

## **B10.8 WATER REFORM, AUSTRALIAN CAPITAL TERRITORY**

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## Table of Abbreviations

ACT	Australian Capital Territory
ACTEW	ACTEW 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 Policy Agreement
CPI	Consumer Price Index
CSO	Community Service Obligation
DUS	Department of Urban Services
EBIT	Earnings before Interest and Tax
EFG	Environmental Flow Guidelines
EMA	Environment Management Authority
EWC	Environmental Water Charge
IPARC	Independent Prices and Regulatory Commission
kL	Kilolitre (1000 L)
LRMC	Long Run Marginal Cost
MDBC	Murray Darling Basin Commission
ML	Megalitre (1 000 kL)
NCC	National Competition Council
NHMRC	National Health and Medical Research Council
NWQMS	National Water Quality Management Strategy
RoR	Rate of Return
SCARM	Standing Committee on Agriculture and Resource Management
TER	Tax Equivalent Regime

TOC Act	<i>Territory Owned Corporations Act 1990</i>
WAC	Water Abstraction Charge
WACC	Weighted Average Cost of Capital
WR Act	<i>Water Resources Act 1998</i>
WRMP	Water Resource Management Plan
WSAA	Water Services Association of Australia

# B10 Water Reform

## B10.8 Australian Capital Territory

### B10.8.1 EXECUTIVE SUMMARY

This is an assessment of the Australia Capital Territory's (ACT) performance against the strategic framework for water reform. The assessment provides an overview of the reforms implemented and measurement of the reforms against specific commitments in the strategic framework.

The assessment considers both legislation and policy initiatives and the application of the initiatives in specific circumstances.

### PROGRESS ON REFORMS

#### *Cost reform and pricing*

- As regards full cost pricing, the ACT has referred pricing of water to the Independent Pricing and Regulatory Commission. The Council is of the view that this has ensured a consistent approach and integrity in the price setting process.
- ACTEW Corporation, the ACT water service provider, has implemented two part tariff regimes, the usage charge based on marginal costs.
- Cross-subsidies have on the whole been removed from ACTEW's pricing structures.
- The ACT has a clearly defined and well targeted Community Service Obligation regime.
- ACTEW returns a positive rate of return on assets employed in water and wastewater services.
- New investments are the subject of appraisals regarding economic viability and ecological sustainability.

The Council is satisfied that the ACT has largely implemented cost reform and pricing commitments.

#### *Institutional reform*

- The institutional arrangements for separation of water service provision from functions of standard setting, regulatory enforcement and service provision meet to a large extent the requirements for the second tranche assessment. The Council notes the reforms to regulation proposed in the *Statement of Regulatory Intent for Utilities in the ACT* and respectfully adopts the findings of the Regulation Review Taskforce. The Council will look to the implementation of the recommendations prior to the third tranche assessment.

- ACTEW has a commercial focus.
- ACTEW participates in performance monitoring and benchmarking arrangements.

The Council is satisfied that, for the second tranche, the ACT has met institutional reform commitments

### ***Allocations and trading***

- The *Water Resources Act 1998* provides for a comprehensive system of water entitlements backed by separation of water property rights from land title and a clear specification of entitlements in terms of volume, reliability or transferability. The Council is satisfied that the system satisfies the requirements of the strategic framework.
- The ACT has in place detailed procedures and policies that will permit allocations to be developed for the environment. The Council is also satisfied that the policies have regard to relevant scientific information.
- The ACT has committed to having completed its water allocations process by December 1999. The Council will continue to monitor this commitment prior to the third tranche assessment.
- The *Water Resources Act 1998* provides for trading in water that permits trading in the spectrum of water rights. At present no intra-territory trade is occurring as there is no scarcity. Hence, other than requiring approval from the relevant authority, no rules have been developed. The ACT has noted that interstate trade awaits legislative reform. The Council will monitor the development of trading rules and interstate trade during the period prior to the third tranche assessment.

The Council is satisfied that the ACT has met this reform commitment.

### ***Environment and water quality***

- The ACT has adopted integrated resource management structures, policies and practices that satisfy the strategic framework. The Council will continue to monitor development of initiatives outlined by the ACT.
- The ACT has made significant progress in implementing National Water Quality Management Strategy Guidelines. The Council will continue to monitor this matter and in particular institutional reforms governing licence conditions and monitoring.

The Council is satisfied that this reform commitment has been met.

### ***Public education and consultation***

- The ACT has engaged in public consultation and education regarding water reform.

- The Council notes its preliminary view that service providers are not appropriate public education suppliers on matters such as water conservation. The Council notes that the ACT is considering this matter in its review of utility regulation. This issue will continue to be reviewed prior to the third tranche assessment.

The Council is satisfied that this reform commitment has been met.

## **ASSESSMENT**

The Council is satisfied that the ACT has met reform commitments required for the second tranche. It has been impressed with both the commitment and progress of water reform in the ACT.

The Council has now built up a considerable amount of information concerning the ACT Water Reform. Matters of general concern have been noted and these and the remaining aspects of the strategic framework will be closely scrutinised during the period prior to 30 June 2001.

## **B10.8.2 REFORM COMMITMENT: COST REFORM AND PRICING**

### **Major Urbans and Non-Metropolitan Urbans**

#### **10.8.2.1 Drawing on the advice of the Expert Group and complying with the ARMCANZ full cost recovery guidelines, jurisdictions are to implement full cost recovery.**

Water businesses must price between a floor price which allows for the continuing commercial viability of the system and a ceiling price which incorporates asset values and a rate of return but does not include monopoly profits:

- the floor price includes provision for future asset refurbishment or replacement using an annuity approach where service delivery is to be maintained; and
- the ceiling price includes provision for asset consumption and cost of capital calculated using a weighted average cost of capital (WACC).

Within the band, a water business should not recover more than operational, maintenance and administrative costs, externalities, taxes or tax equivalent regimes (TERs), the interest costs on debt, and dividends (if any) set at a level that reflects commercial realities and simulates a competitive market outcome.

The level of revenue should be based on efficient resource pricing and business costs. In determining prices, community service obligations (CSOs), contributed assets, the opening value of assets, externalities including resource management costs, and TERs should be transparent. The deprival value methodology should be used for asset valuation unless a specific circumstance justifies another method.

### **ACT arrangements**

#### **Introduction**

ACTEW Corporation (ACTEW) is a Territory owned corporation with the following relevant functions: bulk water storage and transfer; retail water treatment reticulation; and wastewater reticulation and treatment.<sup>380</sup> ACTEW provides monopoly water and wastewater service to 311 000 persons, serving some 125 000 properties in the Australian Capital Territory (ACT). ACTEW provides some 73 000 ML of water (614 kL per property), residential consumption accounting for about 53 per cent of the water supplied. Some 30 665 ML (264 kL per property) of wastewater is collected.<sup>381</sup> All water supplied by ACTEW is obtained from impounding reservoirs (that is, dams etcetera).

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<sup>380</sup> ACTEW also provides electricity supply services.

<sup>381</sup> WSAA Facts '98.



## IPARC

The *Independent Pricing and Regulatory Commission Act 1997* (IPARC Act) establishes the Independent Pricing and Regulatory Commission<sup>382</sup> (IPARC) and relevantly provides for the objectives, in relation to regulated industries, of promoting effective competition in the interests of consumers and facilitating an appropriate balance between efficiency, environmental and social considerations. IPARC is the price regulator for ACTEW.

The IPARC Act provides for IPARC to undertake investigations in accordance with terms of reference and to provide an opportunity for public submissions on the draft reports. As regards Price Directions (directions), matters to be taken into consideration include:

- the protection of consumers from abuses of monopoly power in terms of price and standards of the service;
- standards of quality, reliability and safety;
- the need for greater efficiency in the supply of services to reduce costs to consumers and taxpayers;
- the appropriate rate of return (RoR);
- the cost of providing the service;
- the principles of ecologically sustainable development;
- the social impacts of the decision;
- demand management; and
- borrowing, capital and cash flow requirements and the need to renew or increase assets.

The Council has reviewed the 1997-1998, 1998-1999, and 1999-2000 to 2003-2004 directions of IPARC.

The 1998-1999 direction has regard to the relevant terms of reference matters. IPARC notes the use of incentive regulation (that is, price caps (CPI +/- X)) and revenue regulation (that is, regulating the total revenue per customer).

The principal features of the direction are: that for 1-300 kL, water is charged at the rate of 37c per kL. For in excess of 300 kL<sup>383</sup> water is charged at 76c per kL. The access charge is decreased from \$135 to \$125. Sewerage levels are frozen at \$245 plus an additional \$245 for every additional flushing cistern in excess of two. A \$40

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<sup>382</sup> Previously the ACT Energy and Water Charges Commission.

<sup>383</sup> Reduced from 350Kl in 1997-1998.

environmental works charge (EWC) is levied plus an additional \$40 EWC for every additional flushing cistern in excess of two.

In determining the water charges specific regard was had to the marginal cost of supplying each additional unit of water. Although the unit charge for water below 300 kL is well below Long Run Marginal Cost (LRMC), the addition of the access fee led to water charges approximating IPARC's estimation of LRMC (between 63-90c). The extra charge for increased consumption falls in the midpoint of the LRMC estimates.

IPARC's determination includes recovery by ACTEW of operational, maintenance and administrative costs. It includes specific provision for environmental works and a TER. The direction includes the payment of interest on debt (ACTEW borrows in the marketplace) and provides for a dividend to the ACT Government.

The 1997-1998 direction notes the need to establish a regulatory asset base for determining the WACC; for the purpose of this determination IPARC calculated a RoR for the whole of ACTEW's business<sup>384</sup> of 3.7 per cent using ACTEW's 'fair valuations'<sup>385</sup>, and 6.2 per cent if capital contributions and gifted assets are included as income and ACTEW achieved cost savings recommended by IPARC.

The 1999-2000 to 2003-2004 direction builds on the earlier determinations. The direction continues with incentive regulation (for water, price increases of CPI + 3-4 per cent are allowed, and for sewerage, CPI + 0-1 per cent). The direction provides for a return on assets<sup>386</sup> of 4.8 to 6.6 per cent for water services and 6.1 to 6.3 per cent for sewerage services.

In addition the direction provides for bulk water charges with individual customers to be negotiated on the basis that prices do not fall below avoidable costs of supply and for a water abstraction charge of 10c/kL to be spent on managing of catchments and identified environmental work not part of ACTEW's normal business operations and an estimate of the scarcity value of water.

Of particular note is the following:

- specific regard was had to the Expert Group Guidelines on Asset Valuations;
- IPARC considered that ACTEW should consider the water abstraction charge as a pass through cost and should show the charge separately on the water bill; and

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<sup>384</sup> IPARC did not provide separate RoRs for each part of the business.

<sup>385</sup> Nominal post-tax, based on ACTEW's book value of assets.

<sup>386</sup> Pre tax and excluding capital contributions.

- as regards asset valuation, IPARC adopted an economic valuation<sup>387</sup> of the water and sewerage assets, this being less than the depreciated optimised replacement cost and therefore, under the deprival valuation rules, the cost to be adopted.

### WSAA Facts

WSAA Facts '98 notes that the average annual bill for 1997-1998 was \$598, the volumetric component of water supply constituting \$154 (or 53 per cent) of the \$289 average water supply component of the bill. WSAA Facts notes that the average annual water bill has fallen 11.87 per cent between 1996-1997 and 1997-1998.

As regards financial performance measures, ACTEW's written down replacement cost of assets is about \$830 million. The Economic Real RoR<sup>388</sup> in 1997-1998 was 2.68 per cent (up from 1.68 per cent the previous year). The financial information was as follows:

**Table 10.8.1 Financial performance of ACTEW, 1997-1998.**

	\$
<b>Turnover</b>	<b>110 057</b>
Total income	113 112
<b>Operating, maintenance and administration</b>	<b>62 515</b>
<b>Other operating costs</b>	<b>2 299</b>
<b>Depreciation</b>	<b>20 478</b>
Total Operating Costs	85 292
Operating Profit	27 820
<b>Net Interest</b>	<b>5 908</b>
Profit before Tax	21 912
<b>Tax</b>	<b>3 150</b>
Profits after tax	18 762
Dividends	19 211

### Second tranche report

The second tranche report notes that ACTEW is subject to Commonwealth wholesale and income tax equivalents. The dividend policy is for 100 per cent of the net surplus

<sup>387</sup> Defined as the recoverable amount, that is, the future revenue stream, less cash operating costs adjusted to today's costs.

<sup>388</sup> Based on the total operation assets owned and operated by ACTEW (including those supplied by industry and through land development). Asset replacement costs determined by estimating the current cost of replacement of assets currently in use. ACTEW was unable to provide a vertical breakdown of costs (reticulation, treatment, bulk).

to be paid to the Government as a dividend. ACTEW borrowings are undertaken externally, and therefore debt guarantee fees are not relevant.

The cost of externalities<sup>389</sup> will be addressed by the application from July 1999 of a Water Abstraction Charge. In addition, for the past five years sewerage capital works enhancements were funded from an annual levy of \$40 per household. The latest IPARC direction notes that this amount will not be maintained as a separately identifiable component but will continue to be included in ACTEW sewerage charges in order to fund normal operations including the existing capital works program.

### **Council Comment**

The Council is of the view that the regulation of pricing by IPARC has ensured both a consistent approach and integrity in the price setting process. The transparent process, detailed reasons and separation of price controller from monopoly service provider are strengths of the IPARC process.

The Council is satisfied that, in relation to water services, ACTEW:

- meets operating, maintenance and administration costs;
- meets interest costs;
- pays tax or a tax equivalent;
- pays a dividend to government; and
- earns a real RoR on capital.

The approach of IPARC is consistent with the efficient pricing of water. As regards the valuation of assets, the Council is satisfied that the approach outlined in the 1999-2000 to 2003-2004 determination is consistent with the spirit of full cost recovery.

The Council has concluded that full cost recovery for water has been substantially implemented in the ACT.

#### **10.8.2.2 Jurisdictions must implement consumption based pricing. Two part tariffs are to be put in place by 1998 where cost effective. Metropolitan bulk water and wastewater suppliers should charge on a volumetric basis.**

Jurisdictions are to apply two part tariffs to surface and groundwater comprising a fixed cost of access component and a volumetric cost component.

Metropolitan bulk water and wastewater suppliers must establish internal and external charges to include a volumetric component or two-part tariff with an emphasis on the volumetric component to recover costs and earn a positive real RoR.

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<sup>389</sup> For example, catchment management and environmental damage costs and costs reflecting the scarcity value of water.

## ACT arrangements

Some of the pricing arrangements for ACTEW are discussed in the previous section. The second tranche report noted that the step tariff<sup>390</sup> is retained on the basis that it provides an incentive for conservative water use. The price for the upper step is higher than would be the case with a single tier tariff, as a disincentive to high water use and partly as a subsidy for low water users.

ACTEW is a vertically integrated water service provider. IPARC noted in its 1999-2000 to 2003-2004 direction a preference that bulk water prices should reflect efficient cost of water delivery, and a preference for two part tariffs with the usage component reflecting the marginal cost of supply. Although not determining a price, IPARC did direct that ACTEW's freedom to negotiate bulk water prices was on the proviso that customers are charged no less than the avoidable costs of supply.

## Council Comment

The Council is satisfied that ACTEW charges for water by way of a two part tariff including an access component and volumetric component. The volumetric component is based to a large extent on the marginal cost of supply of water. The sewerage tariff is a single charge, and in the Council's view consistent with reform commitments.

Having regard to the price direction for the supply of bulkwater by ACTEW, the Council is also satisfied that bulk water will be sold at a price above avoidable costs, which will ensure at least cost recovery and enables ACTEW to negotiate prices that reflect market realities.

### **10.8.2.3 Jurisdictions are to remove cross subsidies, with any remaining cross subsidies made transparent (published).**

A cross subsidy exists where a customer pays less than the long run marginal cost and this is being paid for by other customers. An economic measure which looks at cross subsidies outside of a Baumol band, which sets prices between incremental and stand alone cost, is consistent with the COAG objective of achieving economically efficient water usage, pricing and investment outcomes. To achieve the COAG objective, potential cross-subsidies must be made transparent by ensuring the cost of providing water services to customers at less than long run marginal costs is met:

- as a subsidy, a grant or CSO; or
- from a source other than other customer classes.

## ACT arrangements

The two part tariff pricing structure for the ACT's water is noted.

The second tranche report notes that CSOs and subsidies, scrutinised through the IPARC process, are determined and funded by Government and directed to providing

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<sup>390</sup> That is, the increased rate at 300 kL.

social safety net objectives. IPARC has identified cross-subsidies between both electricity and water and domestic and industrial customers. The report also notes that water prices have been raised so that the need for subsidy is reduced. Water prices will continue to rise as other relevant costs are recognised in the price and external costs are passed through to consumers in water accounts. In addition, CSOs are made transparent in annual reporting and Budgetary cycles.

### **Council Comment**

The Council notes that the removal of property value based pricing regimes and their replacement with a two part tariff in large part removes cross-subsidisation of water services provided to one customer by another customer. The purpose of the stepped tariff has been explained, and the Council notes that the upper usage charge approximates with LRMC as calculated by IPARC. The Council is satisfied that, on the whole, cross-subsidies have been eliminated in ACTEW's pricing regime.

#### **10.8.2.4 Where service deliverers are required to provide water services to classes of customers at less than full cost, this must be fully disclosed and, ideally, be paid to the service deliverer as a community service obligation.**

All CSOs and subsidies must be clearly defined and transparent. The departure from the general principle of full cost recovery must be explained. The Council will not make its own assessment of the adequacy of the justification of any individual CSO or cross-subsidy but will examine CSOs and cross-subsidies in totality to ensure they do not undermine the overall policy objectives of the strategic framework for the efficient and sustainable reform of the Australian water industry.

### **ACT arrangements**

The *Draft Outline of ACT Utilities Regulatory Regime* (March 1999)<sup>391</sup> (the Outline) notes the adoption by the ACT of the Steering Committee on National Performance Monitoring of Government Trading Enterprises' definition of a CSO:

*A community service obligation arises when a government specifically requires a public enterprise to carry out activities relating to outputs which it would not elect to do on a commercial basis and which the government does not require other businesses in the public or private sectors to generally undertake, or which it would only do commercially at higher prices.(p53)*

Relevant 1998-1999 CSOs (all of which are funded by revenue forgone by ACTEW) are: \$2 million for reduced water and sewerage charges to schools; \$51 000 for nil charges to church-leased land; and \$2.3 million rebate to health benefit card holders.

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<sup>391</sup> Regulatory Reform Taskforce. The Outline builds on the work of the *Statement of Regulatory Intent* (discussed under Institutional Reform) to enable informed community consultation and debate before finalising the new regulatory regime.

The Outline recommends the reporting of the CSOs in the ACT budget, ACTEW annual reports and customer's bill. It also recommends a review every five years.

Each IPARC direction obtained by the Council includes a costing of CSOs. For example, CSO income to ACTEW in the 1998-1999 direction was estimated to be \$4.4 million.

### **Council Comment**

The Council is satisfied that the ACT's CSOs are made transparent both in IPARC decisions and the ACT Budget. Further, the Council is satisfied that the types of CSO measures identified by the ACT in the second tranche report do not undermine the overall policy objectives of the strategic framework. The Council is satisfied that this aspect of the reform framework has been met.

#### **10.8.2.5 Publicly owned supply organisations should aim to earn a real rate of return on the written down replacement cost of assets for urban water and wastewater.**

Jurisdictions are to have achieved progress toward a positive real rate of return on assets used in the provision of all urban water supply and wastewater services.

### **Council Comment**

The financial performance of ACTEW has previously been discussed. The Council is satisfied that ACTEW achieves a positive RoR on assets, and is confident in the process adopted by IPARC to determine asset values.

### **Rural Water Supply and Irrigation Services**

#### **10.8.2.6 Where charges do not currently cover the costs of supplying water to users (excluding private withdrawals of groundwater),<sup>392</sup> jurisdictions are to progressively review charges and costs so that they comply with the principle of full cost recovery with any subsidies made transparent.**

Jurisdictions should provide a brief status report, consistent with advice provided to ARMCANZ, on progress towards implementation of pricing and cost recovery principles for rural services.

The Council will assess jurisdictions as having complied with the pricing principles applicable to rural water supply where jurisdictions:

- have achieved full cost recovery; or
- have established a price path to achieve full cost recovery beyond the year 2001 with transitional CSOs made transparent; or

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<sup>392</sup> Private withdrawals of groundwater include private providers and small co-operatives who extract water from bores for private use, but does not include large cooperative arrangements (including trusts) that act as wholesalers supplying water as a commercial venture and that are subject to control or directions by government or receive substantial government funding.

- for the schemes where full cost recovery is unlikely to be achieved in the long term, that the CSO required to support the scheme is transparent; and
- cross-subsidies have been made transparent.

### Council Comment

The ACT has advised that it has no publicly funded rural water supply infrastructure for irrigation.<sup>393</sup>

#### **10.8.2.7 Jurisdictions are to conduct robust independent appraisal processes to determine economic viability and ecological sustainability prior to investment in new rural schemes, existing schemes and dam construction. Jurisdictions are to assess the impact on the environment of river systems before harvesting water.**

Policies and procedures must be in place to robustly demonstrate economic viability and ecological sustainability of new investments in rural schemes prior to development. The economic and environmental assessment of new investment must be opened to public scrutiny.

Jurisdictions must demonstrate a strong economic justification where new investment is subsidised.

### ACT arrangements

Section 69 of the *Water Resources Act* 1998<sup>394</sup> (the WR Act) provides that the Environment Management Authority (EMA) may grant a person a permit to construct or alter a dam, water storage or other water control structure in a waterway. The EMA is to have regard to matters including the following in determining whether a permit should be granted:

- whether the structure is in the interests of the public;
- whether the environment would be adversely affected or environmental flows maintained;
- whether the rights of other users will be affected;
- whether the applicant is the holder of a licence to take water (see section on *Water Allocations and Trading*); and
- the design of the structure.

The WR Act permits the review by the ACT Administrative Appeals Tribunal of decisions of the EMA concerning dam and other construction.

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<sup>393</sup> ACT annual report to COAG, 1997.

<sup>394</sup> Commences on or before 12 December 1999.



The second tranche report notes that all developments are subject to the *Water Use and Catchment Policies* of the Territory Plan which protects water and catchments by specifying permitted uses and environmental values which must be protected. New dams would be required to comply with the Territory Plan.

IPARC must take into consideration principles of ecologically sustainable development in making price directions<sup>395</sup> and have regard to an appropriate RoR.

### **Council Comment**

The Council is satisfied that any new developments of rural infrastructure would require a robust assessment of ecological sustainability. The Council also notes that, in pricing water resources harvested from the developments, IPARC would have regard to an appropriate RoR.

The Council notes: the requirement for ACTEW to operate efficiently (see institutional separation) and to maximise sustainable return on investment; both IPARC and ACTEW are to have regard to principles of ecologically sustainable development; and the other matters outlined under *Allocation and Trading*.

Having regard to these matters the Council is satisfied that this reform commitment has been met.

### **10.8.2.8 Jurisdictions are to devolve operational responsibility for the management of irrigation areas to local bodies subject to appropriate regulatory frameworks.**

All impediments to devolution must be removed. Jurisdictions must demonstrate that they are encouraging and supporting devolution of responsibility, including through education and training.

### **Council Comment**

ACT has advised that it has no publicly funded rural water supply infrastructure for irrigation.<sup>396</sup>

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<sup>395</sup> Section 20, IPARC Act.

<sup>396</sup> ACT annual report to COAG, 1997.

## **B10.8.3 REFORM COMMITMENT: INSTITUTIONAL REFORM**

### **Institutional Role Separation**

**10.8.3.1 As far as possible the roles of water resource management, standard setting and regulatory enforcement and service provision should be separated institutionally by 1998.**

The Council will look for jurisdictions, at a minimum, to separate service provision from regulation, water resource management and standard setting. Jurisdictions will need to demonstrate adequate separation of roles to minimise conflicts of interest.

### **ACT arrangements**

The second tranche report notes that the present institutional structure for the ACT is as follows:

- ACTEW is the service provider;
- ACT Department of Urban Services (DUS) is the Water Resources Manager;
- standard setting is provided by IPARC (Efficiency), Environment ACT (Environment) and DUS (other standard setting); and
- regulation is provided by IPARC (Price), Environment ACT (Environment) and the ACT Government (other regulation).

The *Territory Owned Corporations Act 1990* (the TOC Act) provides that the ACTEW, a Territory owned corporation, has as its principal objectives (each of which is of equal importance):<sup>397</sup>

- to operate at least as efficiently as any comparable business;
- to maximise the sustainable return on investment in accordance with the statement of corporate intent;
- to '*exhibit a sense of social responsibility by having regard to the interests of the community in which it operates*'; and
- to conduct its operations in compliance with the principles of ecologically sustainable development.

Ecologically sustainable development is taken to require '*the effective integration of economic and environmental considerations in decision-making processes*', having regard to:

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<sup>397</sup> Schedule 4, Clause 2, TOC Act.

- the *precautionary principle*, that is, if there is a threat of serious or irreversible environmental damage, a lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
- the *intergenerational equity principle*, that is, that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- conservation of biological diversity and ecological integrity; and
- improved valuation and pricing of environmental resources.

The TOC Act provides that ACTEW is not entitled to an exemption from taxes etc. because it is a Territory owned corporation (Federal taxes are paid as TERs to the Territory Government), although it is exempt from taxes for incorporation, acquisition of shares and transfer of shares and assets between ACTEW and other Territory owned corporations. Directors are appointed on the basis of expertise and skills. The TOC Act provides that borrowing by ACTEW may only occur within limits approved by the Treasurer, although money may be borrowed from other than the Territory and may be secured over ACTEW assets or guaranteed by the Treasurer. A borrowing levy determined by the Treasurer is also to be paid. Dividends are to be paid out of profits.

Shareholders hold shares on trust for the Territory and only Ministers may have voting shares. ACTEW must provide all information required on the request of a voting shareholder. ACTEW is required to comply with written directions of voting shareholders even if it is not in the best commercial interests of ACTEW, and the Territory is required to reimburse the net reasonable expense of complying with the direction. Directors are required to prepare an annual statement of corporate intent including commercial objectives, main undertakings, strategies, performance and measures. This statement is tabled in Parliament.

The role of IPARC has been outlined above (Full Cost Recovery).

The *Statement of Regulatory Intent for Utilities in the ACT* (November 1998) (the statement), prepared by the Regulation Review Taskforce, sets out the ACT Government's proposal to develop a new regulatory framework to address present deficiencies. The principles identified in guiding the statement include:

**Consistency.** Regulatory arrangements should apply to all industry participants and wherever practicable regulatory arrangements should be consistent with approaches in other jurisdictions. A generic approach will be adopted across the utilities sector that still allows the regulation to be tailored to suit the nature of the services provided and to meet specific the ACT objectives.

**Standard setting.** Regulatory standards should be set by Government and the ACT Legislative Assembly in accordance with community values and objectives.

**Independent standards administration.** Regulatory arrangements and standards should be independently administered and enforced.

**Cost reflective.** Service standards should match community expectations at a fair price that enables the owners to earn a fair RoR on their investment.

**Infrastructure management.** Regulatory arrangements need to ensure the necessary capital investment in the future management, maintenance and expansion of service capacity and fair access to essential infrastructure to encourage competition and efficient use.

**Outcomes focused.**

**Transparent and Certain.** Regulations should be clear, predictable and well understood by industry and consumers.

The statement notes deficiencies in the current arrangement including the following:

- insufficient separation of regulatory and consumer functions (on the one hand) from the supply functions (on the other hand), with ACTEW setting its own standards for the provision of services;
- no capacity for customer service standards for water or sewerage supply to be independently prescribed;
- no method for regulating the operation and service provision of the water and sewerage utility;
- no independent right of complaint about service standards to a body that can fine a utility or order rebates or other remedial action;
- no legally enforceable technical and safety standards for a utility's equipment or infrastructure;
- no specific environmental requirements such as demand management programs. For example energy efficiency targets are largely voluntary and not enforceable;
- inadequate consumer protection measures;
- lack of transparency of the basis under which determinations are made; and
- no appeal mechanism against pricing decisions.

The statement notes that there is a need to build into the regulatory framework a clear and transparent licensing regime and a single independent utilities regulator. This will enable existing regulations to be streamlined and better co-ordinated and the roles of the various regulatory agencies to be clarified. It will also give utilities and the ACT community a clearer understanding of their rights and responsibilities in relation to the provision of water supply and sewerage services. The structure the ACT proposes to address these deficiencies includes:

- IPARC as the independent utilities regulator;

- an Essential Services Consumer Council to provide policy advice to government on consumer issues and be responsible for handling consumer complaints and disconnections for people experiencing financial hardship;
- industry codes of practice;
- licence conditions requiring compliance with codes of practice and setting out dispute resolution and enforcement provisions; and
- standard consumer contracts.

*The Draft Outline of ACT Utilities Regulatory Regime* (March 1999)<sup>398</sup> (the Outline), a further Taskforce document, notes that a new *Utilities Act* will establish an operating licence regime, with IPARC to be given powers to act as the industry licensor. Regulations, operating licences, industry codes<sup>399</sup> and standard forms of contracts will then be issued under the provisions of the *Utilities Act* and under IPARC's supervision. IPARC will be able to fine or in extreme circumstance revoke the licence of ACTEW. In addition, the Outline builds on the experience of the Sydney Water Crisis and provides for the Chief Health Officer to have authority to manage public health risks associated with drinking water (for example, issuing *boil water* alerts) and determine appropriate drinking water quality standards.

The ACT has advised that legislation reflective of the spirit of the Statement, and reflecting the extensive consultation concerning the statement, should be introduced into the Parliament in mid-1999.

### **Council Comment**

The Council is satisfied that, to a significant extent, present institutional arrangements provide for institutional separation of service provision and water resource management. The existing structure also provides for some separation of standard setting and regulatory functions (for example, price setting).

The Council notes the very detailed analysis of institutional arrangements by the Taskforce. The ACT intends to implement the Taskforce's recommendations and the Council is of the view that full implementation of the recommendations would result in a comprehensive institutional structure consistent with the strategic framework.

The Council is satisfied that, for the purposes of the second tranche, the ACT has met reform commitments for institutional separation.

The Council, however, will continue to monitor the implementation of the reforms foreshadowed for the purpose of third tranche assessment. It is expected that the recommendations would be implemented well before 30 June 2001.

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<sup>398</sup> Regulatory Reform Taskforce. The Outline builds on the work of the *Statement of Regulatory Intent* (discussed under Institutional Reform) to enable informed community consultation and debate before finalising the new regulatory regime.

<sup>399</sup> Covering matters such as consumer protection, dam safety management, service standards, metering, safety and development.

The Council is of the view that, consistent with the approach to legislation reviews, if recommendation/s are not to be implemented, the ACT would need to show a bona fide public interest justification for the departure from the recommendation/s.

**10.8.3.2 Metropolitan service providers must have a commercial focus, whether achieved by contracting out, corporatisation, privatisation etc, to maximise efficiency of service delivery.**

Incorporate appropriate structural and administrative responses to the CPA obligations, covering legislation review, competitive neutrality, structural reform.

**Council Comment**

The Council notes that ACTEW is a Territory owned corporation, with objectives as set out above. The Council is satisfied that ACTEW has a commercial focus to maximise efficiency of service delivery.

**Performance Monitoring and Best Practice**

**10.8.3.3 ARMCANZ is to develop further comparisons of interagency performance with service providers seeking best practice.**

Jurisdictions have established a national process to extend inter-agency comparisons and benchmarking. Benchmarking systems are to be put in place for the NMU and rural sectors, "WSAA Facts" is to be used for major urbans, and service providers are to participate.

The Council will accept compliance for the three sectors subject to the Productivity Commission confirming consistency with the Report of the Steering Committee on National Performance Monitoring of Government Trading Enterprises, "*Government Trading Enterprises Performance Indicators*" (Red Book). The Productivity Commission has already confirmed the consistency of "WSAA Facts" for the major urbans. The Council recognises the first reports for the NMU and rural sectors are likely to be a rough cut in the initial years.

**ACT arrangements**

WSAA Facts 1998 includes ACTEW in performance comparisons. In addition, the second tranche report notes ACTEW's representation (as WSAA representative) on the Board of the Co-operative Research Centre for Water Quality and Treatment and participation in National Standards codes workshops.

**Council Comment**

The Council is satisfied that, through its participation in WSAA Facts, ACTEW is involved in performance comparison and benchmarking and the ACT meets this aspect of the framework.

## **B10.8.4 REFORM COMMITMENT: ALLOCATION AND TRADING**

### **10.8.4.1 There must be comprehensive systems of water entitlements backed by separation of water property rights from land title and clear specification of entitlements in terms of ownership, volume, reliability, transferability and, if appropriate, quality.**

A ‘comprehensive’ system requires that a system of establishing water allocations which recognises both consumptive and environmental needs should be in place. The system must be applicable to both surface and groundwater.

The legislative and institutional framework to enable the determination of water entitlements and trading of those entitlements should be in place. The framework should also provide a better balance in water resource use including appropriate allocations to the environment as a legitimate user of water in order to enhance/restore the health of rivers. If legislation has not achieved final parliamentary passage, the Council will recognise the progress towards achieving legislative change during its assessment of compliance.

#### **ACT arrangements**

Section 13 of the WR Act provides that the right to the use, flow and control of all water<sup>400</sup> is vested in the Territory. Section 28 of the WR Act<sup>401</sup> provides that a person may obtain a water allocation, specified by volume, rate of water flow or in any other manner, and the EMA may fix a different measure for water allocation for different days of the year. The power to allocate water is generally vested in the EMA by auction, tender or private contract. Section 29 provides that the matters are to be taken into account in determining whether to grant an allocation including the following:

- the availability of water;
- the existing and likely future demand for water; and
- environmental flow guidelines.

Section 30 of the WR Act permits reductions in allocations where there are reductions in the flow of a waterway<sup>402</sup> or to prevent a reduction in water quality or damage to an ecosystem dependent on the water from the waterway.

Section 33 of the WR Act prohibits the taking of water without a licence except for domestic, stock or fire-fighting purposes. Section 35 of the WR Act provides for the EMA to grant a licence to take water from a specified waterway or location and the

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<sup>400</sup> Other than groundwater under land the subject of a lease of Territory Land granted before 11 December 1998.

<sup>401</sup> This section commences on or before 12 December 1999.

<sup>402</sup> That is, a river, creek, channel, lake, pond, lagoon or marsh.

licence may be granted subject to conditions including: to keep and maintain records; to install, operate and maintain equipment including a water meter; to provide information regarding compliance with licence conditions; specification of the rate and maximum amount of water that may be taken. The matters to be taken into account when determining a licence application include:

- the *water* environmental record of the applicant in both the ACT and elsewhere, and whether the applicant has been convicted of an offence against the WR Act or corresponding legislation;
- whether the grant of licence would have an adverse effect on the environment, environmental flows or the rights of other users; and
- as regards groundwater, whether there is sufficient water to meet present and future demand and whether the taking of water will or will be likely to affect the quality of water.

A licence is not permitted to be granted unless a water allocation has also been granted to the applicant.

The second tranche report notes that information is currently being gathered on existing surface and groundwater users. They will be given allocations and licences equal to their current use, at the commencement of the allocation and licensing provisions of the WR Act in December 1999.

The WR Act provides for review of decisions concerning water allocations and licences by the ACT Administrative Appeals Tribunal.

### **Council Comment**

The Council is satisfied that the system put in place by the WR Act establishes a system of water allocation that separates water property rights from other rights and that allocations will be specified in terms of volume and reliability. The system will permit water trades (see 10.8.4.3) and recognises the environment through both environmental flow guidelines and a system to reduce allocations in appropriate circumstances. The system permits the determination of allocations by the water resource manager.

The Council is satisfied that the ACT has met reform commitments as regards this aspect of the framework.



**10.8.4.2 Jurisdictions must develop allocations for the environment in determining allocations of water and should have regard to the relevant work of ARMCANZ and ANZECC.**

**Best available scientific information should be used and regard had to the inter-temporal and inter-spatial water needs of river systems and groundwater systems. Where river systems are overallocated or deemed stressed, there must be substantial progress by 1998 towards the development of arrangements to provide a better balance in usage and allocations for the environment.**

**Jurisdictions are to consider environmental contingency allocations, with a review of allocations five years after they have been initially determined.**

Jurisdictions must demonstrate the establishment of a sustainable balance between the environment and other uses. There must be formal water provisions for surface and groundwater consistent with ARMCANZ/ANZECC “National Principles for the Provision of Water for Ecosystems”.

Rights to water must be determined and clearly specified. Dormant rights must be reviewed as part of this process. When issuing new entitlements, jurisdictions must clarify environmental provisions and ensure there is provision for environmental allocations.

For the second tranche, jurisdictions should submit individual implementation programs, outlining a priority list of river systems and groundwater resources, including all river systems which have been over-allocated, or are deemed to be stressed and detailed implementation actions and dates for allocations and trading to the Council for agreement, and to Senior Officials for endorsement. This list is to be publicly available.

It is noted that for the third tranche, States and Territories will have to demonstrate substantial progress in implementing their agreed and endorsed implementation programs. Progress must include at least allocations to the environment in all river systems which have been over-allocated, or are deemed to be stressed. By the year 2005, allocations and trading must be substantially completed for all river systems and groundwater resources identified in the agreed and endorsed individual implementation programs.

### **ACT arrangements**

The WR Act provides the functions of the EMA including:

- to keep under review water resources;
- to co-ordinate water resource management policy;
- to regulate the allocation of water; and
- to provide education and promote efficient water use.

The WR Act requires the EMA to undertake a continuous assessment of the ACT's water resource,<sup>403</sup> prepare a water resource management plan (WRMP) and consult with the public concerning the plan. The WRMP is to include a description of the water resources required to meet the environmental needs of waterways and aquifers, proposed allocations for the succeeding ten years, water allocations to be created for urban, industry and other uses and action to be taken to manage the water resources.

The second tranche report notes that allocation of water to the environment takes priority over allocations for other purposes. In addition, no new allocation of water will be made unless provided for in the WRMP. Allocations will be determined for each subcatchment on a reach by reach basis.

The Council was also provided with the draft *Environmental Flow Guidelines* (December 1998) (EFGs). The purpose of the EFGs are to outline the basis for and specify the flows necessary to sustain the environmental value *maintaining aquatic ecosystems* (that is, protection of biological diversity and maintenance of essential ecological processes and life support systems). The EFGs classify aquatic ecosystems as: natural (that is, pristine), modified (for example, by catchment activities), water supply or created (for example, Lake Burley Griffin). The *building block* approach adopted identifies hydrological components of the flow regime necessary to maintain ecological processes. The approach was developed by Griffith University and South African researchers and advantages identified include:

- the underlining philosophy is the maintenance of the aquatic ecosystem as a whole;
- the approach makes provision for the natural variability in river flow; and
- additional information can be readily incorporated into the approach.

The four elements of the approach are Low Flows, Flushing Flows, Special Purpose Floods and Maintenance of Impoundment Levels. The EFGs identify further investigation required into the flow requirements of local aquatic biota; the impact of diurnal, seasonal, annual and episodic flow variability to long term health of aquatic systems; and the impact of groundwater abstraction on flows.

In respect of each classification of ecosystem, environmental flows for the various elements are identified.

For example, as regards natural ecosystems, flows below the 80<sup>th</sup> percentile are protected. For flows above the 80<sup>th</sup> percentile, 10 per cent of the flow is available for abstraction. Abstractions are never to exceed the flow rate. No abstractions are permitted from lakes and ponds in which natural ecosystems are to be maintained.

The second tranche report noted that there are no stressed systems in the ACT. However, implementation will be completed by December 1999.

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<sup>403</sup> Section 17, WR Act.

## Council Comment

The *National Principles of the Provision of Water for Ecosystems* includes the following principles directly relevant to the Council's assessment:

***Principle 1 River regulation and/or consumptive use should be recognised as potentially impacting on ecological values.***

The WRMP provides explicitly for the identification of water resources required to meet environmental needs. EFGs identify flow requirements for the environment. The WR Act provides for allocations to have regard to resource availability.

***Principle 2 Provision of water for ecosystems should be on the basis of the best scientific information available on the water regimes necessary to sustain the ecological values of water dependent ecosystems.***

It is difficult to say what 'best scientific information' at any point in time is. However, in this respect the Council notes:

- the building block approach utilises hydrological components in determining flow requirements;
- the approach was adopted after identifying relevant advantages including suitability to local conditions;
- regard has been had to the various building blocks in developing EFGs; and
- the approach provides for the inclusion of new information as it becomes available.

The Council is satisfied that the policies and procedures in the ACT provide for consideration of current scientific information.

***Principle 3 Environmental water provisions should be legally recognised.***

EFGs provide explicit recognition for flow events to be provided to the environment. The WR Act provides for specific regard to be had to whether there is sufficient water to meet present demand before water allocations are granted to users. The WRMP will include a description of water required to meet environmental needs.

The Council is satisfied that environmental water provisions are recognised both in legislation and policy.

***Principle 4 In systems where there are existing users, provision of water for ecosystems should go as far as possible to meet the water regime necessary to sustain the ecological values of aquatic ecosystems whilst recognising the existing rights of other water users.***

The Council has been advised that in no water systems in the ACT is there insufficient water to meet both environmental and user needs.

***Principle 5*** *Where environmental water requirements cannot be met due to existing uses, action (including reallocation) should be taken to meet environmental needs.*

The Council has been advised that in no water systems in the ACT is there insufficient water to meet both environmental and user needs.

***Principle 6*** *Further allocation of water for any use should only be on the basis that natural ecological processes and biodiversity are sustained.*

Having regard to the above information, the Council is satisfied that further allocations will have regard to matters including availability, water quality and the need to maintain aquatic ecosystems.

#### ***Other matters***

The draft WRMP is presently the subject of public consultation. In addition, the EFGs are now finalised and are to be tabled before the ACT Legislative Assembly for consideration.

The Council is satisfied that the processes outlined by the ACT will address all rights to water as part of the allocation process, and that new water allocations will not be granted where they conflict with environmental priorities.

The ACT has advised that allocations for all systems will be completed by December 1999. This timeframe is well inside the requirements as agreed to in the strategic framework. The Council therefore agrees to this implementation program.

The Council is satisfied that the ACT has met this aspect of the framework.

**10.8.4.3 Arrangements for trading in water entitlements must be in place by 1998. Water should be used to maximise its contribution to national income and welfare.**

**Where cross border trade is possible, trading arrangements must be consistent between jurisdictions and facilitate trade. Where trading across State borders could occur, relevant jurisdictions must jointly review pricing and asset valuation policies to determine whether there is any substantial distortion to interstate trade.**

Jurisdictions must establish a framework of trading rules, including developing necessary institutional arrangements from a natural resource management perspective to eliminate conflicts of interest, and remove impediments to trade. The Council will assess the adequacy of trading rules to ensure no impediments. If legislation has not achieved final parliamentary passage, the Council will recognise the progress towards achieving legislative change during its assessment of compliance.

As noted above, for the second tranche, jurisdictions should submit individual implementation programs, outlining a priority list of river systems and groundwater resources and detailed implementation actions and dates for allocations and trading to the Council for agreement, and to Senior Officials for endorsement. This list is to be publicly available.

Cross border trading should be as widespread as possible. Jurisdictions are to develop proposals to further extend interstate trading in water.

### **ACT arrangements**

Section 31 of the WR Act<sup>404</sup> permits the holder of a water allocation to transfer, in whole or in part, and for a limited time or permanently, that allocation. The approval of the EMA is required. Section 37 of the WR Act permits a similar transfer of a licence with the approval of the EMA where an allocation is transferred or the water is to be used at the same place for the same purpose. In determining whether to approve the transfer of a licence the EMA is required to take into account the water environmental record of the applicant in both the ACT and elsewhere, and whether the applicant has been convicted of an offence against the WR Act or corresponding legislation.

Where transfers of allocations or licences are refused by the EMA, the WR Act permits the review of the decisions by the ACT Administrative Appeals Tribunal.

The second tranche report noted that currently there are no water trades taking place in the ACT but this will change as future demand grows. The ACT advises that it will become involved in water trading through the Murray Darling Basin Commission (MDBC) trading process.

As regards interstate trade, the second tranche report notes that this is complicated by existing legislation and discussions are underway with New South Wales and the Commonwealth to ensure that interstate trade can be accommodated.

### **Council Comment**

The Council is satisfied that the WR Act provides a legal entitlement to trade water. The Council notes the advice of the ACT that no trades are presently taking place given that the water resource is not sufficiently scarce when compared to consumptive demand.

The Council considers the approach of adopting the MDBC model of trading as consistent with encouraging interstate trade. It will also permit the ACT to have access to the considerable expertise that the MDBC will have developed.

The Council is satisfied that the ACT has met its reform commitments as regards trading, but would look to the consideration of development of trading rules beyond EMA approval prior to the third tranche assessment. In addition, the Council would look to further development of trade with New South Wales.

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<sup>404</sup> This section commences on or before 12 December 1999.

## **B10.8.5 REFORM COMMITMENT: ENVIRONMENT AND WATER QUALITY**

### **10.8.5.1 Jurisdictions must have in place integrated resource management practices, including:**

- **demonstrated administrative arrangements and decision making processes to ensure an integrated approach to natural resource management and integrated catchment management;**
- **an integrated catchment management approach to water resource management including consultation with local government and the wider community in individual catchments; and**
- **consideration of landcare practices to protect rivers with high environmental values.**

The Council will examine the programs established by jurisdictions to address areas of inadequacy. Programs would desirably address such areas as government agency co-ordination, community involvement, co-ordinated natural resource planning, legislation framework, information and monitoring systems, linkages to urban and development planning, support to natural resource management programs and landcare practices contributing to protection of rivers of high environmental value.

#### **ACT arrangements**

The *Draft Outline of ACT Utilities Regulatory Regime* (the Outline) notes that there are two water supply catchments from which ACTEW draws raw water; Cotter catchment (mostly within Namadgi National Park) and Googong Dam catchment. As regards Cotter catchment, the Outline notes that arrangements are set out in the Namadgi National Park Management Plan. As regards Googong, 5000 hectares of land is controlled by the ACT Government and DUS will prepare a management plan for this area by 30 June 1999 that recognises the area's primary purpose of supporting urban water supply.

The second tranche report notes that all water and other natural resource responsibilities are located in DUS. Existing planning arrangements specifically promote integrated resource management at a broad level, and community consultation and participation through WRMP processes, Waterwatch and Landcare.

The *Territory Plan*<sup>405</sup> divides the ACT catchments into three Water Use Catchments: Conservation, Water Supply and Drainage and Open Space. In respect of each catchment type, objectives are identified and permissible water uses/environmental values identified.

For example, Conservation Catchments incorporate those lakes, streams and wetlands for which the primary value is conservation of aquatic habitats (natural & modified), migratory routes or landscape qualities. The Conservation policies allow for a range

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<sup>405</sup> Empowered under the *Land (Planning and Environment) Act 1997*.

of other uses which are generally compatible with, but secondary to, the primary value. These include recreation, discharge, water supply and stream-flow regulation. The policy seeks to manage these uses such that they are consistent with the primary value. The objectives of the Conservation Water Use and Catchment policies include:

- protection and conservation of water quality and aquatic habitats of highly valued lakes, rivers and streams;
- provision for a range of water uses and environment values which are compatible with the conservation values of the catchments;
- ensuring water and catchment land use is consistent with maintaining ecological sustainability and the conservation values of the catchments;
- ensuring stream-flow and quality of discharges from the catchments are consistent with protection of environment values of downstream waters; and
- protection and conservation of the water quality of ground-water resources of the ACT.

The policies specify catchments by description and identify both water uses (for example, fishing, stock water supply, irrigation water supply) and environmental values (for example, mountain or lowland stream aquatic habitat, urban wetland aquatic habitat). The policies provide for specific measures to protect water quality (for example, collection and treatment of urban stormwater pollutants), stream flow (for example, diversion restricted to authorised diversions), stream environs (for example, removal of sand and gravel) and groundwater field (to be consistent with authorised abstractions).

In addition, the ACT is involved in integrated catchment management through contributing to the Murrumbidgee Catchment Action Plan and Catchment Strategy. An ACT integrated catchment strategy is currently being developed.

Examples of present initiatives provided include:

- the ACT Nature Conservation Strategy, the goal of which is to protect our biological diversity and maintain ecological processes and systems. Of particular relevance is the “*Management of degradation of aquatic systems*” which notes that the ACT lies entirely within the Murrumbidgee River catchment. The actions include development of EFGs and promoting liaison between landowners and water/catchment management agencies;
- the ACT Weeds strategy; and
- the Willow Management Strategy.

### **Council Comment**

The Council is satisfied that the ACT has in place integrated resource management practices. In this respect, the Council points to evidence such as:

- the co-location of water resource and catchment management functions in DUS. This arrangement should provide for co-ordination of activities;
- the Territory Plan, which includes detailed consideration of catchment uses and management with a focus on primary values. The Plan provides for public consultation and community involvement. It also provides for urban and land development in addition to water use and catchment policies. It specifically addresses catchments which are primarily used for conservation;
- the WRMP process, which provides for a consideration of all water resources in the ACT and an opportunity to ensure their coherent future management;
- Cotter Catchment's management as part of the National Park management scheme. In addition, land under control of DUS surrounding the Googong dam is presently in the process of having a management plan developed; and
- the ACT's contribution, in conjunction with New South Wales, to the integrated catchment management plan for the Murrumbidgee.

The Council notes that both the WRMP and Territory Plan processes provide explicitly for public consultation in their development.

The Council is satisfied that the approach of the ACT is consistent with the spirit of the strategic framework, and is satisfied that the ACT has met its commitments as regards integrated resource management for the second tranche.

The Council will look to further development of initiatives such as the WRMP and Googong Dam Management Plan in accordance with timetables outlined by the ACT prior to the third tranche assessment.

**10.8.5.2 Support ANZECC and ARMCANZ in developing the National Water Quality Management Strategy (NWQMS), through the adoption of market-based and regulatory measures, water quality monitoring, catchment management policies, town wastewater and sewerage disposal and community consultation and awareness.**

Jurisdictions must have finalised development of the NWQMS and initiated activities and measures to give effect to the NWQMS.

**ACT arrangements**

The Council notes information set out above including EMA's responsibility to have regard to water quality when considering applications for water allocations or determining whether allocations should be reduced at any point in time.

The second tranche report notes the ACT's participation in the development and implementation of NWQMS, and that the ACT Water Quality Standards either meet or exceed NWQMS Guidelines.

As regards drinking water quality, the second tranche report notes that although there are no formalised standards, necessary arrangements are being considered within the context of the current review of the regulatory structure governing operations in the



ACT. In addition, tradewaste management and sewerage arrangement are being reviewed.

WSAA Facts '98 notes, as regards water quality compliance, ACTEW's 100 per cent compliance with bacteriology quality and 93.2 per cent compliance with Physico/Chemical (turbidity/colour/pH) as set out in the 1996 National Health and Medical Research Council standards. As regards wastewater effluent, ACTEW is noted to be 100 per cent compliant with overall effluent discharge standards, although only one of three<sup>406</sup> treatment plants was compliant with Licence conditions at all times.

### **Council Comment**

ACTEW aims to comply with 1996 NHMRC Guidelines for drinking water. Its performance is consistent with the performance of many other urban water providers. The performance as regards wastewater effluent is also consistent. The Council notes that the review of institutional arrangements should provide increased confidence as to both the measures of ACTEW's performance as regards water quality and its compliance.

The Council also notes the contribution of the ACT to NWQMS activities.

The Council, while satisfied that the ACT has met reform commitments for the purpose of the second tranche, will continue to monitor the performance of the ACT, and in particular the implementation of institutional change to facilitate maintenance of water quality.

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<sup>406</sup> ACTEW has a licence for only one of its plants. The other two operate under a Memorandum of Understanding.

## **B10.8.6 REFORM COMMITMENT: PUBLIC CONSULTATION, EDUCATION**

**10.8.6.1 Jurisdictions must have consulted on the significant COAG reforms (especially water pricing and cost recovery for urban and rural services, water allocations and trade in water entitlements). Education programs related to the benefits of reform should be developed.**

The Council will examine the extent and the methods of public consultation, with particular regard to pricing, allocations and trade. The Council will look for public information and formal education programs, including work with schools, in relation to water use and the benefits of reform.

### **ACT arrangements**

The second tranche report notes that public consultation in the implementation and adoption of significant new initiatives is an ACT Government Policy requirement. Examples cited in the second tranche report include:

- *ACT Future Water Supply Strategy* used to consult and educate the public regarding water pricing issues and reductions in water use;
- draft IPARC determinations provided for public comment prior to final pricing determination; and
- public consultation concerning the WR Act and input by the public in the preparation of the WRMP.

The second tranche report noted that continuing education is provided through schemes such as: ACTEW providing demonstration houses and gardens; *Aquafest* to increase community awareness through experiential learning; and Waterwatch.

The second tranche report notes that while ACTEW has a good track record in providing public education material, its responsibility to provide a guaranteed level of activity in this regard will be formalised during the current review of the regulatory structure governing utility operations in the ACT.

### **Council Comment**

The Council is satisfied that substantial consultation concerning the reforms required by the strategic framework has occurred and is ongoing. Although the Council has not been provided with copies of actual educational and consultative material used on an ongoing basis and as part of the reform process, the Council accepts the assertions in the second tranche report and is satisfied that the ACT has met its agreed obligations under the strategic framework in this respect.

The Council notes, however, that there is a conflict in the service provider also providing ongoing public education concerning, for example, water conservation, when it has a financial interest in increased water consumption. The Council notes the present review of utility regulation and the Council's preliminary view that the most appropriate body to undertake this type of activity is the resource manager and

not the service provider. The service provider is, however, well placed to provide information concerning water price and service conditions.

The Council is satisfied that the ACT has met its second tranche commitments in respect of this part of the framework. The Council will continue to monitor this matter prior to the third tranche assessment.

