

5 Western Australia

The elements of the water reform program that are relevant for Western Australia in this 2003 NCP assessment are: water and wastewater pricing; intrastate water trading arrangements; the remaining institutional reform requirements (separation of responsibility of water industry institutions and integrated catchment management); the implementation of the National Water Quality Management Strategy (NWQMS); and the completion of the review and reform of water industry legislation that restricts competition. The National Competition Council assessed Western Australia's compliance with the CoAG obligations in these areas in this 2003 NCP assessment. As required by CoAG, the Council also considered public education and consultation activity in the reform areas assessed. In addition, the Council reported on progress by Western Australia towards meeting water reform obligations on rural water pricing and converting existing water allocations to water entitlements (which will be assessed in 2004), and towards meeting CoAG obligations on the provision of water to the environment (which will be assessed in 2005).

5.1 Water and wastewater pricing

Full cost recovery

Governments are to set prices so water and wastewater businesses earn sufficient revenue to ensure their ongoing commercial viability but avoid monopoly returns. To this end governments agreed that prices should be set by the nominated jurisdictional regulator (or its equivalent) as follows.

- To be viable, a water business should recover at least the operational, maintenance and administrative costs, externalities, taxes or tax equivalents (not including income tax), the interest cost on debt, dividends (if any) and make provision for future asset refurbishment/replacement. Dividends should be set at a level that reflects commercial realities and simulates a competitive market outcome.
- To avoid monopoly rents, a water business should not recover more than the operational, maintenance and administrative costs, externalities (defined for the purpose of the pricing obligation to be natural resource management costs attributable and incurred by the water business), taxes or tax equivalent regimes, provision for the cost of asset consumption and cost of capital, the latter being calculated using a weighted average cost of capital.
- In determining prices, the regulator or equivalent should determine the level of revenue for a water business based on efficient resource pricing and business costs. Specific circumstances may justify transition arrangements to that level. Cross-subsidies that are not consistent with efficient and effective service, use and provision should ideally be removed.

- Where service deliverers are required to provide water services to classes of customers at less than full cost, the cost of this should be fully disclosed and ideally paid to the service deliverer as a community service obligation.
- Asset values should be based on deprival value methodology unless an alternative approach can be justified, and an annuity approach should be used to determine medium to long term cash requirements for asset replacement/refurbishment.
- Transparency is required in the treatment of community service obligations, contributed assets, the opening value of assets, externalities including resource management costs, tax equivalent regimes and any remaining cross-subsidies.

Reference: CoAG water reform agreement clauses 3a, 3b, 3c and 3d, and guidelines for the application of section 3 of the CoAG strategic framework and related recommendations in section 12 of the expert group report (CoAG pricing principles)

Urban water and wastewater service providers

Assessment issue: Western Australia is to set prices to recover the full cost of water and wastewater services in accordance with the CoAG pricing guidelines. In the 2001 NCP assessment, Western Australia did not provide evidence sufficient to show that prices were being set in accord with CoAG principles. In that assessment, however, Western Australia advised that it proposed to expose monopoly government water and wastewater businesses to independent prices oversight. The Council considered that independent regulation of water and wastewater prices, where the regulatory authority applies the CoAG pricing principles, would be consistent with the CoAG water reform agreements including in relation to transparency in pricing.

Next full assessment: The Council will assess Western Australia's implementation of the CoAG pricing obligations for urban water and wastewater service providers again in 2004. The Council will conduct a full assessment across the entire package of reforms in 2005.

Reference: CoAG water reform agreement, clause 3(a) and (b); CoAG pricing guidelines

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

The major urban service providers

Western Australia stated that the three major providers apply tariffs for water supply based on achieving full cost recovery in accordance with CoAG pricing principles. The Government indicated that most of the State's urban wastewater services are also now recovering costs consistent with CoAG commitments.

While recognising in the 2001 NCP assessment that Western Australia's metropolitan urban water and wastewater services were, for the most part,

recovering costs, the Council raised concerns about the lack of transparency of the State's pricing process and about whether pricing in the future would continue to address CoAG obligations. At the time of the 2001 assessment, Western Australia indicated a commitment to establishing an independent economic regulator that would deal with the economic regulatory aspects in the water sector, in particular price regulation.

Western Australia has the Economic Regulation Authority Bill 2002 currently before the Parliament. The Economic Regulation Authority (ERA) will be an independent pricing and regulatory body with coverage of several industries that are currently regulated by Ministers, sector specific regulators and public sector officials. Western Australia proposes that the ERA will:

- regulate access to significant economic infrastructure under industry specific access regimes;
- grant industrial licences and ensure compliance with terms and conditions applying to licences; and
- make expert recommendations to the Government about tariffs and charges for government monopoly services, and recommend on any other matters requested by the Government.

Western Australia had intended that the ERA commence on 1 July 2003. The Bill has been delayed in the Legislative Council and the 1 July commencement date was not met. The Government advised, however, that it remained committed to establishing the ERA.

The Bill provides scope for the Government to refer to the ERA for inquiry any matter relating to a regulated industry including electricity, gas, rail and water. In relation to water, the Bill provides scope for inquiry and report on water and wastewater prices and for such inquiries to be on a routine basis. Western Australia advised that, in anticipation of the establishment of the ERA, it would develop a draft reference that refers water and wastewater pricing for consideration by the ERA.

The local government service providers

In previous assessments, the Council raised the matter of wastewater pricing by the City of Kalgoorlie–Boulder, which provides services to almost 10 000 residential properties. The Council queried whether pricing of wastewater by Kalgoorlie–Boulder achieved full cost recovery in accordance with the CoAG pricing principles, noting that prices did not incorporate taxes or tax equivalents and wastewater assets were not valued on a deprival basis. In this 2003 NCP assessment, Western Australia reported that:

- Kalgoorlie–Boulder uses a gross rental value based charging system for residential and nonresidential customers (as part of the city's overall rating system) to recover the costs of all services provided, so that the

separate costs (including the asset replacement and maintenance costs) of the wastewater service cannot be identified and recovered from users;

- the price of the wastewater service provided by Kalgoorlie–Boulder does not incorporate either an income tax equivalent or payroll tax component; and
- Kalgoorlie–Boulder values its assets using the accounting standard AASB 1041 for specialised assets.

Western Australia argued that the primary objective of imposing taxation equivalents on government businesses is to promote competitive neutrality by uniform application of income tax laws. The Government considered that the structure and size of City of Kalgoorlie–Boulder’s wastewater business, and the geographical isolation of its market, mean there are unlikely to be any private competitors. Kalgoorlie–Boulder’s wastewater business is also exempt from payroll tax. Western Australia considered that the payroll tax exemption would have virtually no impact on the price of the service to the customer and that the relatively small size of the wastewater business meant that the business would have virtually no impact on the State’s economic performance.

Discussion

Western Australia’s statement that the Water Corporation is achieving full cost recovery outcomes in price setting does not, in the absence of information to show that the corporation is setting prices in accord with the CoAG pricing principles (including on transparency), meet reform obligations. Establishment of the ERA and references to the authority to consider pricing by the State’s monopoly water and wastewater businesses against the CoAG pricing principles would address Western Australia’s urban water and wastewater pricing obligations and would significantly improve transparency.

Generally speaking, CoAG’s lower band of full cost recovery requires taxes and tax equivalents to be included in prices. If some water and wastewater businesses are incorporating tax equivalents in prices while others are not, the resulting differences in prices may encourage distortions in consumption and investment behaviour. If, for example, prices in one geographic area are substantially lower than in other geographic areas, there will be incentives for businesses and other customers to relocate to the area offering lower prices. If the price difference occurs because of inconsistent application of cost recovery arrangements rather than a genuine difference in business efficiency, then there may be adverse regional and national economic effects.

Kalgoorlie–Boulder’s geographic isolation means that it is unlikely that businesses would relocate if wastewater prices are relatively lower than in other regions. The Council thus accepts that Kalgoorlie–Boulder’s approach to wastewater pricing is likely to have very little impact on resource allocation. The Council would be concerned, however, if there were widespread inconsistencies in prices across the water and wastewater industry because of differences in the treatment of taxes.

Assessment

Western Australia's current approach to water and wastewater pricing raises questions about whether the State is meeting the obligation to achieve full cost recovery in the pricing of water and wastewater services in accord with CoAG pricing principles. While the major metropolitan providers may be fully recovering costs, the lack of transparency of pricing arrangements for water and wastewater services means that it is not possible to be certain that CoAG pricing principles are being appropriately applied.

The Council acknowledges that the Western Australia Government demonstrated a firm commitment to establishing the ERA and that the Government indicated that it would provide a reference to the authority asking it to recommend, against the CoAG pricing principles, on water and wastewater pricing. Western Australia would meet the CoAG obligations on urban pricing for this 2003 NCP assessment if it established the ERA and announced comprehensive terms of reference (encompassing the CoAG pricing principles) asking the authority to recommend on water and wastewater pricing. The Council would look for the ERA to have completed an investigation of water and wastewater pricing such that its recommendations are available to the Government in regard to prices in 2004-05.

Kalgoorlie–Boulder's approach to wastewater pricing contravenes the CoAG pricing obligations because it makes no provision for certain taxes (or equivalents). The breach is unlikely to be significant because of Kalgoorlie–Boulder's geographic isolation.

Asset valuation

Assessment issue: For price setting purposes, Western Australia is to determine water and wastewater infrastructure asset values based on the deprival method unless it can justify an alternative approach. In the 2002 NCP assessment, the Council noted that Western Australia was considering introducing improved asset valuation methods, and that Aqwest and the Busselton Water Board were considering asset values in conjunction with evaluating the introduction of a two-part tariff. The Council also noted that the City of Kalgoorlie–Boulder was not using the deprival value approach to valuing wastewater assets for price setting.

Next full assessment: The Council will conduct a full assessment across the entire package of reforms in 2005.

Reference: CoAG water reform agreement, clause 3(a) and (b); CoAG pricing guidelines

Western Australia advised that the prices of all services provided by the Water Corporation are determined on the basis of the written down replacement cost of the assets used in providing each service. Western Australia also advised that both Aqwest and the Busselton Water Board recently revalued their noncurrent assets in accordance with the accounting standard AASB 1041 and reconfirmed their commitment to setting prices

using accurate asset valuations based on the accounting standard AASB 1041.

As discussed above, the City of Kalgoorlie–Boulder sets wastewater charges for its residential and nonresidential customers using a property valuation based system as part of the city’s overall rating structure. The cost of wastewater assets, which is determined using the accounting standard AASB 1041, is a component of the city’s total cost structure, rather than itemised as an element of the cost of providing the wastewater service.

Discussion and assessment

Unlike the Water Corporation, which sets prices on the basis of the written down replacement cost of relevant assets, Aqwest and the Busselton Water Board — which are the State’s other significant water and wastewater service providers — determine asset cost for price setting on the basis of the accounting standard AASB 1041. The City of Kalgoorlie–Boulder also employs the accounting standard AASB 1041 but does not assess the cost of providing wastewater services separately to other services.

Western Australia considered that the relatively small size of operation of the three service providers (other than the Water Corporation) means there are only minor differences in valuation outcomes using the fair value approach and the deprival value approach for valuing noncurrent assets. Western Australia believes that the difference in value using the two approaches is not significant enough to warrant maintaining separate asset registers using the two methods.

The Council, in previous assessments, acknowledged that application of the accounting standard AASB 1041 (using fair value for specialised assets) achieves a similar outcome to the deprival method. The end result is the application of depreciated optimised replacement cost. The accounting standard AASB 1041 does not, however, have the stricture of periodic revaluations so there is no guarantee that assets valued using fair value will be maintained at a value that approximates depreciated replacement cost over time. Western Australia’s approach to valuing water and wastewater assets for price setting purposes is consistent with CoAG pricing principles.

Externalities

Assessment issue: Western Australia is to transparently show how externalities (defined by CoAG for the purposes of water pricing to be the environmental and natural resource management costs attributable and incurred by water businesses) are incorporated into water and wastewater prices. In the 2002 NCP assessment, the Council noted Western Australia's advice that externalities are considered in all cases as part of resource management decision making, so are directly factored into the cost of any action that has the potential to produce environmental externalities. Western Australia reported that it was considering how to value externalities by using a distribution rule for their direct inclusion in pricing.

Next full assessment: The Council will conduct a full assessment across the entire package of reforms in 2005.

Reference: CoAG water reform agreement, clause 3(a)(i); CoAG pricing principles; expert group report on externalities

Western Australia advised that the Cabinet has approved an investigation by the Water and Rivers Commission into the development of water resource management charges that will see water users contributing to some or all of water resource management costs attributable to users. The investigation commenced in December 2002 through bilateral discussions with key stakeholder representatives via a stakeholder reference group. The purpose of the stakeholder reference group was to:

- finalise a set of key principles for the development of charging structures;
- confirm the issues to be resolved and assist in their resolution;
- assist in identifying proportional beneficiaries (or impactors) of water resource management and proposed contribution to costs;
- assist in the development of options for recovering those contributions;
- assist in identifying future water resource management activities and standards; and
- identify a preferred process for ongoing stakeholder involvement in setting water resource management levels of service and contributions for water users.

Western Australia indicated that it is also considering a proposal to introduce more accurate cost recovery methods for water resource licensing and compliance tasks. If the proposal proceeds, full details of services and the relevant fees will be provided to stakeholders. Western Australia believed that further work is necessary to address equity issues and develop stakeholder support before it introduces charges that address broader water resource management costs. This work is to be carried out in a timeframe suitable to both the Government and key stakeholders.

Discussion and assessment

While there is a range of decision tools relevant to addressing externalities, the CoAG pricing principles explicitly require water and wastewater businesses to recover the cost of environmental and natural resource management activity associated with water use attributable to and incurred by businesses, and to ensure transparency in pricing in relation to these costs. Western Australia advised in previous assessments that natural resource management costs are included in prices, but provided no information to demonstrate the extent to which this is occurring or to show that water and wastewater prices reflect the resource management costs associated with water use. The Council thus considers that Western Australia is still to meet this element of the CoAG water pricing obligations. Western Australia is, however, contemplating means to better identify and cost natural resource management activity relevant to the use of water. Such work would be a useful step towards a better understanding of the costs of the various mechanisms aimed at natural resource management and particularly the possibilities for dealing with external costs via pricing.

Dividends

Assessment issue: Dividends, where required, are to be set at a level that reflects commercial realities and simulates a competitive market outcome.

Next full assessment: The Council will conduct a full assessment across the entire package of reforms in 2005.

Reference: CoAG water reform agreement, clauses 3(a) and (b); CoAG pricing guidelines

At present, the only State government water business that is required to provide a dividend to the Government is the Water Corporation, in accordance with the *Water Corporation Act 1995*. The dividend policy of the Water Corporation is set by the corporation's board as a percentage of profits and agreed to by the Minister as part of the corporation's statement of corporate intent. The statement of corporate intent is tabled in Parliament and made available to the public. The legislation governing Aqwest and the Busselton Water Board, the *Water Boards Act 1904*, does not provide for the payment of dividends.

The dividend paid by the Water Corporation represented 79 per cent of after tax profits in 2000-01 and almost 88 per cent in 2001-02 (WSAA 2003). Future dividend payments by the Water Corporation listed in the 2003-04 Western Australian Budget range from approximately \$268 million in 2003-04 to almost \$355 million in 2006-07.

The Machinery of Government Taskforce Report, endorsed by the Western Australian Government on 18 June 2001, recommended that all government business enterprises (including Aqwest and the Busselton Water Board) be

reviewed with the objective of clarifying their commercial responsibilities. The review is to investigate the payment of dividends by Aqwest and the Busselton Water Board. Western Australia did not report on progress with this investigation in this 2003 NCP assessment.

Discussion and assessment

The Council considers that a reasonable interpretation of the level of dividend that accords with 'commercial reality' is the *Corporations Act 2001* (Cth) requirement that dividends be paid only out of profits (the current year's profit as well as accumulated retained profits). This approach provides some safeguard against water and wastewater service providers having insufficient financial resources to properly conduct their businesses. It is also consistent with the competitive neutrality obligations of the intergovernmental Competition Principles Agreement, which requires that government-owned businesses face the same costs and pressures as if operating in the private sector.

Dividends paid by the Water Corporation are transparently reported although not as a proportion of the corporation's profits, and there is no policy requirement governing the size of the dividend paid by the corporation. Nonetheless, the corporation's dividend payments in recent years have aligned with the CoAG requirement that dividends reflect commercial realities. The foreshadowed review of water and wastewater pricing following the creation of the ERA provides an opportunity for further consideration of this matter, as well as the review of all Government business enterprises with the objective of clarifying their commercial responsibilities. Western Australia has complied with CoAG obligations relating to the level of dividend for this 2003 NCP assessment.

Consumption-based pricing

Assessment issue: Prices are to reflect the volume of water supplied to encourage more economical water use and to defer the need for costly investments, where it is cost effective to introduce consumption-based pricing. In the 2001 and 2002 NCP assessments, the Council identified aspects of Western Australia's approach that raised questions about compliance with the CoAG water reform agreements, including:

- the availability of free water allowances for community groups and institutions;
- charges for residential wastewater services based on gross rental value;
- country commercial water and wastewater charges;
- commercial wastewater charges by the City of Kalgoorlie-Boulder; and
- the potential for cross-subsidies, which need to be transparently reported.

Next full assessment: The Council will conduct a full assessment across the entire package of reforms in 2005.

Reference: CoAG water reform agreement, clause 3; Expert group report

Free water allowances

The Water Corporation removed the free water allowance for community groups and for institutions on 1 July 2002. These customers now face commercial, consumption-based charges. All free water allowances for all categories of customers of the Water Corporation, Aqwest and the Busselton Water Board have now been removed.

Residential wastewater charges

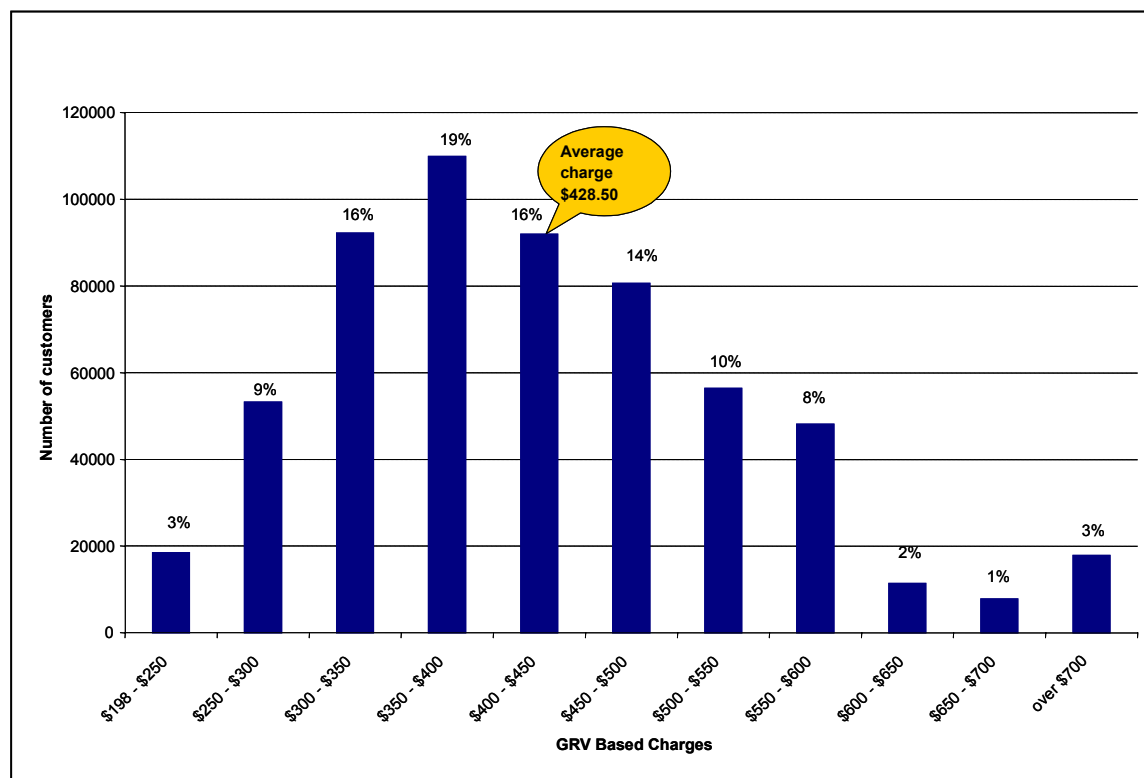
Western Australia decided to retain charges based on gross rental value for residential wastewater customers across the State, subject to the Water Corporation publishing information on the distribution of wastewater charges in its annual report.

Western Australia proposed that cross-subsidies be illustrated using a distribution chart or another similar medium. The Water Corporation and the Western Australian Department of Treasury and Finance are to determine the means of illustrating cross-subsidies.

Western Australia stated that the decision to retain valuation-based charges for residential wastewater services reflects the Government's concern about the large redistributive impacts that would have resulted from moving to a uniform charge for wastewater services.¹ Chart 5.1 illustrates the current distribution of charges and indicates the average charge that would have been required to recover the cost of wastewater services in 2002-03. The chart indicates that an average flat charge would increase prices for almost 50 per cent of the State's residents, with almost 30 per cent (accounting in general for the lower socioeconomic metropolitan suburbs) experiencing increases of at least A\$100.

The ERA will be able to investigate the rate in the dollar for the valuation-based Statewide residential sewerage charge and, if it considers it necessary, can consult with stakeholders on the level of the charge.

¹ Western Australia advised that a study of domestic water use patterns by the Water Corporation found that the volume of in-house water discharged was constant throughout the year and differed only marginally among households, principally as a result of differences in household size.

Chart 5.1: Distribution of residential sewerage charges in Western Australia, 2002-03

Source: Government of Western Australian (2003)

Country commercial water and wastewater charges

The Minister for the Environment and Heritage recently approved the introduction of a two-part tariff for commercial (nonresidential) water customers of Aqwest and the Busselton Water Board. In both cases, the two-part tariff will be introduced on 1 July 2004 and phased in over five years. The required base tariff rate will be set by each board to be revenue neutral after taking account of all expenses faced in providing water services.

Western Australia has replaced country commercial wastewater charges with the metropolitan commercial charge regime. This comprises a two-part major fixtures and volumetric tariff. The new charges were introduced on 1 July 2003 and will be phased in over six years.

City of Kalgoorlie–Boulder commercial wastewater charges

The City of Kalgoorlie–Boulder sets wastewater charges on the basis of gross rental value as part of its general rating system. Western Australia does not propose to change this pricing regime because of its concerns about the large redistributive impacts and administrative expense.

Discussion and assessment

The Water Corporation, Aqwest and the Busselton Water Board now levy two-part tariffs for all water services that are consistent with the CoAG consumption-based pricing obligations.

The Council accepts that introducing two-part tariffs, which include a metered use component, for residential wastewater services is generally not cost effective. Several jurisdictions have found this to be the case. In New South Wales, for example, the Independent Pricing and Regulatory Tribunal found that pay-for-use sewerage pricing for residential customers is not warranted. Western Australia's decision to base charges for residential wastewater services on property rental values may not, however, reflect well the cost of services provided to different classes of customer. This is evident from the Water Corporation's study of domestic water use patterns, which found that the volume of in-house water discharged differed only marginally among households (due mostly to differences in household size). If wastewater discharge is roughly equivalent across households, then allocating wastewater costs via a property value based charge will result in nontransparent cross-subsidisation from customers with lower value properties to those with higher value properties. Either a uniform charge or a charge that relates to the volume of water (using a discharge factor) used may better reflect the services used, and so reduce the likelihood of cross-subsidisation.

Western Australia indicated that it will identify and report cross-subsidisation, and that the Water Corporation will publish relevant information in its annual report. Such action will meet the CoAG obligation to transparently report remaining cross-subsidies.

Rural water pricing: progress report

Progress report issue: Western Australia is to demonstrate progress towards achieving full cost recovery for irrigation districts

Next full assessment: The Council will assess governments' implementation of rural water pricing and full cost recovery obligations in 2004.

Reference: CoAG water reform agreement, clause 3(a and d)

Western Australia has three rural irrigation schemes, the South–West Irrigation Cooperative, the Carnarvon Irrigation Scheme and the Ord Irrigation Scheme. Western Australia did not provide information on the extent to which rural water service charges are covering the full costs of supply. In the 2004 NCP assessment, the Council will assess governments' compliance with the CoAG pricing obligations for rural water supply.

5.2 Water management progress report: water rights and provisions to the environment

Establishment of water rights systems

Progress report: Western Australia is to report on progress towards converting existing allocations to new water rights systems, and in implementing mechanisms to support these systems.

Next full assessment: The Council will assess the Government's compliance with CoAG obligations on implementing water rights arrangements in 2004.

Reference: CoAG water reform agreement, clause 4

Under the *Rights in Water and Irrigation Act 1914*, water users in proclaimed areas generally require a licence.² Water licences may be issued for between five and 10 years or for an indefinite period. There is a presumption that fixed-term licences will be renewed if licence conditions are met. Licences are separate from land title. They are specified in volumetric terms, with reliability determined in water management plans (see next section on provision of water to the environment).

The Act includes restrictions on who can hold a water licence.³ Only a person who owns, occupies or has access to the land on which the water occurs may hold a licence, and then only if they intend to use the water. Licences include a time limit for water entitlements to be used (before the entitlement may be forfeited).

² The Act provides for any watercourse, wetland or groundwater area to be proclaimed for the purpose of sustainable management. Licences are not required for riparian water rights and rights to take surface water and water from non-artesian wells for stock or domestic purposes. Areas of minor resource allocation and usage (where allocation is less than 30 per cent of sustainable yield) are generally not proclaimed or subject to licensing requirements. Nearly all groundwater and some surface water areas have been proclaimed.

³ A person is eligible to hold a licence if:

- the person is an owner or occupier of the land to which the licence relates;
- the person is permitted by the owner of the land to which the licence relates to take and use the water for a sufficient period;
- the person is a public utility;
- the person is authorised by or under a written law to engage in an activity in relation to land or water; or
- the person is within a class or description of persons that is prescribed by local by-laws.

To manage areas of overallocation or water shortages, or areas where extraction is causing environmental harm, the Act provides for the Water and Rivers Commission to issue a direction overriding all other rights recognised by the Act. The commission is required to give reasons for a direction, and water users can appeal to a tribunal to ensure their rights are protected.

The Water and Rivers Commission maintains a register of licences and entitlements. Although the register does not provide indefeasibility of title, it does allow the entitlement holder to register third party interests. A working group was established to provide a forum for the commission, industry and financial institutions to discuss registration issues.

The Act requires licence changes to be made in a fair way that properly considers the needs of all licence holders. Compensation is generally payable only where the impact of a licensing decision is inconsistent with the impact on other water users in the area.

Reform progress

Since the 2001 NCP assessment, the Water and Rivers Commission has issued only one direction overriding other rights under the Rights in Water and Irrigation Act. The direction was in the form of a 'water shortage order' restricting the watering of lawns and gardens to certain times.

In March 2003, the Water and Rivers Commission released draft policy guidelines on the management of unused licensed water entitlements for a period of public consultation (WRC 2003b). This reflected a decision by Western Australia, with the introduction of water trading, to reassess the State's approach whereby the commission reclaims and re-issues water entitlements that are not being used. Where water entitlements are no longer being used, the draft policy guidelines propose that the commission will negotiate with the licensee regarding their short and long-term water requirements. Where the licensee cannot satisfy the commission that they continue to require all of their current entitlements, the commission may recoup and re-issue (or retire) the unused water entitlements. The commission's level of management of unused entitlements will reflect the extent to which available water is allocated, with fully allocated areas subject to more active management. Water resource management committees will be involved in developing strategies and criteria for managing unused entitlements. The Water and Rivers Commission is also investigating more efficient use of its unused allocations. In particular, the commission is considering the feasibility of issuing licences for a finite (short to medium) term to permit access to water resources that are reserved for future town supply. The commission released a discussion paper for public comment in March 2003 (WRC 2003c). These matters are discussed further in section 5.3 in relation to their effect on intrastate trade.

Since June 2002, the register of water licences and entitlements has been available for public viewing at Water and Rivers Commission offices or on

request from the commission. Western Australia advised that it developed an Internet version of the register but it is not yet operational. The Government has allocated funding with a view to Internet access becoming operational in 2003-04. The working group on registration issues is temporarily on hold, following the withdrawal of the major banks. Western Australia considered that third party interests can be registered effectively within its existing system, though it is monitoring registration developments in other States. The commission has offered to reconvene the group.

Provision of water to the environment

Progress report: Western Australia is to report on progress in implementing allocations to the environment by listing all draft and final water management plans and explaining each plan's stage of development.

Next full assessment: The Council will assess the Government's progress in implementing CoAG obligations on the allocation of water to the environment in 2004, consistent with the CoAG requirement that allocations be substantially completed by 2005.

Reference: CoAG water reform agreement, clauses 4(b)-(f)

Western Australia derives most of its water supply from groundwater and has no stressed or overallocated river systems. Western Australia's approach to allocating water to the environment (formalised in the Rights in Water and Irrigation Act) is delivered via a tiered system of statutory water management plans (regional, subregional and local).⁴ The plans are the basis for allocating water, setting environmental flows and adjusting allocations. They also include arrangements for ongoing monitoring and review. Water management plans continue indefinitely, with review every seven years (or later if water use has not increased).

The subregional (or local) plans define environmental water requirements (the water regime required to maintain ecological values at a low level of risk) and environmental water provisions (the water reserved for the environment). Environmental water provisions are set in the plans either as notional or interim allocation limits, or as formal assignments if the water resource is highly or fully committed. Environmental water provisions may be less than environmental water requirements where some ecological impact has been accepted. The Environmental Protection Authority has an ongoing role in assessing the adequacy of environmental water requirements and environmental water provisions in the plans.⁵

⁴ Overland flows can be managed under local by-laws if the use of the overland flow causes a reduction in the flow of a watercourse or has a significant effect on the quality of the water of an ecosystem.

⁵ The State groundwater environmental protection policy and other similar policies provide for the statutory identification and priority management of 'critical areas'

The Rights in Water and Irrigation Act provides for the establishment of water resource management committees, including community and stakeholder representatives. Public consultation is an ongoing part of the Water and Rivers Commission's planning process for establishing and reviewing water management plans. The process for most of the larger plans includes a formal public review stage.

At the time of the 2001 NCP assessment, allocation limits for consumptive use had been set in all proclaimed groundwater areas, based on the estimated sustainable yield. Preliminary environmental water requirements had also been determined for all 174 groundwater management units and 44 surface water basins. Around 30 per cent of the systems (less than 10 per cent by sustainable yield) required more detailed work (including on environmental water provisions) to bring them up to the appropriate level of management. Only two groundwater management units (Collie and Murray–Cockleshell Gully) had allocations exceeding the sustainable yield and work was underway to reduce usage to sustainable levels.

Reform progress

Western Australia continues to progress the development and/or review of its water management plans. It advised that the planning process is on track against the revised implementation program agreed in the 2002 NCP assessment. Apart from those assessed as being a low priority, for which no further action is proposed, almost all plans (or reviews of the plans) are scheduled to be completed by 2005.

5.3 Intrastate trading

Assessment issue: Trading arrangements in water allocations or entitlements are to be instituted to maximise water's contribution to national income and welfare, within the social, physical and ecological constraints of catchments. Any restrictions on trading need to be shown to be in the public interest. According to the CoAG timetable for assessment of reform progress by the Council, arrangements to enable intrastate trade are to be assessed in 2003.

In previous NCP assessments, the Council found that Western Australia had established a framework for the transfer of water rights but trading was still in its early stages. The Council identified constraints on trade, including:

through regulations and other subordinate legislation. This may include areas where the environmental values of water are not being attained or which are considered by the authority to be 'stressed'.

- provision for local by-laws to prohibit trades;
- restrictions on who can hold a water licence (that is, only a person who has access to the land on which the water occurs); and
- a time limit for water entitlements to be used (before the entitlement may be forfeited).

Western Australia has also been developing water management plans, which may include trading rules.

Western Australia needs to remove constraints on water trading or demonstrate that any remaining constraints are in the public interest. Western Australia also needs to ensure trading rules in water management plans facilitate trading where this is socially, physically and environmentally sustainable.

Next full assessment: The Council will assess arrangements for water trading in 2004.

Reference: CoAG water reform agreement, clause 5

Western Australia established provisions for water trading through amendments to the Rights in Water and Irrigation Act, which took effect in January 2001. At the time of the 2002 NCP assessment, Western Australia reported that its trading system was fully operational.

The Rights in Water and Irrigation Act permits a licence holder to transfer all or part of their water entitlements to another party entitled to own a licence. Trades may be permanent or temporary,⁶ and require the approval of the Water and Rivers Commission. Under the Act and the policy guidelines issued in 2001 (WRC 2001b):

- trades must be consistent with an approved water management plan or, if there is no plan, with approved commission policy or guidelines;
- the commission may refuse trades to:
 - protect the environment and other users from damage;
 - ensure outcomes continue to be beneficial to the State;
 - prevent non-efficient uses and monopolies in water;
 - meet policy objectives;
 - encourage or preserve complementarity and diversity (in the market); and/or
 - preserve the trading market from distortion;
- the commission actively discourages speculation in the market; and

⁶ Riparian right allocations, stock and domestic rights and environmental water provisions are not tradeable.

- a commission decision not to approve a trade is subject to appeal to a tribunal.

To limit the scope for speculation in the water market, the Act contains constraints on water trading, including:

- a provision for local by-laws to prohibit trades;
- restrictions on who can hold a water licence (that is, only a person who has access to the land on which the water occurs and who intends to use the water);⁷ and
- a time limit for water entitlements to be used (before the entitlement may be forfeited).

The Act also contains, however, a provision for local by-laws to be made to enable a person other than an owner or occupier of land (or who has access to the land) to hold a licence.

The commission may not approve a trade without the written permission of a party with a registered interest in the entitlement being traded.

While regional management plans are high level and usually make little reference to trading issues, subregional and local area water management plans may include trading provisions. The plans are required to be compatible with the Statewide transferable water entitlements policy guidelines or to address potential conflicts or limitations on the implementation of the guidelines. Some entitlements may not be tradeable as a result of water resource management constraints identified in the plans. In the 2001 NCP assessment, the Council noted that the draft trading rules for the Wanneroo groundwater area limited water trade to one subarea. (Section 5.2 reports on Western Australia's progress in developing water management plans.)

Trading to date

In many parts of Western Australia, water resources are not fully allocated and the demand for trading is low. Around one-third of Western Australia's water resource systems, however, are at a highly or fully allocated level, and these are the areas in which water trading has developed or is most likely to develop.

The only significant area for trading in surface water is the South West Irrigation Scheme. In 2002-03, temporary transfers within the scheme

⁷ Special provisions apply where a person who is not eligible to hold a licence is buying property and wants to make prior arrangements to purchase an entitlement. In these circumstances, the commission may give an undertaking that it will approve the trade once the property purchase is finalised.

amounted to around 10.9 gigalitres (7 per cent of licensed entitlements) and permanent transfers amounted to less than 0.2 gigalitres (significantly less than 1 per cent). In addition, around 3 gigalitres (2 per cent) were transferred with property sales. In the 10 months to May 2003, trading in groundwater consisted of 1.7 gigalitres in temporary transfers, 0.06 gigalitres in permanent transfers and 15.5 gigalitres transferred with property sales.

Given the infancy of the trading environment, information on the price (or total value) of water trades is limited. Western Australia provided a few examples of groundwater trades, for which prices ranged from around A\$500 per megalitre in the Wanneroo area to A\$1300 per megalitre in the Busselton–Capel area, for permanent trades of around 30 megalitres. No information is available on the time taken to process water trading applications.

Changes in the regulatory environment since 2001

At the time of the 2001 NCP assessment, Western Australia's policy guidelines for water trading were in draft form. The Minister for Water Resources released the final policy guidelines in late 2001, following a period of public consultation. The Water and Rivers Commission is required to review the effectiveness of the policy guidelines annually for the first three years, then at intervals not exceeding five years. Any significant changes must be subject to public consultation.

To supplement the policy guidelines, in February 2003 the commission released an interim subpolicy to guide the operational management of trading (WRC 2003a). The subpolicy sets out the resource management process to be undertaken as the level of water use in an area approaches the sustainable limit, in preparation for the commencement of trading in that area. The initial stages of the process (for example, the determination of environmental water provisions and the review of sustainable limits) are typically completed through subregional or local area water management planning. The commission subsequently identifies, recoups and reallocates unused entitlements. Where the resource management process has not been completed or the water resources are highly or fully allocated, trading applications must be supported by the relevant regional manager and the managers of various commission branches (hydrology and water resources, catchment and waterways, and resource allocation). The managers are required to consider a range of matters, including whether the trade is likely to have adverse environmental, social and economic impacts.

As noted in section 5.2, in March 2003, the Water and Rivers Commission released draft policy guidelines on the management of unused licensed water entitlements for public consultation (WRC 2003b). Except in extenuating circumstances, the commission will not approve trade in water entitlements that have not been used. Commission decisions on licensed entitlements and

transfers are, however, subject to appeal. Under the draft policy guidelines, once trading has been established in an area, the commission will not recoup water entitlements that were acquired through trading (except in exceptional circumstances, such as where there is anticompetitive or speculative behaviour).

In section 5.2, it was also noted that the Water and Rivers Commission is investigating more efficient use of its unused allocations, particularly the feasibility of issuing short to medium term licences to permit access to water reserved for future town supply. The discussion paper, released by the commission in March 2003 (WRC 2003c), acknowledged that the commission would need to consider the impact of such a change on trading (including whether and how to charge for temporary access to unused allocations).

Since the commencement of trading, the commission has accepted the role of collecting and providing market information. It anticipates continuing this role until the market matures and brokers are established to provide information to potential buyers and sellers. The commission intends to publish an annual tradeable water entitlements report, covering the price, volume, locality and purpose of trades. Reports are to be available from the commission's regional offices and website.

Discussion

Under the CoAG water reforms, the objective of water trading is to ensure water is used to maximise its contribution to national income and welfare, subject to the social, physical and ecological constraints of catchments.

Since the 2001 NCP assessment, Western Australia has established a fully operational system for water trading. It finalised policy guidelines for water trading and released an interim subpolicy to guide the operational management of trading. It also implemented procedures to minimise the risk of trading for the environment, with the Water and Rivers Commission able to refuse trades that would result in adverse environmental impacts. The commission has the additional role of collecting and providing market information until the market further develops. Trade is concentrated in the South West Irrigation Scheme, reflecting the infancy of trading and the low level of demand for trading in the many parts of the State where water resources are not fully allocated.

In the 2001 NCP assessment, the Council found that water rights are sufficiently specified in Western Australia to enable water users to form a reasonable expectation of the potential benefits and risks of trading. Licences may be issued for between five and 10 years or for an indefinite period. There is a presumption that fixed term licences will be renewed if licence conditions are met. While the commission's register of water licences and entitlements does not provide indefeasibility of title, it does allow the entitlement holder to register interests. The commission may not approve a trade without the written agreement of any person with a registered interest in the entitlement.

Notwithstanding this protection, the Council considered that the power of the Water and Rivers Commission to issue a direction, overriding all other rights recognised by the Rights in Water and Irrigation Act, increases the risk to entitlement holders and may have an impact on the value of water entitlements. Western Australia previously advised that the provision is intended to enable the commission to manage water resources where immediate action is necessary and that it is likely to be applied only temporarily and in extreme circumstances. Since the 2001 NCP assessment, the commission has issued one direction in the form of a 'water shortage order', but this order restricts only the watering of lawns and gardens to certain times. In practice, the commission's power appears not to have been used in a manner that would significantly influence the value of water rights. The requirement for the commission to disclose its reasons for a direction, along with the ability of water users to appeal to a tribunal, helps minimise the risk for water entitlement holders.

In previous NCP assessments, the Council identified several mechanisms in the Rights in Water and Irrigation Act that may constrain trade in water entitlements, including:

- a provision for local by-laws to prohibit trades;
- restrictions on who can hold water licences; and
- a time limit for water entitlements to be used (before the entitlement may be forfeited).

Western Australia provided the following advice on the status of the three constraints.

- Currently, no local by-laws prohibit trade, because no circumstances have arisen that require trade to be prohibited. Western Australia considers that this provision is unlikely to be used.
- There is provision for local by-laws to be made to enable a person other than an owner or occupier of land (or who has access to the land) to hold a licence. This provision could allow anyone to hold a licence, but has not yet been used.
- The Water and Rivers Commission recently released draft policy guidelines on the management of unused entitlements for public consultation (as noted above).

The provisions in the Act appear to be largely a response to community concern about potential speculation in the water market and the possible adverse environmental impacts of water trading. Nonetheless, the provisions have the potential to reduce the security of entitlements and constrain the movement of water to its highest value use. The restrictions on who can hold water licences, for example, may have an impact on the entry and activities of agents, brokers and other potential participants in the water trading market, and on the ability of financial institutions to obtain ownership of a water

entitlement in the case of default. All of the provisions have the potential to reduce returns available to holders of water entitlements.

While Western Australia advised that the Water and Rivers Commission is reviewing the management of unused entitlements, the draft policy guidelines issued for public consultation suggest the commission is formalising and clarifying the existing arrangements rather than countenancing substantial change. The draft policy guidelines retain the capacity for the commission to recoup and re-issue unused entitlements, and to not approve trade in entitlements that have not been used. This may encourage over use to protect ownership. Even where trading is established in an area (in which case, the commission generally does not recoup entitlements acquired through trading), the draft guidelines retain the capacity for the commission to recoup entitlements in the event of anticompetitive or speculative behaviour. Commission decisions on licensed entitlements and transfers are subject to appeal.

There is also scope for the commission to refuse trades to prevent monopolies in water. In other industries, such matters are left to regulation under fair trading laws, including the *Trade Practices Act 1974*. The capacity for the Water and Rivers Commission to refuse approval for a trade because it would lead to monopolisation would be unlikely to conflict with CoAG water trading objectives, however, if the commission applies an appropriate competition test — such as that in the Trade Practices Act — in reaching its decision. The Council would need to be confident that a decision to refuse approval was based on rigorous analysis against the competition test.

Western Australia's subregional and local area water management plans contain trading rules, so are relevant to the assessment of the State's compliance with water trading obligations. The water management plans are required to be compatible with the Statewide transferable water entitlements policy guidelines or address potential conflicts or limitations on the implementation of the guidelines. As the Council noted in the 2001 NCP assessment, the draft trading rules for the Wanneroo groundwater area limit water trade to one subarea and prevent entitlements being temporarily traded (or leased) for a period of less than two years. Western Australia advised that the latter requirement is intended to address community concerns about speculation and potential environmental impacts. The Council has not specifically considered the trading rules in other water management plans for this assessment, but will do so in the 2004 NCP assessment when it considers the environmental provisions in the plans.

Assessment

The Council considers that Western Australia made sufficient progress against its CoAG obligations on water trading for the 2003 NCP assessment. Several provisions in Western Australia's trading arrangements raise questions about consistency with CoAG water trading obligations, but the

Council accepts that these currently do not constrain trade to a significant extent.

For the 2004 NCP assessment, the Council will expect Western Australia to report on:

- any subsequent directions issued by the Water and Rivers Commission and whether they are likely to have a significant impact on the risks to entitlement holders and the value of water rights;
- arrangements in place to ensure the restrictions on who can hold a water licence do not unjustifiably constrain the entry and activities of agents, brokers and other potential participants in the water trading market, or the ability of financial institutions to obtain ownership of entitlements in the event of default;
- any local by-laws introduced to prohibit water trade and the rationale for those by-laws;
- the Water and Rivers Commission's final policy guidelines on the management of unused entitlements, particularly the consistency of those guidelines with CoAG obligations;
- the commission's power to refuse trades to prevent monopolies in water, particularly the need for the power given the Trade Practices Act and the nature of the competition test applied in reaching a decision to refuse approval for a trade;
- the outcome of the commission's annual review of the effectiveness of the policy guidelines for water trading; and
- the timeliness of approval processes for applications to trade.

In the 2004 NCP assessment, the Council will conclude on the appropriateness of constraints in Western Australia's trading arrangements. In line with CoAG obligations and the reform timeframe, the Council will focus in 2004 on the extent to which Western Australia's trading arrangements enable water to be used to maximise its contribution to national income and welfare, subject to the social, physical and ecological constraints of catchments.

Also in the 2004 NCP assessment, the Council will report on actions by all jurisdictions, including Western Australia, to allocate water to the environment to ascertain that governments are continuing to make progress against the CoAG obligation to make appropriate environmental provisions by 2005. This assessment will require the Council to consider Western Australia's subregional and local water management plans, so the Council will consider the trading provisions in the plans at the same time. In particular, the Council will look for these provisions to facilitate trading where it is socially, physically and environmentally sustainable.

5.4 Institutional reform

Structural separation

Assessment issue: As far as possible, the roles of water resource management, standard setting and regulatory enforcement and service provision are to be separated institutionally. In the 2001 and 2002 NCP assessments, Western Australia foreshadowed the introduction of the Economic Regulation Authority with coverage of the water industry.

Next full assessment: The Council will assess Western Australia's implementation of the CoAG obligations on structural separation relating to the water industry again in 2004. The Council will conduct a full assessment across the entire package of reforms in 2005.

Reference: CoAG water reform agreement, clause 6(c and d)

In the 2001 and 2002 NCP assessments, the Western Australian Government stated that it intended to establish the ERA to undertake a range of economic regulatory functions currently performed by Ministers, sector specific regulators and public sector officials. (For water, the Minister for Environment and Heritage has responsibility for resource management and water service regulation and the Minister for Government Enterprises has responsibility for water service delivery.) The ERA's work would include making expert recommendations to the Government about tariffs and charges for government monopoly services, and about any other matters requested by the Government. At the time of the 2002 NCP assessment, the Office of Water Regulation was reviewing water service standards and considering the desirability of establishing a water ombudsman.

The Bill to create the ERA was before the Western Australian Parliament at the time of this 2003 NCP assessment. The Bill provides scope for the Government to refer to the ERA for inquiry any matter relating to a regulated industry including electricity, gas, rail and water. In relation to water, the Bill provides scope for inquiry and report on water and wastewater prices and for such inquiries to be on a routine basis. Western Australia advised that in anticipation of the establishment of the ERA, it is developing a draft reference for the ERA to consider water and wastewater pricing. (See also the discussion on pricing above.)

Western Australia advised that the draft report of the review of the *Water Services Coordination Act 1995* recommended the establishment of a 'multi-utility' ombudsman incorporating the water industry. The Minister for the Environment is considering the final report on the review.

Discussion and assessment

As discussed in relation to water and wastewater pricing, the lack of transparency in the determination of Western Australia's pricing outcomes

means that it is not possible to be certain that CoAG pricing principles are being appropriately applied. Regulation of prices and service standards for the water industry by the ERA would provide a means of demonstrating compliance with the CoAG pricing principles and would address a significant component of Western Australia's institutional reform task. At the time of this 2003 NCP assessment, the Western Australian Parliament was still considering the Economic Regulation Authority Bill 2002 that creates the ERA. For the Western Australian Government to meet its water pricing and institutional reform obligations for this 2003 NCP assessment, it would need to enact the legislation to create the ERA, and announce appropriate terms of reference for consideration by the ERA of water and wastewater regulatory matters. The terms of reference would need to ensure that the ERA is able to consider and recommend on pricing against the CoAG pricing principles.

The creation of a multi-utility ombudsman as recommended by the review of the Water Services Coordination Act would provide a transparent means for addressing customer concerns with the standards of service of water and wastewater businesses.

Devolution of management responsibility for irrigation schemes

Assessment issue: Constituents are to be given a greater degree of responsibility in the management of irrigation areas, for example, through devolution of operational responsibility to local bodies, subject to appropriate regulatory frameworks being established. In the 2002 NCP assessment, the Council indicated that it would monitor progress in devolution of local management in the Ord and Carnarvon regions.

Next full assessment: The Council will assess institutional reform in 2005 as part of a full assessment across the entire package of water reforms.

Reference: CoAG water reform agreement, clause 6(g)

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

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

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

Discussion and assessment

The Council is satisfied that Western Australia has met its obligations to increase the degree of local irrigation scheme management for this 2003 NCP assessment. It will consider progress by Western Australia with devolution in the Ord Irrigation Cooperative in the 2004 NCP assessment.

Integrated catchment management

Assessment issue: Western Australia is to:

- develop administrative arrangements and decision-making processes to ensure an integrated approach to natural resource management;
- adopt an integrated catchment management approach to water resource management and set in place arrangements to consult with the representatives of local government and the wider community in individual catchments; and
- support the consideration of establishing land care practices that protect areas of rivers that have a high environmental value or are sensitive for other reasons.

In the 2001 NCP assessment, the Council found that Western Australia might have been slow to address catchment issues beyond those relating to salinity. The Council found in 2002 that Western Australia had made some progress and met its outstanding 2001 commitment.

Next full assessment: The Council will consider Western Australia's progress with implementing integrated catchment management in 2004. The Council will conduct a full assessment across the entire package of water reforms in 2005.

Reference: CoAG water reform agreement, clauses 6(a), 6(b), 8(b) and 8(c)

The issue of dryland salinity is the impetus for natural resource management policy in Western Australia. The Salinity Action Plan 1996 led to the creation of a State Salinity Council and five regional natural resource management groups. In accord with national and State policy frameworks, including the National Action Plan for Salinity and Water Quality and the Natural

Heritage Trust extension,⁸ the original focus on salinity evolved into a broader natural resource management framework that encompasses catchment issues. Consistent with this approach, the Government replaced the State Salinity Council in 2002 with a new body: the Natural Resource Management Council. The community based⁹ council is the State's peak body for natural resource management. A senior officers group on natural resource management provides whole-of-Government policy coordination on integrated catchment management and natural resource management.¹⁰

There are now six regional natural resource management groups, mostly located in the south-west of the State: South Coast, South West, Swan, Avon,¹¹ Northern Agriculture and the Rangelands. Each group has subcatchment groups and local action groups. Membership of each group comprises representatives from the community and the Government. A Regional Chairs Coordinating Group was established, comprising the chair of each natural resource management group, senior Government representatives and representatives of the Pilbara and Kimberley.

Since 1997, the natural resource management groups have developed and launched several programs, including 22 salinity projects (State Salinity Council 2002). In addition, the groups are developing regional natural resource management strategies with the support of local government and State Government agencies. The strategies aim to integrate land, water and biodiversity issues for a particular region. They also provide the foundation for partnership agreements with government agencies, covering funding and resource support.

Western Australia reported in 2001 that all regional groups had drafted natural resource management strategies. The regional groups have since been reviewing and refining their strategies, setting outcomes and targets, and establishing monitoring and evaluation programs that are consistent

⁸ The Commonwealth Government extended the Natural Heritage Trust to 2006-07 in the May 2001 budget. The Natural Resource Management Ministerial Council and State, Territory and Commonwealth Ministers endorsed the implementation framework in October 2002. A significant focus is on measures to improve water quality.

⁹ The council comprises eight community members (one of whom is the chairperson) selected by Cabinet on the basis of expertise in areas that include biodiversity, agriculture and local government. The chief executive officers of government agencies with responsibilities in natural resource management also sit on the Council.

¹⁰ The Department of Agriculture, Conservation and Land Management, the Water and Rivers Commission, the Department of Environmental Protection, the Ministry for Planning and the Department of Land Administration are represented on the committee.

¹¹ The Swan and Avon are one group under the national action plan, but two groups under the Natural Heritage Trust extension.

with the national action plan and Natural Heritage Trust extension. They are using the National Framework for Natural Resource Management Standards and Targets 2002 as a guide to refining their strategies. The national framework is also being used in the development of a State monitoring and evaluation framework.

State agencies have been working with the regional groups to update their strategies against the accreditation criteria set by the Natural Resource Management Ministerial Council. As part of this process, the regional groups participated in workshops and discussions with Commonwealth agencies to better understand Commonwealth and State requirements and to refine the strategies.

In 2002, Western Australia reported that two regional strategies were being rewritten, one was undergoing consultation and the remaining two were being reviewed following consultation. More recently, some regional groups called for community input to broaden the focus of their strategies to encompass nature conservation, water and social and cultural assets (Avon Catchment Council 2003). A number of the groups are seeking community participation through workshops, newsletters and information on their web sites.¹²

Western Australia reported that work had progressed slowly in 2003 on the natural resource management strategies because it had not reached a bilateral agreement on the national action plan with the Commonwealth Government.¹³ It expected all but the Rangelands strategy to be accreditable within 12 months of a bilateral agreement.

Western Australia claimed that delays in Natural Heritage Trust extension funding further hampered progress on the regional strategies. The State Government reached a bilateral agreement on the extension with the Commonwealth Government in January 2003, and funding was provided in June 2003 to the regional groups to develop their regional strategies and to encourage community involvement in natural resource management (AFFA 2003). Western Australia stated that Natural Heritage Trust funding would accelerate work on finalising the regional strategies.

Links with water quantity management

Western Australia's natural resource management framework recognises interrelationships between water quality and water quantity management.

¹² Western Australia provides links to the websites of regional natural resource management groups at www.salinity.org.au.

¹³ From Western Australia's perspective, the principal issue with the Commonwealth pertains to recognition of Western Australia's spending on salinity issues since the launch of its Salinity Action Plan in 1996.

The Government considers that natural resource management principles are an integral part of the statutory process for water management planning, as required by the *Rights in Water and Irrigation Act 1914*.

Western Australia reported that links between water quality and water quantity issues are also being explored through the Water and Rivers Commission's input in the development of the regional natural resource management strategies and processes to identify priority management actions in those strategies.

Waterways WA

The Water and Rivers Commission is developing a management framework of strategies and actions to protect rivers and estuaries. The framework, called Waterways WA, aims to: identify waterway condition, values and pressures; safeguard significant waterways; restore and maintain waterway health; improve the management of waterways; balance values, expectations, ecology and uses; and challenge future directions. Western Australia expects to complete the framework in 2003.

The Government aims to provide coordinated management of waterways within an integrated catchment management framework. The framework is being developed to establish strong links with the work of regional natural resource management groups and is to satisfy requirements of the national action plan and Natural Heritage Trust extension (WRC 2001).

The framework's aim of safeguarding significant waterways involves:

- ensuring State, regional and local planning and policy processes (for example, those for national parks and reserves) recognise and protect wild rivers;
- assessing and progressing the best long-term management option for each wild river;
- developing a comprehensive and adequate reserve system for waterways; and
- promoting the identification and protection of waterways with high ecological and social/cultural values by assigning a heritage conservation management category that is recognised in planning at all levels.

As part of the strategy, Western Australia is developing a model to assess and prioritise waterways management needs and actions. The model assesses waterway values, the condition of and pressures on waterways, and threats, and assigns management responses.

The Water and Rivers Commission developed a river restoration manual and training course for designing and implementing river restoration activities. Western Australia reported that the commission also supports the

development of a Statement of Planning Policy for Water Resources (which includes waterways) to guide all planning documents within the State.

Salinity

The National Land and Water Resources Audit 2000 found that Western Australia has the largest area of dryland salinity in Australia and the highest risk of increased salinity in the next 50 years. The audit estimated that 4.3 million hectares of land in the south west of Western Australia have a high potential to develop a dryland salinity problem, of which 81 per cent is agricultural land. The high-risk area is predicted to expand to 8.8 million hectares by 2050. The audit report predicted that around 1520 kilometres of stream length are at risk from salinity, rising to 2850 kilometres by 2050.

Given the magnitude of salinity issues, much of Western Australia's early work in natural resource management focused on this problem. The State released its first salinity action plan in 1996, followed by a revised plan in 1998. The State Salinity Strategy 2000 adopted a broader approach to salinity management in a natural resource management context, with increased emphasis on community participation in programs. The five goals of the strategy are to:

- reduce the rate of degradation of agricultural and public land, and recover, rehabilitate or manage salt-affected land where practical;
- protect and restore key water resources to ensure salinity levels are kept to a level that permits safe potable water supplies in perpetuity;
- protect and restore high value wetlands and natural vegetation, and maintain natural (biological and physical) diversity within the region;
- provide communities with the capacity to address salinity issues and to manage the changes induced by salinity; and
- protect infrastructure affected by salinity.

The Salinity Taskforce recommended further policy changes in September 2001 to reflect the national action plan and emerging science on salinity issues. In particular, the taskforce recommended the creation of a Natural Resources Management Council to replace the State Salinity Council (Salinity Taskforce 2001). Western Australia adopted this recommendation in 2002.

Current salinity activities include a joint initiative with the Natural Heritage Trust to map and monitor the extent of salinity at the farm and catchment levels. In addition, the regional natural resource management groups have been developing salinity investment frameworks as a key component of their regional strategies. The salinity investment frameworks adopt an assets-based approach to identifying resources at risk, setting goals and priorities, and developing investment strategies. Western Australia provides

educational and community information on salinity initiatives at www.salinity.org.au.

Land care

Western Australia has many land care groups, including some 145 statutory Land Conservation District Committees. Most land care groups, including the district committees, have links to the regional natural resource management groups. While each regional group has a different constitution and membership structure, all generally have representatives from subregional groups (which are often district committees).

Community Landcare Coordinators work with community groups to help them undertake work such as revegetation, catchment and farm planning, and sustainable farming practices. The coordinators are mostly funded by the Natural Heritage Trust and many are financially supported by local government and the community.

Discussion and assessment

The Council raised concerns in 2001 about the pace at which Western Australia was addressing integrated catchment management issues. It was concerned that Western Australia might have been slow to address catchment issues beyond those relating to salinity. This slowness appeared to have manifested particularly through delays in the establishment of partnership agreements with natural resource management groups. Western Australia acknowledged in previous NCP assessment that it had been slow to take up strategies aimed at the recovery of catchments, such as reducing tree clearing.

Western Australia's progress on integrated catchment management between the 2001 and 2003 NCP assessments continued to be slow. All regional groups had developed natural resource management strategies by 2001, but the Government has not endorsed any of these under State processes in the absence of accreditation mechanisms under the national action plan. (The new accreditation mechanisms are not available to the Western Australian Government until it reaches a bilateral agreement on the National Action Plan for Salinity and Water Quality with the Commonwealth Government.) Western Australia has now received Natural Heritage Trust extension funding which should enable it to refine its regional strategies in anticipation of a bilateral agreement on the national action plan. The Council will assess this area again in the 2004 NCP assessment, when it will look for evidence of significant progress.

The Waterways WA framework is intended to facilitate the consideration of, and support for, land care practices to protect rivers with high environmental values. In its 2004 assessment, the Council will look for the framework to be in place in accord with the milestone proposed by Western Australia.

5.5 National Water Quality Management Strategy

Assessment issue: Western Australia is to demonstrate a high level of commitment to the ongoing implementation of the objectives of the National Water Quality Management Strategy (NWQMS), including action (through market-based and regulatory measures, water quality monitoring, catchment management policies, town wastewater and sewage disposal, and community consultation and awareness) to achieve the agreed objectives.

In the 2002 NCP assessment, the Council found that Western Australia was not achieving its NWQMS obligations. The Council held two consultative meetings with Western Australia following the assessment.

Next full assessment: The Council will consider Western Australia's progress with implementing the NWQMS in 2004. The Council will conduct a full assessment across the entire package of water reforms in 2005.

Reference: CoAG water reform agreement, clauses 8(b) and 8(d)

At the time of the 2002 NCP assessment, Western Australia had endorsed the State Water Quality Management Strategy as its framework for implementing the NWQMS. The next stage was to develop the strategy's implementation plan so as to establish priorities and ensure coordinated action by relevant government agencies and stakeholders.

At the time of the 2002 NCP assessment, Western Australia undertook to progress its NWQMS obligations by:

- holding consultative meetings with the Council in December 2002 and March 2003;
- finalising the State Water Quality Management Strategy implementation plan, which has the objective of ensuring integrated and coordinated action across government agencies and stakeholders;
- finalising implementation plans to reflect the Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000 (NWQMS paper no. 4), the Australian Drinking Water Guidelines (NWQMS paper no. 6), and the Australian Guidelines for Water Quality Monitoring and Reporting (NWQMS paper no. 7); and
- achieving demonstrable progress in implementing NWQMS papers 8 and 11–15, including drafting State implementation plans where possible.

NWQMS arrangements

Western Australia published its State Water Strategy in February 2003, drawing together information gathered during community consultation, various water forums and the Water Symposium held at Parliament House from 7–9 October 2002. The strategy covers several water issues, including

conservation (providing water for the environment), water use (transferring water between regions and water trading) and reuse (recycling grey water), and protection and management (implementing catchment protection and land use controls). The Government formed a working group headed by the Premier — the State Water Strategy Working Group — which is to develop guidelines for implementing the matters covered in the strategy.

Western Australia published its State Water Quality Management Strategy implementation plan in July 2003. The plan is a status report of existing initiatives in Western Australia to implement the NWQMS. It states that the NWQMS guidelines are being implemented through:

- the development of regional natural resource management strategies (see the discussion on integrated catchment management in section 5.4);
- the draft State sustainability strategy;
- salinity programs;
- the Waterways WA program (see the discussion on integrated catchment management in section 5.4);
- regulatory instruments, including environmental protection policies; and
- nonregulatory instruments, including Environmental Protection Authority guidance statements, guidelines and codes of practice.

Western Australia cited the development of the draft Environmental Protection (Cockburn Sound) Policy 2001 as an example of NWQMS implementation through the identification of environmental values, environmental quality objectives and environmental quality criteria (Government of Western Australia 2003b, pp. 20 and 23).

The State Water Quality Management Strategy implementation plan notes a delay in the implementation of several NWQMS modules. In particular, Western Australia scheduled implementation of NWQMS papers 4 and 7 for 2003-04. Development of several other NWQMS modules is also scheduled for 2003-04 (Government of Western Australia 2003b, pp. 28–30). The Government indicated that it needs additional time to ensure consistency between the approaches of the Environmental Protection Authority and the Natural Resource Management Council, both of which have responsibilities for water quality issues. Western Australia thus undertook to release its guidelines as soon as possible.

Western Australia made some progress in implementing elements of the NWQMS. In relation to the 1996 Australian Drinking Water Guidelines:

- a Memorandum of Understanding between the Department of Health and the Water Corporation is in place;

- a Statement of Planning Policy for Public Drinking Water Sources was published;
- a recreation policy for Crown land priority 1 drinking water areas has been prepared by the Waters and Rivers Commission and was published in July 2003; and
- a planner's manual on land use planning and drinking water protection has been published.

In relation to NWQMS papers 8 (groundwater protection) and 11–15 (management of sewerage systems), Western Australia advised that:

- it was developing an implementation plan for the groundwater protection guidelines (NWQMS paper no. 8);
- it had scheduled work on developing guidelines on effluent management (NWQMS paper no. 11) for 2003-04;
- guidelines on the handling and disposal of trade and industrial waste (NWQMS paper no. 12) are now in place;
- the biosolids guidelines released in February 2002 outline the State's current requirements on sludge management (NWQMS paper no. 13);
- the management of reclaimed water (NWQMS paper no. 14) is covered in the State Water Strategy, and the State Water Strategy Working Group is developing guidelines on matters including reclaimed water;
- an implementation guide on sewerage overflows (NWQMS paper no. 15) was released in November 2002; and
- discharges from wool scouring (NWQMS paper no. 18) are regulated via an Environmental Protection Authority licence.

Western Australia formed the Community and Industry Advisory Committee to ensure the involvement of community and industry groups in the preparation and development of water quality management guidelines, strategies and programs associated with the implementation of the NWQMS. Several stakeholder groups are represented on the committee including the Irrigation Association of Australia (Western Australia), the Chamber of Commerce and Industry, local government, the Motor Trade Association and the Wine Industry Association (Western Australia).

Discussion and assessment

Western Australia undertook preparatory and development work between the 2002 and 2003 NCP assessment, including publishing the State Water Quality Management Strategy implementation plan. This plan is an

important element of NWQMS implementation because it sets out the State's processes for achieving its water quality objectives.

While Western Australia made some progress since the 2002 NCP assessment, its implementation of NWQMS arrangements is slow. The Government is proposing to implement several key NWQMS guidelines (including NWQMS papers 4 and 7) only in 2003-04. It appears to be still developing its institutional framework, and is still working to achieve consistency in the approaches of the Environmental Protection Authority and the Natural Resource Management Council. While accepting that Western Australia has taken an important step for this 2003 NCP assessment by publishing the State Water Quality Management Strategy implementation plan, the Council will again assess the State's progress in implementing the NWQMS in 2004. The Council will look for Western Australia to have advanced its implementation — particularly in areas that the Government undertook to address in 2003-04, including implementation of guidelines for fresh and marine water quality and guidelines for water quality monitoring and reporting.

5.6 Water legislation review and reform

Assessment issue: Western Australia is to have reviewed and, where appropriate, reformed all water industry legislation that restricts competition. Legislative restrictions that are retained must be shown to provide a net benefit to the whole community. Completion of review and reform obligations is a key element of the 2003 assessment. Where a review and/or reform implementation are not complete (or an appropriate transitional path to reform is not in place), the Council will consider that the relevant government has not complied with National Competition Policy obligations. In the 2002 assessment, Western Australia had several key water legislation reviews in progress.

Next full assessment: This is the final assessment for legislation review and reform matters.

Reference: Competition Principles Agreement clause 5

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

The Government endorsed the findings of each of the 32 completed reviews, mostly in 1999 or 2000. The Government proposed to reform eight regulatory instruments via the Acts Amendment and Repeal (Competition Policy) Bill 2002, but now delayed to 2003. These reforms will now be included in a second competition policy omnibus Bill. Western Australia is drafting amendments or is developing drafting instructions for another five

instruments. Reform activity is under way for most of the remaining instruments where action was recommended but is not yet completed.

Assessment

Western Australia substantially completed its program of review of water industry legislation and regulation and the Government endorsed the findings of the 32 completed reviews. Implementation of the recommended reforms is, however, not complete. Western Australia is yet to implement the recommended reforms to 19 water industry regulatory instruments. As the Competition Principles Agreement requires that the review and appropriate reform of legislation that restricts competition be complete, the Council considers that Western Australia has not met its NCP obligations on water industry legislation.

The Council draws Western Australia's attention to provisions in the Rights in Water and Irrigation Act that may constrain trading in water entitlements (see section 5.3). The Council will consider in the 2004 NCP assessment whether Western Australia's regulatory arrangements meet the CoAG obligation to facilitate water trading.