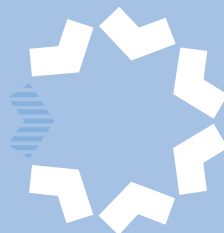


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Assessment of governments' progress
in implementing the
National Competition Policy
and related reforms: 2004



Volume two:
Water

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The National Competition Council

The National Competition Council was established on 6 November 1995 by the *Competition Policy Reform Act 1995* following agreement by the Australian Government and state and territory governments.

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

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

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Abbreviations

ACT	Australian Capital Territory
ACTEW	Australian Capital Territory Electricity and Water Corporation
AHD	Australian Height Datum
ANZECC	Australian and New Zealand Environment and Conservation Council
ARMCANZ	Agriculture and Resource Management Council of Australia and New Zealand
CoAG	Council of Australian Governments
CRCFE	Cooperative Research Centre for Freshwater Ecology
CSO	Community service obligation
DEUS	Department of Energy, Utilities and Sustainability
DIPNR	Department of Infrastructure, Planning and Natural Resources
EPA	Environmental Protection Agency
ERA	Economic Regulation Authority (Western Australia)
ESCOSA	Essential Services Commission of South Australia
GL	Gigalitre
GWMA	Groundwater management area (New South Wales)
IFIM	Instream flow incremental method
IPART	Independent Pricing and Regulatory Tribunal (New South Wales)
IQQM	Integrated Quantity Quality Model
LWU	Local government water utility
MDBC	Murray–Darling Basin Commission
MFAT	Murray Flow Assessment Tool

ML	Megalitre
NCC	National Competition Council
NCP	National Competition Policy
NWQMS	National Water Quality Management Strategy
REALM	Resource Allocation Model
SIMRAT	Salinity Impact Rapid Assessment Tool
SWQ6	State Water Quality series document 6
TEDI	Tool for Estimating Dam Impacts
WACC	Weighted average cost of capital
WAMP	Water allocation and management plan
WRC	Water and Rivers Commission (Western Australia)

Findings and recommendations

In 1994, the Council of Australian Governments (CoAG) agreed to a comprehensive water reform strategic framework, with the objective of creating an efficient and sustainable water industry. Key reforms are pricing to achieve efficient water use and service provision, clarifying water property rights, allocating water to the environment, facilitating water trading, rigorously appraising new rural water projects, reforming water industry institutions, and consulting water industry stakeholders and the community.

CoAG incorporated the agreed 1994 framework under the 1995 National Competition Policy (NCP) and asked the National Competition Council to assess governments' implementation progress. Under the Agreement to Implement the National Competition Policy and Related Reforms, satisfactory implementation of the water reform program is a condition for state and territory governments to receive competition payments.

Because CoAG expected water reform to involve extensive change, it considered that implementation should occur over five to seven years, with the program essentially complete by 2001. In 2001, however, CoAG extended to 2005 the time to 'substantially complete' the allocation and trading arrangements in rivers and groundwater resources. CoAG senior officials prioritised the reforms over different NCP assessments, scheduling rural water pricing, interstate water trading and environmental allocations for progress assessment in 2004.

As well as the scheduled 2004 matters, the Council considered two standing items: governments' appraisal of new water infrastructure (for jurisdictions in which there are relevant projects) and their work on public consultation and education. In addition, the Council considered several matters that it had found in the 2003 NCP assessment not to have been sufficiently advanced, including intrastate trading (in all jurisdictions), water legislation review and reform (in Victoria, Western Australia and South Australia), the commencement of the water access licence and registry systems in New South Wales, the conversion of Queensland's existing water licences to water allocations, Western Australia's implementation of the National Water Quality Management Strategy, and action by Western Australia and South Australia to address urban water and wastewater pricing obligations. Arising from the 2003 NCP assessment, the Australian Treasurer suspended 10 per cent of Western Australia's 2003-04 competition payments, pending the state satisfactorily addressing its urban water and wastewater pricing obligations.

In June 2004, the Australian Government and all state and territory governments except Western Australia and Tasmania agreed to the National Water Initiative. Under this initiative signatory governments committed to complete the 1994 water reform program and to implement additional reforms. Regarding the scheduled 2004 assessment matters, signatory governments committed under the National Water Initiative to:

1. facilitate intra- and interstate trade, including action by June 2005 to enable permanent trade out of water irrigation districts in the southern Murray–Darling Basin up to an annual (interim) threshold of 4 per cent of the total water entitlement of the district
2. substantially complete by 2005 the allocation of appropriate water to the environment in rivers and groundwater systems that are overallocated or deemed to be stressed, and that were identified on their 1999 NCP implementation programs.

The Council has found that governments, with two exceptions, have achieved satisfactory progress for 2004 in implementing their NCP water reform obligations. The exceptions are New South Wales and Western Australia. The Council has found that New South Wales has not demonstrated that its water sharing plans allocate appropriate water to the environment in stressed and overallocated systems (while recognising the existing rights of other water users) in accord with its obligations under the 1994 water reform agreement. The Council has found that Western Australia has not completed its program of review and reform of water industry legislation.

The Council's findings on each state and territory government's water reform performance and its recommendations on 2004-05 competition payments are summarised below. Because responsibility for water rests with the states and territories, the water reform performance of the Australian Government is not assessed under the NCP.

New South Wales

- *Rural pricing.* Rural cost recovery performance is improving, although State Water is yet to recover lower bound costs across all its services, particularly those provided from unregulated rivers and groundwater systems. New South Wales intends to apply a new price path from 1 July 2005 that will continue to move State Water services towards the lower bound of cost recovery. Water prices will also recover natural resource management costs incurred by the Department of Infrastructure, Planning and Natural Resources and the Murray–Darling Basin Commission that are attributable to water users in New South Wales. Community service obligations (CSOs) provided to State Water will be defined, costed and transparently reported in published financial statements.

All regulated river systems now apply two-part tariffs. Charges for services in groundwater management areas are also set on a two-part tariff basis where water use is metered. All charges for services in unregulated river water sharing plan areas will be set on a two-part tariff basis within five years. The balance between the charges for access and use in the regulated systems will be considered in developing the new price path.

The Council considers that New South Wales has achieved satisfactory progress for 2004 against its CoAG rural water pricing commitments.

- *Water access entitlements and registry.* New South Wales introduced perpetual water access licences (separate from land title and specified as volumetric shares), and a water access licence register on 1 July 2004. New South Wales' arrangements accord with its commitments under the 1994 water reform agreement and under the National Water Initiative.
- *Allocations to the environment.* The 1994 water reform agreement provided until 2001 for governments to address the obligation to allocate appropriate water to the environment in the stressed and overallocated rivers that governments identified in 1999. It provides until 2005 for governments to substantially complete allocations in all rivers and groundwater systems identified in 1999. The governments that signed the National Water Initiative (including the New South Wales Government) confirmed their commitment to addressing overallocation and overuse in accord with their commitments under the NCP.

New South Wales has gazetted 36 water sharing plans that allocate water for environmental purposes in the state's major rivers and groundwater systems. The Council has looked for New South Wales to show, consistent with its obligation under the 1994 water reform agreement and the National Water Initiative, that it has set extraction limits and environmental allocations that meet the CoAG test of using the best available science, and that departures from the science based environmental allocations to recognise the existing rights of other water users are supported by robust socioeconomic analysis. The Council considers that such departures, if supported by robust socioeconomic evidence, are consistent with obligations under the 1994 CoAG water reform agreement and the National Water Initiative.

Although the Council has raised this matter with New South Wales in each NCP assessment since 2002, New South Wales has not provided the information to show its water sharing plans allocate appropriate water to the environment. New South Wales also has not responded to the Council's invitation to verify the Council's understanding of the effects of the environmental allocation arrangements in a sample of 10 water sharing plans considered in the deferred 2003 NCP water reform assessment. Without robust information to support the environmental allocation arrangements, the Council has noted that some plans permit extractions at levels that may exacerbate existing environmental stresses.

The paucity of (scientific and socioeconomic) evidence on the public record means that the Council cannot conclude that the environmental allocations in the gazetted plans go as far as possible to meeting the water regimes necessary to sustain ecological values while recognising the existing rights of other water users. With New South Wales proposing to review its approach in only a few of its 36 gazetted plans, the Council considers that New South Wales has not demonstrated that it has satisfactorily addressed its obligation to provide appropriate water to the environment in stressed and overallocated rivers and groundwater systems.

The Council regards the obligation to make appropriate allocations to the environment as a significant aspect of the CoAG water reform program, as expressed in both the 1994 water reform agreement and the 2004 National Water Initiative. Acknowledging that New South Wales has deferred some of its plans and that substantial completion of allocations is due in 2005, the Council recommends that 10 per cent of the state's 2004-05 competition payments be suspended. The suspension is recoverable if New South Wales provides (1) robust information to support its current arrangements or (2) environmental allocations that are within a range of outcomes that could reasonably be reached on consideration of the best available science and robust socioeconomic evidence. The 2005 target provides a final opportunity for New South Wales to address this matter.

- *Water trading.* For both intra- and interstate trade, New South Wales committed under the 1994 water reform agreement to facilitate water trading where this is socially, physically and ecologically sustainable. Under the National Water Initiative, New South Wales committed to facilitate trading where water systems are physically shared or hydrologic connections and water supply considerations permit trading. It committed to immediately remove any barriers to temporary trade and barriers to permanent trade out of water irrigation areas (up to an interim limit of 4 per cent per year of the total water entitlement of the water irrigation area), subject to a review by 2009, and to move to full and open trade no later than 2014. In the southern Murray–Darling Basin, New South Wales (with the Australian Government, Victoria and South Australia) committed to enable exchange rates and/or tagging of water access entitlements by June 2005, and to establish an annual 4 per cent interim threshold limit on permanent trade out of water irrigation districts. There is to be a review in 2009, to consider raising the interim limit. New South Wales will also need to ensure the trading rules in its water sharing (and subsequent) plans facilitate trading, consistent with the requirements of the National Water Initiative.

Given the state's commitments under the National Water Initiative, and the extended timeframes applying to the implementation of trading arrangements outside the southern Murray–Darling Basin, the Council considers that New South Wales has made satisfactory progress for 2004 against its CoAG water trading obligations.

-
- *Appraisal of new water infrastructure.* There were no new water infrastructure projects in New South Wales for which the obligations on environmental and economic appraisal were relevant.
 - *Public education and consultation.* There is limited public accountability in New South Wales regarding the allocation of water to the environment. While the government undertook considerable public consultation when preparing its water sharing plans, it has provided little public information on the manner in which those who developed the plans have accounted for environmental and socioeconomic evidence. There is also little information on the environmental outcomes that New South Wales expects the plans to achieve. The state's new Natural Resources Commission will go only part of the way to addressing the gaps in New South Wales' water planning process, given that the commission's role appears to be limited to reviewing already gazetted plans, and then only towards the end of each plan's life.

Victoria

- *Rural pricing.* Victoria's rural water authorities set prices to recover all lower bound costs in accord with the CoAG pricing principles. They report CSOs and pension concessions in their annual reports. Victoria uses normalised revenues based on 10-year averages to set charges, ensuring the ongoing commercial viability of the state's water businesses.

Victoria extended the jurisdiction of the Essential Services Commission to the water industry, including rural water authorities, with effect from 1 January 2004. The government has prescribed full cost recovery principles in the Water Industry Regulatory Order. The prices of regulated services provided by Victoria's rural water authorities reflect the principle of consumption based pricing.

While Victoria sets fees to fully recover the cost of all activities associated with water licensing, the water authorities do not separately report their natural resource management costs. In future, Victoria will require water authorities to contribute to sustainable water management and address adverse impacts on the environment associated with the use of water. This requirement is likely to be an important step towards ensuring water prices transparently reflect appropriate natural resource management costs.

The Council considers that Victoria has achieved satisfactory progress for 2004 against its CoAG rural water pricing obligations.

- *Water access entitlements.* Victoria has established a system of water entitlements separated from land title (although only land owners can hold entitlements) and specified in volumetric terms. It issues bulk entitlements in perpetuity and water licences for 15 years with a

presumption of renewal. The Department of Sustainability and Environment and the rural water authorities maintain publicly accessible registers of bulk entitlements and water licences.

Under the changes announced by Victoria in its 2004 White Paper on water, all water entitlements will be specified as shares of the consumptive pool and granted unlimited tenure. Victoria will also establish a single, publicly accessible, web based register covering all water entitlements in the state and incorporating third party interests. Under the National Water Initiative timetable, Victoria will need to implement its new arrangements by the end of 2006.

Once the White Paper changes are implemented, non-water users (or non-land owners) will be able to hold water licences and entitlements, but only up to a limit of 10 per cent of the entitlements in each supply system. Because the water licences and entitlements are separate from land title, removal of this remaining link with land is arguably not required under the water entitlement provisions of the 1994 CoAG water reform agreement and the National Water Initiative. (The restriction may, however, constrain water trading — see below.)

The Council considers that Victoria has achieved satisfactory progress for 2004 against its CoAG water entitlements obligations.

- *Allocations to the environment.* Victoria has completed the bulk entitlement conversion process for 19 of its 25 water supply systems, and flow rehabilitation plans for five of the 11 stressed and overallocated river systems covered by its 1999 implementation program. It is advanced in developing plans for the other six stressed and overallocated rivers, and management arrangements for the unregulated rivers and creeks and groundwater protection areas covered by its implementation program. In the White Paper, Victoria identified several other stressed or overallocated rivers and set a timetable for developing management arrangements in these systems.

Victoria uses rigorous, systematic and transparent processes for determining the volume of water available to the environment in all its rivers and groundwater systems. Its flow rehabilitation plans for stressed and overallocated systems involve assessment by an independent Technical Audit Panel of the supporting science. There is robust, transparent socioeconomic evidence to support environmental allocation outcomes that depart from those recommended by the science. The technical assessment documents and draft and final plans are all publicly available, and monitoring reports will be publicly released. The advisory committees that develop the management arrangements include representatives of all major stakeholder groups.

The Council considers that Victoria has achieved satisfactory progress for 2004 against its CoAG environmental water allocation obligations.

- *Water trading.* In its White Paper, Victoria announced the removal or easing of several constraints on water trading that the Council previously identified as likely to be inconsistent with the CoAG water trading obligations:
 - Non-water users (or non-land owners) will be able to hold up to 10 per cent of the entitlements in each system.
 - When water entitlements are unbundled and delivery access charges are introduced, the annual 2 per cent rule on permanent trade out of irrigation districts will be removed.
 - The differential return on assets incorporated in the price charged for bulk water supplied by rural water authorities to regional urban customers and irrigators will be removed by 1 July 2005.

Other changes announced in the White Paper will also facilitate water trading, including:

- the unbundling of water entitlements into a water share, a share of delivery capacity and a licence to use water on a site
- the introduction of a new lower reliability, tradable water entitlement, replacing sales water
- domestic and stock rights in irrigation districts will become permanently tradable
- the potential stranding of irrigation scheme assets, caused by water trading out of irrigation districts, will be addressed by the introduction (from July 2005) of charges for shares of delivery capacity (tied to land).

While noting Victoria's advice that the 10 per cent limit on water entitlements able to be held by non-land owners is unlikely to be reached in the near future, the Council considers that the remaining link with land conflicts with Victoria's commitment under the National Water Initiative to facilitate the operation of efficient water markets and opportunities for trading within and between states.

For the unregulated rivers, Victoria has maintained the generic trading rules that:

- for systems north of the Great Dividing Range, prohibit trade upstream and impose a 20 per cent reduction on trade downstream (unless under a winter fill licence)
- for systems across the state, limit downstream trade from an unregulated system to a regulated system to the amount of upstream trade.

The Council accepts, for the most part, that the generic rules offer an appropriate means of managing trade in the (less significant) unregulated

systems. The trading rules in the completed stream flow and groundwater management plans are generally designed to safeguard the health of the river or groundwater system, and to minimise any adverse effects of trade on other water users. The generic 20 per cent reduction imposed on entitlements traded downstream north of the Great Dividing Range (unless under a winter fill licence), along with the comparable rules in the stream flow management plans, is similar to the reduction factors that apply to traded entitlements in some regions interstate. Such measures are a less direct influence on water use and are likely to provide a disincentive to trade.

In relation to interstate trade, Victoria announced in the White Paper that it will permit, when water entitlements are unbundled, permanent trade to another state only when water entitlements in that state (including in irrigation districts) can move to Victoria as freely as Victoria's can move there. Victoria also maintains a late season ban on temporary transfers into New South Wales as a means of preventing trade distortions resulting from the divergent carryover policies in the two states.

For both intra- and interstate trade, Victoria committed under the National Water Initiative to facilitate trading where water systems are physically shared or hydrologic connections and water supply considerations permit trading. It committed to immediately remove any barriers to temporary trade. Along with other governments in the southern Murray–Darling Basin, it also committed to enable exchange rates and/or tagging of water access entitlements by June 2005, and to establish an annual 4 per cent interim threshold limit on permanent trade out of water irrigation districts. There is to be a review in 2009, to consider raising the interim limit.

Given the commitments made by Victoria in its White Paper and under the National Water Initiative, the Council considers that Victoria has achieved satisfactory progress for 2004 against its CoAG water trading obligations.

- *Appraisal of new water infrastructure.* There were no new water infrastructure projects in Victoria for which the obligations on environmental and economic appraisal were relevant.
- *Public education and consultation.* Victoria has consulted significantly on water reform matters. The preparation of the White Paper on water involved a comprehensive investigation of the water management issues facing the state. In April 2003, the Victorian Minister for Water delivered a 'Ministerial Statement on Water' setting out the government's vision for improving the management of the state's water resources. Victoria then released a Green Paper for discussion, which outlined over 80 proposals for improving water management. The government conducted an extensive discussion process, holding information sessions across the state and receiving over 670 submissions from water authorities, community organisations, industry groups and individuals. An expert advisory task force analysed the submissions and advised the government. Victoria has

indicated that the public feedback and advice significantly shaped the direction and detail of the water management package outlined in its White Paper.

- *Remaining 2003 matters — legislation review and reform.* Victoria is yet to implement all recommendations from its 2001 water industry legislation review, partly because it aligned this work with its 2004 White Paper review of the water industry. To fully address its NCP obligations, Victoria needs to complete its response to the review recommendations, including enacting any necessary legislation.
- *Remaining 2003 matters — institutional reform.* The Essential Services Commission became the economic regulator of the Victorian water industry on 1 January 2004. Victoria's Water Industry Regulatory Order vests power in the commission to regulate prices, service standards and market conduct of the state's water and wastewater businesses, and to report publicly on these matters. The commission's first price determination will take effect on 1 July 2005. Victoria has thus addressed its CoAG institutional structure obligations.

Queensland

- *Rural pricing.* Queensland's rural water schemes have moved substantially towards achieving the lower bound of cost recovery in recent years as a result of their application of the October 2000 water price path. Whereas Queensland estimated that 53 per cent of SunWater's nominal allocations of rural water in 2000-01 were achieving the lower bound of cost recovery, it estimated that 97 per cent of nominal allocations now achieve, or are on price paths to achieve, lower bound costs. Queensland intends to implement new price paths by July 2005 or shortly thereafter that will recover lower bound costs wherever possible, and consider the potential for achieving a return on assets. Queensland will support schemes that are yet to recover lower bound costs via separately funded and transparent CSOs. All SunWater water supply charges reflect the principle of consumption based pricing.

Queensland's review of the value of water considered the scarcity value of water, externalities and (transparent) water resource management costs for SunWater rural water pricing arrangements. Queensland has undertaken to determine its future approach to water charges — including the transparent treatment of environmental externalities — based on the findings of this review.

Queensland has begun to introduce charging arrangements that more appropriately reflect the costs of licensing and water resource management. It intends to investigate water licensing and resource management costs, and to better reflect these costs in a new water charging policy.

The Council considers that Queensland has achieved satisfactory progress for 2004 against its CoAG rural water pricing obligations.

- *Water access entitlements.* Queensland has legislated for a system of water entitlements separated from land title, specified in volumetric terms for the 10-year life of the relevant water resource plan. It has also established a water entitlements register, which records third party interests.

Water entitlements in each region will not be separated from land titles and will not be defined in terms of available volumes until the relevant resource operations plan is complete. By the end of 2005, Queensland expects to complete 13 of the 19 resource operations plans covered by its 1999 implementation program. Of the six remaining plans, three cover regions that include significant water sources for agricultural and/or urban and industrial uses (specifically, the Logan–Albert, Mary and Moreton plans, which will not be completed until late 2007 or 2008). In addition, Queensland is proposing amendments to several plans after 2005 to include groundwater.

- *Allocations to the environment.* Queensland has completed 11 of the 20 water resource plans and three of the 19 resource operations plans for the river systems covered by its 1999 implementation program. By the end of 2005, it expects to have completed 17 water resource plans and 13 resource operations plans. Three water resource plans and six resource operations plans will not be finished by 2005.

Queensland established an independent scientific review to assess the science underpinning the assessment of the health of the Condamine–Balonne Basin. It committed to provide flow for four ecological assets in the basin (the Narran Lakes, the lower Balonne River, the Culgoa River floodplain and the Darling River) in accord with the review recommendations. Despite this, the water resource plan for the basin includes a wetting regime for the Narran Lakes only, and the flow management rules do not explicitly address the other three ecological assets.

The Council acknowledges, however, the view of the independent scientific review that the dominant consideration should be to ensure the Narran Lakes receive appropriate flows to maintain the vegetation and bird communities. The Council also notes that the independent scientific review considered that the plan for the Condamine and Balonne system provides a reasonable interim solution until further information is available from the research currently underway on the flow requirements of the Narran Lakes and Culgoa floodplain. Queensland has committed to review the water resource plan after five years and incorporate groundwater during the plan's 10-year life.

The allocation arrangements in the water resource plans for the Fitzroy and Boyne basins are based on robust and transparent assessments of economic and social interests, and the ecological impacts of water use in the basins. Both plans allow for an increase in development and associated

water extraction. While the available information does not establish that allocation limits for the two basins will provide long term sustainability, the *Water Act 2000* provides some safeguards. Under the Act, the Queensland Minister for Natural Resources and the Minister for Mines must report annually on monitoring outcomes for each water resource plan. The Minister must amend a plan and the associated resource operations plan if the monitoring results indicate that the environmental flow objectives are not appropriate or are not being met.

Queensland's water planning processes are transparent. The Department of Natural Resources and Mines publishes (including via the Internet) relevant material, including public notices, media releases, submissions, information and technical papers and draft and final plans. In the case of the Condamine–Balonne, Queensland published a consultation report, which summarises the views expressed at meetings and in submissions. It did not release the submissions on the draft water resource plan, although these are available via requests under the *Freedom of Information Act 1992*.

The Council considers that Queensland has achieved satisfactory progress for 2004 against its CoAG environmental water allocation obligations.

- *Water trading.* Queensland's arrangements to enable permanent intrastate trade in water allocations are in the early stages of implementation. Outside the trading trial in the Mareeba–Dimbulah and Mary River schemes, resource operations plans are required to enable permanent trading. There is, however, no restriction on the number of consecutive periods in which water allocations can be temporarily traded. Permanent interstate trade involving Queensland depends on the state completing the resource operations plans for the cross-border basins and the administrative arrangements with the other Murray–Darling Basin states.

The National Water Initiative extends to 2007 the timeframe for establishing institutional and regulatory arrangements that facilitate intra- and interstate trade. The trading rules in Queensland's completed resource operations plans appear to reflect environmental and physical constraints, in accord with the state's water trading obligations. By the end of 2007, Queensland expects to have completed 17 of the 19 resource operations plans covered by its 1999 implementation program (although groundwater may still need to be included in some cases).

Noting the National Water Initiative commitments on trading, and the state's expected progress with water planning by 2007, the Council considers that Queensland has achieved satisfactory progress for 2004 against its CoAG water trading obligations.

- *Appraisal of new water infrastructure.* In the 2003 NCP assessment, the Council noted evidence from economic studies and ecological assessments that the Burnett Water Infrastructure Project (except for the raising of the Ned Churchward Weir, for which the environmental processes were still to

be completed) is likely to be economically viable and ecologically sustainable. The Council concluded that Queensland had met the CoAG obligation requiring appraisal of the project prior to it proceeding. The environmental impact assessment process for raising the Ned Churchward Weir remains on hold. If Queensland proceeds with the weir raising and/or the privately funded Nathan Dam (on the Dawson River), it will need to demonstrate that each project is ecologically sustainable.

- *Public education and consultation.* Queensland has consulted on significant water reform matters, including the development of water resource plans and resource operations plans and water trading. In December 2003, for example, the Department of Natural Resources and Mines held workshops in Rockhampton and Emerald in the lead-up to the release of the resource operations plan for the Fitzroy Basin. The sessions were targeted at water entitlement holders, lawyers, accountants, solicitors and financial institutions. In mid-2003, the department released a series of information brochures explaining the different types of water entitlement and the trading arrangements that apply to each type, as well as the separation of water from land (including the impacts on land valuations). Queensland expects to soon release an options paper on approaches to managing assets that may become stranded as a result of trading water permanently out of irrigation schemes, before determining a final policy position by late 2004.

Western Australia

- *Rural pricing.* Western Australia has transferred its four government owned irrigation schemes to local cooperatives. The Water Corporation supplies bulk water to these cooperatives through bulk water supply agreements containing charges that comprise fixed and volumetric components and that recover some of the cost recovery components under the CoAG pricing principles. Western Australia subsidises the bulk water charges and the operations of two local cooperatives.

Western Australia has several remaining rural pricing challenges. Most importantly, rural businesses need to continue towards lower bound cost recovery and towards the upper bound where practicable. Western Australia also needs to show that its consumption based charges are set on the basis of efficient resource pricing. In addition, it could improve the transparency of CSO payments to the Water Corporation by publicly reporting the (separate) CSOs attached to each irrigation scheme (as it did for this assessment after a request from the Council).

The foreshadowed Economic Regulation Authority investigation into the cost recovery and pricing principles underpinning the Water Corporation's bulk water charges to rural users will be an important step towards best practice rural pricing. The government is due to provide the authority with

terms of reference in mid-2005. It is not clear, however, how the government will implement the authority's recommendations, given that Western Australia will not review its bulk water pricing arrangements for up to 15 years.

Western Australia does not charge for water licences, although it does impose licence conditions that transfer responsibility for some water resource management activities (and thus some of the associated costs) to licensees. The ad hoc nature of the current arrangements in Western Australia means it is impossible to determine whether users face appropriate direct and indirect costs as intended by CoAG.

Western Australia has argued that the complexities of levying an appropriate water resource management charge warrant taxpayer funding of licensing related activities, and that it has met CoAG requirements by transparently reporting costs. The Council does not accept these arguments. The failure to recover appropriate water resource management costs from water users via licence charges risks undermining achievement of the CoAG objective of an efficient and sustainable water industry. Most other states and territories are advanced in working through these issues and are applying water licence charges that reflect costs consistent with CoAG's intention that charges for water use should cover appropriate natural resource management costs.

The Council considers that it is appropriate for Western Australia to have until 2006 to resolve matters relating to charging for licences and associated water management. This timing accords with commitments by signatories to the National Water Initiative to implement consistent approaches to pricing and attributing the costs of water planning and management.

The Council considers that Western Australia has achieved satisfactory progress for 2004 against its CoAG rural water pricing obligations.

- *Urban pricing.* Arising from the 2003 NCP assessment, the Australian Government suspended 10 per cent of Western Australia's 2003-04 competition payments, pending the state's creation of the Economic Regulation Authority (proposed at the time of the 2003 NCP assessment) with responsibility for the water industry, and its issue of terms of reference for the authority to investigate urban water and wastewater pricing. Western Australia established the Economic Regulation Authority on 1 January 2004. The authority is responsible for water regulation and advising on pricing, while the new Office of Water Policy advises on water policy.

The government released terms of reference on 16 June 2004 for the Economic Regulation Authority to investigate and recommend on water and wastewater pricing by the state's three large urban service providers. The terms of reference ask the authority to consider and recommend on prices that account for the requirements of the 1994 CoAG water reform agreement and the CoAG pricing principles, and to provide a final report

by 12 August 2005. The outcome of the investigation will be available to the government in setting urban water and wastewater prices in 2006-07, and will be reported publicly. Western Australia has also committed to prepare terms of reference for a broader Economic Regulation Authority investigation of water and wastewater pricing that covers, among other matters, local government water pricing issues.

The Council considers that Western Australia has made satisfactory progress against its urban water and wastewater pricing obligations. Accordingly, the Council recommends that the Australian Government lift the 10 per cent suspension of Western Australia's 2003-04 competition payments and reimburse these funds. While the recommendation to lift the payment suspension recognises the state's progress, it does not mean that water and wastewater prices are now set in accord with the CoAG pricing principles. Western Australia will not meet this obligation until the Economic Regulation Authority completes its investigation and the government implements the authority's recommendations.

- *Water access entitlements.* Western Australia has established a comprehensive system of water entitlements that are separated from land title and specified in volumetric terms. Licences may be issued for between five and 10 years (with a presumption of renewal), or for an indefinite period. (Western Australia has not signed the Intergovernmental Agreement on a National Water Initiative, so is not obliged to specify entitlements as a perpetual share of the consumptive pool of the relevant water source.) The state also maintains a publicly accessible register of water licences and entitlements, which includes provision for recording third party interests.

Western Australia retains a restriction on who can hold a water licence — specifically, the holder must own, occupy or have access to the land on which the water occurs, and intend to use the water. Because the water entitlement is separate from land title, removal of this remaining link with land is arguably not required under the water entitlement provisions of the 1994 CoAG water reform agreement. (The restriction may, however, constrain water trading — see below.)

The Department of Environment has the power to issue a direction overriding all other rights recognised by the *Rights in Water and Irrigation Act 1914*. While this provision may reduce the security of water entitlements, Western Australia advised that it is intended to be used only in extreme circumstances (such as to prevent unacceptable environmental impacts). The department does not appear to have used the power in a manner that would significantly influence the value of water entitlements. The state's policy guidelines on the management of unused entitlements could also undermine the security of water entitlements by enabling the department to reclaim unused entitlements. The impact of the policy on water entitlement security is lessened, however, by several factors, including that it does not apply to entitlements that have been purchased (via trading).

While some aspects of Western Australia's water entitlement arrangements could be improved, to increase the security of entitlements, the Council considers that Western Australia has achieved satisfactory progress for 2004 against its 1994 CoAG obligation to establish water entitlements separated from land title.

- *Allocations to the environment.* Western Australia's implementation program covers 41 water planning areas. Western Australia has completed plans for 11 of these areas. It expects to complete around two thirds of its scheduled water plans by 2005, with the remaining plans finalised soon after.

For its most recent water management plan, covering the Carnarvon area, Western Australia did not use a recognised environmental water assessment method or adopt a holistic or multidisciplinary approach to determine the environmental water allocation. Its environmental water assessment identified data gaps and made recommendations for research into the environmental requirements of the ecosystems identified as being highly groundwater dependent and of significant value. The government did not adopt these recommendations or explain why it did not.

The Office of the Auditor General of Western Australia's 2003 review of the state's water planning processes found problems with the former Water and Rivers Commission's record keeping, and compliance monitoring and environmental assessment processes. It considered that a significant increase in the commission's workload, in combination with a decline in its funding, had seriously affected its capacity to manage the state's water resources.

Western Australia has advised that it is addressing these deficiencies. It is progressively reviewing allocation limits to ensure they account for environmental water requirements. It has amalgamated its water resource management and environmental protection functions within the new Department of Environment. It also intends to establish a water resources council to advise on water resources management, including its funding and effectiveness.

Given the recent changes aimed at improving the state's water planning processes, and Western Australia's commitment to completing its 1999 implementation program by 2005 or soon after, the Council considers that the state has made satisfactory progress against its CoAG environmental allocation obligations for this 2004 NCP assessment.

- *Water trading.* Western Australia's arrangements for intrastate water trading include provisions aimed at limiting potential speculation in the water market. These provisions have the potential to reduce the security of entitlements and constrain the movement of water to its most profitable use. Interstate trade involving Western Australia will be possible only if stage 2 of the Ord Irrigation Project proceeds.

A review of the relevant part of the Rights in Water and Irrigation Act required in 2005, along with a proposed review of the effectiveness of the statewide water trading policy, provides Western Australia with an opportunity to further consider its trading arrangements. For the state's trading arrangements to comply with 1994 CoAG obligations (particularly as the demand for water trading increases), Western Australia would need to amend its legislation and related arrangements (including the local trading rules in water management plans) to:

- remove the provision for making local by-laws to prohibit trades, or clarify that such by-laws would be used only in response to the environmental or physical constraints of the water source
- remove the restriction on who can hold a water licence (which constrains the movement of water to its most profitable use), so there is no longer any link to land or the capacity to use the water
- remove the power of the Department of Environment to reclaim unused water entitlements, and enable it to approve trade in such entitlements, in areas where entitlement and trading arrangements have been fully established.

While elements of Western Australia's water trading arrangements are not consistent with 1994 CoAG obligations, the Council accepts that these elements do not constrain trade to a significant extent given the low demand for trading in most areas of the state. The Council considers, therefore, that Western Australia has achieved satisfactory progress for 2004 against its CoAG water trading obligations.

- *Appraisal of new water infrastructure.* There were no new water infrastructure projects in Western Australia for which the obligations on environmental and economic appraisal were relevant.
- *Public education and consultation.* Western Australia has consulted with the community and water industry stakeholders on a range of water reform matters. The former Water and Rivers Commission finalised policy guidelines on the management of unused entitlements in November 2003, following the release of draft policy guidelines in March 2003 for public consultation.

The Department of Environment is engaging in public consultation on the more efficient use of its unused water allocations, including the feasibility of issuing short to medium term licences to permit access to water reserved for future town supply. This work follows the former Water and Rivers Commission's release of a discussion paper in March 2003. In December 2003, the former commission also published a 'situation statement' outlining proposed reservations of water resources for future public drinking water supplies for the state.

Western Australia has indicated that it will review the effectiveness of its statewide policy on transferable water entitlements via a semi-formal

consultation process. (It intends to seek submissions from parties who have encountered difficulties in trading.) In addition, the Economic Regulation Authority is undertaking a public investigation into water and wastewater pricing by the state's three large urban service providers.

- *Remaining 2003 matters — National Water Quality Management Strategy.* Since the 2003 NCP assessment, Western Australia has released State Water Quality series document 6, which sets guidelines for fresh and marine water quality and water quality monitoring and reporting. Western Australia developed the document in consultation with natural resource management agencies, peak bodies, the Conservation Council and the broader community. The document forms the foundation for establishing environmental values and environmental quality objectives and criteria for significant water bodies, although there is a significant task remaining to implement this work. Western Australia has made some progress in implementing the Australian Drinking Water Guidelines but is yet to incorporate the 2002 version of the guidelines.
- *Remaining 2003 matters — water legislation review and reform.* Western Australia reviewed 32 pieces of water industry legislation and endorsed the findings of those reviews, mostly in 1999 and 2000. It is, however, still to fully implement the recommended reforms for 19 water industry regulatory instruments. It expects to introduce a Bill to implement reform of seven instruments late in 2004.

Despite this matter having been raised with Western Australia in a number of NCP assessments, the state has made little progress since 2000. It is still to meet its water industry legislation review and reform obligations, which the Competition Principles Agreement requires to have been addressed by 30 June 2002. The Council thus recommends that Western Australia's water industry legislation should be treated as part of a pool of incomplete legislation review and reform matters attracting a suspension of the state's competition payments in 2004-05 (see volume 1).

- *Remaining 2003 matters — devolution of greater responsibility for the management of the Ord Irrigation Scheme.* Western Australia transferred the management of the Ord Irrigation Scheme to the Ord Irrigation Cooperative in 2002. Transfer of the scheme assets to the cooperative, which Western Australia expected to occur in mid-2004, has been delayed. The Council accepts, nevertheless, that Western Australia is committed to completing the transfer of the scheme assets. Western Australia has implemented measures to devolve management responsibility for the state's other two main irrigation schemes.
- *Remaining 2003 matters — integrated catchment management.* Western Australia has advanced its integrated catchment reforms since it agreed with the Australian Government on implementing the Natural Heritage Trust extension (in December 2002) and the National Action Plan for Salinity and Water Quality (in October 2003). The agreements provide funding to refine the state's six regional natural resource management strategies for community consultation and accreditation under the

national processes. The Council considers, therefore, that Western Australia has achieved satisfactory progress for 2004 against its integrated catchment management obligations.

South Australia

- *Rural pricing.* South Australia has nine government owned irrigation districts within the lower Murray reclaimed irrigation areas, which it intends to transfer to private ownership. It advised that these districts set charges for irrigation and drainage services that recover (at least) lower bound costs, although the information provided was not sufficient to demonstrate this recovery. Charges to irrigators in the lower Murray reclaimed irrigation areas are not volume based, but rather comprise a service charge and a charge based on the area of land serviced. The Council accepts, however, irrigators will be responsible for setting charges once ownership is transferred.

South Australia's licence fees and catchment management board levies represent a reasonable approximation of the administrative costs of undertaking relevant activities in the state. Customers are likely to pay amounts that reflect the cost of services received.

South Australia's current approach of using consolidated revenue to meet all the costs of River Murray Water supplying water to the state's irrigators, and the costs of the Murray–Darling Basin Commission's water resource management, means that irrigators do not face the cost of any of these services. To comply with water reform obligations, South Australia will need to implement, by the end of 2004, a charging arrangement that attributes appropriate water storage and delivery costs to users. Together with New South Wales and Victoria, South Australia will also need to ensure, by 2006, that it has identified all costs associated with water planning and management, and attributed costs appropriately to irrigators.

The Council considers that South Australia has achieved satisfactory progress for 2004 against its CoAG rural water pricing obligations.

- *Urban pricing:* The South Australian Department of Treasury and Finance has prepared South Australia's first publicly available annual transparency statement, covering the price of SA Water's urban water services in 2004-05. The Essential Services Commission of South Australia (ESCOSA) has commented on procedural and data matters, and on whether the state's water pricing complies with the CoAG pricing principles. South Australia is also adopting a pricing transparency report approach for SA Water's wastewater pricing. The Department of Treasury and Finance has prepared the 2004-05 statement and provided it to ESCOSA for comment. The government expects to release the statement by December 2004.

While the water pricing transparency statement demonstrates that SA Water's water prices are achieving the lower bound of cost recovery, ESCOSA has indicated several areas in which the current arrangements do not comply with the CoAG pricing principles or are not best practice for the water industry. The South Australian Government has undertaken to rectify the major water pricing noncompliance matters identified by ESCOSA.

The Council considers that South Australia has achieved satisfactory progress for 2004 against its CoAG urban water and wastewater pricing obligations.

- *Water access entitlements.* South Australia has legislated for a system of water allocations separated from land title and specified in volumetric terms. Water licences are issued in perpetuity. Water allocations have been converted from an area to a volumetric basis in most regions, although over half of the allocations in the South East Catchment will still be area based in 2005. South Australia also has a water licence register, which records third party interests. The National Water Initiative requirement that water access entitlements be specified as shares of water available for consumption will require South Australia to amend its current arrangements by the end of 2006.

The Council considers that South Australia has achieved satisfactory progress for 2004 against its CoAG water entitlements obligations.

- *Allocations to the environment.* At the time of the 2003 NCP assessment, South Australia had completed water allocation plans for all 15 of the prescribed water resource areas covered by its 1999 program. The government is taking further action on environmental allocations. It is close to completing a stressed resources review to improve its approach to identifying water resources at risk of stress and appropriate management responses. It develops new water allocation plans as the need for these is identified, and recently completed a plan for the Tintinara Coonalpyn prescribed wells area. The process used to develop this plan demonstrates that South Australia continues to allocate water to the environment in accord with its obligations under the 1994 CoAG water reform agreement.

The Council considers that South Australia has satisfactorily addressed its CoAG obligation to allocate appropriate water to the environment for the systems identified on its 1999 implementation program.

- *Water trading.* South Australia's arrangements for water trading contain two constraints that are inconsistent with CoAG obligations: (1) the limits on trade out of some irrigation districts (such as the Central Irrigation Trust's 2 per cent cumulative limit on permanent trade out of the trust's districts); and (2) the 20 per cent reduction factor applied to water allocations that are traded (permanently or temporarily) in the Northern Adelaide Plains. The trading provisions in South Australia's most recently completed water allocation plans appear to reflect environmental and

physical constraints, so accord with obligations under the 1994 CoAG water reform agreement.

For both intra- and interstate trade, South Australia committed under the National Water Initiative to facilitate trading where water systems are physically shared or hydrologic connections and water supply considerations permit trading. It committed to immediately remove barriers to temporary trade. Along with other governments in the southern Murray–Darling Basin, it also committed to enable exchange rates and/or tagging of water access entitlements by June 2005, and to establish an annual 4 per cent interim threshold limit on permanent trade out of water irrigation districts. There is to be a review in 2009, to consider raising the interim limit.

Given the commitments made by South Australia under the National Water Initiative, the Council considers that the state has achieved satisfactory progress for 2004 against its CoAG water trading obligations.

- *Appraisal of new water infrastructure.* The Council found in the 2003 NCP assessment that South Australia had complied with the obligation to demonstrate that the Clare Valley Water Supply Scheme is economically viable. During 2003-04, South Australia addressed the matters raised in the ecological study of the project. The Council considers, therefore, that South Australia has also met the CoAG obligation to show that the project is ecologically sustainable.
- *Public education and consultation.* South Australia has consulted with the community and water industry stakeholders in a range of water reform areas. It publicly released the SA Water 2004 pricing transparency statement, together with ESCOSA's comments on the statement. As part of the volumetric conversion process for allocations in the South East Catchment, it implemented a communication strategy to inform the public of the project's requirements and progress. For the Clare Valley Water Supply Scheme, South Australia advised that it is undertaking a community consultation program covering the scheme's benefits, the availability of water to towns and irrigators, and the possible environmental impacts of the water imported into the region.
- *Remaining 2003 matters — water legislation review and reform:* The passage of the Crown Land Management Bill 2004, scheduled for introduction in early 2005, will complete South Australia's water industry legislation review and reform obligations.
- *Remaining 2003 matters — devolution of greater responsibility for the management of the lower Murray reclaimed irrigation areas.* South Australia has continued to progress management devolution of the nine government owned irrigation schemes in the lower Murray reclaimed irrigation areas. Devolution forms part of a program of rehabilitation of the areas. Recent advances include the transfer of responsibility for the operation and maintenance of irrigation infrastructure to a private irrigation company, and the commencement of water trading.

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- *Remaining 2003 matters — integrated catchment management.* The *Natural Resources Management Act 2004* has streamlined administrative arrangements and improved the government's ability to deliver catchment and natural resource management reforms.

Tasmania

- *Rural pricing.* Three government owned irrigation schemes (Cressy–Longford, Winnaleah and South East) together provide about 10 per cent of all irrigation water used in Tasmania. The Cressy–Longford and Winnaleah schemes price at the lower bound of cost recovery and account for transitional CSOs for debt repayment. Although Tasmania does not expect the South East Irrigation Scheme to reach the lower bound of cost recovery until 2010-11, subsidies are transparent and declining. The three schemes set charges using consumption based pricing principles.

Following its review of fees payable under the *Water Management Act 1999*, the Tasmanian Government increased licence fees so they now recover about 13 per cent of water management costs. Taxpayers meet the remaining costs. According to the review, this level of cost recovery reflects the distribution of public and private benefits from the Department of Primary Industries, Water and Environment's natural resource management function. The recommended fees also reflect increased costs of service.

The Council considers that Tasmania has achieved satisfactory progress for 2004 against its 1994 CoAG rural water pricing obligations.

- *Water access entitlements.* Tasmania has established a comprehensive system of water entitlements separated from land title and specified in volumetric terms. Water licences are issued for 10 years, with a presumption of renewal. Tasmania maintains a register of water entitlements, which includes provision for recording financial interests.

Given that it has almost completed the process of converting water allocated under its previous system to licences and allocations under the new system, the Council considers that Tasmania has made satisfactory progress for 2004 against its 1994 CoAG water entitlements obligations. (Tasmania has not signed the National Water Initiative so is not obliged to specify entitlements as a perpetual share of the consumptive pool of the relevant water resource.)

- *Allocations to the environment.* Tasmania has completed environmental water assessments for 43 of the 45 rivers and streams covered by its 1999 implementation program. It implemented its first water management plan — for the Great Forester catchment — in 2003. In light of its experience with the Great Forester plan, Tasmania has amended the *Water Management Act* to streamline and improve its water planning

processes. The changes address aspects of transparency and accountability in water planning. Tasmania expects to implement water management plans for the state's remaining 15 high priority river systems by the end of 2005 or soon after.

Tasmania uses 'community values' that include both environmental and non-environmental objectives to set environmental flows. This approach does not allow a rigorous and transparent assessment of the trade-offs between using water for environmental purposes and using it for consumptive purposes. Over the short to medium term, however, Tasmania's approach is unlikely to result in adverse environmental outcomes because the state has not identified any stressed or overallocated rivers. Tasmania is developing a holistic approach to determining environmental flows which it proposes to apply in all future water planning. This approach should improve the state's capacity to determine environmental flow requirements for its major river systems.

The Council considers that Tasmania has achieved satisfactory progress for 2004 against its CoAG environmental water allocation obligations.

- *Water trading.* Tasmania has removed the two trading restrictions identified by the Council in the 2003 NCP assessment as being likely to be inconsistent with CoAG water trading commitments:
 1. In irrigation districts, to hold irrigation rights, it is no longer necessary to be an owner or occupier of land, or a person who may hold land, in the district.
 2. In unregulated systems, the Minister is no longer able to refuse or modify a proposed transfer if the quantity of water available would exceed the amount that could be used sustainably for the intended purpose.

Tasmania will need to ensure the trading rules in the water management plans that are still to be completed are also consistent with CoAG obligations. This should be the case if the rules reflect the requirements of the Water Management Act (as amended).

The Council considers that Tasmania has achieved satisfactory progress for 2004 against its 1994 CoAG water trading obligations.

- *Appraisal of new water infrastructure.* Tasmania's Meander Dam project cannot proceed until the state has finalised the management plan for the spotted tailed quoll, and the plan has been approved by the Australian Government Minister for the Environment and Heritage. If the Tasmanian Government confirms during 2004-05 that it will proceed with the Meander Dam, then Tasmania's compliance with CoAG obligations on environmental and economic appraisal will need to be considered in the 2005 NCP assessment.

- *Public education and consultation.* Tasmania consults with the community and stakeholders in the key water reform areas. Development of the water management plan for the Great Forester River involved a lengthy consultative process via a local consultative group, and the release of a draft water management plan for public comment. Reflecting the complexity of the Great Forester process, in June 2004 Tasmania established a simpler mechanism for proclaiming groundwater areas, which involves the Department of Primary Industries, Water and Environment working with stakeholders to implement management rules to ensure the equitable and sustainable use of groundwater. Amendments to the Water Management Act during 2004 provide for the Resource Planning and Development Commission to independently review the department's responses to representations on draft water management plans, to provide greater transparency and promote confidence in water planning processes.

In December 2003, as part of the Tasmanian Government's commitments under its bilateral agreement to implement the National Action Plan for Salinity and Water Quality, the Department of Primary Industries, Water and Environment released a policy paper, *Guiding principles for water trading in Tasmania*. The paper, which specifies the guiding principles for assessing applications for water transfers under the Water Management Act, is likely to assist water users to understand the trading and approval process.

- *Remaining 2003 matters — institutional structure.* Tasmania's review of its arrangements for handling complaints about the service standards of local government water businesses (which was occurring as part of a wider review of the *Local Government Act 1993*) has progressed to the release of an exposure draft Bill for community consultation. The Bill specifies that local governments must adopt formal complaint handling policies and procedures (to be prescribed in Regulations), which will include a complaints register to help identify systemic issues. A customer will be able to seek an independent review of a decision through the Local Government Ombudsman. Tasmania intends to introduce the Bill during 2004.
- *Remaining 2003 matters — devolution of greater responsibility for the management of the Winnaleah and South East irrigation schemes.* Tasmania formally handed over management of the Winnaleah Irrigation Scheme to irrigators in December 2003. The Winnaleah irrigators are now responsible for day-to-day scheme operations, administration and management (including price setting), and own the operational assets. While making little progress towards devolution for the South East Irrigation Scheme, Tasmania advised the Council that it is treating devolution as a priority.

Australian Capital Territory

- *Rural pricing.* The ACT has no publicly funded or owned rural water infrastructure. It does not contribute to the operations of River Murray Water.

Although the ACT did not provide detailed information on how it sets its water extraction licence fees, the Council notes that the ACT has sought to ensure its licence fee structure recovers appropriate costs and is consistent with fee structures in New South Wales. The ACT asks the Independent Competition and Regulatory Commission to recommend on the territory's charge for water abstraction.

The Council considers that the ACT has achieved satisfactory progress for 2004 against its CoAG water and wastewater pricing obligations.

- *Water access entitlements.* In the ACT, water entitlements are issued in perpetuity, separated from land title and specified as volumetric shares. The ACT has a register of water entitlements, but the register does not record third party interests and is accessible only in hard copy form. The National Water Initiative requires participating states and territories to ensure they have compatible, publicly accessible and reliable systems for registering entitlements (including any encumbrances) by 2006. This requirement is likely to require further work by the ACT, which has advised that it can readily address any need to record third party interests.

The Council considers that the ACT has achieved satisfactory progress for 2004 against its CoAG obligations on water access entitlements.

- *Allocations to the environment.* The ACT has implemented a water resources management plan that provides environmental water allocations for each of its 32 subcatchments and all groundwater resources. It has also developed a new strategy for water management, which sets directions until 2050.

The Council considers that the ACT has addressed its obligation to allocate appropriate water to the environment for the systems identified on the territory's 1999 implementation program.

- *Water trading.* The ACT permits intra-territory water trading, subject to the approval of the Environment Management Authority to ensure trading occurs within the physical and ecological constraints of catchments. It has removed all other legislative impediments to intra-territory trade.

The ACT is progressing the two main requirements for interstate trading: (1) its Murray–Darling Basin Ministerial Council cap; and (2) agreement with other jurisdictions on the terms and conditions of trade. It expects to complete a memorandum of understanding with the New South Wales and Australian governments (including provision for a cap) by the end of 2005.

The National Water Initiative extends to 2007 the timeframe for establishing institutional and regulatory arrangements that facilitate interstate trade. (While the southern Murray–Darling Basin states have agreed to facilitate interstate trade by June 2005, the ACT is not covered by this element of the National Water Initiative.)

The Council considers that the ACT has achieved satisfactory progress for 2004 against its CoAG water trading obligations.

- *Appraisal of new water infrastructure.* There were no new water infrastructure projects in the ACT for which the obligations on environmental and economic appraisal were relevant.
- *Public education and consultation.* The ACT Government released a strategy for sustainable water resource management, *Think water, act water*, in April 2004. It developed the strategy via a public process involving the release of a draft in November 2003 for three months of public comment.

Northern Territory

- *Rural pricing.* The Northern Territory has no publicly funded or owned rural water infrastructure. It does not charge for private water licences, although it may impose licence conditions that transfer responsibility for some water resource management activities (and thus some of the associated costs) to licensees.

Arising from the 1999 tripartite meeting on water, private withdrawals of groundwater are not subject to the pricing obligations in the 1994 water reform agreement for competition payments purposes. The bulk of water used in the Northern Territory is drawn from groundwater sources. Under the National Water Initiative, however, the Northern Territory will need to adopt by 2006 an appropriate and consistent approach to attributing the costs of water management to licence holders. Appropriate attribution will become more important if water trading between the Northern Territory and the Ord Irrigation Scheme in Western Australia takes place.

The Council considers that the Northern Territory has achieved satisfactory progress for 2004 against its CoAG water and wastewater pricing obligations.

- *Water access entitlements.* Water entitlements in the Northern Territory are separated from land title and specified in volumetric terms. Licences are generally issued for up to 10 years. While its water licence register is not accessible electronically and does not record third party interests, there has been little demand for water trading so the Council considers that the Northern Territory has made satisfactory progress for 2004 against its water entitlements obligations.

Given the National Water Initiative requirement that water access entitlements be specified as perpetual shares of water available for consumption, the Northern Territory will need to amend its arrangements by 2006. The Northern Territory has acknowledged that it may also need to further develop its water entitlements registry.

- *Allocations to the environment.* The Northern Territory listed four water control districts on its 1999 implementation program. It has completed a water management strategy for the Ti-Tree Basin water control district and expects to declare plans for the Katherine–Daly, Darwin and Alice Springs water control districts in 2005.

The Ti-Tree Basin plan provides no public information on the hydrology modelling. The absence of information makes it difficult to determine whether the strategy is based on the best available science and whether associated consultative processes were sufficiently rigorous. For recharge to the Ti-Tree Basin, the estimate that the Northern Territory used in the strategy differs from estimates determined by the CSIRO. The Northern Territory has undertaken to work with the CSIRO to develop a robust estimate of the annual recharge of the Ti-Tree Basin by the time of the 2005 NCP assessment. It has also commenced a research project to determine whether any ecologies depend on groundwater in the arid zones such as the Ti-Tree Basin. The Northern Territory committed to update its water allocation plans on the basis of new information gained.

The Council considers that the Northern Territory has achieved satisfactory progress for 2004 against its CoAG environmental water allocation obligations.

- *Water trading.* At existing levels of development, there is little (if any) demand for water trading in the Northern Territory. In previous NCP assessments, the Council found that the Northern Territory had removed legislative impediments to water trading. The general trading restrictions that the Northern Territory proposes to include in its water allocation plans (and those included in the completed Ti-Tree plan) reflect physical and environmental constraints. The Northern Territory needs to ensure the trading rules in the remaining water allocation plans facilitate trading where water systems are physically shared or hydrologic connections and water supply considerations permit trading.

The Northern Territory has previously advised that it has agreed in principle with Western Australia for that state's water trading arrangements to apply throughout the Northern Territory sector of stage 2 of the Ord Irrigation Project (if it proceeds).

The Council considers that the Northern Territory has achieved satisfactory progress for 2004 against its CoAG water trading obligations.

- *Appraisal of new water infrastructure.* There were no new water infrastructure projects in the Northern Territory for which the obligations on environmental and economic appraisal were relevant.

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- *Public education and consultation.* There is limited public accountability in the Northern Territory regarding the allocation of water to the environment. Further, there is virtually no public information on the manner in which those who developed the territory's first water resource strategy (for the Ti-Tree Basin) accounted for environmental and socioeconomic evidence, although the Northern Territory Government stated that relevant information was available to the committee that developed the strategy and to other stakeholders. The strategy provides, however, for regular public reporting on catchment health in newsletters, fact sheets and seminars, and requires the committee to report annually to the government.

Murray–Darling Basin Commission matters

- *Rural pricing.* In previous NCP assessments, the Council concluded that the independent review of River Murray Water's pricing (conducted in 2002) covered all relevant issues. The Council considered that the review recommendations, if implemented, would appropriately address the CoAG water pricing requirements. The Murray–Darling Basin Ministerial Council has endorsed the recommendations of the review and set timeframes for their implementation. During 2004-05, the Murray–Darling Basin Commission will adopt maintenance and renewals annuities as the basis for funding River Murray Water, review cost sharing arrangements for the Menindee Lakes and insurance arrangements, and improve financial reporting to enable identification of all environmental costs.

The Murray–Darling Basin Commission reports the contributions to River Murray Water's costs made by New South Wales, Victoria and South Australia, together with the volumes of water supplied to users in the three states. This reporting assists in addressing the CoAG requirement for pricing transparency.

- *Allocations to the environment.* Under The Living Murray Initiative, governments have agreed to the 'First Step' decision. This targeted initiative will increase environmental flows aimed at maximising environmental benefits for six icon sites in the Murray system. Under the 'First Step' decision, the Australian Government and the governments of New South Wales, Victoria, Queensland and South Australia agreed to increase environmental flows by an average of 500 gegalitres a year built up over five years and to adopt other initiatives to improve river health. While the 'First Step' decision does not take up in full the flow outcomes recommended by the scientific reference panel, the participating governments have acknowledged that the decision is only the first stage in addressing the health of the River Murray system. Governments have

committed to further action based on their experience with implementing the 'First Step'.

The Council considers that the governments that are party to The Living Murray Initiative and the 'First Step' decision have achieved satisfactory progress for 2004 towards addressing their CoAG obligations on the allocation of water to the environment.

- *Water trading.* The Murray–Darling Basin Commission's pilot project has enabled permanent interstate trade in high security water entitlements in the Mallee region of South Australia, Victoria and New South Wales (downstream of Nyah) since 1998. The commission has continued to undertake and coordinate, in consultation with governments, significant work essential to expanding permanent interstate water trade in the Murray–Darling Basin, including work on exchange rates and an alternative system of trading 'tagged' entitlements, environmental controls, and the administrative arrangements and registry systems for processing, approving and accounting for trades. It has also commissioned studies on how to reduce barriers to interstate water trade (particularly barriers to trade out of irrigation areas) and the impact (on interstate trade) of differential financial arrangements for bulk water across the states.

Partly based on experience with the pilot project and the Murray–Darling Basin Commission's research and technical work, governments have made interstate trade commitments under the National Water Initiative that should enable the 1994 CoAG target — for trading arrangements to be substantially implemented by 2005 — to be achieved in the southern Murray–Darling Basin. The initiative extends to 2007 the timeframe for establishing institutional and regulatory arrangements that facilitate interstate trade in other areas.

- *Public education and consultation.* Water planning for the Murray–Darling Basin involves work by the Murray–Darling Basin Commission, the Murray–Darling Basin Ministerial Council and the government parties to the intergovernmental agreement on the 'First Step' decision. (The intergovernmental agreement commits signatory governments to implement the 'First Step' decision in a manner consistent with the National Water Initiative, which requires open and transparent consultation with water users and other stakeholders.) All decisions relating to environmental water releases for the Murray–Darling Basin have involved extensive consultation with all relevant stakeholders.