



Murray Darling Association Inc.

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30 May 2011

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

Attention: Senator Barnaby Joyce

Dear Senator,

Re: PROVISIONS OF THE WATER ACT 2007

We appreciate that there has been an extension to June 6th 2011 and, we are hopeful that due to the importance of the matter before you, would your committee give the recommendation outlined below their full consideration?

We appreciate that there have been various interpretations of that part of the Act which may or may not give primacy to environmental outcomes ahead of social and economic considerations.

We further appreciate that Minister Burke is on the record as saying that the legal advice which he had sought and received in this regard makes it clear to him that the Basin Plan to be developed under the Act can and will deliver on a balanced triple bottom line.

Whilst this is Minister Burke's stated position, and we applaud him for it, we are still concerned, as many others are also, that the future Basin Plan will be exposed to legal challenge based on a different interpretation of this part of the Act.

Indeed some sectors are so concerned about this possibility that they are seeking to have the Act amended in order to rule out any such challenge in the future.

The Murray Darling Association's position in this regard is that we believe that in the current political environment any attempt to amend the Act is fraught. The Act when adopted enjoyed bipartisan support. In a hung parliament situation we don't believe this would remain the case if it were taken back to the house.

The Association does however seek to remove the possibility of a legal challenge as described earlier, so that there can be certainty for all stakeholders.

We would therefore suggest that a suitable definition be drafted and included in the Act which clearly defines “*the use and management of the Basin water resources in a way that optimizes economic, social and environmental outcomes;...*” (Part 2, Division 1, subdivision B, 20 (d)) as meaning, The Basin Plan must deliver a balanced triple bottom line.

This may sound simplistic, however we feel that simplicity is often a good thing and in this case could resolve the existing uncertainty and negate any further legal challenge to the Plan this regard.

Yours sincerely

Ken Rogers
National President

“for conservation and sustainable development”

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