

For Cabinet

19/163

Government response to the Office of the Commissioner for Sustainability and Environment Report – the Heroic and the Dammed – Lower Cotter Catchment Restoration Evaluation

Minister for Environment and Heritage, Mick Gentleman MLA

CABINET SUBMISSION

Cabinet Office Rec	
Purpose	This submission seeks Cabinet agreement to the Government Response to recommendations made by the Office of the Commissioner for Sustainability and the Environment in the report on the Lower Cotter Catchment restoration evaluation.
Timing	For Cabinet consideration on 28 May 2019 in order to allow the Government Response to be provided to the Legislative assembly within three months of the Commissioner’s report being tabled, that is by 21 June 2019.
Impact	
<ul style="list-style-type: none"> • Government Priorities 	No specific Government Priority identified.
<ul style="list-style-type: none"> • Triple Bottom Line 	<p><u>Social Impacts</u></p> <p>The responses to the OCSE report recommendations are not expected to have any adverse social impact on justice and human rights.</p> <p><u>Environmental Impacts</u></p> <p>The responses to the OCSE report recommendations, if implemented, will have long term environmental benefits in restoring the resilience and health of the Lower Cotter Catchment and maintaining a high quality potable water supply for the ACT. No impacts are expected on energy.</p> <p><u>Economic Impacts</u></p> <p>The Cotter Dam contains 25% of the ACT’s potable water supply and land management in the catchment has, as its primary aim, the protection of existing and future water supply. Continued investment in rehabilitation of the catchment is necessary in recognition of the fundamental role water security plays in the economic prosperity of the Territory.</p> <p>The responses are expected to have a neutral impact on the ACT Government Budget.</p>
<ul style="list-style-type: none"> • Intergovernmental • Regulatory Impact 	<p>No</p> <p>No.</p> <p>This submission does not comprise a proposed subordinate law change or disallowable instrument.</p>
<ul style="list-style-type: none"> • Red Tape Reduction 	Not Applicable
Consultation	The following Directorates were consulted during the development of this submission: CMTEDD, JACSD and EPSDD. There is agreement.
<ul style="list-style-type: none"> • Elected Body 	There has not been consultation with the Aboriginal and Torres Strait Islander Elected Body.
Legislation Change	No
Communications Plan	No

SENSITIVE: CABINET

Implementation Plan	No																																			
Documents for Release	Yes See <u>Attachment B</u> – Open Access Assessment for list of documents for release.																																			
Budget Impact:	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">2018-19</th> <th style="text-align: center;">2019-20</th> <th style="text-align: center;">2020-21</th> <th style="text-align: center;">2021-22</th> </tr> <tr> <th></th> <th style="text-align: center;">\$'000</th> <th style="text-align: center;">\$'000</th> <th style="text-align: center;">\$'000</th> <th style="text-align: center;">\$'000</th> </tr> </thead> <tbody> <tr> <td>Controlled Recurrent Payments</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> </tr> <tr> <td>Capital Injection</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> </tr> <tr> <td>Depreciation</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> </tr> <tr> <td>Revenue/Offsets</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> </tr> <tr> <td>Net Operating Impact</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> </tr> </tbody> </table>		2018-19	2019-20	2020-21	2021-22		\$'000	\$'000	\$'000	\$'000	Controlled Recurrent Payments	-	-	-	-	Capital Injection	-	-	-	-	Depreciation	-	-	-	-	Revenue/Offsets	-	-	-	-	Net Operating Impact	-	-	-	-
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<i>A cost to the budget (ie an increase in expenses or decrease in revenue) should be presented as a negative. Net Operating Impact is the sum of Controlled Recurrent Payments, Depreciation and Revenue/Offsets impacts.</i>																																				
Treasury Agreement: Yes	Staffing – FTE																																			

Recommendations

19/163

Government response to the Office of the Commissioner for Sustainability and Environment Report – the Heroic and the Dammed – Lower Cotter Catchment Restoration Evaluation

Minister for Environment and Heritage, Mick Gentleman MLA

- 1) I recommend Cabinet agree to the Government Response (Attachment D) to the Office of the Commissioner for Sustainability and Environment Report – *the Heroic and the Dammed – Lower Cotter Catchment Restoration Evaluation*; including:
 - a) agreement that:
 - i) the *Reserve Management Plan 2018 Implementation Plan* is developed; and
 - ii) public vehicles be restricted from ecologically sensitive and isolated parts of the Lower Cotter Catchment; and
 - b) in-principle agreement that:
 - i) the *Lower Cotter Catchment Monitoring and Evaluation Framework* be implemented;
 - ii) the Lower Cotter Catchment Risk Treatment Plan be reviewed and updated quarterly; and
 - iii) the *Road Transport (Safety and Traffic Management) Act 1999* be amended to allow for the immediate removal of abandoned vehicles by government authorities.
- 2) I recommend Cabinet note the recommendation from the Office of the Commissioner for Sustainability and Environment Report that annual funding from the Water Abstraction Charge be allocated directly to catchment management for the life of the *Reserve Management Plan 2018*.

SENSITIVE: CABINET

- 3) I recommend Cabinet note that implementing the recommendations of this report is likely to have financial implications. Any additional funding requirements would be at the discretion of the Budget Committee of Cabinet as part of future budget processes.
- 4) I recommend Cabinet agree:
 - a) that the tabling will be listed on the sitting week program under Minister for Climate Change and Sustainability; and
 - b) that I, as Manager for Government Business, will table the report in the Legislative Assembly.
- 5) I recommend Cabinet note the advice to the Chief Minister on the release of the Open Access Assessment Decision Summary (Attachment B) as required under Section 23 of the *Freedom of Information Act 2016*.

SUPPORTING ARGUMENT

BACKGROUND

- 1) The ACT Auditor-General conducted a performance audit of the restoration of the Lower Cotter Catchment (LCC) in 2015 and made 12 recommendations, one of which was for the Commissioner for Sustainability and the Environment (the Commissioner) to evaluate restoration against the statutory management plan. The Government agreed to all recommendations.
- 2) The Commissioner presented the evaluation report, *The Heroic and the Dammed – Lower Cotter Catchment Restoration Evaluation*, to the Legislative Assembly on 21 February 2019.
- 3) The Commissioner's report made 14 recommendations. Most of the recommendations are contingent upon additional funding being made available for the necessary ongoing restoration of the Lower Cotter Catchment.
- 4) The Government Response agrees, or agrees-in-principle, to 13 of the 14 recommendations contained in the Commissioner's Report.
- 5) One recommendation is noted, namely:
 - a) Recommendation 2.1 – *Allocate annual funding from the Water Abstraction Charge directly to catchment management for the life of the Reserve Management Plan 2018*. ACT Treasury has advised that this would not be appropriate, and that additional funding should instead be brought forward by the Directorate, through established annual budget processes.
- 6) Also included in the Commissioner's report are updates on the implementation status of the 12 Auditor-General's recommendations and the seven recommendations made by the Standing Committee on Public Accounts *Report No. 31 into the Auditor-General's Report No. 3 of 2015 into the Lower Cotter Catchment*.

ISSUES & OPTIONS

Commissioner's recommendations

7) Attachment D includes responses to the Commissioner's recommendations. Significant funding will need to be identified to fully facilitate most of the outcomes outlined in the recommendations. While 13 of the 14 recommendations are agreed or agreed in-principle, one recommendation (on additional funding) was noted. Given that additional funding was a key requirement of most of the other recommendations, Government's capacity to implement the actions in the short term will be tempered by budgetary pressures.

Lower Cotter Catchment Monitoring and Evaluation Framework and the Reserve Management Plan 2018 Implementation Plan

8) The Commissioner's report makes the case for a robust monitoring framework, and that is responsive to a changing climate. It suggests leveraging the licence agreement with ACTEW to enhance current water quality monitoring.

9) The report goes on to recommend centralisation of data and databases with agreed security protocols. Further to the use of LiDAR data to assist with monitoring.

10) The Government response agrees in principle to these recommendations, but notes that the government is committed to delivering on the intent of the recommendations in the most cost-effective way with the resources available.

Funding and Resources Commitment

11) The report makes recommendations to the allocation and prioritisation of resources both to external sources (Water Abstraction Charges), and internal budgeting.

12) The report strongly makes the case that additional resources and risk-based prioritisation of those resources are required to meet the statutory requirements, and the deficiencies highlighted in the Auditor-General report and this follow up report.

13) The Government response notes recommendation about the Water Abstraction Charge, and makes the case that the existing resources are being prioritised effectively.

14) The Report also seeks additional oversight of the implementation through the Directors-General Water Group, the Lower Cotter Catchment Implementation Coordination Group and the Regional Catchment Group.

15) The increased oversight will increase the scrutiny on the implementation, however without additional funding, full implementation will not be possible.

Amend the Road Transport (Safety and Traffic Management) Act 1999 to allow for the immediate removal of abandoned vehicles

16) The report provides a case study on abandoned vehicles and the deliberate burning of them, either by the initial offender, or a subsequent one. The report recommends that powers be provided to remove vehicles more quickly.

17) The Justice and Community Safety Directorate (Emergency Services Agency), at the request of the Security and Emergency Management Senior Officials Group (SEMSOG), is convening a working group to strengthen operational arrangements to identify and quickly remove abandoned vehicles that pose fire risks. This includes arrangements around the sharing of information, reporting of abandoned vehicles and ensuring all relevant staff are fully aware of their existing powers. The working group will consider what operational and/or legislative changes may be needed to clarify the existing powers that the ACT holds to immediately remove abandoned vehicles and address issues with the storage of such vehicles. The working group will include representation from across government and will report back to SEMSOG.

18) Following the release of the report, other measures have also been taken to deter the deliberate burning of abandoned cars in rural areas and better support investigation into these incidents and other rural crimes, including the installation of closed-circuit television (CCTV) cameras on three roads leading to the rural areas of Canberra. These CCTV cameras provide live and recorded footage to the ACT Government and ACT Policing.

Restrict public vehicles from ecologically sensitive and isolated parts of the Lower Cotter Catchment.

19) Finally the report makes a recommendation to restrict vehicle access to the more ecologically sensitive areas. The response agrees to make these changes by amending the Lower Cotter Catchment Activities Declaration by June 2019.

Tabling of the report

20) Standing Order 254B states that a response is to be provided to the Legislative Assembly within four months of the presentation of the report (21 June 2019); or provided to the Speaker for out of session circulation to members and tabled by the Minister on the next sitting day.

CONSULTATION

21) Environment, Planning and Sustainable Development Directorate (EPSDD), Justice and Community Safety Directorate (JACS) and ACT Treasury were consulted in the development of this cabinet paper. All comments received were considered and incorporated.

22) ACT Treasury have advised that the annual budget process is the appropriate avenue for gaining additional funding for management. ACT Treasury noted the recommendation for the Water Abstraction Charge to be used to fund the catchment's management but argued that this funding is part of consolidated revenue and should not be attributed to a specific program.

23) There was no engagement with the Aboriginal and Torres Strait Islander Elected Body.

Directorate comments

24) An exposure draft of this paper was circulated to all directorates.

25) A table of final agency comments is provided at Attachment A to this submission.

MEDIA/COMMUNICATIONS

26) The Government Response will be available to the public when it is tabled in the Legislative Assembly.

IMPLEMENTATION

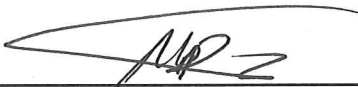
27) A Lower Cotter Catchment Implementation Coordination Group (ICG) was established in accordance with recommendation 5 of the Auditor General Report No. 3 of 2015.

- a) This ICG has continued to meet as an inter-directorate working group with representation drawn from EPSDD, the Emergency Services Agency (ESA) in JACS, and Icon Water.

b) The ICG has considered the Commissioner's report and developed the whole of government response. Responsibilities have been assigned for recommendations that require action. Commitments have also been made to meet those obligations with specific time requirements i.e. completion of the Code of Sustainable Land Management and development of an Implementation Plan for the Lower Cotter Catchment Reserve Management Plan by 30 June 2019.

FINANCIAL IMPACT

28) Agreeing to the recommendations in this Cabinet Submission – and the associated Commissioner's report and Government response – is likely to have a budget impact which is not quantifiable at this time. As outlined above, any additional funding requirements would be at the discretion of the Budget Committee of Cabinet as part of future budget processes.

Minister's signature  Date 16/5/19

INDEX TO ATTACHMENTS

Attachment	Title	Page(s)
A	Table of Comments	xx
B	Open Access Information Release Decision Summary	1
C	Triple Bottom Line Assessment Summary	1
D	Government Response to The Office of the Commissioner for Sustainability and the Environment report –The Heroic and The Dammed – Lower Cotter Catchment Restoration Evaluation	11
E	The Office of the Commissioner for Sustainability and the Environment report – the Heroic and the Dammed – Lower Cotter Catchment Restoration Evaluation	152