

Bills Digest  
No. 104 2000–01

Lake Eyre Basin Intergovernmental Agreement  
Bill 2001

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INFORMATION AND RESEARCH SERVICES

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No. 104 2000-01

Lake Eyre Basin Intergovernmental Agreement Bill 2001

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13 March 2001

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# Lake Eyre Basin Intergovernmental Agreement Bill 2001

**Date Introduced:** 1 March 2001

**House:** Senate

**Portfolio:** Environment and Heritage

**Commencement:** Immediately after the Lake Eyre Basin Intergovernmental Agreement takes effect.

## Purpose

To give Commonwealth legislative approval to the Lake Eyre Basin Intergovernmental Agreement, made on 21 October 2000.

## Background

### Geography of the Lake Eyre Basin

The Lake Eyre Basin, the world's largest salt pan,<sup>1</sup> covers approximately 1,170,000 square kilometres of arid and semi-arid Central Australia, which represents 17% of the continent. It stretches, north to south, from just below Mt Isa in Queensland to Marree in South Australia, and, west to east, from Alice Springs in the Northern Territory to Longreach and Blackall in central Queensland. It encompasses the towns of Winton, Birdsville, Innamincka and Oodnadatta, and has been evocatively described as 'home to some of the last wild rivers in the world.'<sup>2</sup>

The major rivers included in the Lake Eyre Basin are the Georgina, Diamantina, Thomson and Barcoo Rivers, and Cooper Creek, which flow from central and western Queensland into South Australia, as well as the Finke, Todd and Hugh Rivers in Central Australia. These waterways end in Lake Eyre, the world's fifth largest terminal lake.<sup>3</sup>

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The Lake Eyre Basin is the same size as the Murray Darling system, and is the world's largest internal drainage system (the Murray Darling system drains into the ocean). **Figure 1** shows the size and location of the Lake Eyre Basin.



**Figure 1 – the Lake Eyre Basin**

### Use and significance of the Lake Eyre Basin

Unlike other river systems, water flows in the Lake Eyre Basin are highly variable and unpredictable. None of the rivers and creeks flow permanently: all experience short periods of flow following rain and extended periods of no flow. The volume of flow decreases downstream, reflecting increasing aridity towards Lake Eyre. The Lake Eyre Basin is part of Australia's arid zone and the ecosystems it supports are varied and often unique, including the Simpson Desert, outback, rangelands, and floodplains, waterholes and wetlands along the river systems. The river systems provide important habitat for wildlife and a breeding area for waterbirds from throughout Australia and as far away as Siberia and Asia. The permanent waterholes are also important to towns, communities and pastoral holdings.<sup>4</sup>

Land use within the Lake Eyre Basin, like water use, is varied, and includes pastoralism, mining, tourism, oil and gas exploration and production, conservation and Aboriginal activities. Mining and petroleum generate the greatest amount of income within the region, but pastoralism is the most extensive in terms of land use.<sup>5</sup>

The area is culturally important and contains a wealth of Aboriginal and non-Aboriginal history. The Commonwealth's *Fact Sheet* on the Lake Eyre Basin states:<sup>6</sup>

The Cooper River system once sustained a significant Aboriginal population and was at one time a major Aboriginal trading route across Australia. Aboriginal sites that can still be identified include features of spiritual importance and archaeological sites including middens, artefact scatters, rock engravings, burial sites and quarries.

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## Existing protection of the Lake Eyre Basin

Two areas of the Lake Eyre Basin are already registered on the *Register of the National Estate* maintained by the Australian Heritage Commission. A 2.1 million hectare area of Lake Eyre and its environs, although not the whole area of the Lake Eyre Basin, has been registered on the *Register of the National Estate* since 1980. The national estate significance is derived from a number of unusual features of the Lake Eyre area, including:<sup>7</sup>

- its geological and paleogeographical significance, providing evidence of the time-scale involved in the increasing aridity of the continent,
- its unusual characteristics as part of the Great Artesian Basin and as a climactically variable drainage system,
- its status as the habitat of a number of rare plants and animals, including the unique Lake Eyre dragon, grass owl, grey grass wren and rare species of cassia and grevillea,
- its ecological significance as a haven for water birds and other wildlife after flooding, and
- its significance for indigenous culture.

The Elliot Price Conservation Park, a 64,570 hectare area of ungrazed arid wilderness on the Hunt Peninsula of Lake Eyre North, has also been listed on the *Register of the National Estate* since 1980. It consists largely of limestone, including limestone cliffs, salt pans and sand hummocks, which offer habitat for rare plant and animal species. The Park is used for teaching geology, geomorphology, biogeography and palaeontology, and provides a benchmark against which effects of range land grazing can be compared.<sup>8</sup>

In addition to these National Estate listings, in 1987 Coongie Lakes, a major unregulated river and wetland system on the Cooper Creek floodplain in the far north-east of South Australia near Innamincka, were designated 'wetlands of international importance' under the *Ramsar Convention 1971*. They are 'among the most ecologically rich wetlands in Australia',<sup>9</sup> and are an important habitat and breeding ground for waterbirds, as well as a habitat for frogs, fish, aquatic animals and plants.

## Proposal for World Heritage listing

World Heritage listing of the Lake Eyre Basin area was first proposed in 1984, jointly by John Coulter, then the president of the Conservation Council of South Australia, and the then federal Minister for the Environment, Barry Cohen.<sup>10</sup>

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In 1990, the General Assembly of the World Conservation Union (the IUCN) called for protection of the Lake Eyre Basin wetlands, and requested that they be assessed for their World Heritage value.<sup>11</sup>

During the 1993 election campaign, then Prime Minister Keating announced his intention to proceed with World Heritage listing of the Lake Eyre region. This generated some public controversy. The Lake Eyre Catchment Group was opposed to World Heritage Listing, because local pastoralists, landowners and mining industry representatives feared the plan would threaten the viability of local properties and commercial activities. Liberal Senator Campbell complained that the people who would be most affected by World Heritage listing had not been consulted.<sup>12</sup> By contrast, conservation groups and the Australian Democrats strongly supported the proposal.<sup>13</sup>

The matter proceeded slowly. To investigate whether the Lake Eyre region should be recommended for World Heritage listing, three studies were undertaken. These were an assessment of the area's natural values by CSIRO,<sup>14</sup> an assessment of non-indigenous cultural values,<sup>15</sup> and an assessment by the Australian Institute of Aboriginal and Torres Strait Islander Studies of the area's indigenous cultural values.<sup>16</sup>

CSIRO concluded that areas of the South Australian section of Lake Eyre Basin – particularly the Cooper and Warburton Creek drainage systems, Coongie Lakes, Goyder Lagoon and Lake Eyre itself – qualified for World Heritage listing on account of their natural heritage values.<sup>17</sup> Based on this, the World Heritage Unit of the Commonwealth Department of the Environment reportedly took the view that:<sup>18</sup>

the South Australian section of the Lake Eyre Basin contains natural values of international significance, and a nomination to the World Heritage Committee would probably be successful.

In 1998, a majority of the Lake Eyre Basin Reference Group (which had been appointed by the previous Labor government to assess the potential for World Heritage nomination) appears to have recommended that the Lake Eyre Basin be nominated for World Heritage listing. The majority report recommended initiating a World Heritage management plan for areas of the Lake Eyre Basin which had been identified by the CSIRO as being of World Heritage natural value.<sup>19</sup>

However, the Coalition government decided not to pursue a nomination for World Heritage listing 'due to a lack of community and State government support', and expressed the view that 'increased community efforts will deliver the best protection for the area's conservation values.'<sup>20</sup>

The Australian Democrats<sup>21</sup> and conservation groups<sup>22</sup> remain committed to World Heritage nomination for the region, although the Democrats consider that the development of a management plan should be a higher priority than eventual World Heritage listing. The ALP in *A Better Plan for the Environment* has stated it will 'give priority attention to

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examining and where appropriate submitting for [World Heritage] listing' the Lake Eyre Basin.<sup>23</sup>

## History of the Lake Eyre Intergovernmental Agreement

The issue of conservation and management of the Lake Eyre Basin region gained some prominence in 1995, when a proposal was made to divert significant quantities of water each year from the drainage system to provide irrigation to grow cotton in central Queensland.<sup>24</sup> It generated deep community concern, and following a public meeting at Birdsville in 1995, the Lake Eyre Basin Steering Group was formed, comprised of pastoralists, conservationists, ATSIC, local government, the mining and petroleum industries and government agencies. This group held numerous public meetings around the Basin and published issues and options papers, which culminated in a decision at the end of 1997 to establish an integrated catchment management framework in the Basin.

The steering group was then disbanded and replaced by a two-tiered framework comprised of catchment management groups and a Lake Eyre Basin Coordinating Group, based in Longreach, Queensland. The Coordinating Group includes a majority of catchment group representatives, Commonwealth and State government observers and other skills-based members. Its functions include the creation of ecological and economic sustainability in the Basin, providing a forum for community participation and communicating with governments.<sup>25</sup>

In 1998, two catchment committees were formed following public meetings – the Cooper Creek Catchment Committee and the Georgina/Diamantina Catchment Committee. The committees represent a wide range of stakeholders including upstream and downstream interests, pastoralists, mining and petroleum and tourism industry representatives, State governments, Aboriginal groups, and Landcare.<sup>26</sup> The Coordinating Group and the two Catchment Committees have been established as part of the Lake Eyre Basin Regional Initiative funded under the Natural Heritage Trust.<sup>27</sup>

Complementing the development of this regional catchment management strategy, a parallel process of intergovernmental agreement was taking place. On 26 May 1997, the Commonwealth, Queensland and South Australia signed the Lake Eyre Basin Heads of Agreement. Following community consultation, the formal Lake Eyre Basin Intergovernmental Agreement (the Lake Eyre IGA) was signed by the Commonwealth, Queensland and South Australia on 21 October 2000.<sup>28</sup>

The Lake Eyre IGA will not enter into force until it is approved in legislation enacted by the Queensland and South Australian Parliaments.<sup>29</sup> Neither has as yet enacted legislation. Although the Commonwealth is not required under the Lake Eyre IGA to introduce legislation, it has decided to 'confirm its commitment to the future sustainable management of the Lake Eyre Basin and the protection of dependent environmental and heritage values' by introducing this Bill.<sup>30</sup> Passing this Bill has no legal significance as to the enforceability of or compliance with the Lake Eyre IGA.

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## Operation of the Lake Eyre IGA

The Lake Eyre IGA does not apply to the whole area of the Lake Eyre Basin. It applies to the Cooper Creek system (including the Thomson and Barcoo Rivers) and the Georgina-Diamantina catchment systems within Queensland and South Australia, ending at Lake Eyre. It does not apply to the remainder of the Lake Eyre Basin within South Australia, or to any parts of the Basin in the Northern Territory and New South Wales.<sup>31</sup> However, the Lake Eyre IGA allows for the New South Wales and Northern Territory Governments to also join at a later stage should they wish to do so, with the consent of the existing parties.<sup>32</sup>

The Lake Eyre IGA's purpose is to establish arrangements for the management of water and related natural resources to 'avoid or eliminate so far as reasonably practicable adverse cross-border impacts',<sup>33</sup> associated with the river systems in the parts of the Lake Eyre Basin covered by the Lake Eyre IGA. The focus on water and related natural resources with cross-border impacts is narrower than the range of integrated catchment management issues dealt with by the Lake Eyre Basin Coordinating Group, the Cooper Creek Catchment Committee and the Georgina/Diamantina Catchment Committee.

The Lake Eyre Basin Ministerial Forum, which consists of one Minister from Queensland, one from South Australia and one from the Commonwealth,<sup>34</sup> is the decision-making body under the Lake Eyre IGA. Its function is to develop and adopt Policies and Strategies for the management of water and related natural resources.<sup>35</sup> The States will continue to have primary responsibility for policy formulation and the administration of water and natural resources legislation, but will seek in doing so to comply with the consultation processes set out in the Lake Eyre IGA.<sup>36</sup> Funding will be shared between the Commonwealth and the participating States.<sup>37</sup>

The Lake Eyre IGA sets down a number of Guiding Principles to be acknowledged in decision-making, which make reference to the significance of the Lake Eyre Basin for ecological, pastoral, cultural and tourism reasons. They also refer to the need to make decisions which will foster ecologically sustainable development, to take a precautionary approach to minimise potential environmental impacts, and to take account of the significant knowledge and experience of local communities.<sup>38</sup>

The Ministerial Forum can only make decisions unanimously,<sup>39</sup> and must obtain community advice on matters relevant to its decisions.<sup>40</sup> It is anticipated that the Lake Eyre Basin Coordinating Group will be adopted as the community advisory body which advises the Ministerial Forum.<sup>41</sup> The Ministerial Forum may also seek scientific and technical advice, either if required on particular issues, or by establishing a panel to provide advice on an on-going basis.<sup>42</sup>

There will also be a conference held at least every two years where the Ministerial Forum, members of the community advisory body, other interested groups and individuals,

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scientific and technical advisers and government officials can exchange information and views.<sup>43</sup>

The Lake Eyre IGA requires an immediate review of the condition of all watercourses and catchments in the area covered by the Lake Eyre IGA, and thereafter every 10 years. It also contains provision for reviews of the policies and strategies developed or adopted by the Ministerial Forum, and of the extent to which the objectives have been achieved, after 5 years, and thereafter every 10 years.<sup>44</sup>

## Main Provisions

The Bill commences immediately after the Lake Eyre IGA takes effect (**clause 2**), which will be once Queensland and South Australia have passed legislation implementing it.

**Clause 3** approves the Lake Eyre IGA, a copy of which is annexed as **Schedule 1** of the Bill.

## Concluding Comments

The Lake Eyre IGA has been generally welcomed by the communities concerned, and the broader integrated catchment management framework of which it is a part is being promoted as a 'community-driven process' over which the community has 'full ownership'.<sup>45</sup> The Lake Eyre IGA also demonstrates a cooperative approach to issues of water management, as Queensland, South Australia and the Commonwealth must all agree on every decision to be made, and community consultation is an integral part of the decision-making process.

However, some conservation groups have expressed concern that the processes are *management* processes which are not specifically about conservation or environmental *protection*. Conservationists continue to call for World Heritage listing of the Lake Eyre Basin, which would provide the Commonwealth with the constitutional power to protect the area, rather than leave it to largely 'state based management processes'.<sup>46</sup> These, however, are issues raised by the Lake Eyre IGA rather than the Bill itself.

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## Endnotes

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- 1 'Lake Eyre Basin: Valued for its Rare Environment', *Fact Sheet* attached to Senator Robert Hill, 'Protecting Lake Eyre Basin', *Media Release*, 27 April 1998  
<http://www.dest.gov.au/minister/env/98/mr27apr98.html> (5 March 2001).
- 2 See Alexandra de Blas, 'Lake Eyre Basin Management Agreement', *Earthbeat*, Radio National, 28 October 2000; and Lake Eyre Basin Coordinating Group, 'About the Basin' <http://www.lakeeyrebasin.org.au/frame02.html> (2 March 2001).
- 3 Lake Eyre Basin Coordinating Group, 'About the Basin', op. cit. n. 2. A 'terminal lake' or a 'closed lake' is a lake which has no outflow by surface streams or seepage.
- 4 This description is condensed from two websites, the Lake Eyre Basin Coordinating Group, 'About the Basin', op. cit. n. 2 and Queensland Holidays 'Lake Eyre Basin' <http://www.queensland-holidays.com.au/pfm/regions/outback/lakeeyre.htm> (5 March 2001).
- 5 See *Earthbeat*, op. cit. n. 2, and Lake Eyre Basin Coordinating Group, 'About the Basin', op. cit. n. 2.
- 6 'Lake Eyre Basin: Valued for its Rare Environment', *Fact Sheet*, op. cit. n. 1.
- 7 For more detail on these characteristics, see the description on the Australian Heritage Commission's *Register of the National Estate*, entry for 'Lake Eyre and Environs Marree SA' <http://www.environment.gov.au/cgi-bin/heritage/register/site.pl?005949> (5 March 2001).
- 8 The Park was named after Elliott Price, who offered to surrender his pastoral lease on the area for the purposes of conservation. More information can be found in the description on the Australian Heritage Commission's *Register of the National Estate*, entry for 'Elliott Price Conservation Park, Marree SA' <http://www.environment.gov.au/cgi-bin/heritage/register/site.pl?005914> (5 March 2001). See also 'Lake Eyre Basin: Valued for its Rare Environment', *Fact Sheet*, op. cit. n. 1.
- 9 'Lake Eyre Basin: Valued for its Rare Environment', *Fact Sheet*, op. cit. n. 1. See also Environment Australia <http://www.environment.gov.au/water/wetlands/ramsar/site/site27.htm> (7 March 2001).
- 10 Senator Coulter, 'Lake Eyre Region: World Heritage Listing', *Matters of Public Interest*, *Senate Hansard*, 20 May 1993, p. 946.
- 11 See Australian Conservation Foundation 'World Heritage Spotlight: Potential Sites – Lake Eyre Basin' <http://www.acfonline.org.au/spotlight/potential/lakeeyre.htm> (5 March 2001) and Julian Reid, *World Heritage Potential in the Lake Eyre Basin: An Ecological Appraisal of the Bigger Picture*, (1993) p. 2.
- 12 Senator Campbell, 'Lake Eyre Region: World Heritage Listing', *Matters of Public Interest*, *Senate Hansard*, 20 May 1993, p. 944; Senator Campbell, 'World Heritage Listing of Lake Eyre', *Notice of Motion*, *Senate Hansard*, 20 May 1993, p. 902.
- 13 Senator Coulter, 'World Heritage Listing of Lake Eyre', *Notice of Motion*, *Senate Hansard*, 20 May 1993, p. 901.

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- 14 S Morton, M Doherty and R Barker, *Natural Heritage Values of the Lake Eyre Basin in South Australia: World Heritage Assessment*, CSIRO (September 1995).
- 15 Duncan Marshall, *Study of Non-Indigenous Cultural World Heritage Values: South Australian Section of Lake Eyre Basin*, World Heritage Unit of the Department of Environment and Heritage (1995).
- 16 Australian Institute of Aboriginal and Torres Strait Islander Studies, *The Lake Eyre Basin as an Indigenous Cultural Landscape. An assessment against the World Heritage criteria of the Indigenous cultural heritage values of the South Australian section of the Lake Eyre Basin (an area being considered for possible nomination for the World Heritage List)* (May 1997). The report was done as a consultancy report to the World Heritage Unit of the Department of the Environment, Sport and Territories. It consists of two volumes: Volume 1: Text (159pp including one Table and one Figure); Volume 2: Confidential Appendices.
- 17 S Morton, M Doherty and R Barker, *Natural Heritage Values of the Lake Eyre Basin in South Australia: World Heritage Assessment*, CSIRO (September 1995) at p. 2.
- 18 See Friends of the Earth, 'Lake Eyre fact sheet: World Heritage Nomination Snubbed by National Government', <http://www.cat.org.au/wed/lakeeyre.html> (5 March 2001).
- 19 See Senator Hill, Answer to 'Question on Notice: Coongie Lakes, Senate *Hansard*, 26 March 1997, p. 2640; Friends of the Earth, op. cit. n. 17.
- 20 Senator Robert Hill, 'Protecting Lake Eyre Basin', *Media Release*, 27 April 1998 <http://www.dest.gov.au/minister/env/98/mr27apr98.html> (5 March 2001).
- 21 See Australian Democrats, Election '98 Issue Sheet, 'Environment: Lake Eyre Basin', [www.democrats.org.au/issue/enlakeeyre.html](http://www.democrats.org.au/issue/enlakeeyre.html) (2 March 2001); Senator Allison, 'Adjournment: World Heritage', Senate *Hansard*, 23 June 1998, p. 3882.
- 22 See Friends of the Earth, op. cit. n. 17; Australian Conservation Foundation, op. cit. n. 10.
- 23 Australian Labor Party, *A Better Plan for the Environment*, September 1998.
- 24 Senator Faulkner, Answer to 'Question on Notice: Lake Eyre Basin', Senate *Hansard*, 1 December 1995, p. 4821; *Earthbeat*, op. cit. n. 2.
- 25 Lake Eyre Basin Coordinating Group 'History of the Establishment of Lake Eyre Basin Catchment Management', <http://www.lakeeyrebasin.org.au/frame02.html> (2 March 2001).
- 26 Lake Eyre Basin Coordinating Group, 'Catchment Committees', <http://www.lakeeyrebasin.org.au/frame02.html> (2 March 2001).
- 27 See Senator Campbell, Second reading speech on the Lake Eyre Basin Intergovernmental Agreement Bill 2001, Senate *Hansard*, 1 March 2001, p. 22179; South Australian Department of Water Resources, *The Lake Eyre Basin Agreement – Your Questions Answered*, p. 4, [http://www.dwr.sa.gov.au/pdfs/leb\\_brochure.pdf](http://www.dwr.sa.gov.au/pdfs/leb_brochure.pdf) (6 March 2001).
- 28 Senator Campbell, Second reading speech on the Lake Eyre Basin Intergovernmental Agreement Bill 2001, Senate *Hansard*, 1 March 2001, p. 22179.
- 29 Clause 9.1 of the Lake Eyre IGA.

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- 30 Senator Campbell, Second reading speech on the Lake Eyre Basin Intergovernmental Agreement Bill 2001, Senate *Hansard*, 1 March 2001, p. 22179.
- 31 Clause 1.1 of the Lake Eyre IGA. The Map in Schedule 1 of the Lake Eyre IGA depicts the area covered.
- 32 Clause 12.1 of the Lake Eyre IGA.
- 33 Clause 2.1 of the Lake Eyre IGA.
- 34 Clause 5.2 of the Lake Eyre IGA.
- 35 Clause 8.1 of the Lake Eyre IGA.
- 36 Clause 4.9 of the Lake Eyre IGA.
- 37 Clause 11.2 of the Lake Eyre IGA.
- 38 See clause 3.1 of the Lake Eyre IGA.
- 39 Clause 5.5 of the Lake Eyre IGA.
- 40 Clause 5.9 of the Lake Eyre IGA.
- 41 *The Lake Eyre Basin Agreement – Your Questions Answered*, op. cit. n. 26, p. 4.
- 42 Clauses 7.1 and 7.2 of the Lake Eyre IGA.
- 43 Clauses 6.1, 6.2 and 6.3 of the Lake Eyre IGA.
- 44 Clauses 10.1, 10.3 and 10.4 of the Lake Eyre IGA.
- 45 Senator Campbell, Second reading speech on the Lake Eyre Basin Intergovernmental Agreement Bill 2001, Senate *Hansard*, 1 March 2001, p. 22179.
- 46 See Friends of the Earth, op. cit. n. 17. The Australian Conservation Foundation also continues to support World Heritage nomination: op. cit. n. 10.

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