



Environmental
Defenders Office

**Submission in response to the Draft Rural Water Use
Strategy**

December 2020

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 30 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

Environmental Defenders Office is a legal centre dedicated to protecting the environment.

www.edo.org.au

Submitted by email ONLY to: water.policy@dpipwe.tas.gov.au

Water Policy - Rural Water Use Strategy

Water and Marine Resources Division

Department of Primary Industries, Parks, Water and Environment

GPO Box 44

HOBART TAS 7001

For further information, please contact:

Claire Bookless

Managing Lawyer – Tasmania

Environmental Defenders Office Ltd

claire.bookless@edo.org.au

Ph: (03) 6223 2770

Introduction

Environmental Defenders Office (**EDO**) welcomes the opportunity to comment on the Tasmanian Draft Rural Water Use Strategy (**Draft Strategy**).

EDO made a comprehensive submission to the Tasmanian Rural Water Use Strategy Position Paper (**Position Paper**) in July 2020.¹ We are disappointed that, notwithstanding the significant amount of detailed feedback provided by the EDO and the community in response to the Position Paper, there have only been very minor changes to the “strategic activities” that were originally set out in the Position Paper and are now, in large part, replicated in the Draft Strategy. The Tasmanian Government’s policy of considerably increasing irrigated agriculture is of significant consequence to both the community and the environment. The failure of the Draft Strategy to substantively respond to the legitimate issues raised in the submissions is concerning.

In the Ministerial Foreword to the Draft Strategy, Minister Barnett again outlines the Tasmanian Government’s commitment to growing the economic output of Tasmania’s agricultural sector by four to five-fold to \$10 billion by 2050. The Government has stated that the majority of this growth is to be achieved through the substantial increase in irrigation,² and the reforms outlined in the Rural Water Use Strategy will underpin this growth.³ However, it is difficult to reconcile the commitment to such significant growth in irrigation with the statements in the Draft Strategy that acknowledge that some “catchments are nearing full allocation” and that climate change will have impacts on yields.

A substantial number of the submissions on the Position Paper provided anecdotal accounts of waterways at or beyond full allocation as a result of increased water extraction and changing climatic conditions, and of decreasing water quality. While some submissions also provided scientific data to support those accounts,⁴ it is clear much more work needs to be undertaken by the Government to establish that the proposed increase in water extraction, and the uses to which the water is put, is sustainable and will not adversely impact the environment or other downstream users of the water, including those who rely on the water for drinking, recreation (such as swimming, fishing and water sports), industry and other types of agriculture.

It is EDO’s firm position that no substantial increases in water allocation for irrigation or for any other consumptive use can be made until:

- (a) scientific studies establish and report on the health of all our waterways;
- (b) information is made publicly available that quantifies the levels of allocation of water to various uses, including to the environment;

¹ EDO’s submission on the Rural Water Use Strategy Position Paper can be accessed here:

<https://www.edo.org.au/publication/submission-in-response-to-the-rural-water-use-strategy-position-paper/>

² DPIPWE “Tasmania’s Sustainable Agri-Food Plan 2019 – 2023” accessible at

[https://dpiipwe.tas.gov.au/Documents/Tasmanian Sustainable Agri-Food Plan 2019-23.pdf](https://dpiipwe.tas.gov.au/Documents/Tasmanian%20Sustainable%20Agri-Food%20Plan%202019-23.pdf) .

³ DPIPWE “Rural Water Use Strategy – A guide to Future Water Management Arrangements” dated March 2019.

⁴ Refer to, for example, the submissions by the River Basin Management Society and the Tasmanian Independent Science Council accessible here: [https://dpiipwe.tas.gov.au/Documents/RWUS Position Paper Submissions Received.pdf](https://dpiipwe.tas.gov.au/Documents/RWUS%20Position%20Paper%20Submissions%20Received.pdf)

- (c) climate change modelling is updated and incorporated into allocation models and statutory decision-making; and
- (d) statutory water management plans (**WMPs**) are prepared for all catchments setting clear sustainable water use thresholds and outlining mechanisms for the achievement of water quality objectives (**WQOs**), environmental objectives and the protection of palawa / Tasmanian Aboriginal cultural heritage values.

In the attached submission we have provided recommendations as to how the Draft Strategy may be improved to better ensure these issues, and those detailed comments in EDO's response to the Position Paper, are properly addressed. A summary of our recommendations is provided in the box below.

We expect that the final Strategy will incorporate substantive responses to the detailed comments of the community on this important matter. If this does not occur, we anticipate it will result in a Strategy that not only fails to properly address a large range of important issues relating to rural water use, but one that fails to enjoy support from a broad cross-section of the community, including other agricultural users, fishers, freshwater scientists and conservation professionals.

Summary of Recommendations

Recommendation 1: Strategic Action 1.1 be amended to “Continue to share information and tools and establish partnerships to leverage projects to address the challenges of a changing climate both on communities and the environment.”

Recommendation 2: Strategic Action 1.2 be amended to “Consider knowledge gaps identified in the Groundwater Risk Assessment and Management Framework project and allocate sufficient additional funding to ensure groundwater resources are sustainably managed in accordance with the objectives of *Water Management Act 1999 (WM Act)*.”

Recommendation 3: Strategic Action 1.3 be amended to “Undertake environmental assessments that are required to support water resource management and planning, including preparing comprehensive environmental flow assessments for all river catchments.”

Recommendation 4: Include a Strategic Action that provides “Updated future climate water modelling will be made publicly available to ensure transparency in water management decision-making”.

Recommendation 5: Include a Strategic Action that provides “Amend the WM Act to ensure modelling of future climate predictions will inform all statutory decision-making, including the allocation of water licences and allocations, WMPs, and the determination of future Groundwater Areas.”

Recommendation 6: Strategic Activity 1.5 be amended to “Undertake a comprehensive review of hydrological monitoring networks and, where required, expand or upgrade the networks to ensure both water quality and flows are being adequately monitored and the relationships between groundwater and surface flows are established.”

Recommendation 7: Include a Strategic Action that provides “Following the review of the hydrological monitoring networks, assess whether flow, water quality and groundwater data are properly informing water management and planning decisions; and assess the accuracy and, if necessary, refine water allocation models used in water planning and allocation decisions in light of available data.”

Recommendation 8: Include Strategic Actions that commit to:

- (a) making surface flows and water quality data publicly available;
- (b) collating data on surface flows and use, groundwater levels and use, and water quality and publicly reporting on the status and trends in river health annually;
- (c) resourcing the Department to undertake reviews of all existing WMPs for which a review is due (or overdue as the case may be); and
- (d) resourcing the Tasmanian Planning Commission, or another independent statutory authority, to prepare State of the Environment reports in accordance with statutory requirements.

Recommendation 9: Include a Strategic Action that provides “Water metering is deployed for all water users, commencing with the largest water users, such as aquaculture facilities and irrigators, first.”

Recommendation 10: Include a Strategic Action that provides “A plan be developed for the implementation of best practice water use reporting and enforcement of water allocations.”

Recommendation 11: Include a Strategic Action that provides “Allocations and WMPs will be reviewed in light of measured water usage, and changes made to them in the event it is revealed that a particular catchment is overallocated.”

Recommendation 12: Include Strategic Actions addressing the need to manage river health.

Recommendation 13: Include a Strategic Action that commits to “Implement all measures under the *State Policy on Water Quality Management 1997 (SPWQM)*, including the development of Water Quality Objectives (**WQO**) for Tasmania’s waterways, and the development of best practice guidelines or a code of practice for agriculture to manage water quality impacts”.

Recommendation 14: Include a Strategic Action to “Ensure that any proposals for investment in new or refurbished water infrastructure, such as Tranche 3 of the “Pipeline to Prosperity” development, are independently assessed as economically, socially and ecologically sustainable prior to taxpayer investment occurring”.

Recommendation 15: Include a Strategic Action that provides “All water provided through taxpayer funded irrigation schemes be appropriately priced to ensure efficient allocation and so that the community is not left with costs associated with degraded water quality and ecosystems or increases in salinity associated with irrigation”.

Recommendation 16: Include a Strategic Action that provides “All potential irrigators are required to make upfront contributions to any proposed irrigation scheme to avoid the entrenchment of inefficient and unsustainable water use”.

Recommendation 17: Include a Strategic Action that provides “No allocation of water to new irrigation schemes should occur until WMPs are in effect or updated in the affected catchments.”

Recommendation 18: Include a Strategic Action that provides “An independent review of Hydro Tasmania’s role in water management be commissioned to identify: Hydro Tasmania’s legal rights and obligations with respect to water management; whether those rights and obligations are consistent with the National Water Initiative (NWI) and objectives of the WM Act; and what legislative reform may be required to ensure any barriers to the implementation of NWI commitments and objectives of the WM Act presented by Hydro Tasmania’s water rights and obligations are removed.”

Recommendation 19: Strategic Action 2.3 be amended to “Support ongoing development of policies to encourage water efficiency, recycling and reuse.”

Recommendation 20: Strategic Action 2.4 be amended to “Support emerging water dependent industries in Tasmania where they are shown to be ecologically, socially and economically viable, and ensure they are subject to the same requirements as other users under the WM Act and subject to statutory WMPs”.

Recommendation 21: Strategic Action 3.2 be amended to “Explore options to increase flexibility for water users to manage allocations sustainably and responsively either through market-based mechanisms or other water sharing and management approaches”.

Recommendation 22: Strategic Action 3.4 be amended to “Review the legislative framework underpinning water management planning to ensure that it: is efficient and effective, is meeting best practice; covers all emerging uses of water; adequately addresses climate change, identifies WQOs and environmental objectives and implements strategies for their achievement; identifies palawa / Tasmanian Aboriginal values in catchments and implements strategies for their achievement; and incorporates the *UN Declaration on the Rights of Indigenous Peoples* principle of free prior and informed consent by the palawa / Tasmanian Aboriginal people.”

Recommendation 23: Include a Strategic Action that states “Prepare and/or review WMPs for all catchments and delay any decisions for allocations to new irrigation schemes or other significant uses within those catchments until the WMPs have been finalised.”

Recommendation 24: Strategic Action 3.6 be amended to “Further enhance options available for developing collaborative water management arrangements within the ambit of the existing statutory water management planning process.”

Recommendation 25: Strategic Action 3.12 be amended to “Work with relevant stakeholders to address concerns about the impacts on dam risk ratings of downstream developments and the direct and indirect impacts of upstream dams on downstream users and the environment.”

Recommendation 26: Include a Strategic Action that states “Amend the WM Act to allow for third party appeals in relation to dam permits to raise merits and not just procedural grounds of appeal.”

Recommendation 27: Include a Strategic Action that states “Amend the WM Act so that dams that are designed catch overland flow over a certain threshold identified under WMPs (or otherwise a default amount set under the Act) require a water allocation and licence.”

Recommendation 28: Strategic Action 3.14 be amended to “Explore legislative and administrative reforms as well as information systems to provide relevant information and register water trades to better support water market development and provide transparency and accountability.”

Recommendation 29: Include a Strategic Action that states “Undertake a detailed review of water management fees, including consideration of the option of full cost recovery of the private benefits associated with water management.”

Comments on Draft Rural Water Use Strategy

Goal 1 - Sustainable Management of Tasmania’s freshwater resources

- 1 While EDO generally supports the proposals outlined for Goal 1 of the Draft Strategy, we consider further improvements could be made to achieve the apparent aims of better understanding our freshwater resource, enabling evidence-based decision making and enhancing monitoring. These improvements are outlined in our comments below each relevant subheading.

Better understanding our freshwater resources and enabling evidence-based policy and decision making

- 2 EDO is generally supportive of Strategic Action 1.1 and the sharing of “information and tools and establish partnerships to leverage projects to address the challenges of a changing climate”. However, any projects addressing the challenges of climate change should not simply focus on mitigating human-related impacts (such as reduced access to water for use) but should take a whole-ecosystem approach to ensure climate change impacts on rivers and waterways are addressed in a holistic way.

Recommendation 1: Strategic Action 1.1 be amended to “Continue to share information and tools and establish partnerships to leverage projects to address the challenges of a changing climate both on communities and the environment.”

- 3 The Draft Strategy proposes to “consider knowledge gaps identified in the Groundwater Risk Assessment and Management Framework project and determine additional funding expectations to better manage groundwater resources.” (Strategic Action 1.2). EDO considers that in light of the projected increased pressure on water resources, it is not sufficient to just “determine additional funding expectations”, rather, there needs to be a concrete commitment to ensure that groundwater resources are being properly managed based on scientific evidence.

Recommendation 2: Strategic Action 1.2 be amended to “Consider knowledge gaps identified in the Groundwater Risk Assessment and Management Framework project and allocate sufficient additional funding to ensure groundwater resources are sustainably managed in accordance with the objectives of the *Water Management Act 1999 (WM Act)*.”

4 Strategic Action 1.3 commits to continuing “to undertake a range of environmental assessments to support water resource management”. We note that this action was not included or explained in the Position Paper which limits our ability to provide detailed comment upon it. EDO notes that there are a range of environmental assessments and processes that are currently provided for under the WM Act to support water resource management, such as comprehensive environmental flow assessments to inform WMPs, but that these assessments have not been undertaken for many catchments or are very out of date. EDO therefore recommends changes to Strategic Action 1.3 to better reflect and address this situation.

Recommendation 3: Strategic Action 1.3 be amended to “Undertake environmental assessments that are required to support water resource management and planning, including preparing comprehensive environmental flow assessments for all river catchments.”

5 The Draft Strategy proposes that surface water models be updated with more recent predictions of future climate (Strategic Action 1.4). While EDO supports this proposal, there should be Strategic Actions outlining how updated future climate models will be made publicly available and used to inform all aspects of water management and planning.

Recommendation 4: Include a Strategic Action that provides “Updated future climate water modelling will be made publicly available to ensure transparency in water management decision-making”.

Recommendation 5: Include a Strategic Action that provides “Amend the WM Act to ensure modelling of future climate predictions will inform all statutory decision-making, including the allocation of water licences and allocations, WMPs, and the determination of future Groundwater Areas.”

Enhancing monitoring of our freshwater resources

6 The Draft Strategy has changed the “review of surface water monitoring networks” in the Position Paper to the “review of hydrological monitoring networks” in Strategic Activity 1.5 of the Draft Strategy. No information has been provided to explain this change however EDO is supportive if it means that both groundwater and surface water monitoring networks will be subject to the review. We consider this Strategic Activity should be further strengthened to ensure that there is a better understanding of the State’s freshwater resources and a sound basis for decision-making.

Recommendation 6: Strategic Activity 1.5 be amended to “Undertake a comprehensive review of hydrological monitoring networks and, where required, expand or upgrade the networks to ensure both water quality and flows are being adequately monitored and the relationships between groundwater and surface flows are established.”

7 In addition to the review of hydrological monitoring networks, there should also be a review to ensure that data are being adequately considered in water management and planning decisions.

Recommendation 7: Include a Strategic Action that provides “Following the review of the hydrological monitoring networks, assess whether flow, water quality and groundwater data are properly informing water management and planning decisions; and assess the accuracy and, if necessary, refine water allocation models used in water planning and allocation decisions in light of available data.”

8 While the Draft Strategy does commit to the continuation of the existing River Health Monitoring Program (Strategic Activity 1.6) and “review water accountability and reporting frameworks” (Strategic Activity 1.7), substantially more needs to be done to make these data publicly accessible, and reporting on the outcomes and trends of this monitoring. Only through this transparent reporting and analysis can informed decisions be made as to whether the proposed substantial increase in water extraction that the Draft Strategy proposes to underpin is sustainable.

Recommendation 8: Include Strategic Actions that commit to:

- (a) making surface flows and water quality data publicly available;
- (b) collating data on surface flows and use, groundwater levels and use, and water quality and publicly reporting on the status and trends in river health annually;
- (c) resourcing the Department to undertake reviews of all existing WMPs for which a review is due (or overdue as the case may be); and
- (d) resourcing the Tasmanian Planning Commission, or another independent statutory authority, to prepare State of the Environment reports in accordance with statutory requirements.

9 Competition for our water resources is expected to increase in coming decades. These challenges will be compounded by the effects of climate change. While EDO supports the proposal to “review water accountability and reporting frameworks to strengthen risk-based water use and water conveyance measurement and reporting” (Strategic Action 1.7), more detailed commitments need to be made to ensure there is a fair and sustainable allocation of water both to human uses and to the environment.

10 Currently, most water users are not required to accurately measure their use. In order to properly understand the status and health of our waterways, it is absolutely critical that the Department commence collecting accurate data about water use through water meters. It is also necessary for the Department to develop a plan for the reporting and enforcement of water allocations and review WMPs to ensure that they are amended to reduce allocations where catchments are overallocated.⁵

Recommendation 9: Include a Strategic Action that provides “Water metering is deployed for all water users, commencing with the largest water users, such as aquaculture facilities and irrigators, first.”

Recommendation 10: Include a Strategic Action that provides “A plan be developed for the implementation of best practice water use reporting and enforcement of water allocations.”

Recommendation 11: Include a Strategic Action that provides “Allocations and WMPs will be reviewed in light of measured water usage, and changes made to them in the event it is revealed that a particular catchment is overallocated.”

11 The vast majority of the public comments on the Position Paper expressed a desire that, in addition to monitoring our waterways, substantive actions are taken to protect both water quality

⁵ This is consistent with Tasmania’s commitment under clause 87 of the National Water Initiative (NWI).

and river health. However, the Draft Strategy states that “catchment management issues”, such as the process for the identification of land suitable for irrigation and the efficiency of that use, are outside the scope of the Rural Water Use Strategy project.

- 12 EDO reiterates that consideration of whole-of-catchment issues is essential for a balanced and well-received Strategy, particularly one where the stated goal is the sustainable management of Tasmania’s water resources. It is simply not possible to sustainably manage water without managing how that water is used within a catchment.
- 13 We again note that a whole-of-catchment approach is also required when taking into account the Department’s obligation to give effect to the objectives of the WM Act (the Resource Management and Planning System objectives) and implement the *State Policy on Water Quality Management 1997 (SPWQM)*.
- 14 EDO strongly recommends that the Draft Strategy be amended to incorporate concrete actions towards managing river health, for example by implementing the measures outlined in the SPWQM.⁶

Recommendation 12: Include Strategic Actions addressing the need to manage river health.

Recommendation 13: Include a Strategic Action that commits to “Implement all measures under the SPWQM, including the development of Water Quality Objectives (**WQO**) for Tasmania’s waterways, and the development of best practice guidelines or a code of practice for agriculture to manage water quality impacts”.

Goal 2 - Strategic development to maximise opportunities from freshwater resources

Supporting emerging water developments

- 15 The Draft Strategy outlines the government’s commitment to deliver the “third tranche” of “Pipeline to Prosperity Program” irrigation projects amounting to the delivery of an extra 80,000 ML of water in addition to the existing 130,000 ML of water already used for irrigation in Tasmania (Strategic Activity 2.1). As more than three quarters of the funding for these projects come from the taxpayer, Tasmania needs to honor its commitment under clause 69 of the National Water Initiative (**NWI**) and ensure that the Government is not committing to ecologically, economically or socially unsustainable infrastructure, and that the water is appropriately priced to reflect its true cost.⁷

Recommendation 14: Include a Strategic Action to “Ensure that any proposals for investment in new or refurbished water infrastructure, such as Tranche 3 of the “Pipeline to Prosperity” development, are independently assessed as economically, socially and ecologically sustainable prior to taxpayer investment occurring”.

Recommendation 15: Include a Strategic Action that provides “All water provided through taxpayer funded irrigation schemes be appropriately priced to ensure efficient allocation and so that the community is not left with costs associated with degraded water quality and ecosystems or increases in salinity associated with irrigation”.

⁶ See for example clauses 30.1, 30.2, 31.4, 32.1, 32.2, and 32.3 of the SPWQM.

⁷ See clauses 65 and 73 of the NWI.

Recommendation 16: Include a Strategic Action that provides “All potential irrigators are required to make upfront contributions to any proposed irrigation scheme to avoid the entrenchment of inefficient and unsustainable water use”.

Recommendation 17: Include a Strategic Action that provides “No allocation of water to new irrigation schemes should occur until WMPs are in effect or updated in the affected catchments.”

- 16 The Draft Strategy proposes to “ensure that the legislative framework under which Hydro Tasmania’s water rights and obligations sit provides certainty and confidence for proposals such as Battery of the Nation” (Strategic Activity 2.2). In addition to providing confidence to proposals such as Battery of the Nation, there is a need to provide community confidence in the transparency and oversight of Hydro Tasmania’s powers to transfer water to consumptive use.

Recommendation 18: Include a Strategic Action that provides “An independent review of Hydro Tasmania’s role in water management be commissioned to identify: Hydro Tasmania’s legal rights and obligations with respect to water management; whether those rights and obligations are consistent with the NWI and objectives of the WM Act; and what legislative reform may be required to ensure any barriers to the implementation of NWI commitments and objectives of the WM Act presented by Hydro Tasmania’s water rights and obligations are removed.”

- 17 While EDO agrees with Strategic Action 2.3 that provides “support ongoing development of policies to encourage water recycling and reuse”, we consider that these policies should prioritise and protect downstream users, groundwater systems and the environment from pollution or degradation. EDO considers that much more should be done to protect water quality, and to this end, those actions we identified in recommendations 6, 8, 12 and 13 of this submission should be adopted as part of the Strategy. Further, more should be done to ensure policies are developed to ensure the use of water is as efficient as possible.

Recommendation 19: Amend the Strategic Action 2.3 as follows “Support ongoing development of policies to encourage water efficiency, recycling and reuse.”

- 18 The Draft Strategy commits to supporting emerging water dependent industries (Strategic Action 2.4). EDO suggest that Government support for emerging water dependent industries should only be provided where those industries have proven to be ecologically, socially and economically viable. Any emerging industry should be subject to the same requirements as other water users.

Recommendation 20: Strategic Action 2.4 be amended to “Support emerging water dependent industries in Tasmania where they are shown to be ecologically, socially and economically viable, and ensure they are subject to the same requirements as other users under the WM Act and subject to statutory WMPs”.

Goal 3 Effective regulation, strong entitlements and planning

Ensuring the water allocation policy framework continues to deliver benefits across commercial sectors and supports delivery of non-financial benefits to environmental and social values

- 19 EDO is supportive of the “review the water allocation policy framework to ensure it considers best available science in a changing climate, continues to deliver outcomes in line with the objectives of the WM Act, and enhances transparency of decision making” (Strategic Action 3.1) and the

exploration of “options to enable greater visibility of allocations and water availability and limits in catchments” (Strategic Action 3.3).

- 20 It is unclear what is meant by the proposal to “explore options to enhance flexibility for irrigators to manage allocations responsively through market-based mechanisms or other water sharing and management approaches” (Strategic Action 3.2). Any greater flexibility for irrigators should not come at the expense of the environment or downstream users.

Recommendation 21: Strategic Action 3.2 be amended to “Explore options to increase flexibility for water users to manage allocations sustainably and responsively either through market-based mechanisms or other water sharing and management approaches”.

Providing for an adaptive, risk-based water management planning system that is inclusive of stakeholders

- 21 Strategic Activity 3.4 of the Draft Strategy provides for the revision of “the legislative framework underpinning risk-based water management planning to ensure efficient and effective statutory planning processes”. EDO considers this proposal is lacking in sufficient detail to enable informed comment.
- 22 As it is currently drafted, the WM Act can provide a strong basis for water management planning that is scientifically robust and the desired certainty to water users and the environment. However, EDO would be supportive of a review of the statutory WMP framework to ensure that it is meeting best practice – especially in terms of community consultation, recognition of palawa / Tasmanian Aboriginal people and their values, and the use of underpinning science including climate change modelling.
- 23 The Draft Strategy proposes to “ensure that Indigenous people have the opportunity to be engaged in water planning in Tasmania” (Strategic Action 3.5.), however in light of the fact that no WMPs in Tasmania provide for “indigenous social, spiritual and customary objectives and strategies for achieving these objectives” as required under the NWI,⁸ more needs to be done to acknowledge and include palawa / Tasmanian Aboriginal people in the water management planning process.

Recommendation 22: Strategic Action 3.4 be amended to “Review the legislative framework underpinning water management planning to ensure that it: is efficient and effective, is meeting best practice; covers all emerging uses of water; adequately addresses climate change, identifies WQOs and environmental objectives and implements strategies for their achievement; identifies palawa / Tasmanian Aboriginal values in catchments and implements strategies for their achievement; and incorporates the *UN Declaration on the Rights of Indigenous Peoples* principle of free prior and informed consent by the palawa / Tasmanian Aboriginal people.”

- 24 EDO supports the development of statutory WMPs for all catchments, irrespective of the complexity of water allocation, social or environmental management issues. We note that, currently, the majority of catchments (including the River Derwent catchment) are without

⁸ The River Clyde Catchment WMP does mention and acknowledge the palawa / Tasmanian Aboriginal people as the traditional owners of the area and their continuing connection to it. However, no explicit objectives or measures are set to protect and acknowledge significance and cultural heritage values within the catchment.

statutory WMPs, which significantly hinders an understanding of how water is currently being managed both for users and the environment. Furthermore, the review of existing WMPs is now overdue. Undertaking WMP reviews is the most obvious “adaptive” mechanism to ensure that knowledge gained through monitoring, evaluation and research (including new climate change research) is used to improve management decisions. WMPs were never intended to be “set and forget” documents.

Recommendation 23: Include a Strategic Action that states “Prepare and/or review WMPs for all catchments and delay any decisions for allocations to new irrigation schemes or other significant uses within those catchments until the WMPs have been finalised.”

Supporting local water management

- 25 With respect to Strategic Action 3.6, EDO is supportive of the proposals providing for active community involvement in water management decision-making, providing that is done within the ambit of existing WMPs and the broader legislative framework. The Department’s facilitation of informal groups should not be considered to be a replacement for the formal modes of public participation in the WM Act and, in particular, in the WMP process or be used as a substitute for its important regulatory function.

Recommendation 24: Strategic Action 3.6 be amended to “Further enhance options available for developing collaborative water management arrangements within the ambit of the existing statutory water management planning process.”

- 26 Strategic Action 3.7 provides for the finalisation of “legislative reforms to facilitate irrigator self-management of publicly owned irrigation schemes.” This proposal was not set out in the Position Paper, and no background or further detail about it has been provided in the Draft Strategy. In the absence of this contextual information, it is not possible to provide an informed comment upon it, other than to say that there ought to be fulsome public consultation on any proposed legislative amendments to facilitate private management of publicly owned assets.

Further reducing regulatory burden for owners of smaller private dams

- 27 EDO has no views on the proposed review of the arrangements for the rating of risks for “smaller private dams” (Strategic Action 3.11), however it does not support the principle of “reducing regulatory burden for owners of smaller private dams” given the current failings in the regulation and oversight of these dams.
- 28 EDO considers that if there is to be work towards ensuring impacts of downstream developments on upstream dam risk ratings are taken into account (under Strategic Action 3.12), that work should also look at how impacts of those dams on downstream users and the environment can be properly managed. Furthermore, changes should be made to the WM Act to provide the opportunity for substantive appeals to be brought by third parties in the dam approval process. This will ensure transparency and accountability, increase community confidence in decision-making and overall improve the quality and consistency of decision-making in relation to dams.

Recommendation 25: Strategic Action 3.12 be amended to “Work with relevant stakeholders to address concerns about the impacts on dam risk ratings of downstream developments and the direct and indirect impacts of upstream dams on downstream users and the environment.”

Recommendation 26: Include a Strategic Action that states “Amend the WM Act to allow for third party appeals in relation to dam permits to raise merits and not just procedural grounds of appeal.”

- 29 In addition to these issues, EDO considers more should be done to ensure that the cumulative impacts of “smaller” private dams on catchments and downstream users is adequately taken into account in regulatory processes.⁹ While there may currently be “relatively few” overland flow catchment dams in Tasmania, with increasing competition for freshwater and water trading, they may easily proliferate to such a point that their cumulative impacts on water availability to downstream uses and the environment are significant.

Recommendation 27: Include a Strategic Action that states “Amend the WM Act so that dams that are designed catch overland flow over a certain threshold identified under WMPs (or otherwise a default amount set under the Act) require a water allocation and licence.”

Enhancing the regulatory settings for water markets

- 30 The currently informal nature of many trades in water in Tasmania lacks transparency and may have an adverse impact on how water is valued and therefore on the efficiency of its use. EDO therefore supports the proposal to “review policy settings for water trading to provide for positive market and sustainable outcomes for Tasmania’s water resources” (Strategic Action 3.13). However, EDO recommends changes be made to Strategic Action 3.14 to better reflect the need for transparency and accountability in water trading, and to reflect what was originally proposed in this respect in the Position Paper.

Recommendation 28: Strategic Action 3.14 be amended to “Explore legislative and administrative reforms as well as information systems to provide relevant information and register water trades to better support water market development and provide transparency and accountability.”

Goal 4 - Administrative efficiency

Ensuring contemporary and fit for purpose water resource management legislation

- 31 While EDO generally supports the notion of legislative reform to enhance the efficiency, consistency and effectiveness of the water management framework (Strategic Action 4.1), as we have previously noted both in this submission and in our response to the Position Paper, this proposal is lacking in sufficient detail to enable detailed comment.
- 32 As per our previous recommendations 5, 22, 26, 27, EDO considers that any amendments to the WM Act arising from the Strategy should:
- (a) strengthen public and palawa / Tasmanian Aboriginal participation in the development of statutory WMPs, and third party appeal rights in dam works permits;
 - (b) provide clear statutory requirements to ensure WMPs and allocations consider climate change;
 - (c) strengthen mechanisms for the achievement of sustainable environmental outcomes;

⁹ In accordance with clauses 55 and 56 of NWI.

(d) provide a default threshold for licence and water allocations for dams designed to catch overland flow.

33 EDO notes that the proposal set out in the Position Paper to “Undertake a detailed review of water management fees following any legislative changes arising from the Rural Water Use Strategy” is lacking from the Draft Strategy. EDO reiterates it supports the proposal for the detailed review of water management fees following any legislative changes arising from the Strategy. We recommend the Department to undertake the broader investigation of the feasibility of full cost recovery of the private benefits associated with water management that was flagged in the *Regulatory Impact Statement for the Water Management Regulations 2019*.

Recommendation 29: Include a Strategic Action that states “Undertake a detailed review of water management fees, including consideration of the option of full cost recovery of the private benefits associated with water management.”

Enhancing water information sharing, transparency and useability

34 EDO is supportive of all proposals in the Position Paper relating to the improvement of water management information systems and the increase in public access to existing and emerging water data. We consider that it is vital that water data not only be available, but also be analysed and then acted upon to ensure the achievement of WM Act objectives. We have outlined our recommendations concerning the analysis of the data in recommendations 3, 5, 7, 8, 11 above.