

**Submission to the National Competition Council
regarding its Forth Tranche Assessment of the
Victorian Government's Progress with Implementing
National Competition Policy for Water Reform**

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KEY RECOMMENDATIONS

- Environment Victoria (EV) recommends that the NCC suspend substantial payments to Victoria until adequate funds are provided to implement the Victorian Healthy Rivers Strategy (VRHS).
- EV recommends that the NCC direct the Department of Natural Resources and Environment (DNRE) to produce, publish and distribute guidelines for the development of Streamflow Management Plans.
- EV recommends that the NCC direct agencies responsible for groundwater management to resource the participation of environmental representatives on Groundwater Management Plan project groups.
- EV recommends that the NCC direct agencies responsible for the implementation of the VRHS to resource the ongoing participation of environmental representatives in Regional Catchment Strategies and VRHS project groups.
- EV recommends the NCC impose substantial financial penalties on Victoria for failing to commit to a comprehensive program to address the State's stressed rivers.
 - EV also recommends that the NCC direct relevant agencies to develop a public options paper exploring mechanisms for retrieving sufficient water to reinstate environmental flows capable of restoring and maintaining the ecological requirements of stressed rivers.
- EV recommends that the NCC partly suspend NCP payments to Victoria until it establishes a statewide monitoring program established to determine the ecological impact of environmental flow allocations made under bulk entitlement and streamflow management plan processes. Further, EV requests the NCC require DNRE to examine the potential of existing and projected EPA programs to fulfil this role.

- EV also recommends that the NCC suspend payments to Victoria until the State institutes a levy on water users based on consumption to part fund ecological research into environmental allocations and water management

- EV recommends the NCC suspend substantial payments to Victoria unless agreement is reached at the April 2002 Murray Darling Basin Commission Ministerial Council to deliver at least 1000 GL of environmental flow into the Murray by 2005.
 - EV further recommends that the NCC direct Victoria to develop a public options paper and consultative process that explores mechanisms for delivering environmental flows through the State's major Murray tributaries.
 - EV also recommends that Victoria allocate resources to establishing a thermal mitigation scoping study and implementation program for Murray River tributaries to ensure these rivers are capable of delivering high quality environmental flows.

INTRODUCTION

Environment Victoria (EV) welcomes the opportunity to submit its concerns regarding the implementation of water reforms in Victoria.

EV draws the NCC's attention to the excellent work done by the Victorian Minister for Environment and Conservation, Sherryl Garbutt, to ensure the Irrigation (Farm Dams) Bill became law. This legislation begins to establish the foundation upon which the future sustainable use of water resources can be based.

SUBMISSION STRUCTURE

This submission follows the structure adopted by the CoAG Water Reform Framework. It relies upon the ARMCANZ/ANZECC National Principles for the Provision of Water for the Environment.

ALLOCATIONS

Water Allocations and Property Rights

The Victorian River Health Strategy

It is highly probable that the Victorian River Health Strategy (VRHS) will receive no funding in the 2002 Victorian budget.

VRHS has set a target that 33 Streamflow Management Plans (SFMP) will be completed by 2004¹. According to the VRHS, "SFMP's will aim, over time, to achieve the recommended environmental flow regimes as outlined in the Draft Streamflow Management Plan Framework". It is revealing that the VRHS commitment to meeting recommended environmental flows is no stronger than an aim, to be achieved over an unspecified time period. The tentative quality of the VRHS statement suggests that the Department of Natural Resources and Environment has reservations about the capacity of SFMP's to deliver significant improvements to the environmental flows of Victorian rivers.

By implication, the caution displayed by the VRHS towards the attainment of recommended environmental flows supports Environment Victoria's contention that

¹ Victorian River Health Strategy, Draft, Department of Natural Resources and Environment, February 2002, p. 70.

the current operation of SFMP's will not significantly improve environmental flows or effectively engage the community in decision making processes. This failure, combined with the probable failure of the VRHS to receive any new funding in the up-coming state budget will substantially impede the achievement of environmental targets set under the strategy.

Without additional funding, the VRHS will effectively become a smoke and mirrors device designed to convince the NCC that Victoria is meeting its CoAG commitments. It is EV's view that \$15 -20 million spent over three years, in addition to the approximately \$21 million Catchment Management Authorities currently receive for waterway management, would allow Victoria to meet its CoAG commitments. Our understanding is that the VRHS will receive no new money in 2002, and that funds originally earmarked for the Strategy are being directed into restructuring the forest program. It is ironic that the Victorian government is deferring dealing with over-allocated river systems because it may have decided to use money earmarked for the environment trying to fix the overallocation of timber resources.

Some CMA's hold the view that the Commonwealth National Action Plan for Salinity and Water Quality funds will be used to prop up the VRHS, and allow Victoria to avoid financing the environmental targets required under its CoAG commitments.

Environment Victoria recommends that the NCC suspend substantial payments to Victoria until adequate funds are provided to implement the VRHS.

It appears that the Victorian Government is compounding well documented errors already made in previous water allocation processes such as the Goulburn BE. Ladson and Finlayson from the CRC for Catchment Hydrology have identified the lack of an environmental advocate as a critical factor in allowing the infamous Goulburn BE to virtually ignore environmental issues.

There was a lack of environmental input to the process of trading off environmental and production values. Although, officers of the Department of Conservation and Natural Resources, claim that the

committee overseeing the creation of bulk entitlements, the Goulburn/Broken Bulk Entitlement Forum, included environmental representation (Fitzpatrick and Bennett, 1994), in fact the committee consisted of three representatives of water supply authorities, two from the Department of Conservation and Natural Resources, one farmer representative and one ‘community’ member who was also a landholder and irrigator (DCNR, 1995). Better environmental representation would have made it more likely that the committee would find an appropriate balance between production and environmental values.²

Some will argue that SFMP’s have environmental representatives, and so the problems encountered during the Goulburn BE have been solved. This would be a superficial and incorrect assessment for reasons outlined below.

Environment Victoria (EV) has extensive experience of SFMP and bulk entitlement (BE) processes through its role of coordinating the environment movement’s involvement in water allocations processes throughout the State. We argue that currently Principle 12 of the National Principles for the Provision of Water for Ecosystems is not being met in Victoria. This principle states that “All relevant environmental, social and economic stakeholders will be involved in water allocation planning and decision-making on environmental water provisions”. While community stakeholders currently attend SFMP meetings, these processes are not adequately funded, nor is appropriate training and information provided to project group members to allow them to effectively engage in decision-making processes.

SFMP’s require a significant commitment from community representatives. They involve the consideration of highly technical hydrological and other data. While it was intended that SFMP project groups would take about two years to develop a plan, some, such as the Avon River project group have been meeting for approximately three years. Environment Victoria’s representative on the Avon River SFMP has received \$130 for attending meetings over this period. This equates to an annual

² Ladson, Anthony and Finlayson, Anthony, “Rhetoric and reality in the allocation of water to the environment: A case study of the Goulburn River, Victoria, Australia”, Unpublished Paper, CRC for Catchment Hydrology, 2001, p. 10.

payment to the representative of \$43.30 that is expected to cover lost income from attending up to 30 weekday meetings, travel and associated expenses.

Environment representatives on water allocation project groups operating in New South Wales receive \$200 per day (9 hrs) and \$100 (5 hrs) per half day, plus travel and accommodation expenses. The inadequate funding of Victorian environmental representatives on SFMP project groups undermines the ongoing participation and recruitment of effective environment representatives.

In their current form SFMP process forums discourage informed participation. Rather they are forums that allow DNRE and to dump large amounts of decontextualised and poorly explained information on project groups dominated by diverter interests.

This view is supported by finding 4.13 from the *Inquiry into the Allocation of Water Resources* that found:

The membership mix of the project groups set up to undertake the Streamflow Management Plan process is a critical facet of the management plan process. However, it is largely discretionary, and, to date, highly variable. There is no provision to ensure expertise in the group in hydrology or aquatic ecology.

It is the task of water authorities and DNRE is to ensure that hydrological and ecological evidence make sense to people on project groups who are not hydrologists or ecologists. SFMPs are currently being developed with no information resources beyond the expertise of project group members to assist them to understand the complexities of water resource management and the ecological implications of diverting water from rivers.

It is this failure to equip SFMP project group members with the knowledge they require to meaningfully participate in decision making processes that has contributed to Victoria's poor environmental flow record. No SFMP has met the environmental flow recommendations developed by independent scientific investigation.

EV contends that water authorities and DNRE have failed to grasp the importance of establishing more, closer and longer community participation in water allocation processes. Cooperative policies are more difficult to implement than traditional coercive ones. Those who expect community involvement, or shared responsibilities, to make water management easier will be disappointed. Just as accounting for complexity in natural systems depends on comprehensive policy, so does including more stakeholders. Community involvement in decision making is not the cheap option. Real participation costs time, effort and money.³

DNRE and water authority staff involved in SFMP processes are generally anxious to avoid informed debate within regional communities on water management issues because of the potential financial, time and public relations costs. DNRE and water authorities are driven by the desire to get “sign off” on SFMPs with the least possible controversy. Consequently, it has been the experience of EV representatives that DNRE and water authorities consider the “community” to extend as far as the water authorities customer base. The broader community are rarely consulted regarding key issues that emerge during SFMP processes.

For water authorities and DNRE, operating a smoothly run SFMP usually means “trading off” environmental flow recommendations against existing demands of diverters. As the NCC has noted “Victoria [has] made insufficient progress to meet commitments for allocations to the environment on overallocated or stressed river systems”⁴. It is the environment that consistently loses in “trade-offs” with diverters.

There are 29 SFMP’s in development. Following is a list of the status of SFMP processes. Until 1 March 2002 it was the responsibility of a part time employee of EV to coordinate environment representation on all these and bulk entitlement project groups and participate in a range of policy development initiatives. In NSW there are three full time coordinators working to maintain environmental groups participation in water allocation processes.

³ Dovers, S. and Mobbs, C., “An Alluring prospect? Ecology, and the requirements of adaptive management”, in *Frontiers in Ecology*, Elsevier Science, 1997, p. 46.

⁴ Assessment of Governments’ progress in Implementing the National Competition Policy and Related Reforms, Victoria Water Reform, National Competition Council, June 2001, p. 94.

Existing Status of SFMP's (Dec 2001)

SFMP	RWA	CMA	Status	Other Comments
Merri River	SRW	G-H CMA	operating	Water efficiency savings investigation underway
Gellibrand River	SRW	C CMA	operating	
Upper Latrobe River	SRW	WG CMA	operating	
Upper Maribyrnong River	SRW	PP CALPB	in progress	Plan development at advanced stage
Moorabool River	SRW	C CMA	re-started	Recommence in Dec 2001, Subject of NAP project
Avon River	SRW	WG CMA	re-started	Independent Chair & recommence under SFMP Framework
Barwon River	SRW	C CMA	in progress	Investigations completed, consultative committee to be formed in early 2002
Hopkins River	SRW	G-H CMA	in progress	Investigations underway, consultative committee to be formed in mid-2002
Mitchell River	SRW	EG CMA	in progress	Investigations complete, consultative committee to be formed in mid-2002
Tarra River	SRW	WG CMA	in progress	Investigations complete, consultative committee to be formed in mid-2002
Morwell River	SRW	WG CMA	in progress	Investigations underway – consultative committee to be formed in mid-2002
Mornington Pen (Main Ck)	SRW	PP CALP	not started	Metering planned
Yea River	GMW	G-B CMA	in progress	Draft report to be released in early 2002
King Parrot Creek	GMW	G-B CMA	in progress	Draft Report released for public comment
Sevens Creek	GMW	G-B CMA	in progress	Investigations underway, consultative committee planned for 2002
Delatite River	GMW	G-B CMA	in progress	Investigations underway,
Kiewa River	GMW	NE CMA	in progress	Draft report to be released in early 2002
Upper Ovens River	GMW	NE CMA	in progress	Early stage of plan development
Nariel Creek	GMW	NE CMA	in progress	Investigations underway
Upper Loddon	GMW	NC CMA	in progress	Investigations underway
Upper Wimmera River	WM W	W CMA	in progress	Plan development underway
Avoca River	WM	W CMA	in	Investigations underway

	W		progress	
Mt William Creek	WM W	W CMA	in progress	Investigations underway
Avon-Richardson River	WM W	W CMA	in progress	Investigations underway
Hoddles Creek	MW	PP CALPB	in progress	Plan development at advanced stage
Diamond Creek	MW	PP CALPB	in progress	Plan development underway
Plenty River	MW	PP CALPB	in progress	Plan development at advanced stage
Olinda Creek	MW	PP CALPB	In progress	Investigations underway
Stringybark Creek	MW	PP CALPB	In progress	Investigations underway
Woori Yaloak Creek	MW	PP CALPB	In progress	Investigations underway
Pauls, Steel & Dixon Cks	MW	PP CALPB	In progress	Investigations underway
Watts River	MW	PP CALPB	In progress	Investigations underway
Little Yarra River	MW	PP CALPB	In progress	Investigations underway

There are no published guidelines for developing SFMP's similar to those that inform bulk entitlement consultation processes. The failure to provide comprehensive guidelines for SFMP project groups enhances the ability of diverters and water authorities to drive through their own commercial interests at the expense of environmental flows, and severely weakens the capacity of project groups to reach informed decisions.

Environment Victoria recommends that the NCC direct DNRE to produce, publish and distribute guidelines for the development of Streamflow Management Plans.

Groundwater Management Plans

The VRHS describes how groundwater extraction has the potential to affect base flows in rivers and water depth in wetlands. The VRHS claims that once resource extraction reaches 70% of the Permissible Annual Volume, a Groundwater Supply Protection Area is established “and the development of a community-based Groundwater Management Plan” (GMP) occurs.⁵

The *National Framework for Improving Groundwater Management in Australia* has recommended that groundwater management would be improved by applying the *National Principles for the Provision of Water for Ecosystems* to the preparation of plans.⁶ Presumably the *National Framework for Improving Groundwater Management in Australia* assumed that Principle 12 of these guidelines would determine the development of management plans.

The VRHS has set a target of developing 16 GMPs by 2003.⁷

However, no representative of EV has been invited to attend any of the 14 GMPs currently being developed in Victoria.

Finding 6.23 of the *Inquiry into the Allocation of Water Resources* states

A broader and balanced representation of water users on committees set up to develop Groundwater Management Plans, including representatives of the environment, recreation and non-farming consumers of water, could improve the planning process.⁸

Environment Victoria recommends that the NCC direct agencies responsible for groundwater management to resource the participation of environmental representatives on Groundwater Management Plan project groups.

Implementation of the VRHS

The River Health Strategy will be implemented by CMAs under their Regional Catchment Strategies (RCS). RCSs set out a vision for the management of a region's land and water resources, establish long term objectives and identify priorities for action and investment. RCSs are currently being reviewed by CMAs and the renewed strategies will be completed in late 2002.

⁵ VRHS, p. 68

⁶ Parliamentary Inquiry into the Allocation of Water Resources, Environment and Natural Resources Committee, November 2001, p. 93.

⁷ VRHS, p. 70

⁸ IAWR, p. 197

Environment Victoria has been invited by CMAs to participate in the renewal of RCSs through stakeholder committees. However EV does not have the resources to coordinate the engagement of environment groups in these important processes.

EV should be enabled to play a significant role as an advocate for principles 7, 8 and 9 of the *National Principles for the Provision of Water for Ecosystems* in the implementation of the VRHS and the renewal of RCSs.

EV recommends that the NCC direct agencies responsible for the implementation of the VRHS to resource the ongoing participation of environmental representatives in RCSs and VRHS project groups.

PROVISION OF WATER FOR THE ENVIRONMENT

EV understands that the VRHS will receive no new funding in 2002. Consequently there will be no significant improvement in the State's stressed rivers programs.

Without additional funding, the VRHS will effectively become a smoke and mirrors device designed to convince the NCC that Victoria is meeting its CoAG commitments. It is EV's view that \$15-20 million spent over three years, in addition to the approximately \$21 million Catchment Management Authorities currently receive for waterway management, would allow Victoria to begin to meet its CoAG commitments.

Without extra funding the targets set in the VRHS become little more than rhetorical flourishes. For example, the VRHS claims that by 2005 there will be an increase in the length of river available to native fish by an additional 2000 km. This target will not be reached without additional funding to the existing State Fishways Program.

Finding 6.29 *Inquiry into the Allocation of Water Resources* concluded that

Improving conditions of stressed rivers appears to be feasible, and it is likely to produce benefits beyond the river itself. However, reversing the

impacts of past mistakes will involve considerable commitment and resources.

The indications are that these resources will not be made available to Victoria's stressed rivers.

EV recommends the NCC impose substantial financial penalties on Victoria for failing to commit to a comprehensive program to address the states stressed rivers.

- ***EV also recommends that the NCC direct relevant agencies to develop a public options paper exploring mechanisms for retrieving sufficient water to reinstate environmental flows capable of restoring and maintaining the ecological requirements of stressed rivers.***

Principle 6 (further allocation of water for any use should only be on the basis that natural ecological processes and biodiversity are sustained) is not being met in Victoria. There is no statewide program to monitor the ecological impact of environmental flows under bulk entitlement and streamflow management plans.

Victoria has no comparable monitoring system to the *Integrated Monitoring of Environmental Flows* program that operates in NSW. Until such a program is initiated in Victoria, it is impossible for the State to meet the requirements of Principle 6 or establish effective, adaptive management practices.

Professor Barry Hart, Director, Water Studies Centre, Monash University, has observed that monitoring of environmental impacts needs to be continued for ten or more years after a change of management to determine the impact of change.⁹

Finding 6.32 of the *Inquiry into the Allocation of Water Resources* found that

Resources to meet the need for additional and continuing data collection and analysis will have to be adequate if sound management of the State's water resources is to be assured.¹⁰

⁹ IAWR, p. 208

EV recommends that the NCC suspend NCP payments to Victoria until it establishes a statewide monitoring program established to determine the ecological impact of environmental flow allocations made under bulk entitlement and streamflow management plan processes. Further, EV requests that the NCC require DNRE to examine the potential of existing and projected EPA programs to fulfil this role.

- *EV also recommends that the NCC suspend payments to Victoria until the State institutes a levy on water users based on consumption to part fund ecological research into environmental allocations and water management.*

Murray Darling Basin Commission

EV is concerned that the Victorian Government is not prepared to deliver environmental flows to the Murray in the timeframe identified by the NCC (2005).

From discussions between EV and the Victorian Government it is apparent that the government does not believe there is not sufficient information on the ecological impact of environmental flows. The Executive Director of the Australian Conservation Foundation, Don Henry, has said “Victoria and NSW have a greater responsibility to the Murray Darling Basin as a whole. We expect them to show courage and leadership, rather than retreating to narrow state interests. The science behind the need for more flows is impeccable

The Murray has been in serious decline for 50 years, and for most of those years there has been widespread recognition that the destruction of the river’s natural flow regime was wrecking havoc on the Murray’s ecological integrity. A letter sent to the *Riverlander* by “I. W. K.” in 1968 is a good example of the way many people along the Murray have publicly formulated their concerns about the environmental decline. The letter describes how I. W. K was a resident of Nathalia and had enjoyed the favourable conditions for shooting and fishing created after a flood. In recent years the “harnessing of the river” had curtailed the conditions necessary for the propagation of native species, and it was for this reason I. W. K. believed these species were becoming much less common.

¹⁰ IAWR, p. 208

As a resident of the district living by the river I would say the incidence of flooding has changed from four of five years to about one in five. So it follows that our wildlife is decreasing and our fish population is doing likewise...Is it possible to alleviate the position? I believe it is. There should be agreement between the States that a portion of Murray waters be retained and diverted through red gum forests whenever such action is necessary for the preservation of birds, fish and trees...If we don't do this we will be heir to a dead river, a dead forest, and a birdless land...In my lifetime I have seen this become nearly so. In another lifetime there will be hardly a memory of the glories we knew, which are already denied our children. Open the regulators and save our heritage.¹¹

To the Victorian Government's credit, there have been environmental flows delivered to the Barmah Forest in recent years. However, I. W. K's point remains true – the Murray urgently needs water to protect what remains of its aquatic ecosystems.

EV argues that a planned increase in environmental flows by around 1,000 gegalitres should be delivered within a decade. EV regard this as the bare minimum needed for the river's survival.

EV recommends the NCC suspend substantial payments to Victoria unless agreement is reached at the April 2002 MDBC Ministerial Council to deliver at least 1000 GL of environmental flow into the Murray by 2005.

- *EV further recommends that the NCC direct Victoria to develop a public options paper and consultative process that explores mechanisms for delivering environmental flows through the States major Murray tributaries.*
- *EV also recommends that Victoria allocate resources to establishing a thermal mitigation scoping study and implementation program for Murray River tributaries to ensure these rivers are capable of delivering high quality environmental flows.*

¹¹ I. W. K., "Heir to a dead river", *Riverlander*, May 1968, p. 15.