

TASMANIAN PLANNING COMMISSION



Review of the Secretary's Report and Representations: Draft Amended River Clyde Catchment Water Management Plan 2017

August 2017

Review of the Secretary's Report and Representations:
Draft Amended River Clyde Water Management Plan 2017

Prepared and published by:

Tasmanian Planning Commission
GPO Box 1691
Hobart Tasmania 7001

August 2017

Email address: tpc@planning.tas.gov.au

Internet address: www.planning.tas.gov.au

Table of Contents

Executive Summary.....	i
Glossary.....	ii
1.0 Introduction	1
1.1 Referral to the Commission	1
1.2 Background to the draft amended Plan.....	1
1.2.1 Preparation of the Draft Amended Plan by the Department	2
1.2.2 Public exhibition of the Draft Amended Plan and Representations	2
1.2.3 Secretary's Report.....	2
1.3 Review process by the Commission.....	3
1.3.1 Hearing.....	3
1.3.2 Report to the Minister	4
2.0 Review of representations and the Secretary's Report.....	5
2.1 Overview	5
2.1.1 Scope of the Commission's review	5
2.1.2 Representations on draft amended Plan.....	5
2.1.3 General comment on adequacy of Secretary's responses	6
2.2 Consideration of Secretary's responses to representations.....	6
2.2.1 The draft amended Plan should include provisions that apply during dry years	6
2.2.2 Changes to the Temporary Water Allocation rule will remove or limit opportunity to access low reliability water.....	7
2.2.3 Capping allocations or not issuing new allocations will limit opportunity for further water development	8
2.2.4 The draft amended Plan does not make it clear if the River Clyde Trust can issue new Irrigation Rights for new developments on the tributaries of the River Clyde.....	10
2.2.5 Other issues.....	11
3.0 Conclusion.....	12
Appendix 1 Representors.....	13

Executive Summary

In July 2017, the Minister for Primary Industries and Water referred 10 representations and the Report of the Secretary of the Department of Primary Industries, Parks, Water and Environment, regarding the Draft Amended River Clyde Catchment Water Management Plan 2017 (the draft amended Plan) (altering the River Clyde Water Management Plan 2005), to the Tasmanian Planning Commission for review under Part 4 of the *Water Management Act 1999*.

If the draft amended Plan is adopted by the Minister it will become the water management plan for the River Clyde Catchment.

The Commission's role is limited to reviewing the representations received and the Report of the Secretary, with reference to the draft amended Plan. It cannot approve, amend or refuse the draft amended Plan. Nor can it comment on the merit of the draft amended Plan.

The primary concerns raised in representations were summarised into the following four principal concerns:

- The draft amended Plan should include provisions that apply during dry years
- Changes to the Temporary Water Allocation rule will remove or limit opportunity to access low reliability water
- Capping allocations or not issuing new allocations will limit opportunity for further water development
- The draft amended Plan does not make it clear if the River Clyde Trust can issue new Irrigation Rights for new developments on the tributaries of the River Clyde

Generally the Commission finds that the Secretary's Report is comprehensive and sufficiently details concerns raised by representors. Overall, the Secretary adequately responded to the issues raised in the representations. The Secretary limited his detailed responses to matters that relate to the proposed alterations to the draft amended Plan. This approach is supported by the Commission.

In his report, the Secretary recommended several modifications to the draft amended Plan in response to issues raised in representations, which he considered to be of sufficient merit to warrant modification of the draft amended Plan.

Glossary

Act	<i>Water Management Act 1999</i>
Commission	Tasmanian Planning Commission
Department	Department of Primary Industries, Parks, Water and Environment
draft amended Plan	Draft Amended River Clyde Water Management Plan 2017 (Altering the River Clyde Water Management Plan 2005)
Hydro	Hydro Tasmania
Minister	Minister for Primary Industries and Water
ML	megalitres
Secretary	Secretary of the Department of Primary Industries, Parks, Water and Environment
TFGA	Tasmanian Farmers and Graziers Association
Trust	River Clyde Trust
TWA	Temporary Water Allocation

1.0 Introduction

1.1 Referral to the Commission

By letter dated 4 July 2017, the Minister for Primary Industries and Water, the Hon Jeremy Rockliff, (the Minister) directed the Tasmanian Planning Commission (the Commission) to carry out a review of the representations and the Report of the Secretary of the Department of Primary Industries, Parks, Water and Environment (the Secretary, and the Department) with reference to the Draft Amended River Clyde Catchment Water Management Plan 2017 (the draft amended Plan). The Minister's Direction to the Commission requires a review under Part 4 of the *Water Management Act 1999* (the Act).

1.2 Background to the draft amended Plan

The draft amended Plan is a statutory plan prepared in accordance with Part 4 of the Act and the *State Policy on Water Quality Management 1997*. It specifies the management framework for the water resources of the River Clyde catchment. The draft amended Plan was established following a review of the current River Clyde Water Management Plan 2005.

Subsequent to the extreme dry conditions experienced during the 2015/16 irrigation season the Minister received a submission from the River Clyde Trust (the Trust) that highlighted concerns that the current River Clyde Water Management Plan's provisions were contributing to outcomes that were not consistent with the objectives of the Plan during dry periods. The Secretary commenced a formal statutory planning process, under Part 4 of the Act, to amend the current River Clyde Water Management Plan following consideration of these issues raised by the Trust.

The draft amended Plan indicates it is complementary and to be read in conjunction with the Lakes Sorell and Crescent Catchment Water Management Plan. The draft amended Plan includes objectives for water development and usage, and environmental values. The objectives recognise the historical dependence of the community in the catchment on the use of the water resources of the River Clyde, and the modification of flows in the River Clyde (main channel) by water releases from Lake Crescent during dry periods to improve reliability of water supply for the downstream communities. Each of the Plans recognise the environmental values of the river and the Lakes, including the state, national and international significance of water-dependent environmental values in the Lakes. In conjunction, both Plans provide a management framework that recognises the need to manage the river and Lakes as an integrated system, and to optimise water management to provide an appropriate balance between environmental and water use and development objectives of both Plans.

The River Clyde catchment forms part of the Greater River Derwent catchment and falls within the Central Highlands Municipality. The River Clyde catchment lies within the Lower Derwent Hydro-electric District. Hydro Tasmania (Hydro) holds a Special Licence under the Act, giving it the right to all the water resources of the catchment (excluding water held under entitlements by other water licensees and rights to water under Part 5 of the Act). The Water Entity for the River Clyde Irrigation District (the Water Entity) holds a water licence and a number of separate allocations for the majority of the available water resources in the River Clyde catchment.

The major towns Bothwell and Hamilton are located along the River Clyde. The township of Bothwell is supplied with essential water from the River Clyde while Hamilton is supplied from piped water resources outside of the Plan area.

The River Clyde catchment supports a productive agricultural industry, and has a long history of agricultural development. The catchment also supports some forest enterprises, service industries, tourism and a minor recreational fishery.

The River Clyde catchment is very dry and experiences considerable climate variability. Much of the catchment has been modified to some extent, and the flow regime has a long history of modification.

1.2.1 Preparation of the Draft Amended Plan by the Department

The Department prepared the draft amended Plan in accordance with Part 4 of the Act, which included formal and informal consultation. The Department established a consultative group in September 2016 and invited key stakeholders to provide input to the development of the draft amended Plan. Three meetings were held in response to issues raised by members of that group. The Consultative Group were provided with various documents including:

- A scientific report *Eco-hydrological Assessment to inform the review of the River Clyde Water Management Plan* (DPIPWE 2016);
- A background paper that outlined the key issues and the proposed Plan amendment process; and
- A document that highlighted proposed Plan amendments for discussion and feedback.

In accordance with section 24 of the Act, all water licence holders in the area, the Director of the Environment Protection Authority, the Director of Public Health and the Northern Midlands and Southern Midlands Councils were all notified that the draft amended Plan had been prepared. The following organisations were also advised that the Draft Plan had been prepared:

- Tasmanian Irrigation Pty Ltd,
- Hydro Tasmania,
- the TFGA,
- TasWater, and
- Aboriginal Heritage Council.

1.2.2 Public exhibition of the Draft Amended Plan and Representations

In accordance with section 25 of the Act, the Department placed the Draft Plan on public exhibition from 18 Jan to 20 Mar 2017, and subsequently received 10 representations. A list of the representors is provided under Appendix 1. A public meeting was also held on the 31 January at the Bothwell Council Hall.

1.2.3 Secretary's Report

Under section 26 of the Act, the Secretary is required to forward to the Commission:

- (a) a copy of all the representations; and
- (b) a report containing –
 - (i) a summary of the representations; and
 - (ii) the Secretary's opinion on the merits of the representations, including a statement as to whether or not he or she believes that the representations are of sufficient merit to warrant modification of the draft water management plan; and
 - (iii) a summary of any proposed modification to the draft water management plan; and
 - (iv) any additional information that the Secretary considers relevant.

1.3 Review process by the Commission

The review process has been conducted in accordance with Part 4, sections 26 – 27A of the Act:

27. Review by Commission

- (1) The Commission, at the direction of the Minister, is to review the representations and the report of the Secretary forwarded under section 26 on the draft water management plan.
- (2) Within 21 days after receipt of the copies of the representations and the report of the Secretary, or within any further period that the Minister allows, the Commission is to decide whether or not to hold a hearing to assist in its review of the representations and the report.
- (3) If the Commission decides to hold a hearing, the Commission is to notify the Minister of that decision.
- (4) If the Commission decides not to hold a hearing, the Commission, within 14 days after making that decision, is to give written notice of that decision to –
 - (a) the Minister; and
 - (b) the Secretary; and
 - (c) any person who has submitted a representation under section 25(1)(c).
- (5) A hearing is to be conducted in accordance with Part 3 of the *Tasmanian Planning Commission Act 1997*.
- (6) The Commission, as soon as practicable after receipt of the copies of the representations and report of the Secretary forwarded under section 26, is to notify by public notification –
 - (a) the places at which copies of the representations and report are to be exhibited; and
 - (b) the period during which they are to be exhibited; and
 - (c) any other information the Commission considers relevant.
- (7) At least one of the places referred to in subsection (6)(a) is to be near the area where the relevant water resource is located.

27A. Report of Commission

- (1) The Commission, within a period determined by the Minister, is to provide the Minister with –
 - (a) a report of its review under section 27; and
 - (b) copies of the representations and the report of the Secretary forwarded under section 26.
- (2) As soon as practicable after the period referred to in subsection (1), the Commission is to publish in the Gazette notice of –
 - (a) the making of its report; and
 - (b) the place where copies of its report are available for inspection by the public.

As required under section 27A of the Act, the Commission gave public notice in *The Mercury* newspaper on 22 July 2017 that electronic copies of the Secretary's Report and the draft amended Plan were available for public inspection at the Central Highlands Council chambers in Hamilton and Bothwell, the Commission's Hobart office and on the iplan website.

The representations and report were exhibited for 28 days from the 22nd July 2017.

1.3.1 Hearing

Section 27 of the Act provides that a hearing may be held at the Commission's discretion to assist in the review process. A hearing under the Act is only held if the Commission considers that the information available is inadequate for it to properly undertake its review.

The Commission considered that there was adequate information available and decided on 6 July 2017 to not hold a hearing.

The Commission gave written notice of its decision not to hold a hearing to the Minister, the Secretary and each person who made a representation.

1.3.2 Report to the Minister

A copy of this Report is provided to the Minister and Secretary, and a notice published in the Tasmanian Government Gazette, as required under the Act.

The Minister, in considering the report of the Commission (section 27B of the Act), is to have regard to the objectives of the Act. The Minister adopts a draft water management plan by signing a certificate endorsed on the plan that he or she has adopted that plan. A draft plan adopted by the Minister can either be unaltered or can contain alterations that the Minister thinks appropriate, having regard to the Commission's report, the representations and the Secretary's report.

On adoption, the draft water management plan or amended draft water management plan becomes a water management plan.

Figure 1 describes the review process for draft water management plans pursuant to the Act.

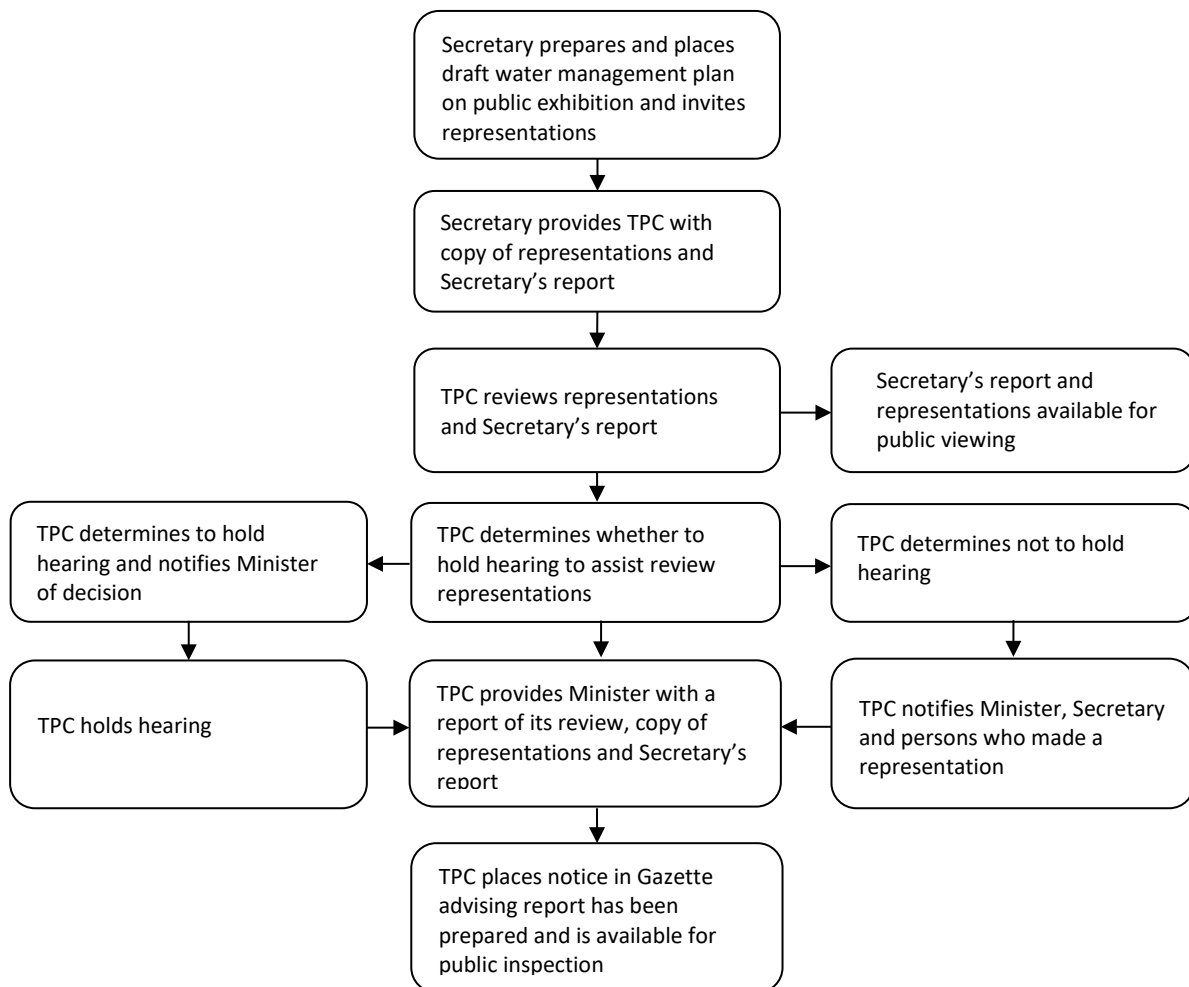


Figure 1 Review process for draft water management plans pursuant to the *Water Management Act 1999*

2.0 Review of representations and the Secretary's Report

2.1 Overview

2.1.1 Scope of the Commission's review

The Commission's role is limited to reviewing the representations received and the Report of the Secretary, with reference to the draft amended Plan. This involves a review of the representations and how the Secretary has responded to issues raised in representations. The Commission cannot approve, amend or refuse the draft amended Plan. Nor can it comment on the *merit* of the draft amended Plan. The Commission's review is restricted to a consideration of the adequacy of the Secretary's responses to the representations.

Any review of the merits of the draft amended Plan, and the ability to change the draft amended Plan, is solely the purview of the Secretary.

2.1.2 Representations on draft amended Plan

The Secretary received 10 representations that were largely in support of the draft amended Plan. However, they did raise a number of issues and recommendations for modification of the draft amended Plan. Many issues were raised more than once by representors, and the Secretary summarised them into the following four principal concerns:

- The draft amended Plan should include provisions that apply during dry years
- Changes to the Temporary Water Allocation rule will remove or limit opportunity to access low reliability water
- Capping allocations or not issuing new allocations will limit opportunity for further water development
- The draft amended Plan does not make it clear if the River Clyde Trust can issue new Irrigation Rights for new developments on the tributaries of the River Clyde

Some other issues raised in representations, relevant to the draft amended Plan not included above:

- Groundwater licencing, management and the maintenance and audit of a bore register
- Acknowledgement of Aboriginal cultural heritage and custodianship
- Monitoring, management and mechanical metering of all farmers drawing water
- Managed minimum daily flow versus average daily flow requirements
- Reduction or removal of duration of flow requirements
- Transmission losses and town water should be made available under the Lakes Sorell and Crescent Water Management Plan
- Allocation to Bothwell township will reduce the security of water for other users (and should be dealt with under the Lakes Plan)
- Legitimacy of Hydro Tasmania's Special Licence
- Request to revisit with the Consultative Group and the Trust before adoption of draft amended Plan
- Review of Plan omitted review of how Plan worked since inception
- No economic impact analysis of the changes proposed

2.1.3 General comment on adequacy of Secretary's responses

The Commission has considered all the representations, and the Secretary's responses set out in his Report. As part of the statutory process set out under section 26 of the Act, the Secretary must include in his Report to the Commission commentary regarding the merits of the representations and whether or not they warrant modification of the draft water management Plan.

The Commission finds that the majority of issues raised by representors were adequately summarised and responded to by the Secretary. He addressed individual representations and also supplied a detailed discussion on each of the four key representation issues (described in section 2.1.2 above), including background to these issues and a comprehensive response. The Secretary proposed a number of modifications to the draft amended Plan in response to representors' concerns and provided a summary of these.

Some representor's issues were not clearly summarised making it difficult for the Commission to determine the adequacy of the Secretary's responses. The Commission is satisfied that the Secretary adequately responded to all issues raised by the representors that were relevant to the draft amended Plan.

The Commission notes that the Secretary limited his detailed responses to matters that relate to the proposed alterations to the draft amended Plan. The Commission supports this approach.

The Secretary's response to issues raised in representations, and the recommendations that appear in the Secretary's Report that are not reviewed in detail below are regarded as adequate by the Commission.

2.2 Consideration of Secretary's responses to representations

Four key areas of concern were raised repeatedly by representors. These and some of the other issues raised are discussed in the following subsections.

The Commission considers that in most instances the Secretary adequately summarised the representations in Part 5 of his Report. The Commission has in essence adopted and reproduced the Secretary's summaries of the key issues under the heading 'Representations.'

2.2.1 The draft amended Plan should include provisions that apply during dry years

Representations

Some representations (e.g. Ramsay Agriculture and Thorpe Farm) recommended that current government policy relating to extreme dry conditions should be built into the draft amended Plan. It was submitted by representors that having these arrangements in the draft amended Plan would enable a more rapid response to preserving water in extreme climatic conditions for environmental, economic and social needs.

A number of representors (e.g. Poppy Growers Tasmania, River Clyde Trust, TFGA) recommended cease-to-take thresholds be lowered in more frequently occurring dry years (i.e. 3 in 10 year conditions) to provide an appropriate balance between environmental and water use objectives.

Numerous recommendations for improvements were provided, for example, a schedule or provision that defined dry year/season thresholds that then allowed for a lower cease-to-take thresholds to apply in dry years.

Some representations referred to dry years as the driest 10% of years in long-term records (i.e. 1 in 10 year events) while others said that dry seasons were relatively common and represented the driest 30% of years (i.e. 3 in 10 year events).

Secretary's response

In section 5.1 of the Report, the Secretary presented his views on the difference between typical dry years and extreme dry seasons to address representations. The Secretary gave reasons why similar provisions to those of the Extreme Dry Conditions Policy were not appropriate to be built into the draft amended Plan:

'The Extreme Dry Conditions Policy is only intended to be used during extremely dry climatic events to ensure an appropriate balance between consumptive water needs and environmental water needs. Furthermore, there are considerable risks in implementing rigid rules or provisions for such climatic events as it may limit appropriate and flexible adaptive management approaches in response to what are likely to be exceptional situations. The Extreme Dry Conditions Policy clearly states that management strategies such as Water Management Plans should provide for balanced access under a typical range of climatic conditions and that the Extreme Dry Conditions Policy is not intended to be invoked for normally dry periods (DPIPWE 2015).'

The Secretary responded to representations that the draft amended Plan could be modified to include improved provisions to manage access in drier than average years. He considered '...the adaptive management responses that were implemented in the dry years that have occurred since 2005 (since the current Water Management Plan has been in effect) and whether the Managed Minimum Flow Provision in the draft amended Plan (January 2017) could be made more flexible in dry seasons to reflect what was done in responses to these dry events.' As a result, the Secretary recommended further amendments to ensure that a reasonable level of flexibility is provided during these periods without compromising the intended flow regime or environmental and water use objectives of the draft amended Plan.

The Secretary proposed modifications to the draft amended Plan, including a new Schedule 1 Dry Year Threshold, and an amendment to the Managed Minimum Flow Provision (Provision 5.1.5).

Commission's findings

The Commission notes that the Secretary adequately summarised and responded to the issues raised in Appendix A and particularly in section 5.1 of his Report. He provided a detailed explanation and rationale for the management of access to water flows in dry years and extreme dry seasons.

The recommended modifications by the Secretary appear to respond to the issues raised regarding the thresholds for drier years and minimum flows.

2.2.2 Changes to the Temporary Water Allocation rule will remove or limit opportunity to access low reliability water

Representations

A number of representations (Norwood Estate, River Clyde Trust, TFGA) submitted concerns that the proposed changes to the Temporary Water Allocation (TWA) rule will: remove or prevent access to low surety water; make the provision less simple; and, that the changes do not reflect operational practice. In particular, representations:

- Recommended that the TWA provision and rules should be retained to continue to provide access to low reliability water (TFGA, River Clyde Trust, Ramsay Agriculture).
- Recommended that the TWA provision should be modified to provide routine general access to water when Lake Meadowbank is spilling (River Clyde Trust, TFGA, Thorpe Farm)

Secretary's response

The Secretary provided the existing TWA provision (Part 2.2.12) in the River Clyde Water Management Plan (DPIWE 2005a) and the proposed TWA Provision in the draft amended Plan (Part 4.4) for comparison.

The Secretary responded to concerns that changes to the TWA rule will prevent access to low surety water with the statements '...that current allocation volumes now provide access that would have otherwise needed to be provided under the current TWA rule (Part 2.2.12) in the current River Clyde Water Management Plan (DPIWE 2005a)' and so '...the draft amended Plan now describes allocations and access rules that continues to reflect the access provided by the current TWA rule and thereby retains and reflects access provisions that reflect existing operational practice.'

The Secretary stated:

'...that it is no longer appropriate for the TWA rule to contain specific access provisions that are the same as those that apply to large volumes of low reliability water that are now available under licensed allocations.

The draft amended Plan still retains the provision for issuing temporary authorisation to access "exceptionally low" reliability water when it is required but the amended provision is intended to not compromise access to water that is now allocated. On this basis, the Plan still provides for "exceptionally low" reliability water to be made available under temporary authorisations.

The Secretary is firmly of the view that a general access provision is not necessary as the draft amended Plan provides "low" (Surety 7) and "very low" (Surety 8) reliability allocations and "exceptionally low" reliability water under a TWA provision if required.

In addition, the River Clyde Trust currently hold a Surety 8 allocation that will provide opportunity for the Trust to issue new Irrigation Rights for further development if such developments are viable at this level of reliability (refer to detailed response 5.3).'

The Secretary also provided further information about the allocation of water since 2005, and detailed the changes to access rules related to the TWA provisions.

The Secretary concluded that the representations were not of sufficient merit to warrant modification of the draft amended Plan.

Commission's findings

The Commission considers the Secretary's response in section 5.2 of his Report and within his Appendix A – Summary of Representations adequately explains the TWA rule and the reasons for concluding that representations were not of sufficient merit to warrant modification of the draft amended Plan.

2.2.3 Capping allocations or not issuing new allocations will limit opportunity for further water development

Representations

It was recommended by several representations (River Clyde Trust, TFGA, Norwood Estate, Ramsay Agriculture, Thorpe Farm) that the draft amended Plan should not state that allocations are capped and that no further water is available; and they contended that the draft amended Plan's allocation framework and rules are inflexible and additional amendments would provide the flexibility to allocate further volumes of low reliability water. Two representors (River Clyde Trust and Thorpe Farm) argued that the draft amended Plan should be amended to state that, "*final allocations for the water entity and other license holders are still under negotiation*". Others raised concerns regarding

the position taken by the Department and Hydro Tasmania to not allocate any more water and the consequential limits to further water development.

A number of representors (River Clyde Trust, Ramsay Agriculture, Norwood Estate) also recommended that the Surety Level 7 allocations should not be capped and that an additional 5,000 ML of Surety 7 allocation that was reserved to supply the Southern Highlands Irrigation Scheme and any unused Surety Level 7 allocation from the 12,000 ML used to licence existing dams on the tributaries should be allocated to the River Clyde Trust. It was contended that this extra Surety 7 allocation should be made available to the River Clyde Trust to support new development in the future.

In addition, representors (River Clyde Trust, Ramsay Agriculture, Norwood Estate, Thorpe Farm) suggested that the capping of allocations and other parts of the Plan are not entirely consistent with the Plan's objective, "... to support economic development, and at all times to maximise the availability of that water".

Secretary's response

The Secretary responded '...that it is appropriate that Part 4.3 of the draft amended Plan states that the catchment is now fully allocated at Surety Levels 5, 6, 7 and 8 and that the capping of allocations will not prevent further sustainable development of the water resource.'

He further stated:

'The capping of allocations is a fundamental element of the water management framework that will protect existing water entitlements by providing equitable and orderly access to available water. This framework is essential to ensure that sound development and investment decisions are made and that stakeholders existing investments are protected, in relation to the available water resource. Part 7.4 of the draft amended Plan provides an assessment of capacity of the water resources to meet likely demands for water by existing and future users.

In response to concerns that the Department and Hydro Tasmania are refusing to allocate any more water, the Secretary notes that Hydro Tasmania has no role in setting allocation limits, approving dams or water licences in the River Clyde. Part 8 of the Act states that the Minister, or his delegate, is responsible for the allocation of water consistent with the objectives of the Act. Hydro Tasmania's only role is to provide consent to the transfer of water from their Special Licence prior to the Department issuing a water licence (as the Minister's delegate) for the transferred volume.'

The Secretary provided detail of allocations and Surety Levels to the River Clyde Trust and other licensees to demonstrate that '... a very large volume of high and low reliability water is now allocated that provides for all historic and existing use, and additional low reliability water for future development.'

The Secretary also specified details of the Irrigation Rights issued by the Trust noting that '...the Trust still holds unused water allocation that has not yet been issued as Irrigation Rights or Domestic Rights'.

The Secretary rejected representors' views '...that a further 5,000 ML of Surety 7 water (that was put aside but not allocated in 2008 for potential use for a community irrigation scheme) be allocated', and provided details supporting his position. He noted '...that the reservation of this water preceded the decision to allocate a large volume of Surety 7 water to the River Clyde Trust and to private licensees on the tributaries who had built dams' and that 'Since 2008 a number of private storage

developments have occurred and Surety 7 allocations (with Hydro Tasmania's consent) are now provided to licence the existing storages.'

The Secretary indicated that the '...Department also allocated a further 20,000 ML of Surety Level 8 water to the River Clyde Trust in October 2013 with a proportion of this water being available to provide for further development.' He concluded that it is no longer appropriate, necessary or consistent with the Act to allocate any additional water and that new development can still be progressed using existing allocations.

The Secretary stated that '...the draft amended Plan delivers an optimal balance to achieve a range of outcomes for different users and the environment' in response to representors' concerns that not all parts of the draft amended Plan are entirely consistent with the Plan's objective to, "... support economic development, and at all times to maximise the availability of that water". He noted '...that Part 14(2) (a-d) of the Act requires a Plan to provide for a range of outcomes including environmental needs and other relevant objectives of water users' and he indicated the parts of the draft amended Act where it describes how the Plan provides for, and balances, a range of environmental and water use and development objectives.

The Secretary determined he did not believe that the representations were of sufficient merit to warrant modification of the draft amended Plan.

Commission's Findings

The Secretary provided detailed history of water allocations for the River Clyde catchment and adequately explained why in his view the catchment is now fully allocated at Surety Levels 5, 6, 7, 8.

The Commission considers the Secretary's response in section 5.3 of his Report to representors' concerns adequately demonstrates the reasons for determining representations were not of sufficient merit to warrant modification of the draft amended Plan.

2.2.4 The draft amended Plan does not make it clear if the River Clyde Trust can issue new Irrigation Rights for new developments on the tributaries of the River Clyde

Representations

Representors (River Clyde Trust, TFGA and Thorpe Farm) are concerned that it is unclear if the draft amended Plan provides for new allocations on the tributaries of the River Clyde, or if the Trust can issue new Irrigation Rights on the tributaries. Two representors (River Clyde Trust and the TFGA) recommended that this issue be resolved before the Plan is adopted.

Concern was also raised that the draft amended Plan proposes the allocation of new entitlements that will impact the rights of existing users (Ramsay Agriculture, Scott, Richard and Will Bowden). Specifically, there were concerns raised that the Draft amended Plan proposed allocating new Surety 7 water to new dams on the tributaries that could impact existing users (Ramsay Agriculture).

Secretary's response

The Secretary stated that:

'All licences and allocations on the tributaries and on the main channel of the River Clyde are required to be approved and issued by the Department (under delegation by the Minister) in accordance with Part 6 of the *Water Management Act 1999* and consistent with the River Clyde Water Management Plan (DPIPWE 2005a).'

Furthermore, he pointed out that '...the River Clyde Trust is only licensed to take water from the main channel of the River Clyde to supply Irrigation Right holders under its own system and rules of

supply', '...but they can issue Irrigation Rights anywhere within the River Clyde Irrigation District so long as water is sourced from the water they are authorised to access under their water licence.'

The Secretary acknowledged, however, that allocations on a tributary '...may be made available through voluntary transfers and trade from existing licenses and allocations, or by the Trust transferring their own existing allocations on the main channel of the River Clyde to new offtake points on tributaries.' The Secretary notes though '...that approvals for the construction of dams are a separate approval process to the approval for a water licence', and are provided by the Department, in accordance with the Act.

The Secretary stated in response to concerns that the draft Amended Plan was proposing to allocate water to new dams and dams that were not yet built, that:

'Part 4 of the draft amended Plan is clear that no new allocations will be made available. The draft Amended Plan only makes allocations available to licence existing dams on the tributaries that have historically been taking water. Therefore, the licensing of existing use should not represent a change in water access or impact on existing users. Therefore, once these existing dams are allocated, then the only way that new water can be made available on the tributaries is through trade and transfer of existing licensed entitlements. Any assessment of trades or proposed transfers will need to ensure that existing entitlement holders are given access in priority to new users such that new development does not impact existing users' water rights.'

Commission's findings

The Commission considers the Secretary's response in section 5.4 of his Report and within his Appendix A – Summary of Representations to representors' concerns adequately demonstrates his reasons for determining representations were not of sufficient merit to warrant modification of the draft amended Plan.

2.2.5 Other issues

Clarity of summaries in Appendix A

The Commission considers that some representor's issues were not clearly summarised by the Secretary in Appendix A – Summary of Representations. Examples include the representations from Norwood Estate, Thorpe Farm and the Trust.

Although these representations raised some issues that were not specifically summarised by the Secretary, the Commission is satisfied that all issues relevant to the draft amended Plan were responded to by the Secretary in the course of his consideration of other representations.

In relation to the Norwood Estate representation, the Commission acknowledges that the significant number of issues raised were presented in an unclear structure and format making it difficult to aggregate issues, particularly variations on the same issue.

In summary, the Commission acknowledges that on balance, the Secretary does adequately respond in his Report to all issues raised by the representors that were relevant to the draft amended Plan.

Minor typographical errors in Appendix A

The Commission notes that there are various typographical errors within the Secretary's Report in Appendix A – Summary of Representations. For example, the Secretary's summary of Hydro Tasmania's representation has two 1(c)'s, and Ramsay Agriculture's representation included two 6(e)'s.

In addition, the Secretary's responses to the TFGA representation issues 5(a, b, d, e) referred to his responses to the TasWater representation issues 3 (f, d, e, c) respectively, which do not exist. It is likely that he meant to refer to his responses to the Trust representation 4 (f, d, e, c), respectively. The Commission accepted this as such.

Similarly, the Secretary's response to Ramsay Agriculture's representation in 6(c) referred to his response in 3(h), which does not exist, but should probably have referred to his response in 4(h). The Secretary's response to Norwood Estate's representation in 9(l) referred to 4(e), but should probably have referred to 4(f). Again, the Commission accepted both errors as such.

It is also noted that under the Secretary's summary of the Thorpe Farm representation number 8, he refers to 7(a-c) instead of 8(a-c).

The Commission acknowledges these as accidental errors.

3.0 Conclusion

The Commission has conducted its review of the Secretary's Report on the Draft Plan and the representations, as set out under sections 27 and 27A of the Act. The Commission's review was restricted to considering the adequacy of the Secretary's responses to the representations.

The Commission determined that as there was enough information in the documents received in order for it to undertake its review, it was unnecessary to hold a public hearing on the matter.

In his report, the Secretary recommended several modifications to the draft amended Plan in response to issues raised in representations, which he considered to be of sufficient merit to warrant modification of the draft amended Plan.

In conclusion, the Commission considers that the Secretary does adequately respond in his Report to all issues raised by the representors that were relevant to the draft amended Plan.

Appendix 1 Representors

- 1 Hydro Tasmania
- 2 Aboriginal Heritage Council
- 3 TasWater
- 4 River Clyde Trust
- 5 Tasmanian Farmers and Graziers Association
- 6 Ramsay Agriculture – John Ramsay
- 7 Scott, Richard and Will Bowden
- 8 Thorpe Farm – Will Bignell
- 9 Norwood Estate – Anthony Archer
- 10 Poppy Growers Tasmania