

VICTORIA

Victorian
Auditor-General

Audit summary
of
Restricting
Environmental Flows
during Water Shortages

Tabled in Parliament
7 October 2010

Audit summary

Victoria has around 85 000 kilometres of rivers, streams, creeks and estuaries. These natural waterways supply water for towns, farms and businesses, and contribute to local economies through industries, such as boating and tourism. River flows provide important benefits to aquatic ecosystems, which vary depending on the timing and quantity of delivery. In 2005, the government created the environmental water reserve under the *Water Act 1989* to preserve the health and environmental values of natural waterways.

The prolonged drought that began in 1997 in many parts of Victoria seriously affected the surface water available for communities and the environment. When there is less water, the government needs to ration community and environmental water use. Ways of doing this include placing mandatory restrictions on external uses, such as parks, gardens and lawns, and seeking voluntary reductions in internal use by residences, industry and business.

Under the *Water Act 1989*, when there is less water available, the Minister for Water can declare a water shortage and temporarily 'qualify' rights to water, including the environment's rights. This means the minister can alter access to water by either restricting—reducing or suspending—or increasing them to meet a critical need. The *Water Act 1989* also allows the minister to alter water rights under a ministerial direction. This restricts or increases rights in a similar way to a temporary qualification.

The objective of the audit was to assess how effectively the Department of Sustainability and Environment (DSE), water corporations and catchment management authorities (CMA) managed temporary restrictions on surface water rights to meet critical needs, including steps to minimise river health damage. The report examines the strength of the advice and information DSE and water corporations used to justify restricting water rights. It also examines how the effectiveness of these restrictions was assessed, and how DSE, water corporations and CMAs managed the environmental risks on three rivers—the Tarwin, Wimmera and Yarra.

Conclusions

DSE and two of the three water corporations examined did not effectively manage restrictions to environmental water rights. DSE's justification requirements for water corporations wanting to temporarily restrict water rights are sound. However, the water corporations did not consistently follow these guidelines.

Slow action to address environmental risks by South Gippsland Water and a lack of action and limited accountability by Grampians Wimmera Mallee Water (GWMW) around environmental risks meant that it was not possible to demonstrate that the environment had not been unnecessarily put at risk for the Tarwin and Wimmera rivers.

Limited DSE oversight of how the environment's water rights were restricted meant it could not judge whether the restrictions were effective. This meant it could not effectively identify improvements. DSE did not enforce its own requirements, effectively de-valuing the need to justify environmental water right restrictions.

Findings

Justifying the need

DSE's requirements for justifying alterations to water rights and managing identified risks are sound. However, only Melbourne Water and the three Melbourne water retail companies' proposals to restrict rights on the Yarra River fully applied them.

It was clear that the drought led to water shortages in communities that depend on the Tarwin, Wimmera and Yarra rivers. However, GWMW's justifications for the Wimmera River restrictions did not state the critical volume of water required to meet emergency needs, or the expected volume from emergency demand and supply measures. The proposals for both the Tarwin and Wimmera rivers did not comply with DSE's requirement for a comprehensive assessment of environmental risks and strategies to manage them.

DSE provided minimal guidance about the conditions for justifying water shortages and critical needs. Clearer, more comprehensive guidance would minimise proposal inconsistencies and prevent overly subjective assessments.

The water corporations' focus on critical needs shifted from an emergency response of supplying urgent and short-term needs, to a risk-management approach, securing supplies in the longer-term to meet future needs. While this is positive, there is a lack of guidance on what sorts of longer-term risks are temporary emergencies. This needs to be resolved to aid consistent and fair assessments of the temporary nature of proposed restrictions.

Managing environmental impacts

Monitoring the impact of restrictions on the Yarra and Tarwin rivers showed no environmental damage or emergencies. Melbourne Waters' sound risk assessment, monitoring programs and annual assessments of impacts on the Yarra provided adequate assurance of this outcome. There was less assurance for the Tarwin River because there was little baseline data to compare against.

There was little specific monitoring of the impacts of restrictions on the Wimmera River. However, data from other monitoring programs showed the river's health had worsened following environmental water restrictions.

Only Melbourne Water's analysis of its emergency measures to secure supplies for Melbourne considered the outcomes from restricting river flows, as well as the outcomes from other demand and supply measures.

While DSE acted to understand and improve the use and management of the 65 temporary alterations to surface water rights since 2006, its approach was not systematic. DSE needs to improve transparency and accountability for the management of, and outcomes from, restrictions to water rights to assure effective use of this emergency measure.

Recommendations

Number	Recommendation	Page
1.	<p>To create consistent and comparable approaches across different waterways for restricting environmental water rights and managing environmental risks, the Department of Sustainability and Environment should:</p> <ul style="list-style-type: none"> enforce uniform compliance with its requirements for justifying the restriction of water rights, with a particular focus on the consistency and completeness of the information standardise the information in ministerial briefings for restriction proposals against each of its information requirements clarify what the terms 'water shortage', 'critical need' and 'temporary emergency' mean, and what needs to be considered for each apply its information requirements to the management of any ministerial directions in the same way as a temporary qualification of rights provide an easily understandable and publicly accessible summary of the rationale for each water shortage declaration that includes justification of the critical need, temporary nature, environmental considerations and environmental risk management for each qualification to water rights, or ministerial direction used in this way. 	20
2.	<p>The Department of Sustainability and Environment should strengthen how the environmental risks of restricting environmental water rights are managed, by:</p> <ul style="list-style-type: none"> requiring CMAs to plan and implement monitoring, mitigation and recovery programs for rivers without a tradeable entitlement as well as for those with one overseeing the planning, implementation and outcomes of environmental risk management, for example through the proposed Environmental Water Holder. 	20

Recommendations – continued

Number	Recommendation	Page
3.	The Department of Sustainability and Environment should: <ul style="list-style-type: none"> effectively oversee restrictions and perform a quality assurance and continuous improvement role enforce its requirements for water corporations and catchment management authorities to review and report on the effectiveness of restrictions to water rights. 	28
4.	The Department of Sustainability and Environment, water corporations, and catchment management authorities should report publicly on the management of restrictions and the outcomes achieved. In particular: <ul style="list-style-type: none"> the Department of Sustainability and Environment should include consistent and comprehensive information on restrictions to water rights in the Victorian water accounts and publish them within 12 months of the end of each financial year water corporations and catchment management authorities should include references in their annual reports to their compliance with the restrictions, and success or otherwise in managing risks to the community and the environment, according to the responsibilities the Department of Sustainability and Environment has assigned to them. 	28

Submissions and comments received

In addition to progressive engagement during the course of the audit, in accordance with section 16(3) of the *Audit Act 1994*, a copy of this report, or relevant extracts from the report, was provided to the Department of Sustainability and Environment, City West Water, Grampians Wimmera Mallee Water, Melbourne Water, South East Water, South Gippsland Water, West Gippsland Catchment Management Authority, Wimmera Catchment Management Authority and Yarra Valley Water with a request for submissions or comments.

Agency views have been considered in reaching our audit conclusions and are represented to the extent relevant and warranted in preparing this report. Their full section 16(3) submissions and comments together with my acquittal responses to the Managing Director, Grampians Wimmera Mallee Water; the Managing Director, South Gippsland Water; and the Chief Executive Officer, Wimmera Catchment Management Authority, are included in Appendix B.