded. Of the three projects, the Clare Valley Water Supply Scheme and the Meander Dam had relevant developments.¹³ There was no decision by 30 June 2004 for the Meander Dam project to proceed, however, so the Council did not conclude on Tasmania's compliance with CoAG obligations on the appraisal of new water infrastructure in this 2004 NCP assessment.

Public education and community consultation

CoAG recognises the importance of governments consulting on water reform and involving the community in policy decisions, and implementing educational programs that show the benefits of water reform. The 1994 water reform agreement committed governments to consult on significant reforms and implement public education programs. Consistent with this commitment, governments agreed under the National Water Initiative to conduct open and timely information sharing processes, and to provide accurate and timely information on water planning.

The National Water Initiative also recognises that adjustment issues affecting entitlement holders and communities may arise from reductions in water availability. Under the initiative, governments have committed to address significant adjustment issues. In addition, the National Water Initiative recognises the importance of knowledge and capacity building. Governments have committed to identify the key science priorities to support

¹³ The Council also reported on new infrastructure matters in Queensland: it noted that, since the 2003 NCP assessment, there was no development concerning the matter relevant to the Burnett Water Infrastructure Project (the Ned Churchward Weir raising) and it considered stakeholder submissions to the 2004 NCP assessment concerning a proposed private sector project, the Nathan Dam.

the water reform program and to implement the necessary measures to ensure that research effort is comprehensive, well coordinated and publicised.

Public education and community consultation

Governments have committed to consult with relevant stakeholders on the significant CoAG reforms (especially water pricing and cost recovery for urban and rural services, water planning, and trade in water access entitlements) and to implement education programs on the benefits of water reform. Governments have committed to provide accurate and timely information to relevant stakeholders on the progress of water plan implementation and on other issues relevant to the security of water entitlements.

References: 1994 CoAG water reform agreement, clauses 7(a)–(e); Intergovernmental Agreement on a National Water Initiative

In accord with CoAG senior officials' scheduling of assessment issues, in each NCP assessment the Council considers governments' implementation of public education and consultation obligations, focusing on the reforms scheduled for assessment. Consequently, for this 2004 NCP assessment, the Council has considered governments' public education and consultation on rural water pricing, new infrastructure, water planning and water trading, and governments' provision of information on their progress with water planning and related resource security issues.

Issues identified in the 2003 National Competition Policy assessment

In the 2003 NCP assessment, the Council noted matters in several jurisdictions where progress with implementing elements of the 1994 water reform agreement was slow or required further consideration. These matters are summarised below, by jurisdiction. The Council's 2003 NCP assessment report (volume three) details these reform requirements (NCC 2003a).

Rather than recommending competition payment penalties in the 2003 NCP assessment, the Council undertook to reconsider the relevant government's progress in this 2004 NCP assessment (in addition to the matters that CoAG senior officials scheduled for assessment in 2004). The National Water Initiative has since further developed the reform benchmarks and timelines for some of these matters.

New South Wales

- Demonstrate continued progress by nonmetropolitan urban water and wastewater businesses towards achieving (at least lower bound) cost recovery.
- Commence the state's water access entitlements licence system and register of water entitlements.

- Remove, or demonstrate a net public benefit from, the prohibition on net permanent water trade out of water irrigation areas, and ensure any trading rules in water sharing plans facilitate trading (see also the discussion on water trading, pp. 1.18–19).

Under the National Water Initiative, New South Wales committed to make the necessary legislative changes by June 2005 to effect a Heads of Agreement between the Government and major irrigation corporations to permit permanent trade out of irrigation areas (up to an interim threshold of 4 per cent per year of the total water entitlement of the water irrigation district).

Victoria

- Remove, or demonstrate a net public benefit from, the annual 2 per cent limit on net permanent water trade out of water irrigation areas, and ensure any trading rules in water management plans facilitate trading. Consider and, where appropriate, remove or amend measures that appear to be inconsistent with CoAG water trading obligations, including: the requirement for water entitlements to attach to land; the differential return on assets incorporated in the price charged by rural water authorities for bulk water supplied to regional urban customers and irrigators; and restrictions in unregulated systems north of the Great Dividing Range that prohibit trade upstream and impose a 20 per cent reduction on trade downstream (see also the discussion on water trading, pp. 1.18–19).

Under the National Water Initiative, Victoria committed to effect changes to permit increased trade, including removing barriers to trade out of irrigation areas (up to the interim threshold of 4 per cent per year of the total water entitlement of the water irrigation district). It committed to do this at the same time that New South Wales amends its legislation and no later than June 2005.

- Effect the foreshadowed extension of the jurisdiction of the Essential Services Commission to cover the water industry.
- Develop and publish obligations statements for regional urban and rural water businesses.
- Complete water industry legislation review and reform obligations by implementing remaining key recommendations from the NCP review of water industry legislation.

Queensland

- Progress the implementation of water resource plans and resource operations plans to enable the conversion of existing water licences to water allocations and permanent trading in water allocations (outside the schemes covered by the trading trial) (see also the discussion on water trading, pp. 1.18–19).

Western Australia

- Establish the Economic Regulation Authority and issue terms of reference for an investigation by the authority of urban water pricing. These actions would also address remaining institutional structure obligations (NCC 2003a, pp. xxxvii–viii).
- Remove, or demonstrate a net public benefit from, restrictions on water trading (including provisions in the *Rights in Water and Irrigation Act 1914*), and ensure any trading rules in water management plans facilitate trading (see also the discussion on water trading, pp. 1.18–19).
- Progress the devolution of a greater degree of management responsibility for the Ord Irrigation Scheme to local constituents.
- Ensure administrative arrangements provide for effective integrated management of catchments. Implement the Waterways WA framework for considering and supporting land care practices to protect rivers with high environmental values.
- Progress the implementation of the National Water Quality Management Strategy. Implement guidelines on fresh and marine water quality, and on water quality monitoring and reporting.
- Complete water industry legislation review and reform obligations by implementing reforms to 19 water industry instruments as recommended by Western Australia's NCP reviews of water industry legislation.

South Australia

- Demonstrate that water and wastewater prices charged by SA Water comply with CoAG requirements by preparing the State's first pricing transparency statement showing that 2004-05 prices satisfactorily address the CoAG pricing principles (NCC 2003a, pp. xlvii–viii and pp. 6.2–4). The preparation of annual water and wastewater pricing transparency statements would also address institutional structure obligations.
- Remove, or demonstrate a net public benefit from, restrictions (including the cumulative 2 per cent limit in the Central Irrigation Trust) on water

trade out of water irrigation areas. Ensure any trading rules in water allocation plans facilitate trading. Demonstrate that the reduction factors on some allocations that are traded are consistent with CoAG water trading obligations (see also the discussion on water trading, pp. 1.18–19).

Under the National Water Initiative, South Australia committed to effect changes to permit increased trade including removing barriers to trade out of irrigation areas (up to the interim threshold of 4 per cent per year of the total water entitlement of the water irrigation district). It committed to do this at the same time that New South Wales amends its legislation and no later than June 2005.

- Progress the devolution of a greater degree of management responsibility for the lower Murray reclaimed irrigation areas to local constituents.
- Progress the proposed reform of the legislative and administrative arrangements governing natural resource management to reduce the complexity of current procedures.
- Complete water industry legislation review and reform obligations by repealing the remaining two pieces of legislation from South Australia's NCP water legislation review and reform program.

Tasmania

- Remove arrangements in the *Water Management Act 1999* and *Irrigation Clauses Act 1973* that govern the holding and transfer of water entitlements (which require an entitlement holder to own or occupy land in the irrigation district, and which allow transfers to be refused if the quantity of water involved would exceed the amount that could be used sustainably for the intended purpose) or demonstrate that these measures provide a net public benefit. Ensure trading rules in water management plans facilitate trading (see also the discussion on water trading, pp. 1.18–19).
- Advise on outcomes regarding arrangements for handling customer complaints about the service standards of local governments' water businesses (following the review of the *Local Government Act 1993*).
- Progress the devolution of a greater degree of management responsibility for the South East Irrigation Scheme to local constituents.

Australian Capital Territory

- Progress the development of trading rules and arrangements for interstate trade, and decide the size of the Murray–Darling Basin Ministerial Council cap on diversions and the way that the cap is determined to enable trading in water access entitlements (see also the discussion on water trading, pp. 1.18–19).

Northern Territory

- Continue to develop water allocation plans that ensure the plans' trading rules facilitate trading in water access entitlements where systems are physically shared, or where hydrologic and water supply considerations permit trading (see also the discussion on water trading, pp. 1.18–19).

1.2 The 2004 assessment process

The 2004 NCP assessment framework

As for the previous NCP assessments of governments' progress with water reform, the Council released a framework before this 2004 assessment outlining the scope of the assessment. The Council intended the assessment framework to guide governments and water industry stakeholders on the matters under consideration in the 2004 NCP assessment. The framework aimed to:

- provide a transparent basis for assessing governments' actions to implement the objectives set by CoAG
- identify the type of information that governments need to provide to demonstrate compliance
- outline the scope of the assessment, to guide public submissions
- provide a basis for identifying where reform is proving difficult, as a focus for discussion between the Council and the relevant government.

The Council released the 2004 NCP assessment framework for water reform in December 2003. It publicised the existence of the framework via its Enews facility and placed the framework on its website. The Council also provided the framework to all governments and, on request, to interested parties. As discussed above, the National Water Initiative, agreed by most governments in June 2004, further developed the reform benchmarks for some water reform matters considered in the 2004 NCP assessment.

Governments' 2004 National Competition Policy reports

Governments report annually on their progress with implementing the NCP program. For this 2004 assessment, the Council asked governments to report by 12 April 2004, with a focus on the matters being assessed in 2004.

Governments provided their annual reports on water reform on the dates noted in table 1.1. To assist the Council, some governments provided an advance draft copy. The Murray–Darling Basin Commission also provided information to assist the Council's 2004 NCP assessment of water reform implementation.

Table 1.1: Governments' provision of 2004 NCP annual reports on water reform

<i>Government</i>	<i>Date on which the Council received the 2004 NCP annual report on water reform^a</i>
Australian Government	6 May 2004
New South Wales	25 June 2004
Victoria	8 April 2004
Queensland	15 April 2004
Western Australia	23 April 2004
South Australia	22 June 2004
Tasmania	7 April 2004
The ACT	12 May 2004
The Northern Territory	30 April 2004

^a To assist the Council, some governments made their reports available initially in draft form, before endorsing the draft for public release. The dates reported are the dates on which governments submitted their reports, whether draft or endorsed.

Submissions from stakeholders

The Council invited interested parties to make submissions on governments' water reform activity. The purpose of inviting submissions was to ensure, as far as possible given available resources, that the Council had access to stakeholder views on governments' reform progress. Submissions were provided by a range of stakeholders, including environmental organisations, irrigators and irrigator representatives, reference groups involved in water management, water authorities and interested individuals.

In the 2004 assessment framework released in December 2003, the Council invited interested parties to provide submissions, where possible by 12 April 2004, so it could consider them in conjunction with governments' NCP annual reports. The Council received 16 submissions and placed them on its website.¹⁴ Appendix C lists the individuals and organisations that made a submission.

The Council considered all matters raised that were relevant to 2004 NCP assessment obligations. (It has also considered some matters from 2004 submissions in the deferred 2003 assessments for New South Wales and Victoria.) Where issues relevant to the 2004 NCP assessment of a

¹⁴ The Council also received a range of material from the East End Mine Action Group (Mount Larcom, Queensland) and a letter from the Gwydir Valley Irrigators Association, which it has considered as part of this 2004 NCP assessment.

government's reform performance were raised, the Council sought comment from the relevant government.

1.3 The deferred 2003 assessments: implications for 2004

Under the 1994 CoAG strategic water reform framework, governments were to have made substantial progress by 2001 in implementing arrangements to provide water to the environment, including allocations in all river systems identified as overallocated or stressed. By 2005, governments were to have substantially completed allocation and trading arrangements for all river systems and groundwater resources covered by their 1999 implementation programs. CoAG senior officials asked the Council to consider governments' progress against this objective in the 2004 NCP assessment.

As long ago as the 2001 NCP assessment, the Council noted issues relating to work on environmental allocations by New South Wales and Victoria (the two jurisdictions with stressed and overallocated rivers). In subsequent assessments (most recently the 2003 deferred assessments), the Council considered the two states' compliance with CoAG obligations on environmental allocations in stressed and overallocated rivers.

New South Wales

At the time of the 2003 NCP assessment, New South Wales had gazetted the State Water Management Outcomes Plan and 35 (of 39) first-round water sharing plans, but had deferred commencement of the gazetted plans to 1 January 2004. New South Wales had published summary guides and fact sheets on almost all of the 35 completed plans, but had not provided sufficient information on expected ecological health outcomes for the Council to finalise its assessment of whether that state had satisfactorily addressed CoAG obligations to allocate environmental water in stressed and overallocated rivers. New South Wales was also still to finalise the programs to implement the gazetted water sharing plans and to commit to a satisfactory process and timetable for developing water management arrangements for the stressed or overallocated river systems not covered by a gazetted water sharing plan.

At the time of the deferred 2003 assessment (June 2004), New South Wales had:

- confirmed it would commence 30 of the 35 gazetted water sharing plans on 1 July 2004 (deferred from 1 January 2004)
- confirmed it would commence five gazetted groundwater plans on 1 July 2005 (deferred from 1 January 2004), to review its approach to reducing water access for these plans

- published the guides and fact sheets for the gazetted water sharing plans and provided some additional information on the action taken to allocate water to the environment
- progressed, but not finalised, the four remaining first-round water sharing plans, with the Orara River plan being the only first-round non-groundwater plan still to be completed
- completed the implementation programs for the 35 gazetted plans (which were awaiting Ministerial approval)
- commenced development of 'macro plans' for the unregulated rivers and groundwater sources not covered by the 39 first-round water sharing plans.

While New South Wales had mechanisms for most of its water sources for allocating water among different uses (including to the environment) and enabling trading, the Council was not able to conclude that the State had satisfactorily addressed the CoAG obligations relating to environmental allocations. Despite stating that extraction limits in several plans are set to sustain ecological values, New South Wales provided insufficient information to show this sustainability. The Government also did not indicate the extent of, and rationale for, any trade-offs made for social and economic reasons in setting the extraction limits. In addition, for some water sources, the available evidence (including from the former New South Wales Department of Land and Water Conservation) suggested the gazetted arrangements are unlikely to address existing significant environmental challenges.

While the water sharing plans can be amended during their 10-year life, constraints on permitted amendments leave little prospect of any changes satisfactorily addressing current environmental challenges. The proposed involvement of the Natural Resources Commission is positive but unlikely to satisfactorily address the deficiencies in the plans. New South Wales had, however, deferred the commencement of five groundwater plans by 12 months (to 1 July 2005) to review its approach to reducing water allocations in the five water sources.

While the Council acknowledges the complexity of ensuring appropriate environmental allocation arrangements in overallocated systems, it noted that the need to ensure appropriate environmental allocations had been raised with New South Wales in all assessments since 2001. The Council considered recommending a suspension or reduction in the State's 2003-04 competition payments. However, it completed the deferred 2003 assessment only in June 2004: given this delay, the Council judged that a more appropriate course (noting New South Wales's deferral of five plans to review allocation arrangements) was to wait until the 2004 NCP assessment to reconsider this and remaining water planning matters relating to stressed and overallocated systems (NCC 2004a).

Victoria

Victoria placed 11 stressed and overallocated rivers on its 1999 program for implementing water allocation arrangements, including allocations to the environment. In past NCP assessments, the Council accepted some delay (beyond the 2001 deadline) by Victoria in finalising arrangements to allocate environmental water for stressed and overallocated rivers, recognising that the state was continuing to progress towards achieving its obligations in this area.

At the time of the 2003 NCP assessment, Victoria was still to decide how it would provide environmental flows in three of the state's five priority stressed rivers: the Thomson and Macalister river systems and the Maribyrnong River. The Council deferred Victoria's 2003 NCP assessment for this matter, noting that the (then foreshadowed) National Water Initiative might have implications for Victoria's approach.

The deferred assessment found that Victoria, since the 2003 NCP assessment, had made the following progress regarding the Thomson and Macalister rivers:

- The Thomson and Macalister Task Force had finalised its report on options for flow rehabilitation for the Thomson and Macalister rivers, and the State Government had commenced some river restoration projects pending its decision on the task force report. At the time of the deferred assessment, the task force report was before the government, and the government's response was expected as part of the White Paper on water.
- The Port Phillip and Westernport Catchment Management Authority was developing a draft Port Phillip and Westernport River Health Strategy, which would consider proposed actions for the Maribyrnong River over the short to long term in line with regional priorities being established through the regional river health strategy.
- The Victorian Government had provided funds to the Port Phillip and Westernport Catchment Management Authority to investigate options to manage summer stress in Jacksons Creek and to conduct on-ground habitat works to protect the low flow aquatic habitat in Deep Creek.
- The Victorian Government had allocated \$280 000 from its Stressed River Program to the Goulburn Broken Catchment Management Authority to develop and implement a revised stream flow management plan.
- The Victorian Government had progressed the development of arrangements for allocating environmental water in the remaining six stressed rivers covered by its 1999 implementation program. It had identified another six rivers as being at significant risk of flow stress and had signalled that it would take action to address this stress.

Victoria does not consider the Maribyrnong River to be a priority because it considers the statewide return in terms of environmental outcomes from investing in flow restoration activities is greater for other rivers. Victoria has restored flows in some but not all reaches of the Maribyrnong River. The Port Phillip and Westernport Catchment Management Authority will consider river health aspects as part of implementing its regional river health strategy. The deferred 2003 assessment of Victoria's actions to restore flows in King Parrot Creek (which Victoria advised forms a substitute to further investment to restore flows in the Maribyrnong River) found that Victoria had implemented several interim measures to address summer and winter flow stress and groundwater extraction identified in the draft stream flow management plan for the creek. Victoria was behind schedule, however, for deciding on water management arrangements for the creek, and work remained to address deficiencies in the draft stream flow management plan.

The deferred 2003 assessment found that although Victoria had some way to go to meet stressed river environmental allocation obligations, the state is progressing its bulk entitlements program, the stream flow management plans and other stressed river arrangements. The Council undertook to further consider, in the 2004 NCP assessment, Victoria's implementation of the Thomson/Macalister arrangements, and identified a range of matters that Victoria needed to address by 2005 to meet 1994 CoAG obligations. The Council considered Victoria to have met its CoAG obligations for 2003, and recommended no reduction in Victoria's 2003-04 competition payments for environmental water allocation issues (NCC 2004b).