

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, is available from the Murray-Darling Basin Commission and from the Commission's web site:

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.

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DATE: 12 July 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
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- 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>From the socioeco exec summary: The Role of the Cap points – 6 through 10, especially 10, read like a hypothesis to be tested rather than the outcome of appropriately rigorous research. It is not demonstrated anywhere that I can see where the significance of the role of the cap in contributing to change has been tested scientifically to be proven. Therefore the basis for the No-cap scenario is fundamentally flawed as it works from the hypothesis that has not been proven regarding the “with cap scenario”.</p> <ul style="list-style-type: none"> - -refer to 2nd dot point under 13 for demonstration that southern systems haven’t operated in response to Cap for clarification of above point on role of Cap - -2nd problem with this dot point is that it says “while individual enterprises currently dependent on high allocations will be adversely affected, the industries and regions appear likely to continue to prosper” What is a high allocation – this is subjective and surely any reduction on any allocation will have a cost impact. The facts about regions prospering according to the July 2000, Herron Todd White (Independent Property Advisors) Monthly report are that in the Macquarie there has been a ‘softening’ of values of irrigation land and water. This can only be a reflection of uncertainty and lower anticipated margins for irrigation in the valley, which directly contradicts the above statement. - It does not leave the reader with much faith that the consultancy was conducted independently and without foregone conclusions as the wording seems to be ‘selling the cap’ right from the start.

<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>In the Macquarie system, progress has already been made ahead of what the Cap was designed for, by way of the implementation of the Macquarie Marshes Plan, which forced reductions in valley allocations for irrigation. This is again evidence of why management and controls of river systems need to be made at the valley level. This said we acknowledge the importance of valleys’ understanding of their impacts on downstream valleys and expect that knowledge of impacts must influence management.</p>
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Economic and Social Impacts	<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>Marsden & Jacobs study is not a socio eco study – have used assertions rather than science, lots of missing numbers,</p> <ul style="list-style-type: none"> - Using CBA as the only tool for analysis, even with extension to incorporate the sustainability principle means the social and environmental values are unquantifiable within a CBA framework. And although attempt is made to identify, describe and quantify where possible benefits and costs – There is no mechanism to ensure inclusion of those benefits and costs that are not able to be quantified in analyses of alternative options (as alternative options are stacked up on a numbers basis). - Treasury still requires cba analysis as I understand, but there are additional methodologies now being considered which attempt to express different types of costs and benefits in a common currency, so as they can all be considered in decision making. Multi Criteria Analysis for example enables weighting of costs and benefits once they've been described and listed in an impact table and is one of several other methodologies considered for use in expert judgment or decision making processes - -Methodology used to demonstrate the role of the Cap and separating impacts of the Cap verses other reform, market, climatic etc pressures forcing change does not convince me of the significance of the Cap in achieving change. - -The single most important issue influencing water use in the Macquarie Valley in recent years in the introduction of carry over rules in about 1997. Prior to this, Water users had to absorb their entire allocation in the 'use it or lose it way of management' in order to commence the next water year with annual allocation plus the previous year's unused allocation. Once this rule was changed, actual water use fell significantly – with the combination of wet seasons and the carry over rule, which meant their water allocation could be stored in the dam and carried over to the next year <p>Socioeco exec summary Point 14 pESiv: It is not adequate in terms of cba methodology to discount costs due to individual cases being reported in submissions. It would be necessary to attempt to aggregate the list of costs reported across the basin, to undertake a balanced cba. Otherwise it is impossible to make the statement "Overall, the guarantee of security in the longer term is a major net benefit to the Basin irrigation community.</p> <p>Point 19 assumes that it is the Cap which will prevent potential water wars – this is not founded on fact and water wars can still happen if the Cap is spread across larger than valley by valley areas – as discussed above.</p> <p>-If any lowering of the Cap needs to be justified at the state level in consultation with industry so as to have the information scrutinised in the cold hard light of investment and who pays? - the feds or the states, certainly not industry.</p> <p>-If Qld & some other States have not completed the Cap how can this statement be true</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>-The Review of the operation of the Cap report and the focus on the Cap itself has seemingly missed the point of in-stream health. The success or otherwise of the Cap should be measured by assessing changes in in-stream river health as this is the most important issue at hand and one that irrigators and greens are both driven towards achieving.</p> <p>-Refer to other comments about isolating impacts of Cap verses other factors influencing changed practices</p> <p>-Also refer to comments about definition of security</p> <p>-This is a problem with non-scrutinised information</p> <p>Socioeco exec summary: Point 12 pESiii: It is stated that there “would be substantial erosion of security of entitlements across the Basin” without the Cap. Can this be true for those valleys historically using less than the Cap limit?</p> <p>-Point 12 raises the issue of security – the Cap is not the defining issue for irrigators in terms of security but length and strength of tenure of irrigation licences are critical for security. So the climate for investment and jobs growth etc will be influenced by the latter rather than the former.</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>Irrigators are tired of having definitions as detailed in CoAG manipulated by Governments and agencies to enable their own strategies to seemingly meet reform commitments. It is naïve and misleading to state that the Cap guarantees security. Security as needed by irrigators and financiers to ensure long term investment and as intended in CoAG means that an irrigator knows that he has a right to a certain allocation & if that right is diminished in order to provide more water for environmental purposes, that he will be paid for that water at an appropriate rate to compensate for the value of the water in terms of lost future use.</p> <p>-We acknowledge and support moves for the environment to have security in its water supply guarantee also and see the vehicle to enable this guarantee is about preparedness to pay, who pays, and the government accepting responsibility to make sure the fund exists and is adequate.</p> <p>-Our point about manipulating of security definitions is made very clear when one compares the interpretation of the definition for the environment verses irrigators.</p> <p>-How much longer can our industry survive if we are increasingly marginalized by government policy which is implemented in an unbalanced and inequitable fashion.</p> <p>-MRRF is starting to become skeptical about foregone conclusions being verified by research</p> <p>-The continued development in QLD has obviously seen a reduction in security for downstream irrigators</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 Cap has effectively provided a mechanism for restraining Cap, but we have not seen evidence in this report showing maintained economic development. And a further problem with this assertion is that the report has not adequately isolated the impacts of the Cap from other influences causing changed practices, development, water use etc.</p> <p>It is logical with a tightening of a production input constraint (water) that there may be a slowing in eco development (although there may be a shift towards higher value use), it is necessary to prove otherwise to be able to make the statement that the Cap has enabled eco development to proceed.</p> <p>-Point 15 from Socioeco Exec summary: Again this point assumes all valleys would be using more than the Cap in its absence – I don’t think this is the case in the Macquarie. It also assumes that there is no impact of river and groundwater management planning in terms of controlling diversions at a sustainable level, or plans such as the Macquarie Marshes plan in our valley, or such major influences as the change in carry over rules in our valley (see comments in other response sections re carry over).</p> <p>-The regional management plans are in fact the proposed vehicles for implementing the intent of the Gov’t new water legislation, when it is finalised and their impact on water management will certainly be the most significant driver in MRFF’s opinion for our valley</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>-If State Government was scrutinised more closely and made accountable for its use of Competition Payments, which were intended in CoAG to be for use in structural adjustment necessary as part of water reform, the attitude towards the Cap would improve.</p> <p>-Again it’s a case of balanced and complete implementation of CoAG. While only 70% of CoAG as intended is implemented (ie: environmental reform, tradeability, cost recovery etc), without the final 30% (ie: structural adjustment during reductions in allocation to sustainable levels and then compensable property rights from then on) the situation will be that irrigators are bearing costs of public good measures on an inequitable and unsustainable scale.</p> <p>-We are very keen to discuss why this is a Cap issue and how there are realistic solutions which incorporate the Cap principle, but which are also equitable for irrigators.</p> <p>- Point 17 (socioeco exec summary) attributes the benefits of water trading to the Cap via its initiation of such water reform initiatives. Wasn’t the principle of tradeable water rights 1st documented and agreed to by State Governments in CoAG’s 1994 Strategic Framework for water reform? How then does it become a Cap initiative?</p>

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Equity	<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>-Planned path forward appears to be a very divisive process -Need close workings with irrigation industry to nut out how to resolve issues between states, valleys, users etc -Any debate conducted remotely –eg between QLD & NSW State Governments will inevitablyestibaly be more divisive than it should have been</p>
	<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>-If these issues are handled via a remote process, who is going to check that a particular jurisdiction has met and satisfactorily addressed equity issues and Federal Competition Policy requirements. -These processes all appear to be distinctly non-reviewable and difficult to contest, particularly when you get to the sub-level planning forums</p>

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Implementation and Compliance	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.	<ul style="list-style-type: none"> -Where is the formal involvement of industry in the IAG process -We would like opportunity to provide input into appropriate framework and processes for IAG
	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.	<ul style="list-style-type: none"> -Problem with these tools is that they are in-house and non-contestable. Non-reviewable -There needs to be an industry review process say through Customer Service Committees in any modeling.
	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.	<ul style="list-style-type: none"> -Note that some states have been allowed to continue development which raises some very divisive issues between states -On non-regulated rivers the Cap bears little relationship to non-regulated management issues, whilst certainly applicable in a regulated system. -The Cap is potentially a useful mechanism in a regulated system when it ensures security for states and valleys, but what is security if the Cap can be lowered. -In an unreg system, alternative is a good River Management Plan

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Schedule F to the Murray-Darling Basin Agreement	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.	-In un-reg systems any Cap related tools will be crude and not achieve the environmental objectives -The only benefit of a Cap in an un-reg system is to hold States level with each other.
	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:	
	<ul style="list-style-type: none"> Removal of references to end-of-valley flows as a method for Cap compliance. 	
	<ul style="list-style-type: none"> Arrangements for remedial actions in the case of Cap exceedence. The recommendation of the IAG is that States be required “<i>to ensure that cumulative diversions are brought back into balance with the cap</i>”. 	This is a reasonable expectation, but does not also mean we will agree to future Cap settings or the fact that the system as is has no process for review of levels by industry and because of this the information and decision making processes are potentially soft. -That said we appreciate this opportunity for comment but feel the process is inherently isolated from industry and we could be much more a part of the assessing and development of information
	<ul style="list-style-type: none"> re-setting the commencement date for accounting for diversions under the Cap to start with the 2000/01 water year. 	

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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>-Agree that need to focus on in-stream health in reviewing Cap. -note that this report did not provide adequate justification or evidence for isolating and attributing change to the Cap, as separate from the many other factors influencing change. – This must be addressed in the methodology of the audits and we would be keen to have input into how such a methodology might be developed.</p>

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Any Other Issues	Are there any other issues raised in the draft report that you wish to comment upon?	<p>-Concern from MRFF about potential for change in administration of Cap to an “across state target” Don’t want to lose our credits for careful resource use in the Macquarie system by having the Cap averaged across the State. The state is not a geographical boundary and there are logical ‘catchment’ or basin boundaries within the MDB which should be linked to targets with respect to water use. There are also drastic differences between water use technology, purposes and conditions across MDB valleys and having a whole of state cap will for the benefit it may bring from an accounting and books balancing point of view, certainly also bring divisiveness amongst communities and between valleys. (refer to point 18 of Socioeco Exec Summary). Any proposal to average the Cap across the State is essentially inequitable as it proposes to achieve a Cap target by transferring credits in the system to areas in debit, which does not sit well with the principle of incentives for those improving their water use efficiency or vice versa.</p> <ul style="list-style-type: none"> - The Cap is sitting parallel with other Federal objectives particularly with regard to Competition Policy, but does not appear to be in agreement with these other objectives - Cap can’t contemplate the management of a river in a drought or flood and nor should it. Its an equity and environmental issue between states and it should end here, rather than delving further into river management issues which can be addressed by regional committees at a state level