

Committee Secretary
Senate Legal and Constitutional Committees
PO Box 6100
Parliament House
Canberra ACT 2600
Australia



Sent via email to: legcon.sen@aph.gov.au

9 March 2011

To whom it may concern

Address	The Conservation Centre Level 1, 157 Franklin Street Adelaide SA 5000
Phone	(08) 8223 5155
Fax	(08) 8232 4782
Email	general@conservationsa.org.au
Web	www.conservationsa.org.au
ABN	22 020 026 644

As the peak conservation body for South Australia, representing over 50 of the State's environment and conservation organisations, the Conservation Council of South Australia (Conservation SA) is pleased to make comment on the Inquiry into the Provisions of the Water Act 2007.

The Water Act is a crucial piece of legislation to allow Australia to manage its largest river system in a sustainable manner. The Act was created in recognition that competing state interests had created a tragedy of the commons, with the result an alarming decline in the health of the Basin ecosystems and the irrigated agriculture and communities they support.

A healthy environment in the Basin is the only way to ensure the longevity of Australia's foodbowl. It is the only way to prevent the loss of more ecosystems and species. It is the only way to meet Australia's obligations under a number of international conventions.

The Act gives priority to this task of environmental restoration, and it is vital that it does so. Allowing further decline in environmental health is no way to optimise social and economic wellbeing in the long-term. We need to establish a basic standard to prevent over-extraction now and into the future.

If you have any questions regarding this contribution please contact

Yours sincerely,

Tim Kelly
Chief Executive



Conservation Council SA

**Response to Inquiry into the provisions of the Water Act
2007**

9 March 2011

Submission by:

**Conservation SA
(Conservation Council of SA Inc)**

1/157 Franklin St

Adelaide

SA 5000

p: (08) 8223 5155

f: (08) 8232 4782

e: general@conservationsa.org.au

www.conservationsa.org.au

Introduction

Let us not forget why the Water Act 2007 was created in the first place. Any river needs a minimum volume of water to function. Economic activity that relies on a healthy river will not be viable if the river does not have enough water to function. Communities that are built around economic activity throughout the Basin will also not be viable and attain wellbeing if the river does not have enough water to function.

The environmental health of the river system over the past decade has been extremely poor, leading to social and economic hardship. The Water Act was created to address all of these problems by addressing their root cause: insufficient water for river and wetlands to function.

The environmental health of the Murrumbidgee Darling river system is the pre-requisite for social and economic wellbeing in the region.

Interpretation of the Act

Conservation SA believes that the relevant object of the Water Act does *not* require the Basin Plan itself to optimise economic, social and environmental outcomes. It requires the Basin Plan to “**promote the use and management of the Basin water resources in a way that**” optimises those outcomes. This sort of qualifier is not found in the wording of objects of the Act such as:

- (b) **To give effect to relevant international agreements**
- (d)(i) **To ensure the return to environmentally sustainable levels of extraction** for water resources that are overallocated or overused; and
- (d)(ii) **To protect, restore and provide for the ecological values and ecosystem services of the Murray-Darling Basin** (taking into account, in particular, the impact that the taking of water has on the watercourses, lakes, wetlands, ground water and water-dependent ecosystems that are part of the Basin water resources and on associated biodiversity)

It is disappointing that there could be perceived ambiguity around the wording of the Water Act 2007. On a matter of national importance for a Murray Darling Basin, the Act should be clear and in no way include ambiguity that would compromise fixing the issues that triggered the creation of the Act in the first place.

If it is the case that Object:

- (d)(i) to ensure the return to environmentally sustainable levels of extraction for water resources that are over allocated or overused

cannot be achieved because of Object:

- (c) in giving effect to those agreements, to promote the use and management of the Basin water resources in a way that optimises economic, social and environmental outcomes,

then the Act fails and sustainable management of the Murray Darling Basin will not be achieved.

The context for the Water Act 2007

The situation in the Murray Darling Basin is that the water has been so over-allocated for irrigation that water barely flowed to the sea for around 8 years. There was substantial decline in river and wetland health, including complete ecosystem collapse in some parts, particularly in the lower reaches, of the system. Small to medium flooding events have virtually been extinguished through management of the storages and an inability to support environmental needs.

There were also severe social and economic impacts on communities as the supply of water from the river system virtually failed in either an allocation sense or a physical sense where there was just no water to pump, or the water quality failed or it became impossible to reach (such as in the lower lakes).

In summary, the system deteriorated so much that it became obvious that we need sufficient water for functions across the basin including to the lower lakes, Coorong and Murray mouth. The water must be sufficient to maintain healthy ecosystems and to cover periods of low to moderately-low inflows. This will also ensure that water for critical human needs is available.

Beyond the minimum requirements to provide water for the environment and critical human needs, water for irrigation can be made available. This is what sustainable management of the Murray Darling Basin would look like.

Equal weighting is not the answer

If environmental, social and economic factors were on an equal footing, perhaps giving them equal weighting would work. But this is not the case. The environment warrants priority in the Act on two grounds.

Firstly, the environment is the resource base that **underpins** irrigated agriculture in the Basin. Communities have formed around this agricultural activity. If the environment did not provide the right conditions for agriculture to occur, we would not have this thriving region, contributing so significantly to our food security and our GDP. The same cannot be said in reverse – the environment functioned perfectly well (in fact far better) before irrigated agriculture existed in the Basin.

So it is misguided to think of environmental health as something that can be negotiated; it is a pre-requisite for much of the social and economic activity in the Basin.

Secondly, the environment is not on an equal footing in terms of the degree of decline that needs to be addressed. 20 of the Basin's 23 catchments are in poor or very poor health, water has been unable to flow out to sea for years at a time, some

ecosystems have gone into collapse, and Australia is in breach of some of its international obligations. These are all indicators that urgent action is needed, not only to halt environmental decline but to actively restore the system to health.

As the environmental harm has been caused by over-allocation of water for economic gain, the only way to restore health is to no longer allow environmental wellbeing to be negotiated for economic gain. Equal weighting would convey precisely the opposite message.

Sometimes it is necessary for important matters to be dealt with as minimum standards. Providing the Murray Darling Basin with the minimum amount of water to function as a healthy river system should be the standard we set.

There are many situations where the concept of equal weighting leads to failure.

Do we give economic, social and environmental factors equal consideration to overload passengers and freight on an aeroplane? No, we set a maximum loading mass as a standard that cannot be exceeded?

Do we allow lower OH&S standards in the workplace to get a project completed on time? No we treat OH&S as a standard so all workers can be safe at work.

Should we allow much of the Murray Darling Basin to fail during periods of low to moderately-low flows because of over allocation? No, we should be managing the river system so that it works in a healthy condition.

Conservation SA advocates strongly that a safe minimum flow of water as informed by the science to protect the integrity and environmental health of the Murray Darling Basin rivers and wetlands is established as a standard that should not be balanced away, as it will continue the problem of over allocation.

Whether to change the Act

If the Act is changed to lock in equal weighting to balance economic, social and environmental outcomes then the Act will fail to deliver a reliable and sustainable management of the Basin water resources.

Sustainable management can only be achieved by clarifying the Act to establish the minimum flows as required by science as a standard.

Conservation SA believes that environmentally sustainable levels of extraction must be achieved and **within that environmental standard**. The use and management of the Basin water resources can then be promoted in a way that optimises economic, social and environmental outcomes within the environmental standard.

Any revision to the Act should be to strengthen the likelihood of successfully maintaining the integrity, security and health of the Murray Darling Basin River system.

Please do not compromise the minimum flows as guided by the science.