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**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**GOVERNMENT RESPONSE TO THE INDEPENDENT COMPETITION AND  
REGULATORY COMMISSION (ICRC) REPORT ON SECONDARY WATER USE**

**Presented by  
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## **Response to the Independent Competition and Regulatory Commission (ICRC) Report on Secondary Water Use in the ACT**

### **Foreword to the Government Response**

On 21 September 2011, the Treasurer, Mr Andrew Barr MLA, pursuant to sections 15(1) and 16 of the *Independent Competition and Regulatory Commission Act 1997*, referred the following terms of reference to the Independent Competition and Regulatory Commission (the Commission) to undertake an inquiry into and assessment of secondary water use in the ACT.

1. *The Commission is to report on the following matters:*
  - a) *opportunities for a commercial market in grey water in both commercial and domestic applications and in new construction and retro-fits;*
  - b) *the ACT Government's urban waterways and stormwater harvesting programs and their associated built wetlands; and*
2. *The Commission is to include consideration of:*
  - a) *the economic, environmental and social costs and benefits of the matters set out in 1(a) and (b), with and without the Basin Plan, to the extent possible given that the Basin Plan is under development;*
  - b) *any water conservation initiatives other than those captured in 1(a) and (b) that also have the potential to deliver economic, environmental and social outcomes; and*
  - c) *any other matters the Commission considers relevant to the inquiry.*

The Commission's inquiry made 12 Recommendations and 3 Findings:

The three Findings are:

#### **Finding 4.1:**

The ACT is likely to be water secure for at least the next 20 years with existing primary water infrastructure when measured against the ACT Government's water security objective. It is important to note that this finding does not imply that the ACT will never be in water restrictions over this period. The statement that the ACT is likely to be water secure means that water restrictions might be imposed but only rarely.

#### **Finding 5.1:**

The ACT community's current water needs can most cost-effectively be met through the ACTEW primary water supply network.

## **Finding 7.1**

The Commission finds that:

- under a net Murray–Darling Basin (MDB) Agreement cap or net sustainable diversion limit (SDL), as long as a secondary water initiative directly substitutes for primary water use, it will not hasten the net cap or SDL being reached ;
- the key difference between the current MDB Agreement cap and ACT SDL proposal under the Basin Plan is that the latter will not provide an ongoing population growth factor;
- given the ability to increase the ACT SDL by trading water, the absence of a provision for population growth in the draft Basin Plan will have limited implications for ACT primary or secondary water use, recognising that the ACT may need to purchase additional water at a market rate and incorporate the cost in future water prices.

## **Completion of the Report**

The Commission delivered the completed Report to the Treasurer on 2 July 2012.

The complete Report and related documents may be viewed on the Commission's website at

<http://www.icrc.act.gov.au/whatsnew>

## **Tabling the Report**

Pursuant to section 24 of the *Independent Competition and Regulatory Commission Act 1997* the Minister, must within 6 sitting days of receiving a report under section 15(1) and 16, table the report in the Legislative Assembly. The Treasurer, Minister Andrew Barr MLA tabled the report on 14 August 2012.

## **The Recommendations and Government's Response**

The Commission made 12 recommendations, each of which is listed below, followed by the Government's response.

### **Recommendation 4.1**

**Given the current water security outlook, the Commission recommends that the ACT Government not undertake further secondary water investments now. This includes further investment in stormwater harvesting schemes in new suburbs under the Community Recreation Irrigated Park concept. However, the Inner North pilot stormwater reticulation trial needs to be fully evaluated.**

### **Government Response: Agree**

The 5 year Inner North Pilot trial will be undertaken. Any further secondary water supply in the ACT will be tested against security of supply outlook economic and environmental benchmarks so as to not adversely impact on ACT residential water costs (pg:4, para 3).

The Government's Water Sensitive Urban Design (WSUD) General Code specifies a guideline objective of 40% water consumption reduction on new developments and renovations. This target will remain the minimum objective but ways to realise the target more efficiently will be examined.

The continuing conduct and assessment of the trial Canberra Integrated Urban Waterways project in inner north Canberra will provide significant information on these critical matters and guidance to future secondary water supply projects.

#### **Recommendation 6.1**

**The Commission recommends that the ACT Government consider the provision of water use efficiency rebates and subsidies within the context of an integrated and adaptive planning framework to better assess which options are likely to deliver value to the ACT community.**

#### **Government Response: Agree**

It is important to ensure:

- the right investment decisions are taken in the development and provision of infrastructure and secondary water use systems;
- that some water users are not unduly cross subsidised by other water users; and
- the right market signals are provided to water users to not inadvertently over-use water because of artificially low costs or then on sell and charge lower prices to water users.

In addition, the Government considers it important that future options for secondary water use are not compromised to the detriment of the ACT and region's overall water security.

#### **Recommendation 6.2**

**The Commission recommends that the ACT Government develop and maintain a residential greywater treatment system accreditation approach, such as that operating in New South Wales.**

#### **Government Response: Noted**

If an accreditation scheme is justified by an increase in uptake of grey-water systems the first preference is for a national system of accreditation. To this end the Government will when called upon, work closely with jurisdictional and Commonwealth agencies to progress that outcome. If grey-water schemes increase in number and health issues arise the ACT will explore mutual recognition of accreditation along the lines of the New South Wales approach, subject to the approval of health experts. In the meantime the Government will rely on continuing regulatory oversight at the least cost to be the industry and authorities by the Health Directorate applying the *Health Act 1993*.

### **Recommendation 6.3**

**The Commission recommends that the ACT Government undertake a detailed review of all regulations that impact on water-related development decisions, including the Waterways Water Sensitive Urban Design General Code. The analysis should include the merit of the code's mandatory water efficiency requirements within the context of an integrated and adaptive planning framework, including flow-on impacts on the ACT housing market.**

#### **Government Response: Agree in part**

The Government has, to a large extent, already considered the impact of water regulation as part of its review of *Think water; act water*.

That review similarly concluded that a critical review of the Water Sensitive Urban Design General Code was also a priority task. The Environment and Sustainable Development Directorate will inquire into and report on the Water Sensitive Urban Design General Code against a Government objective of a forty per cent reduction in water usage in new developments and refurbishments/extensions. The Government will seek recommendations through the review on ways of significantly expanding the acceptable mandated measures to achieve the target and provide maximum flexibility to developers to lower development costs.

### **Recommendation 6.4**

**The Commission recommends that, if the ACT Government determines that there is value in retaining mandatory water efficiency obligations on developers in the Waterways Water Sensitive Urban Design General Code and other regulations, the Government should:**

- **ensure that the Territory and Municipal Services Directorate is explicitly funded for the ongoing maintenance and operational costs of the infrastructure for which it becomes responsible as a result of the code**
- **review the operation of planning approval processes to ensure that code requirements are explicitly provided for in the development approval process and that this documentation is provided when new leases are established in an integrated development, to ensure that water assets can be operated in an efficient and effective manner.**

#### **Government Response: Noted**

The Government is bringing forward a suite of water regulation and management reforms that will ensure clear cost allocation to agencies and cost recovery for both capital costs and consequential operational costs.

This recommendation will be addressed as part of the inquiry into the Water Sensitive Urban Design General Code as detailed in the response to Recommendation 6.3.

### **Recommendation 6.5**

**The Commission recommends that the ACT Government develop a clear approval pathway for private sector multi-dwelling secondary water schemes, such as third pipe, stormwater harvesting and greywater schemes.**

#### **Government Response: Noted**

The Government will develop processes and conditions for the development and installation of secondary water schemes to overcome market uncertainty for scheme proponents.

### **Recommendation 6.6**

**The Commission recommends that the ACT Government begin the development of a clearly defined third-party water infrastructure access regime.**

#### **Government Response: Noted**

There is no current restriction on ACTEW Water providing third party access on the basis of full cost recovery and there has been no evident demand for third-party access schemes in the ACT.

### **Recommendation 7.1**

**The Commission recommends that the utility that will own and operate the Canberra Integrated Urban Waterways Project pilot stormwater reticulation networks be licensed under the *Utilities Act 2000*.**

#### **Government Response: Agree**

Government has previously agreed that the Canberra Integrated Urban Waterways Project pilot stormwater reticulation networks will be licensed to the Territory and Municipal Services Directorate.

### **Recommendation 7.2**

**The Commission recommends that the ACT Government include an assessment of the following in the monitoring and evaluation trial phase of the Canberra Integrated Urban Waterways Project:**

- **technical – volumetric reliability of stormwater ponds under different weather and irrigation demand conditions, and service reliability in relation to quality of water provided to end-users**
- **environmental – impact of stormwater harvesting on the pond environment and reducing nutrient loads downstream, and filtrate management plan**
- **commercial – actual costs to operate and maintain the pilot network by the utility, including administration costs, and water demand and supply volumes under different weather conditions**
- **compliance – compliance with utility licensing conditions; this may include safety, retail service performance, emergency response measures and asset management.**

The ACT Government should, to ensure that the trial provides the necessary information to support future decisions on stormwater reuse projects:

- prepare a detailed monitoring and evaluation program workplan and budget, and ensure that there are clear and measurable criteria by which to gauge the viability of the pilot
- ensure that the trial and monitoring and evaluation program are appropriately funded
- ensure that the trial is conducted over a sufficient range of climate patterns to fully test reliability under different conditions.

**Government Response: Agree**

The ACT Government will undertake an assessment of the Canberra Integrated Urban Waterways Project as part of the pilot study review. The assessment of the pilot will be on the basis of the factors and criteria set out in Recommendation 7.2.

### **Recommendation 7.3**

**The Commission recommends that the ACT Government limit the Canberra Integrated Urban Waterways Project to the Inner North pilot stormwater reticulation network.**

**Government Response: Agree**

The ACT Government has already determined that the Canberra Integrated Urban Waterways Project be limited to the Inner North pilot stormwater reticulation network.

### **Recommendation 7.4**

**The Commission recommends that the ACT Government subject any proposal for investments in water quality improvement initiatives to a cost–benefit analysis, in comparison with other relevant options.**

**Government Response: Agree**

The Government has adopted triple bottom line assessment of projects to ensure their full value is assessed. This includes an appropriate cost benefit analysis.

### **Recommendation 8.1**

**The Commission recommends that the ACT Government develop an adaptive and integrated water supply and demand planning framework. The framework should:**

- clearly define the roles, responsibilities and accountabilities of the parties involved in the decision-making process
- define a clear and measureable water security objective
- clearly map out an adaptive and integrated decision-making process to ensure that the water security objective can be met at least economic, social and environmental cost.

**The Commission recommends that an expert group consisting of key stakeholders be formed to develop the institutional and policy framework for effective adaptive and integrated planning, and report its advice to the ACT Government by the end of 2013.**

**Government Response: Noted**

Both the recent Taskforce into ACT Lake Water Quality and the review of *Think water, act water* similarly identify the need for a cohesive, better coordinated approach to ACT water management on a catchment wide basis. Possible governance options to achieve this outcome are currently being developed and will be considered by Government in mid to late 2013. Expert and public consultation will form part of this process.