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Christina Jackson
Senior Policy Officer
Water Resources Division DPIW

By e-mail: Christina.Jackson@dpiw.tas.gov.au

Dear Ms Jackson

Review of the Implementation Plan for the NWI in Tasmania

Thank you for the opportunity to participate in the review of the Implementation plan for the National Water Initiative, Tasmania.

The Environmental Defenders Office (**EDO**) is a non-profit, community legal centre specialising in public interest environmental and planning law. We provide legal representation and advice, take an active role in law reform and policy formulation and offer education programs designed to facilitate public participation in environmental decision-making.

We have reviewed the Draft implementation plan. Our submission addresses a number of matters we believe should be addressed in order to ensure that the NWI achieves its objectives and provides for the sustainable use of Tasmania's freshwater resources.

Broadly we are confident that the objectives of the NWI are being met and where deficiencies have been discovered that these are currently being addressed.

Summary of Recommendations

- Investigate land-use management options in catchments with poor water quality
- Allow water allocations to be amended to account for climate change
- Ensure monitoring programs incorporate groundwater resources
- Require toxicity testing at all gauging stations
- Undertake regular, comprehensive chemical audits for each catchment
- Clearly identify investigation, management and enforcement responsibilities for water quality issues. This could be done as part of the Partnership Agreement program.
- Develop economic measures to ensure relevant externalities are included in water prices

1. Water Access Entitlements and Planning Framework

Groundwater management

We support the preparation of a strategy for groundwater management and believe the introduction of a licence system for the management of groundwater will have a positive influence on the resource. We are concerned though that a licensing system is currently being developed to be implemented “*where groundwater resources are under stress or need to be managed in a fully coordinated way with surface water.*”

In our view, groundwater **always** needs to be managed in a fully coordinated way with surface water – complete catchment management requires an understanding of subsurface water resources. The Report acknowledges that the better management of groundwater-surface water interactions is a key issue to be addressed in the short to medium term.

In the interim, quality and quantity of groundwater supplies should be monitored in conjunction with other surface water monitoring and data collection programs (such as Partnership agreements with local governments and the centralized database for community based monitoring programs).

Environmental and other public benefit outcomes

We support the continuation of higher security for environmental water allocations as exists currently. The implementation of water management plans for further areas will ensure the continued meeting of environmental needs in water allocation within Tasmania. We support the plan to have all major rivers and catchments covered by management plans by the end of 2009.

Planning

We support the use of water licences as a means of controlling access to our water resources. We believe that in addition to current legislative provisions there needs to be a means of revoking or suspending water licences where there is danger to the ongoing viability of the resource due to conditions external to the licensee (e.g. - climate).

Four water management plans have been formally adopted and another is due for adoption shortly. Further plans addressing areas statewide are under development and more are planned to be completed over 2007-2009.

It is important that, where environmental values are already degraded, the water management plan provides for restoration and enhancement of the environment, not just protection of the current status of the water resource.

Implications of Land Use

Holistic and sustainable water management requires attention to the impacts of all land uses within the catchment. The Report identifies management of the impacts of water interception activities such as conversion of farming land to plantation as a key issue. Failing to account for interception effects has the potential to significantly distort water

management regimes. Therefore, adopting measures to address this complex issue should be a priority.

Greater emphasis should also be placed on managing land uses which result in diffuse pollution. The Waterways Monitoring Report indicated that 10 river sites were severely or significantly impaired under the AusRivAS classification system.

In our view, the results should trigger an investigation into the land use practices that have given rise to poor water quality in these areas. Efforts should be made to restore the environment and to adopt measures to mitigate the impacts of surrounding land uses.

Recommendation:

- Where a catchment has been identified as having poor water quality, investigation into the impact of land uses in the area should be made a priority;
- Wherever practicable, require landowners to adopt land and water management plans for agricultural and forestry activities that have the potential to degrade water quality in the catchment area.

Effect of Climate Change

Protection of water supplies also depends on a management regime which accounts for climate change. Water management plans should provide for water entitlements to be modified (without compensation) where evidence shows that changing climate conditions have resulted in greater environmental flow requirements.

Recommendation: Require water management plans to include provisions allowing an allocation to be amended pursuant to section 88 to reflect changing environmental flow requirements as a result of changing climatic conditions

Monitoring River Health

We support the continuation of the various monitoring programs currently overseen by DPIWE. We also support the development of a centralised website for water information. Information on the website must be presented in an accessible, user-friendly format to promote better understanding of water quality and quantity issues amongst community members.

However, in our view concerns regarding the health of the Georges River highlight the need for more coordinated, comprehensive and independent monitoring in respect of pesticides and other chemicals. It is also critical that the results of monitoring programs are used to guide management programs.

Recommendation:

- That monitoring programs incorporate groundwater resources,
- That toxicity testing (which is relatively simple and inexpensive) be carried out at each of the gauging stations. In the event that these tests indicate some level of contamination, further tests can be carried out to identify the actual pollutant,

- That regular, comprehensive chemical audits be undertaken for each catchment area,
- That the results of all monitoring programs are publicly available,
- In the event that a water quality concern is identified (either through a government monitoring program or by a third party), the matter is investigated and measures are taken to identify the source of the contaminant, restore the environment and manage the future use of the contaminant,
- Responsibility for investigation and enforcement should be clarified. It may be appropriate to set out these responsibilities in Partnership Agreements with local government.

Addressing currently over allocated and/or overused systems

We are confident that the existing processes in place regarding the surety and reliability of allocations is appropriate. Given the focus on introducing further management plans we feel that the likelihood of resources becoming over allocated or overused is adequately managed.

2. Water markets, Trading and Pricing

Water Trading

As noted in the plan, water trading is in its infancy in Tasmania. As trading increases, care should be taken to apply the precautionary principle and to learn from the experiences in other jurisdictions. Water trading rules must prevent trade that will result in adverse impacts on the health of natural ecosystems.

Measures should also be adopted to ensure that the availability of water within a catchment (including environmental flows) is considered by authorities in the assessment of any proposed water-intensive developments such as irrigation schemes, horticulture enterprises and forestry operations.

The use of trading arrangements is a positive move and will be important for Tasmania moving forward as its population grows and the stresses on our water resources increase.

Unallocated Water

While currently the distribution of unallocated water is not an issue we have concerns about the allocation into the future. The current process is that where no water management plan exists the allocation of unallocated water is on a 'first come first served' basis. We believe this is not ideal going forward.

We would support the allocation of unallocated water being done in an open, accountable way. To facilitate this, allocation should be made in line with a process similar to that in place for the planning approval process. This would allow the public including third parties to air any concerns over proposed allocations.

Overriding this any allocations should be done in accordance with the precautionary principle – the applicant should have to demonstrate an obvious need for the extra resource.

The policy regarding unallocated water should be subject to regular review as a means of protecting the resource into the future.

Pricing

One of the key elements of the National Water Initiative is the implementation of full-cost recovery pricing for water in both urban and rural sectors. To achieve this aim, and the objectives of the Act, the EDO strongly supports the installation of water metering devices. More should be done to encourage (or require) urban councils to implement appropriate water-pricing and metering policies.

We believe that the achievement of full-cost recovery demands that externalities such as resource management, loss of ecosystem services (such as mitigation of pollution and ecosystem health), regulatory enforcement and provision of infrastructure be included in the price of water. Acknowledging the full value of water will encourage efforts to improve efficiency.

Recommendation:

- Encourage councils to implement water meters and appropriate pricing policies
- Develop economic measures to ensure relevant externalities are included in the cost of water

3. Integrated Management of Environmental Water

Water provisions for the environment and other public benefit outcomes can be provided for as an entitlement or through a rules based system. Tasmania currently uses a rules based system although currently no water access entitlements have been granted for environmental purposes in Tasmania. Despite this we support the ongoing provision for this under the *Water Management Act (1999)*.

We support the implementation of holistic environmental flow methodology as supported by NAP/NRM with the draft framework to be in place by December 2006. This will introduce a risk assessment framework and will utilize environmental flow assessments undertaken on over 40 Tasmanian catchments. This can only enhance the environmental effectiveness of surface and groundwater resource use and allocation.

4. Urban Water Reform

Demand Management

We support the range of programs being introduced under the banner of the ‘Living Environment’ banner. These programs are aimed at improving efficiency of usage both domestically and commercially which is a key to reducing usage.

The continuation of projects such as Irrigation Partnerships and the Water Use Efficiency Project should encourage the adoption of best practice irrigation techniques in Tasmania. Reusing and recycling water should also be encouraged through distribution of information and introduction of incentives.

Creating water sensitive Australian cities

Tasmania's involvement in the development of best practice guidelines on water cycle planning and management will contribute to the creation of water sensitive cities. The support of local councils both financially and in other ways will enable the meeting of challenges in this area into the future.

5. Community Partnerships and Adjustment

We support the continued application of public participation principles to the management of water resources in Tasmania. As with other environmental concerns the utilization of public review processes provides the all important balance in addressing management issues.

Tasmania currently has no significant adjustment issues. However historically there have been isolated cases of users exceeding their allocation of water under licence arrangements. Effective enforcement is vital to maintaining public confidence in the management of water resources in Tasmania. We support the Enforcement Policy adopted in respect of the Act. However, there appears to be neither sufficient resources available for enforcement activities nor an active enforcement culture amongst councils and DPIW. We recommend that further resources be committed to enforcement to ensure that the sustainable development objectives of the Act are achieved.

The Environmental Defenders Office (Tasmania) appreciates the opportunity to make these comments. Please do not hesitate to contact us if you wish to discuss anything raised in this submission.

Kind regards,

Environmental Defenders Office (Tas) Inc

Per:

Adam Beeson

Interim Principal Lawyer