

Upper Ovens River Water Supply Protection Area – Draft Water Management Plan

Submission in respect of Groundwater Licence held at property at

1 PROCEDURAL ISSUES

1.1 Presumption of pre-determined outcome

In Section 12.1.1, it is noted that:

*The water sharing regime under the Plan **will commence** on 1 July 2011, the first financial year following approval of the management plan. This date allows groundwater users and the Corporation **adequate time to prepare for the irrigation season** and it avoids the confusion that would result if the regime came into operation part way through an irrigation season. (emphasis added).*

As the public comment period on the draft Plan was to close on 6 May 2011 (and Goulburn Murray Water is accepting submissions until at least 13 May 2011), this statement in the Draft Plan would appear to indicate that GMW (and by implication, the Minister) has a predetermined position about approval of this Plan and intends to give lip service at best to any issues raised in submissions. A six week period is insufficient for proper consideration of issues raised in submissions as well as the other steps in preparing the Draft Plan for submission to the Minister and his appropriate consideration of the Draft Plan. This approach undermines confidence in the process of preparing the Plan and in the Plan itself.

This presumption is completely at odds with the requirement for consultation on the Draft Plan and for appropriate consideration of comments by the Consultative Committee as required under s31 (1A) of the *Water Act 1989* (the Act). It also presupposes that there is no need for any changes to the Draft Plan or for any additional technical work to respond to issues raised in submissions.

GMW should not to be bound by an arbitrary commencement date for this Plan that is related merely to the 'financial year' timeframe that has little or no relationship to 'on the ground' water management (other than the definition of 'water season' in the Act). GMW needs to ensure that appropriate consideration is given to issues raised in submissions on the Draft Plan and, if necessary, provide for an additional period of consultation.

1.2 Non-inclusion of details of the proclamation of the Water Supply Protection Area

No information is provided in the Draft Plan (not does it appear to be readily available on either the GMW or Office of Water websites) about the proclamation of the Upper Ovens Water Supply Protection Area.

1.3 Non inclusion or availability of any guidelines issued by the Minister

The draft Plan does not indicate if the draft Plan has been prepared pursuant to any guidelines issued by the Minister under s30 of the Act. In the absence of this material, readers cannot be sure if the content of the Plan has had regard to any such guidelines. If these guidelines exist, they should be included in the Plan together with comment as to how the plan has been prepared in relation to these guidelines.

2 COMMENTS ON THE DRAFT PLAN

Inability to identify which Management Zone applies to property

As the holder of a Groundwater Licence, it is impossible to determine with any certainty from reading the Draft Plan in which zone my property is located. There is no mapping of the surface extent or boundaries of Management Zones 1 or 2 or nomination of what properties are proposed to be included in which zones. The ability to easily and clearly determine from the Plan in which zone a property is located is arguably a fundamental requirement of a Water Management Plan.

The current situation is akin to putting a Planning Scheme amendment on exhibition pursuant to the *Planning and Environment Act* to rezone substantial areas of the Upper Ovens Valley without a map showing which land the rezoning applies to. This would be considered a 'defective amendment' and would not achieve authorisation by the Minister of Planning. This Draft Plan should be treated in a similar manner particularly as the implications of the Draft Plan could have substantial implications for actual agricultural use of our property and associated capital investments through the application of the 'water sharing regime'.

For an affected licence holder/property owner, the basis of the designation of Management Zones and then allocation of properties to particular zones is one of the most important aspects of the Draft Plan.

Section 11 of the Draft Plan is a half page description of the Management Zones (in a document of some 60 pages) and gives little or no assistance to property owners and licence holders to determine the basis and extent of these Zones and where they will apply specifically. This situation is completely inadequate and unacceptable when this allocation to a Management Zone has the potential to have significant impacts on farm investment and operation. This part of the Draft Plan needs to be more than very brief text with the implication that a licence holder somehow 'joins up the dots' to determine what Management Zone is applicable to their property.

Subsequent information provided by Matthew Pethybridge of GMW by email on 4 May 2011 indicated that:

The Zone 1 and 2 management areas (Section 11) identify the hydrogeological units which make up the Upper Ovens River Catchment. You[r] groundwater licence (property No. 881333) has been identified as a dragline hole which gives access to groundwater from the unconsolidated sedimentary aquifer. Due to this it [is] identified as being within Management Zone 1.

In terms of a map which delineates the boundaries of zone 1 and 2. There is no specific boundaries of the zone 1 and 2 (such as lines on a map or distance from a stream), these zones have specific definitions (pg, vii) of a geological aquifer (Figure 16 Section 11) which can be identified through bore construction reports, sometimes depths of bores, geological environment and visual and technical inspection. With zone 1 including unconsolidated sedimentary aquifer and zone 2 encompassing the fractured rock aquifer.

Even if GMW considers that the underlying hydrogeological conditions present difficulties for mapping at the surface, there is no reason why the interpretation of these conditions at the ground surface by GMW into the two management zones cannot be mapped. This would make the situation clear for all stakeholders.

Another reason for requiring mapped definition of the Management Zones is to help property owners make informed decisions about planning and implementing future water supply arrangements for their landholdings. As the Draft Plan is presented, the delineation of Management Zones appears to fall into the category of 'secret GMW business' that would only be revealed on application to the Corporation.

Strategy to shift usage of groundwater resources

If the major management concern is with the usage of groundwater from the unconsolidated sedimentary aquifer rather than from the more extensive water resource in the fractured rock aquifer, GMW (and/or other agencies) should investigate and assist a general 'shift' in groundwater extraction from one source to the other source. Such an approach would largely reduce the need to implement Management Zone 1 in relation to groundwater and its attendant potentially onerous restrictions on water usage and future agricultural land uses.

Transition period for groundwater users with permanent plantings

There is no rationale presented in the Draft Plan for the length of the transition periods – particularly the nine year period nominated in Section 12.2.1 for groundwater users in Management Zone 1.

One situation in relation to 'permanent plantings' that is not addressed in these transition arrangements is where say one 'permanent' tree in the midst of a wider 'permanent planting' orchard dies at some stage during the transition period, the replacement tree would not qualify for the 'transition' period (see last paragraph of Section 12.2.3). Within any area of 'permanent plantings', individual trees periodically die and require replacement. If followed to its logical conclusion, this situation would suggest that some trees within a 'permanent planting' in Management Zone 1 are subject to the transitional arrangements under the water sharing regime and other trees are not. This would be an impossible situation to manage through operation of irrigation systems.

As the introduction of this Management Plan is likely to impose significant costs on groundwater users who have permanent plantings to be able to comply with the proposed water sharing regime, some financial assistance should be made available to affected groundwater users to make this transition to 'develop alternative water supply strategies'. If the groundwater users are the 'losers' under the implementation of this Plan for, at best, undocumented environmental benefits downstream and, at worst, increased streamflows for allocation to downstream irrigators, then there should be monetary recognition of this situation to those adversely affected.

Assessment of permanent plantings

In Section 12.2.3, the need to have 'permanent plantings' 'assessed' by the Corporation within the first twelve months after approval of the Plan is specified. The Draft Plan should include the criteria by which this assessment will be made and extent of permanent plantings determined and the ability of the Corporation personnel to undertake such assessments. There is no information on how the results of this assessment would be presented to the licence holder/property owner and what role the licence holder/property owner will have in the assessment process.

The assessment process foreshadowed seems at odds with Prescription 17 which, as written, places the onus on the licence holder to demonstrate compliance with the criteria presented in item 17 (a). The apparent 'mandatory' *in situ* assessment of crops by the Corporation is not reflected in this prescription.

As presented, this assessment appears entirely arbitrary and there are no parameters for consistency of such assessments across different landholdings.

Prescriptions of the Draft Plan

Prescriptions to be introduced as part of this Plan are scattered throughout the Draft Plan document which makes it difficult to gain an overall and integrated picture of the scope and intended operation of the Plan. This situation is compounded by some prescriptions (for example, nos. 13 and 14) referring to a table in an earlier prescription (no. 3).

It would be helpful to users of the Plan, especially licence holders, if all these prescriptions were presented in one location at either the beginning or end of the Plan.

3 CHANGES THAT SHOULD BE MADE TO THE DRAFT PLAN BEFORE APPROVAL

Based on the issues raised in the above sections, I request that the following additional work and/or changes be made to the Draft Plan before it is submitted to the Minister for approval:

- Appropriate references be included in the Plan to the statutory basis for the Plan;
- Include any guidelines for the preparation of the Plan issued by the Minister and a table (or other means) which shows how the preparation of the Draft Plan is consistent with these guidelines;
- Include mapped delineation of the boundaries of Management Zones 1 and 2 at a sufficiently detailed scale for licence holders and property owners to determine which zone is applicable;
- Identify a complementary package of financial assistance for directly affected licence holders to implement on farm infrastructure changes;
- Present all Plan prescriptions in one place in the Plan.

As a result of these requested changes, I believe the Draft Plan should be made available for a further period for public comment and the 'headlong rush' to implement the Plan by 1 July 2011 be put aside in favour of getting the Plan 'right' rather than getting it 'quickly'.