

Phone (068) 59 3534  
(068) 59 3546

MDBC FA 0538  
Corr. Id. 19367

'Radley'  
Forbes NSW 2871

The Commissioners

5-7-2000

Murray Darling Basin Commission

GPO. Box 409 Canberra 2601

Dear Sir,

I wish to make the following submission regarding MDBC Cap. Specifically excluding "the Cap itself" from this Review is inappropriate in view of my opinion that it is set in appropriately low on the Lachlan.

I believe cap should be increased by at least 100% (see history of use)

● I have filled in your response sheet in brief form.

I believe chart 5.4 page 50 Draft March 2000 is in correct and is a misrepresentation of the true situation.

(enc. Copy of letter to Dr. J. Marsden 11-11-1999)

I ask you to correct the chart and comments.

I am concerned that, as a body funding research, you are deliberately biasing the research community and the general public against irrigation.

Selectively funding research projects will bias the results and

● consequently lead to an unbalanced view of the resource and its economic use.

To make matters worse, consequent government policies will be based on this flawed research and may be inappropriate.

I submit that the MDBC should be dissolved and the responsibility for water returned to the NSW Government.

This would be at considerable saving to irrigators & taxpayers.

(see Sect 100 of the Australian Constitution.)

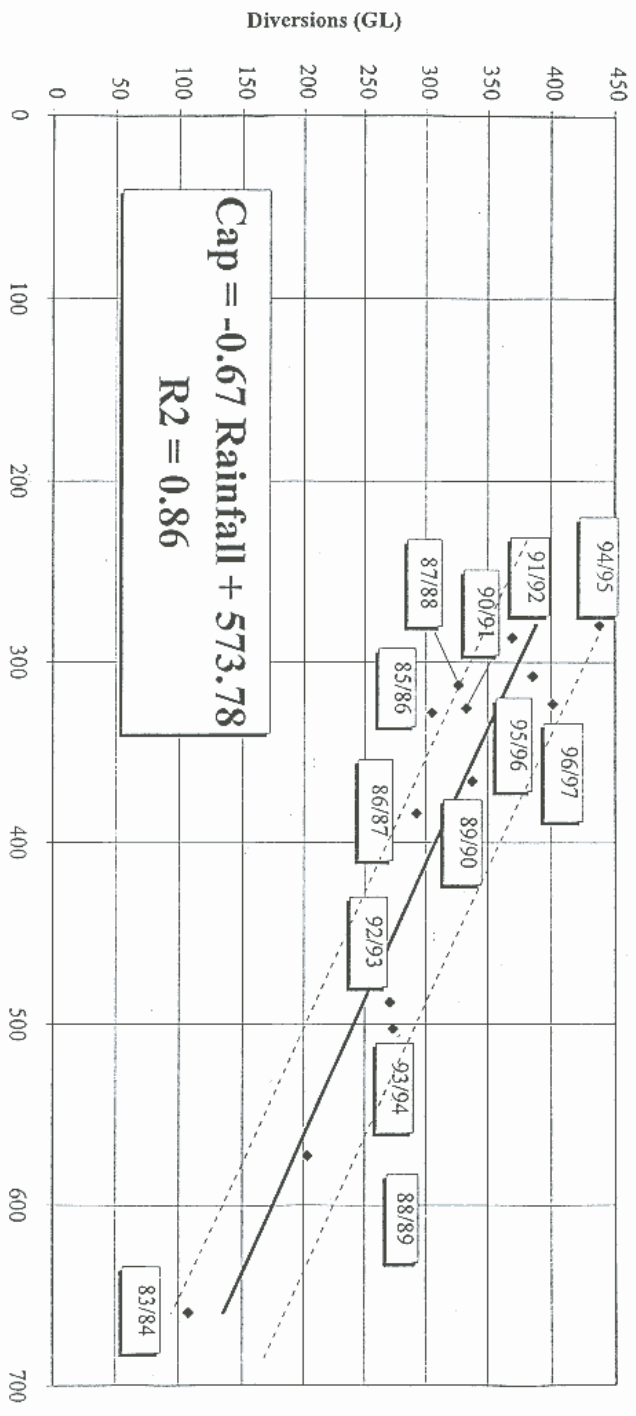
yours faithfully

R. Caldwell.

MPSC cap - Chart.  
 Diversions 97/98 = 420 GL  
 98/99 = 252 GL

Others - see chart.

Lachlan Valley Climate Diversion Relationship using Actual Data  
 1983/84 to 1996/97



DLWC  
 chart  
 Combination of 40% Warrongorrah (Jul-Apr), 40% Brewster rainfall (Jul-Apr) and 20% Condoolin Rainfall (Jul-Apr) (mm)

## REVIEW OF THE OPERATION OF THE CAP *RESPONSE SHEET FOR COMMENTS ON DRAFT REPORT*

The March 2000 draft report on the **Review of the Operation of the Cap** by the Cap Project Board to the Murray-Darling Basin Ministerial Council is now available for public comment. Comments on the draft report are due by **10 July 2000**.



The draft report, and further copies of this response sheet, are available from the Murray-Darling Basin Commission and from the Commission's web site:

[www.mdbc.gov.au](http://www.mdbc.gov.au)

If you wish, you may use this form to tell us what you think about the position of the Cap Project Board in their report on the Review of the Operation of the Cap. If there is insufficient space on the form, you may add additional sheets or write a separate submission.

The draft report will be modified to reflect comments received and a final report on the Review of the Operation of the Cap will be presented to Ministerial Council Meeting 29 in August 2000.

Those who provide comments will receive a copy of the final Report once it has been approved by the Ministerial Council.

COMMENTS BY:	R. Caldwell
CONTACT DETAILS:	Radley Forbes
DATE:	5-7-2000

The deadline for comment is **10 July 2000**.

Comments (by e-mail if possible – this response sheet is available electronically on the Commission's web site) should be directed to:

- Review of the Operation of the Cap  
Murray-Darling Basin Commission  
GPO Box 409  
CANBERRA ACT 2601  
Attn: Dr Tony McLeod, Project Manager  
Tel: 02 6279 0144  
Fax: 02 6230 7579  
Email: [tony.mcleod@mdbc.gov.au](mailto:tony.mcleod@mdbc.gov.au)
- or your local member of the Community Advisory Committee (CAC). Those comments made via the CAC that are received prior to **Friday 16 June 2000** will be considered at CAC Meeting 24 – 27 June 2000.

	Cap Project Board Position	Comment
Ecological Sustainability of Rivers	<p>The Project Board has concluded that the Cap has been an essential first step in providing for the environmental sustainability of the river system of the Basin. Without the Cap, there would have been a significantly increased risk that the environmental degradation of the river system of the Murray-Darling Basin would have been worse.</p>	<p>Empowerment of a Quan-go</p>
	<p>However, the Project Board has concluded that there is no certainty that the Cap on diversions at its current level represents a sustainable level of diversions – the level at which it is set being that which existed at the time when it was decided to introduce a Cap. Further, the Project Board recommends that as better information informs our management of the Basin's resources, the level at which the Cap is set should continue to be refined to reflect our increased understanding. It is likely that such refinements may lead to the lowering of the level of the Cap in some valleys. Indeed, some jurisdictions have already increased the environment's share, via access restrictions in addition to that required by the Cap, as part of their longer-term direction of improved water management.</p>	<p>Further reductions</p>

Economic and Social Impacts

Cap Project Board Position	Comment
<p>The Project Board considers that there is compelling evidence that the Cap has already delivered significant economic and social benefits to the Basin community and that the net benefit will increase over time.</p>	<p><i>Redistribution of allocations without compensation.</i></p>
<p>The results of research conducted for the Review make it clear that, in the absence of the Cap, the erosion of security of supply for irrigators and other users would have been significant. These analyses were performed on several systems across the Basin reflecting diverse agricultural practices and climatic conditions.</p>	<p><i>In correct (a consequence of unsubstantiated env flows is a drastic loss of reliability &amp; allocation from existing users.)</i></p>
<p>Through guaranteeing security of water supply at the valley level, the Project Board views the Cap as having provided a more certain climate for long-term investment and development, particularly in high value agriculture and value adding processing, as well as providing benefits to the environment.</p>	<p><i>Loss of security of supply is a consequence of MDBC cap, activation of sleepers &amp; Env flows. Reduced security of supply is so bad that development/investment is unwise.</i></p>
<p>The Project Board considers that the Cap has provided a mechanism for restraining, in an orderly fashion, growth in diversions while enabling economic development to proceed.</p>	
<p>The Project Board recognises that this strong positive conclusion will not be the perception of every stakeholder in the Basin. However, the Project Board concludes that the overall benefit of the Cap, especially from ensuring security of supply at a valley level and providing an environment within which water trading and related reforms could be developed, has been a positive one.</p>	<p><i>In correct. from an irrigators point of view.</i></p>

	Cap Project Board Position	Comment
	<p>The Project Board identified several equity issues (notably Cap arrangements for Queensland and the ACT) of longstanding duration that require urgent resolution. In addition there are several more recently identified equity issues (floodplain and overland flows and diversions, farm dams and tree plantations) also requiring attention. The effective management of these issues will necessitate a total catchment management approach to water management that embraces both surface and groundwater resources.</p>	<p>?</p>
Equity	<p>The Project Board focused on equity issues arising from the implementation of the Cap between jurisdictions and between river valleys within States. In several cases, the submissions received by the Review of the Operation of the Cap raised equity issues that are about the details of implementation within valleys which are outside the jurisdiction of the Murray-Darling Basin Commission and Ministerial Council processes. The vast majority of such issues related to the recognition of licensed entitlement versus history of use, specifically in New South Wales (the "sleeper/dozer" issue). Such issues need to be dealt with by the particular jurisdiction concerned. In order that all submissions receive appropriate attention, these submissions and that of the CAC have been referred to the appropriate Government for consideration and reply.</p>	<p>Blame passing between MDBC &amp; DLWC.</p>

	Cap Project Board Position	Comment
Implementation and Compliance	<p>The work of the Independent Audit Group (IAG) on the ongoing implementation of the Cap and compliance of actual diversions with Cap target diversions has provided a clear direction for the finalisation of the implementation phase of the Cap. The Project Board generally supports the IAG recommendations.</p>	<p>you have got the hachlan cap wrong. see history of use (enc).</p>
	<p>Significantly, effective compliance tools (computer simulation models used to determine Cap target diversions) have not yet been developed and the Project Board recommends that a high priority be given to the finalisation of these models.</p>	<p>How can you set a cap if you don't understand the valley Hydrology? (Enc exceedance chart.)</p>
	<p>The Review has found that Victoria and South Australia have complied with the Cap, while Queensland and ACT are yet to complete the establishment of their respective Caps. Nevertheless, it is apparent that in Queensland there has been significant growth in storage which will impact on the water available for alternative consumptive and environmental uses. In New South Wales, the Cap has been breached in the Barwon-Darling system, with other valleys being within Cap limits.</p>	<p>No economic or social consideration.</p>

	Cap Project Board Position	Comment
Schedule F to the Murray-Darling Basin Agreement	<p>The most important challenge in Cap implementation is to finalise the arrangements under "Schedule F – Cap on Diversions" to the <i>Murray-Darling Basin Agreement</i>. This schedule is the primary tool for defining Cap arrangements especially those concerned with assessing compliance and its consequences.</p>	<p>What about if you restrict the valley productivity without technical foundation?</p>
	<p>With the intent of improving the operation of the Cap through the development of fair and meaningful compliance arrangements, the Project Board invites comments on the following modifications to Schedule F which have been recommended by the IAG:</p>	<p>Don't do it.</p>
	<ul style="list-style-type: none"> <li>Removal of references to end-of-valley flows as a method for Cap compliance.</li> </ul>	<p>The use of end of valley flows is an inappropriate criteria in an effluent system. Demonstrates inappropriate hydrology.</p>
	<ul style="list-style-type: none"> <li>Arrangements for remedial actions in the case of Cap exceedence. The recommendation of the IAG is that States be required "to ensure that cumulative diversions are brought back into balance with the cap".</li> </ul>	<p>Raise hachlan Cap by at least 100%.</p>
	<ul style="list-style-type: none"> <li>re-setting the commencement date for accounting for diversions under the Cap to start with the 2000/01 water year.</li> </ul>	



	Cap Project Board Position	Comment
Sustainable Rivers Audit	<p>With the implementation of the Cap nearing completion in most jurisdictions, there is now the opportunity to take the "next step" and to consider the environmental outcomes of the Cap from a whole of Basin perspective. The Project Board supports the introduction of a regular Sustainable Rivers Audit which would cast the Cap as an input to Basin health, rather than an outcome in itself. Whereas the Cap is seen as the first step towards achieving the longer-term objective of the <i>Initiative</i>, a Sustainable Rivers Audit can be viewed as the next step in the process of achieving this objective.</p>	<p>Bankruptcy by more restrictions.</p>

	Cap Project Board Position	Comment
Any Other Issues	<p>Are there any other issues raised in the draft report that you wish to comment upon?</p>	<p>Biassing of the research community against irrigation by selective funding of research.          You will kill off irrigation with your policies to the detriment of the Basin.          your lack of socio/economic work and decietful hydrology should disqualify you from influencing policy.          Please pay compensation for your impacts on existing users.</p>

11 November 1999

Dr J Marsden  
Marsden Jacob Associates  
Level 3, 683 Burke Road  
CAMBERWELL VIC 3124

R Caldwell  
"Radley"  
FORBES NSW 2871  
Phone (02) 68593534  
Fax (02) 6859 3546

Dear Dr Marsden

With regard to your report D.L.W.C. Water Trading Development and Monitoring (20 May 1999) I am concerned that your report makes scant mention of loss of water rights because of M.D.B.C. Cap Lachlan (Average diversion = 250GL) and the activation of sleepers resulting in a loss to users of half their water rights. The failure to explain the loss of reliability to existing users caused by the arbitrary setting of priority environmental flows (Enc), while promoting the virtues of water trading is an unbalanced economic view of the on farm situation.

#### CONCLUSIONS/RECOMMENDATIONS

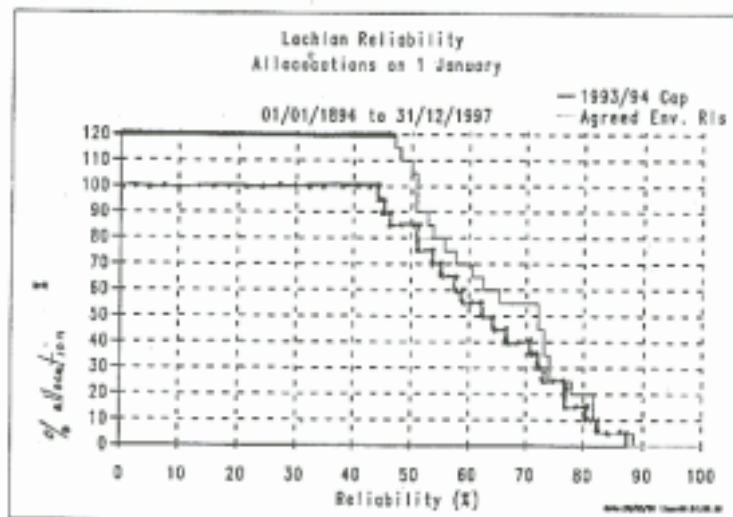
- NSW is committed to full implementation of the Cap.
- The pursuit of river flow objectives to achieve environmental outcomes will ensure diversions below the Cap.
- Climate adjusted Caps have been established for a number of valleys and will be replaced by models for all valleys.

## Review of Cap Implementation 1996/97

Report of the Independent Audit Group

I take particular exception to Chart 5.2 (Enc)

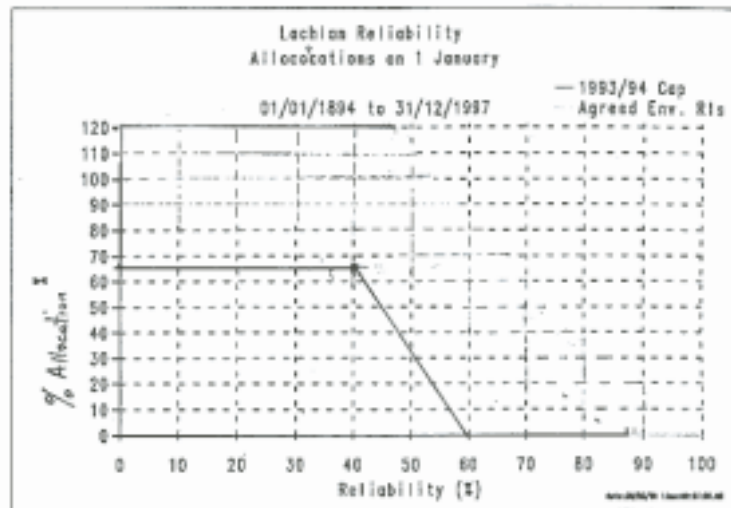
CHART 5.2 : RELIABILITY / EXCEEDENCE



I believe the cap reduces the upper limit of allocations to 66% of stated value and allocations only exceed zero for 60% of the time. The real state of allocations should look something like my sketch below.

Drawn by R Caldwell

CHART 5.2 : RELIABILITY / EXCEEDENCE



This is clearly in breach of the NSW guarantee of reductions to irrigators not to exceed 10%.

The government has guaranteed that, over the five-year period 1996-99 to 2002-03, the collective impact of these rules in each valley will not exceed 10% of the average long-term water diversions at the 1993-94 level of irrigation and other development except where there are agreed management arrangements in place (that is, 11%). For the Lachlan River, the environmental share will be achieved largely through objective 3 and objective 11.

I have asked your Mathew Tilman and Peter Brindsley (D.L.W.C.) to have this graph corrected. I have received a flat refusal. I do not think you have the right to publish a clearly misleading graph which does not reflect the true situation at time of publication. I understand that it is in the interest of the NSW Labor Government to underestimate the loss to existing users. This is in accordance with the "Green Agenda" and ability to ignore irrigators who are unrepresented in Government.

That you have allowed yourself to publish and give support to this deception is most disappointing.

Please advise me if you intend to rectify the situation.

Yours faithfully

Robert Caldwell

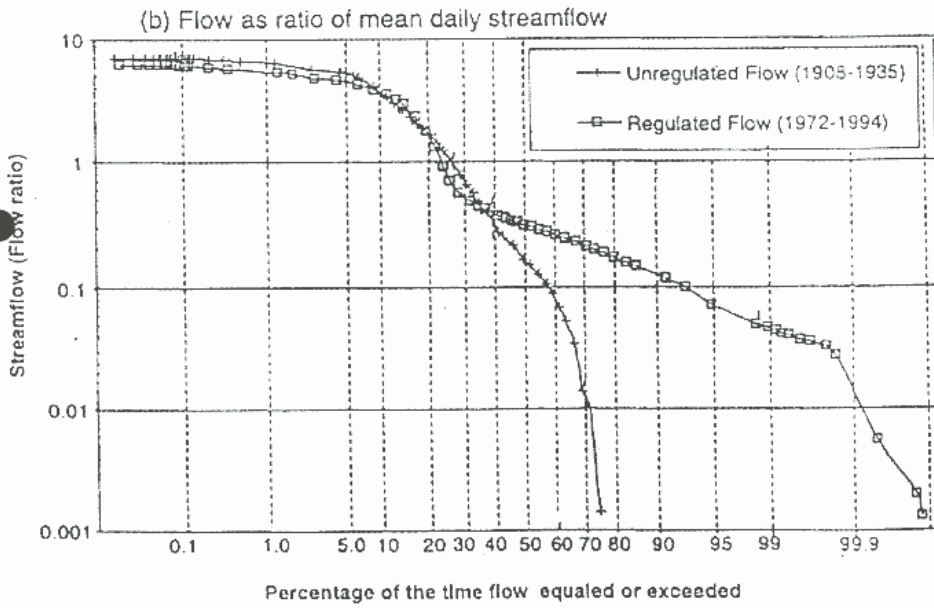
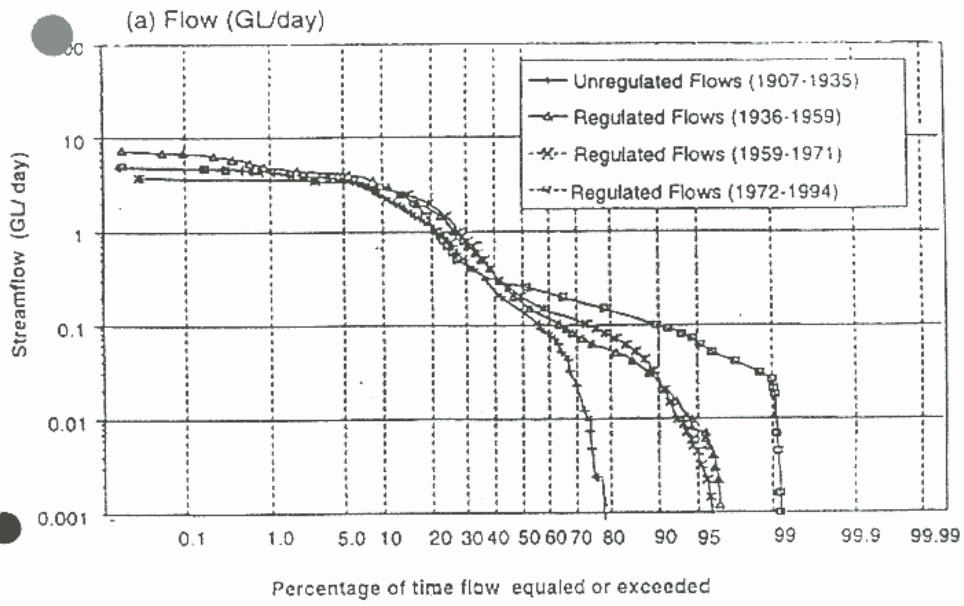


Figure A2.2: Daily flow duration Curve for Lachlan River at Booligal

11 November 1999

R Caldwell  
"Radley"  
Forbes NSW 2871  
Phone (02) 68593534  
Fax (02) 6859 3546

The Commissioners  
Murray Darling Basin Commission  
GPO Box 409  
CANBERRA ACT 2601

Dear Sirs

With regard to the review of the M.D.B.C. Cap I wish to make the following submission.

The average cap on the Lachlan has been set 250 GI (See Quote) -

### *Lachlan River Management Committee*

Chairperson: Audrey Hardman OAM Ph & Fax 02 6367 5034  
Executive Officer: Hanna Mustonen Ph 02 6852 1222 Fax 02 6852 3419  
Project Support Officer: Margaret Applebee Ph 02 6852 1222 Fax 02 6852 3419

- The average diversions under the 1993/94 Cap equate to approximately 250GL for the Lachlan. For the Lachlan diversions in the last two years have exceeded the Cap (see attached Figure 1).
- While the Cap as an issue is beyond the LRMC's control, we do have an obligation to ensure that environmental flow rules and other management strategies do not erode the Lachlan's compliance with the Cap.

I believe we have used 420 GI on several occasions and this is more indicative of our level of development.

The Lachlan is predominantly a closed effluent system and we are only diverting 11% to 19% of resource. I believe the cap should be set at 500 GI or 625 GI (full licenced allocation). The concept of restricting usage and production further in wet years because of history of use, when water is plentiful, shows no logic.

The injustice inflicted by the M.D.B.C. and D.L.W.C. of implementing the cap at 40% of licenced allocation will mean the loss of half the allocations of existing users with no compensation. This redistribution to sleepers and dozers is a windfall gain to sleepers at the expense of the viability of existing users. The arbitrary setting of environmental flows to ensure diversions are below Cap spoils the security of existing users in median to dry years (50% exceedence to 90% exceedence). This is counter to the M.D.B.C. claim of protecting the security of supply of existing users.

### *State-by-State Assessment of Cap Implementation in 1997/98*

The Cap is the first step in **striking a balance** between instream and consumptive uses in the Murray-Darling Basin. In doing so it protects the **security of supply** of existing users while arresting further deterioration of the health of the Basin's river system. The Commission is confident the Murray-Darling Basin Cap on diversions can be maintained through careful annual monitoring of diversions throughout the Basin.

PTO

It is my belief that you have got the Cap wrong on the Lachlan and that you do not understand the hydrology of the valley.

I am concerned that a state government of the day can sign the state's water rights and those of its citizens away to an external authority (M.D.B.C.) - (See Sec 100 Constitution).

***The Constitution - Chapter IV - Finance and Trade***

*Not abridge right to water*

*100. The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.*

Mr Des Cleary (D.L.W.C.) has stated under oath that I have no right of appeal or right to compensation for loss of water rights. Your enthusiasm to bring Lachlan diversions within Cap limits (IAG Report) when I clearly believe you have got the cap wrong leads me to the position of having no confidence in your hydrology or your policies.

**IAG Report - Executive Summary**

**Review of Cap Implementation 1997/98 -  
New South Wales**

- For the Lachlan in the last two years, diversions have exceeded the Cap. An urgent management response is required to bring diversions within the Cap limits.

I do not believe the low Cap level is sustainable for economic reasons and the NSW Government and you will be forced to lift it. The lack of hydrologic consideration being applied to the valley to date defies belief. The disregard of water rights of existing user and the consequent erosion of farm viability will detract from the farms ability or will to contribute to the state's economy or environmental well being.

I submit that you should change your policy on the Lachlan.

Please advise me of your new Lachlan policy

Yours faithfully



Robert Caldwell