

Water Amendment (Save the Murray-Darling Basin) Bill 2012

Introduced into the Senate on 27 November 2012

By: Senator Hanson-Young

1.1 This bill seeks to amend the *Water Act 2007* to provide that the development of the Basin Plan (as defined in the *Water Act*) must, when considering environmentally sustainable limits, take into account additional considerations, including: climate change; when to allow ground water extraction; and improvements to environmental outcomes.

Compatibility with human rights

1.2 The explanatory memorandum to the bill contains a self-contained statement of compatibility. It states that the bill is compliant with the *Human Rights (Parliamentary Scrutiny) Act 2011*, saying:

Because this bill is confined solely to enhancing the requirements and application of scientific research in relation to hydrology and ecology within the Murray Darling Basin this bill does not engage any human rights in a positive or negative manner.¹

Right to water

1.3 The bill may engage the right to an adequate standard of living and the right to health guaranteed by articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). In its General Comment No 15 on the right to water, the UN Committee on Economic, Social and Cultural Rights stated that '[t]he human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.'² The Committee also noted the importance of ensuring sustainable access to water resources for agriculture in order to realize the right to adequate food³ and that access to water is relevant to other rights such as the right to gain a living by work.

1.4 The Committee also drew attention to broader environmental issues in its General Comment:⁴

1 Statement of compatibility, para 2.1.

2 UN Committee on Economic, Social and Cultural Rights, General Comment No 15 (2002), para 2.

3 Ibid, para 7.

4 Ibid, para 28.

States parties should adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations. Such strategies and programmes may include:

- (a) reducing depletion of water resources through unsustainable extraction, diversion and damming;
- (b) reducing and eliminating contamination of watersheds and water-related eco-systems by substances such as radiation, harmful chemicals and human excreta;
- (c) monitoring water reserves;
- (d) ensuring that proposed developments do not interfere with access to adequate water;
- (e) assessing the impacts of actions that may impinge upon water availability and natural-ecosystems watersheds, such as climate changes, desertification and increased soil salinity, deforestation and loss of biodiversity;
- (f) increasing the efficient use of water by end-users;
- (g) reducing water wastage in its distribution;
- (h) response mechanisms for emergency situations; and
- (i) establishing competent institutions and appropriate institutional arrangements to carry out the strategies and programmes.

1.5 The committee considers that the bill does not appear to give rise to any human rights concerns.