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10 April 2003

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Dear Sir

2003 NCC Assessment Framework for Water Reform

Please find **enclosed** a copy of a submission in response to the 2003 National Competition Council Policy Assessment Framework for Water Reform prepared by the Environmental Defender's Office NSW Ltd.

Yours sincerely

Environmental Defender's Office Ltd

Ilona Millar
Solicitor





environmental defender's office new south wales

Submission on NSW Water Reform

April 2003

The EDO Mission Statement

To empower the community to protect the environment through law, recognising:

- ♦ *the importance of public participation in environmental decision making in achieving environmental protection*
- ♦ *the importance of fostering close links with the community*
- ♦ *that the EDO has an obligation to provide representation in important matters in response to community needs as well as areas the EDO considers to be important for law reform*
- ♦ *the importance of indigenous involvement in protection of the environment.*

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Executive Summary

The National Competition Council has invited submissions in relation to the matters that it is considering as part of the 2003 National Competition Policy Assessment Framework for Water Reform (**2003 Assessment Framework**) and the assessment of 2002-2003 competition payments to governments pursuant to the Council of Australian Governments (CoAG) water reform process.

The Environmental Defender's Office Ltd (NSW) (EDO) submission addresses the following issues identified in the 2003 Assessment framework: Firstly, how the New South Wales government is providing for water allocations and property entitlements, in particular through the making of water sharing plans. Secondly, the manner in which the New South Wales government has approached integrated catchment management.

A large number of rivers in New South Wales have been identified as being highly stressed¹ and that many of the States' regulated rivers are over allocated². Accordingly, the EDO is of the opinion that redressing the degraded nature of a large number of the State's water catchments should be a priority for New South Wales. It has been the EDOs experience, particularly over the past two years as water sharing plans have been developed, that the need to prioritise the environment through water resource planning is being ignored by the government³.

The EDO sees the following matters as being significant hurdles to the New South Wales' approach to the water reform process:

- despite legislative provisions prioritising environmental water needs, consumptive entitlements are being given a more secure right through water sharing plans;
- water management planning issues are not being coordinated on a State wide basis – water sharing plans have been prepared in an inconsistent and ad hoc manner that does not give effect to the principles of the CoAG Agreement;
- the environmental requirements of the CoAG Agreement have not been taken seriously by either the Government or Water Management Committees preparing water sharing plans – water sources have not been classified according to their health, stress and conservation values and benchmarks for environmental flows are not being based on the best, or even considered, available scientific evidence;
- water sharing plans are also failing to adhere to the statutory requirements of the Water Management Act 2000 in relation to providing environmental flow rules and mechanisms to assess the performance of plans against the objectives of that Act and the CoAG requirements; and
- Catchment Blueprints have also failed to provide any consistent or meaningful strategy to integrate the management of water and vegetation and issues relevant thereto.

¹ Chessman, B 'Assessing the Conservation Value and Health of NSW Rivers' (DLWC January 2002)

² National Land and Water Audit 2000

³ note that the Report of the Working Group on Water Resource Policy to the Council of Australian Governments (February 1994) paragraph E5 supported the following relevant principles:

- Water resource policy being seen as delivering on the agenda for ecologically sustainable development and
- An integrated catchment management approach to water resource management;

SUBMISSION TO THE NATIONAL COMPETITION COUNCIL ON THE 2003 NATIONAL COMPETITION POLICY ASSESSMENT FRAMEWORK FOR WATER REFORM

Water Allocations and Property Rights

The NCC framework identifies the following objective in relation to water allocations and property rights:

'There must be comprehensive systems (ie: one which recognises consumptive and environmental needs) of water entitlements backed by separation of water property rights from land title and clear specification of entitlements in terms of ownership, volume, reliability, transferability and if appropriate, quality. Governments must have determined and specified property rights, including the review of dormant rights.'

The current debate in New South Wales revolves around the question of whether the *Water Management Act 2000* (WM Act) and water sharing plans (WSPs) made thereunder provide sufficient security for holders of entitlements in water. As identified by the National Competition Council in its Assessment of Governments' Progress in Implementing the National Competition Policy and Related Reforms - New South Wales Water Reform June 2001 (NSW 2001 NCP Assessment) New South Wales has created a hierarchy of rights in the Act. The first priority is stated as being given to environmental water, then basic landholder rights, followed by consumptive uses. Consumptive uses are then further classified with reference to a bulk access regime that is established by water management committees through WSPs⁴.

The WM Act provides security for consumptive water users through the creation of access licenses that operate for a period of 15 years and water utility licences which are issued for 20 years⁵. Access licences were intended to be separate from land title, transferable, divisible and enforceable. Questions were raised by the National Competition Council in the NSW 2001 NCP Assessment about the progress of New South Wales in providing a system by which water entitlements could be clearly identified and, as such, traded. The *Water Management (Amendment) Act 2002* (Amendment Act) sets out in detail the system for registration of licenses and interests therein⁶. The registration system is very similar to the Torrens Title system for land registration and will be managed by the Lands Title Office. The EDO supports the provision of a detailed registration system for licences.

One of the criticisms of the New South Wales system has been that it links the licence system to water planning through bulk access regimes in WSPs⁷. Accordingly, the specifications and reliability of the property right will be determined by the plans. Rural land holders express fears that this will be fundamentally different to the water entitlements they received under the *Water Act 1912* and that they will suffer losses as a result of the transition to the new system. The primary change relates to the conversion of a volumetric entitlement to an entitlement to a proportion of the available water in a water source. This concern is particularly relevant in over allocated systems and

⁴ NSW 2001 NCP Assessment p.66

⁵ ss. 69 & 70 WM Act

⁶ Chapter 3, Part3 Division 8 WM Act

⁷ 2001 NCP Assessment p.80

unregulated river systems for which there is little information on environmental values or on the history of consumptive use.

It is submitted that the access licence system under the WM Act will not significantly alter irrigator rights of access to water or decrease their overall water allocations. We note that the Amendment Act has introduced provisions that guarantee existing licence holders a right to carry over their licence entitlements under the *Water Act 1912* to the new system when it commences⁸. This, in effect, gives current license holders existing use rights to an entitlement to water. The EDO is concerned that, notwithstanding the change to a proportional system, the grant of such rights will lock in allocations of similar volumes for a further 15 years in circumstances where the rivers from which the licenses are sources are already stressed, environmentally degraded and over-allocated. In particular, in a number of catchments, licences which have either not been used or only partially used (sleepers and dozers) will, under the new system, be able to be traded and used where previously that water was available for supplementary and environmental purposes. Such a result, within the context of 10 year WSPs, arguably detracts from the objective of flexibility in water management planning to enable variations to address environmental needs within a water source during the life of a plan⁹.

The EDO has previously lodged a submission with the Chief Executive Officers' Group on Water setting out its view that entitlements or rights in water are statutory entitlements that have always been subject to variation or extinguishment by the government. As such it is important to remember that consumptive users have never had any degree of certainty of their entitlement as that entitlement could be revoked or varied at any time under the *Water Act*. Accordingly, there is not, and should not be, a prima facie right to compensation if an entitlement is merely altered or regulated. In NSW, the basis of compensation is limited to two very exceptional circumstances. First, the holder of an access licence may claim compensation for reductions in water allocations because of variations to a bulk access regime.¹⁰ However, compensation is only payable where the regime is varied outside of the procedures set down in the legislation.¹¹ Thus, compensation is not payable where variations derive from the making or amendment of management plans. Second, compensation is payable where the Minister, acting in the public interest, compulsorily acquires access licences.¹²

The EDO is of the opinion that the current arrangement under the WM Act provides a secure right or entitlement for consumptive users and as such is satisfactory to meet the requirements of the CoAG Agreement. Reversing environmental decline will require fundamental change: industrial, cultural and institutional. Financial assistance, including structural adjustment packages based on equitable principles that address real hardships, is likely to be a part of that change. However, such financial assistance should be linked to the protection of the environment, and should provide real incentives for rural producers to alter unsustainable practices.

⁸ s.63(8) WM Act

⁹ this argument has been raised by WWF Australia in its submission to the Chief Executive Officer's Group on Achieving Sustainable Water Management – A Commonwealth Position Paper 'Water Property Rights Report to COAG from the Water CEOs Group' February 2003

¹⁰ s 87(1) WM Act

¹¹ s 87(2) WM Act

¹² s 79 WM Act

Provisions for the Environment

The CoAG Agreement states that governments are to:

*'establish a sustainable balance between the environment and other uses, including formal provisions for the environment for surface and groundwater consistent with the ARMCANZ?ANZECC national principles. Best available scientific evidence should be used and regard should be had to the inter-temporal and inter-spatial needs of river systems and groundwater systems.'*¹³

The ARMCANZ National Principles for the Provision of Water for Ecosystems include the following relevant principles:

Principle 1 – river regulation and/or consumptive use should be recognised as potentially impacting upon ecological values

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

Principle 3 – environmental water provisions should be legally recognised.

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

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

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

Principle 7 – accountabilities in all aspects of management of environmental water should be transparent and clearly defined.

Principle 8 – environmental water provisions should be responsive to monitoring and improvements in understanding of environmental water requirements.

Principle 9 – all water uses should be managed in a manner which recognises ecological values.

Principle 10 – appropriate demand management and water pricing strategies should be used to assist in sustaining ecological values of water resources.

Principle 11 – strategic and applied research to improve understanding of environmental water requirements is essential.

Principle 12 – all relevant environmental, social and economic stakeholders will be involved in water allocation planning and decision making on environmental water provisions.

¹³ clauses 4b – 4f CoAG Agreement

It is submitted that the New South Wales' Government has failed to adequately implement the ARMCANZ principles. These concerns are addressed below.

The NSW 2001 NCP Assessment noted that under the WM Act, water for the fundamental health of the environment was to be protected as a priority in the sharing of water resources. The WM Act sets out a number of mechanisms relating to water sharing, water use, drainage management, floodplain management and controlled activities¹⁴. The statutory intention of the WM Act is expressed in clear terms and underpinning the water management provisions is the objective of achieving ecological sustainability¹⁵. However, the implementation of the Act has failed to give effect to this objective.

Over the last two years, the government has established water management committees to prepare WSPs for identified catchments. The initial intent of the WM Act was for water management plans to be prepared which dealt with a range of issues including (but not limited to) water sharing, water source protection, drainage management and floodplain management¹⁶. For the purposes of giving effect to the objects of the WM Act¹⁷, water management plans were intended to be inclusive documents setting the framework for all aspects of water catchment planning. However, this has not been the case with only discrete issues of water sharing being addressed over the past two years. In that regard, WSPs were intended to be gazetted by mid 2002 to enable the commencement of the provisions of the WM Act with relation to access and entitlements. This process has been seriously delayed due to the inability of these committees to work effectively to balance environmental, social and economic needs. In the NSW 2001 NCP Assessment, the National Competition Council stated that:

*'The prime concern the Council has with the New South Wales System, is to ensure that while it is important for bulk access regimes to be established quickly, they must also be done properly including the basis for determination of environmental flows to reflect the 10 year timeframe under the Act. Otherwise, if the bulk access regimes and environmental flow requirements are poorly addressed, the issues for the environment will not be addressed for another 10 years.'*¹⁸

The plans that have recently been gazetted suffer a number of common deficiencies and contradict the environmental objectives of the WM Act. Those deficiencies are set out below.

Classification of water sources

Section 7(3) of the WM Act enables the Minister to classify water sources according to:

- the extent that they are at risk (that is, the extent to which harm to the water source or dependent ecosystem is likely to occur);
- the extent to which they are subject to stress (that is, the extent to which harm to the water source or its dependent ecosystems has occurred or is occurring);

¹⁴ Chapter 3 WM Act

¹⁵ NSW 2001 NCP Assessment p.66-67

¹⁶ s.13(1) WM Act

¹⁷ including integrated management of water sources (s.3(f) WM Act)

¹⁸ NSW 2001 NCP Assessment p.94

- the extent of their conservation value (that is the extent to which their intrinsic value merits protection from risk and stress).

The Government has not classified water sources according to their levels of risk, stress or conservation as proposed by section 7 of the WM Act. Although the then Department of Land and Water Conservation¹⁹ published a discussion paper entitled '*Assessing Conservation Value and Health of NSW Rivers*' in January 2002, the document posted dated many of the draft water sharing plans and the interim State Water Management Outcomes Plan. Accordingly, whilst bulk access regimes for various water sources have now been established, the ecological significance of the water source was not been used to underpin the formulation of those regimes. This is of serious concern as the intent expressed in section 7(4) of the WM Act was for water sources to be classified within 12 months of the date of assent of that Act.

Scientific Evidence

The best available scientific material has not, in our opinion, been used by water management committees to address the environmental needs of water sources. This is contrary to principle 2 of the ARMCANZ Principles. The EDO acknowledges that scientific opinion will differ in relation to what standards are appropriate. However, water sharing plans have failed to use scientific evidence as the primary basis of determining environmental requirements for water sources. Rather, there is clear evidence that consumptive allocations have been determined for the water source or water management area first and then committees have worked backwards with the remaining water (often an illusory concept in over allocated systems).

Where there was disagreement amongst committee members as to the environmental water needs of a water source (which has been the case in all water management areas) there was no opportunity for disputes to be resolved through independent processes by a suitably qualified person. The EDO is of the opinion that this is a serious flaw in the planning process. Similar problems will continue during the life of WSPs and their review. Accordingly, the EDO recommend that New South Wales' provide a mandatory alternative dispute resolution mechanism where agreement upon scientific issues cannot be reached.

Environmental water

Section 8 of the WMA states that a WSP must identify three classes of environmental water. These are:

- environmental health water,
- supplementary environmental water, and
- adaptive environmental water.

¹⁹ note that the Department of Land and Water Conservation is in the process of being amalgamated into a broader department of Natural Resource Planning

Section 20(1)(a) of the WM Act further requires a WSP for a water management area to establish environmental water rules for the area or water source in relation to each class of environmental water.

The EDO has reviewed, in conjunction with a number of conservation groups, the environmental water rules for the majority of WSPs. A number of points can be made about the WSPs recently made.

First, there is an issue of inconsistency. It should be noted that, for example, the rules, and models used to develop those rules are applied inconsistently across the WSPs. Some plans, such as the Water Sharing Plan for the Murrumbidgee Regulated Water Source, set out very detailed and complex flow rules which are difficult for water users to follow. On the other hand, other plans have simple rules based solely on percentile flows. The scientific rules and models underpinning water management are extremely complex and the hydrological, geomorphological and ecological needs of each water source and system will vary dramatically. As such, it is not suggested that the same model or rules should apply in each area. However, in developing WSPs, the New South Wales government and water management committees should have sought to achieve a consistent framework for water sharing across the State.

Second, there is an issue of legitimacy. In relation to the use of percentile flows as a basis for setting environmental flow requirements, the New South Wales Healthy Rivers Commission has expressed the opinion that such methodology is superficial and does not necessarily reflect the physical relationship between flows and a given degree of environmental protection²⁰. The Commission recommended, consistently with ARMCANZ Principle 2, that environmental flows should be based on a scientific and socioeconomic assessment of each water source. This has not been done in many areas.

Third, there is the question of the use of appropriate baseline data. In this respect, it is argued that many committees have used the 1998 interim environmental flow rules as a basis for determining environmental flows for the next 10 year period. In the NSW 2001 NCP Assessment, the NCC noted that the 1998 flow rules were set to enable the then Department of Land and Water Conservation to monitor flows and provide additional information of the flow responses of river and wetland ecosystems, and to evaluate the environmental performance of the flow rules in certain areas²¹. Environmental flows were to be reviewed on the basis of monitoring and scientific investigation. In practice, many of the water management committees have adopted the 1998 flow rules, rather than using the baseline data which was and continues to be collected during the monitoring period. This lack of consideration represents a serious miscarriage of duty on the part of the plan drafters.

Fourth, there is the question of compliance with the terms of the legislation. It is submitted that the purported rules for environmental water do not, in the majority of WSPs, provide environmental flow rules for each class of environmental water. It is important to note that environmental health water is required to be committed for fundamental ecosystem health at all times. However, many WSPs do not provide

²⁰ Healthy Rivers Commission Report – Bega System p.130

²¹ NSW 2001 NCP Assessment p.88

environmental health water 'at all times' or where it is provided for, it is linked to flows for other consumptive uses. Additionally, in a number of the plans the dependent ecosystems of the water source or area are not identified, nor are their needs (specific or even general) set out. The same criticism is applicable to many of the rules for supplementary environmental water where events that require supplementary health water, such as bird breeding events, are not expressly identified. Of further concern, is the absence of environmental water rules for adaptive environmental water in some plans.

The basis for providing environmental flows is to protect, enhance and restore water sources, their associated ecosystems, ecological processes and biodiversity and their water quality²². Many of the ARMCANZ Principles adopted by CoAG have been developed with this general objective in mind. Although the New South Wales government identified this objective as a priority for the management of water resources, the current water planning process does not protect the States' damaged and degraded water resources. Over \$117 million has been spent on the New South Wales water reform and the result in terms of environmental flows is arguably less than 0.5% increase across the State.

Performance indicators

Section 35(1) of the WM Act requires a water management plan to include the following components:

- (a) a vision statement;
- (b) objectives consistent with the vision statement,
- (c) strategies for reaching those objectives,
- (d) performance indicators to measure the success of those strategies.

The obligation imposed by section 35(1)(d) of the WM Act is to measure the success of strategies to achieve the objectives consistent with the vision statement. The use of the word 'measure' requires the performance indicators to be capable of some form of objective assessment. Many of the WSPs that we have reviewed contain 'performance indicators' which are incapable of any form of measurement. Concepts such as 'change' are frequently referred to²³. However, there is generally no specification of the magnitude or nature of the change which could then be used to indicate a measurement of success or otherwise.

A related issue is the requirement imposed by section 16(1)(a) of the WM Act for WSPs to be consistent with the State Water Management Outcomes Plan (SWMOP). The SWMOP is required to set the overarching policy for the management of the States water resources. Although a draft SWMOP was released in 2001, the final plan was not gazetted until 20 December 2002, only a week before the first WSPs were gazetted. It is submitted that the late finalisation of the SWMOP has made it very difficult for water management committees to identify, with any certainty, objectives and targets that their own plans are to be consistent with, in the absence of a final SWMOP. The EDO acknowledges that the final SWMOP was in very similar terms to the draft plan. However, that does not circumvent the overall air of uncertainty for both plan makers and water users in the preparation stage.

²² s.3(b) WM Act

²³ see for example Clause 13 Water Sharing Plan for the Gwydir Regulated River Source 2002

A further issue that arises from the interpretation of clause 16 of the WM Act is what level of compliance or 'consistency' with the targets identified in the SWMOP is required. The EDO has found, in almost all WSPs, that the plans do not achieve the targets set. We note that the word 'consistent' has been judicially interpreted as meaning 'not antipathetic to'²⁴. However, where the SWMOP targets are not even considered in a WSP, the WM Act has not been complied with. The Water Sharing Plan for the Murrumbidgee Regulated Water Source 2002, for example, clearly states that its compliance with some of the SWMOP are very low or not achieved at all, such as in relation to protecting and restoring aquatic habitats, biodiversity and threatened species²⁵. The EDO is of the opinion that this represents a clear failure on the part of the plan makers to have regard to the underlying rationale for water management reform.

Priority for the Environment

The WM Act establishes a system of priorities between environmental and consumptive water uses. Environmental water is intended to have priority over all other types of water except in times of drought, when landholders basic rights take priority²⁶. In order to reflect these priorities, it is submitted that in determining the structure of bulk access regimes, the first question that should be asked is what are the environmental water needs of the water source and its dependent ecosystems. In the majority of WSPs reviewed by the EDO the approach of water management committees has consistently been to determine what the existing consumptive requirements of a water source are (ie: current licence allocations) and then work backwards from that amount of water to provide for environmental flows. The EDO submits that this is fundamentally contrary to the objects of the WM Act and also the CoAG principles.

Scope of WSPs

A further issue that has frustrated the achievement of meaningful environmental water allocations is the recent amendment to the terms of reference for preparing WSPs. Initially the Government identified 39 water management areas for which WSPs were to be prepared. These were intended to give effect to the principles of integrated catchment management and to address the water requirements of all relevant stakeholders, including dependent ecosystems of water sources within the catchment.

The Amendment Act amended a number of section of the WM Act by stating that WSPs need only be prepared for 'the whole or part of a water management area or water source'. This has enabled water management committees to exclude certain areas of a catchment or defer consideration of those areas until a later date²⁷. For example, the Lowbidgee floodplain, which is over 150,000 ha and the largest dependent ecosystem of the Murrumbidgee River, has not been allocated environmental water under the Water Sharing Plan for the Murrumbidgee Regulated River Source 2002. The plan contemplates a separate plan being developed for Lowbidgee at some later date.²⁸ However, if the available environmental water in the Murrumbidgee River has already been allocated through a different plan, it would appear unlikely that this important wetland can be adequately protected. Lowbidgee is just one of many dependent

²⁴ Schaffer Corporation Ltd v Hawkesbury City Council (1992) 77 LGERA 21

²⁵ Schedule 2 Water Sharing Plan for the Murrumbidgee Regulated River Source 2002 (referring to Target 2 of SWMOP)

²⁶ s# WM Act

²⁷ s.19, 20, 21 WM Act

²⁸ clause s 69 & 73 WSP Murrumbidgee RRWS 2002 and sections 274-276 WM Act

ecosystems that have been excluded from the planning process. Given the 10 year duration of WSPs, there are serious concerns about the ability of those ecosystems to survive in the absence of adequate water allocations.

The New South Wales Government's commitment to integrated catchment management and the objectives of the WM Act is being eroded through political processes. What is occurring represents a fragmented and ad hoc means to provide for environmental allocations. If whole catchments are not managed in an integrated fashion then beneficial environmental outcomes will not be achieved, nor will entitlement security for consumptive users.

Review of WSPs

Up until now, WSPs were being drafted by water management committees comprising stakeholders with significant interests in water allocations and then being made by the Minister upon the recommendations of officers from DLWC. The plans will also be reviewed by the Minister and the new Department of Sustainable Natural Resources in order to monitor the effects of flow rules on the environment. Any audit of the water sharing plans and flow rules should be independent and carried out by persons who have no stake in water allocations from the water source. The EDO further recommends that ongoing monitoring and research into the environmental water needs of water sources be undertaken over a prolonged period in order to engage the environment constructively in the management process rather than marginalise it.

Integrated Catchment Management

The CoAG Agreement states that:

Governments must have in place integrated resource management practices, including:

- *demonstrated administrative arrangements and decision making processes to ensure an integrated approach to natural resource management and integrated catchment management;*
- *an integrated catchment approach to water resource management including consultation with local government and the wider community in individual catchments; and*
- *consideration of landcare practices to protect rivers with high environmental values.*²⁹

New South Wales is implementing catchment planning through the establishment of 20 catchment management boards and one catchment management trust which have recently finalised 21 Catchment Blueprints.

Integrated catchment management involves the coordinated and sustainable use and management of land, water, vegetation and other natural resources on a water catchment basis so as to balance resource utilisation and conservation. The EDO is of the opinion that the following areas are fundamental to catchment management and should be addressed in all Catchment Blueprints:

- terrestrial biodiversity - identifying threatened species and ecological communities and areas of protected vegetation;
- aquatic biodiversity – identifying threatened species, dependent ecosystems and mechanisms to address riparian management;

²⁹ clause 6a and b, and 8b and c CoAG Agreement

- soil conservation – identifying soil characteristics and health and mechanisms to address erosion;
- water management – identifying water quality objectives and environmental flow requirements for surface and groundwater;
- salinity – identifying areas of high salinity or salinity risk and mechanisms to monitor and manage those areas;
- cultural heritage – identifying cultural sites and values and mechanisms to manage those values in partnership with local Aboriginal communities;
- bushfire management – recognising the role of fire as a management tool as well as a threat to catchments.

The Wentworth Group Report to Premier Carr noted that the current Catchment plans do not integrate state environmental standards into practical rules which apply across catchments. The Wentworth Group advocates a process whereby vegetation required for catchment health and biodiversity conservation is clearly identified and that simple formulas for calculating the vegetation cover required in a catchment are used as a basis for calculating financial assistance for vegetation protection³⁰. The Group has recommended a model whereby statewide standards and targets are set, catchment management strategies are assessed and accredited against these standards and targets and research and funding are prioritised³¹. The EDO supports this position.

Catchment Blueprints are intended to operate as the primary mechanism to integrate natural resource planning and to link native vegetation plans with water management plans. The EDO submits that one of the major flaws in the current process of catchment management is the fragmented nature of natural resource committees dealing with water, native vegetation and catchments as a whole. The committees are not working together or applying uniform standards. The *Catchment Management Act 1989* (CM Act) does not set a framework for the matters that catchment boards are to address when preparing catchment plans. Accordingly, the content of the plans produced to date varies widely³². Furthermore, water sharing plans and native vegetation plans which are intended to give effect to catchment priorities have been finalised prior to, and often without regard to, Catchment Blueprints.

The *Catchment Management Amendment Bill 2001*, which sought to provide a framework for the development of catchment management plans, has still not been passed by the New South Wales Parliament. As such Catchment Blueprints have no legal force and only limited legislative support. In order for integrated catchment management to occur, it is necessary for amendments to the *Catchment Management Act* to be carefully reviewed (in particular in relation to the proposed contents and targets of catchment management plans) and adopted to enable the legislation to have effect. However, the EDO notes the current uncertainty in respect of the CM Act in light of the reforms proposed by the Wentworth Group.

In summary, the EDO submits that New South Wales has not yet achieved a system which is capable of guiding long term management of natural resources. Setting clear and appropriate targets for biodiversity, soil and water conservation are fundamental

³⁰ Wentworth Group of Concerned Scientists Report to Premier Carr – A New Model for Landscape Conservation in NSW (February 2003) p.9

³¹ *ibid* p.14

³² see NCC, WWF, IRN, TEC, NPA Combined Environmental Groups Submission on Draft Catchment Management Blueprints April 2002

steps to managing catchments. This has not yet been done through the current Catchment Blueprints. The EDO is of the view that priority must be given by New South Wales to achieving meaningful integrated catchment management in the immediate future.

A handwritten signature in black ink, appearing to read 'Ilona Millar', written in a cursive style.

Ilona Millar
10 April 2003
