



Government of South Australia

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Dr Ian Holland
Secretary
The Senate Standing Committee
Environment, Communications, Information
Technology and the Arts

Dear Dr Holland

South Australian Submission to the Senate Inquiry on the *Water Bill 2007*

South Australia supports a national approach to the management of the Murray-Darling Basin (MDB) through an independent, expert-based authority, consistent with the agreement reached between the First Ministers of the Commonwealth, New South Wales, Queensland, the Australian Capital Territory and South Australia in February 2007.

South Australia has worked in good faith with the Commonwealth and other Basin states to develop a comprehensive draft Commonwealth Water Bill and associated Intergovernmental Agreement (IGA). The comprehensive Bill and associated arrangements would have represented a major step forward in improving governance and addressing issues such as over-allocation, salinity, declining river health and security for critical human water needs in the Basin.

South Australia has some significant concerns about the Commonwealth's *Water Bill 2007* as it only partially implements the National Plan for Water Security. Key issues include:

- loss of mandatory provisions for meeting critical human water needs;
- environmental returns are not guaranteed;
- an open-ended adoption date for the Basin Plan;
- no allowance made for increased implementation costs faced by states, especially with respect to the proposed information provisions;
- more complex institutional arrangements, effectively retaining the Murray-Darling Basin Commission (MDBC), with a weaker Murray-Darling Basin Authority and greater reliance on states' operational capacity, but with inadequate mechanisms for consulting with states.

In addition, South Australia is disappointed that previous Commonwealth commitments to assume State compensation liabilities under the National Water Initiative are now subject to *all* Basin States signing a new IGA.

Critical human needs

Mandatory provisions for meeting critical human water needs in emergency situations, previously negotiated in the comprehensive Bill, have now been lost. The current MDBC arrangements are not sufficient to address this issue and have had to be set aside as recently as 2006-07 to enable sufficient water to be supplied to address water shortages in Adelaide and those towns in SA, Victoria and NSW which rely on the River. The failure of the *Water Bill 2007* to deal with this issue is a major concern. Arrangements for the emergency provision of water to meet critical human needs are required, if not in the Bill, then at least in the associated IGA.

Environmental outcomes

The *Water Bill 2007* provides no guarantees on environmental returns to the River Murray. The inclusion of an end of system flow target, which builds on existing flow guarantees of 1850 GL to South Australia, as a mandatory provision of the Basin Plan, would ensure measurable benefits are actually delivered. The following amendment is proposed:

- *Clause 22 on Mandatory content of Basin Plan*

Insert under item 4, on matters that Basin Plan objectives and outcomes must address: "(e) an end of River Murray health and maintenance flow target".

Given the failing health of the River Murray, as an interim measure only, until replaced by provisions of a Basin Plan, the IGA should also provide for the delivery of an average of 200 Gigalitres per annum of additional river 'health and maintenance' flows at the mouth of the River Murray.

Deadline for the Basin Plan

The Basin Plan, with its long-term sustainable diversion limits ("caps") for water extractions, will be the key mechanism for addressing issues in the Basin, and will be the cornerstone of the new legislative schema. Without the Basin Plan, nothing will change. Accordingly, the *Water Bill 2007* should set a deadline for adoption of the Plan of two years after the legislation takes effect, to avoid delays in implementation and to ensure all parties continue to move forward with the new arrangements:

- *Clause 33 on Effect of Basin Plan*

Insert as sub-clause (4): "To take effect as a legislative instrument, the first Basin Plan must be adopted by the Minister no later than two years after the day on which Part 2 of this Act commences."

Implementation costs

It was agreed by First Ministers in February 2007 that states would face no net increase in costs from implementation of the new arrangements, under the resultant Commonwealth legislation and IGA.

The area in which states will face the most significant implementation costs will be in relation to information provision. While South Australia recognises the need for better information and scientific understanding to underpin decision-making in the Basin, it is appropriate that states are reimbursed for reasonable costs incurred in providing such information. This can be addressed by the following amendments:

- *Clause 103 on the Murray-Darling Basin Water Rights Information Service*

Insert as sub-clause (4): "A state agency may recover from the Authority the reasonable cost of providing information for the purposes of this Part."

- *Clauses 126 and 127 on Water information*

Insert as sub-clauses (7) and (5) respectively: "A state agency may recover from the Bureau of Meteorology the reasonable cost of providing information under this section."

Operational inefficiencies

Under the *Water Bill 2007*, the MDB Authority and MDB Commission would continue to operate side-by-side. As such, operational responsibilities will continue to reside with states, as would their local planning and management responsibilities. In this scenario, securing full cooperation of states will be even more crucial for implementation and avoiding unnecessary duplication and bureaucratic red tape. In addition, given the impact of the *Water Bill 2007* and MDB Authority on state jurisdictions, it will be critical that states are appropriately consulted regarding membership of the Authority and key legislative changes. This can be addressed in part by the following amendments:

- *Insert a sub-clause under Part 1 to the effect that the Commonwealth Minister must consult with the Premiers of affected Basin states before any regulation-making powers can be exercised under the Act and before proposing significant legislative amendments. In the event that the relevant Premier or Premiers do not support the proposed regulation or legislative amendment, then the matter must be referred to the Murray-Darling Basin Ministerial Council for advice.*
- *Insert clauses under section 178 on appointment of Authority members to the effect that Basin States may collectively nominate two members and will be consulted regarding Commonwealth nominees.*

Conclusion

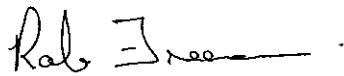
The above matters, in relation to the *Water Bill 2007*, are of critical importance to the people of South Australia.

An effective and comprehensive IGA will also be critical to the successful operation of the arrangements proposed in the *Water Bill 2007*. Among other things, as indicated

above, it is essential that the IGA include both arrangements for the emergency provision of water to meet critical human needs and an interim target for the provision of 200 Gigalitres per annum of river 'health and maintenance' flows at the mouth of the River Murray.

It is also essential that the IGA recognises that the *Water Bill 2007* is a first step towards a more comprehensive Bill, one which would reflect fully the agreement reached by First Ministers in February 2007.

The above submission has been approved on 9 August 2007 by the Hon Karlene Maywald MP, Minister for the River Murray and Minister for Water Security.



Rob Freeman
Chief Executive
Department of Water, Land and Biodiversity Conversation



Scott Ashby
Deputy Chief Executive, Departmental Affairs
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Date: 9 August '08.