

**Finding a Sustainable Outcome for the Murray-Darling Basin Plan:  
An Alternative Pathway for Resolving State Water Rights  
and Extraction of Water.**

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**ABSTRACT**

*"I believe that in this age of science we must build legal foundations that are sound in science as well as in law. Scientists have offered their help. We in the legal community should accept that offer. The result, in my view, will further not only the interests of truth but also those of justice. The law will work better to resolve many of the most important human problems of our time".*

Justice Michael Kirby (1999)

Concern over the ecological health of the Murray-Darling Basin river system has been a major environmental problem in Australia. Conflict has persisted over the extent of water extracted from the four Basin States, Queensland, New South Wales, Victoria and South Australia.

Under the Water Act 2007 (Cth), the Murray–Darling Basin Authority is charged with developing a Basin Plan for the future use of the Basin’s water resources.

*This paper describes an alternative pathway to that of the Authority for determining a sustainable outcome for the final Basin Plan. The pathway is one of cross-disciplinary collaboration – law, science and effective participatory approaches – and the use of this knowledge.*

*It is based on established principles for community consultation and the assessment, management and resolution of environmental conflicts.*

Knowledge powers of legal rights are the foundation for influencing power relationships between the Commonwealth and the Basin States to resolve this environmental conflict.

The potential risk of litigation under the Water Act, or the Constitution, can act as a trigger for the Commonwealth to consider sharing its power with the Basin States to negotiate a sustainable outcome for the final Basin Plan. The advantages of this pathway are discussed.

Landholders in each Basin State, such as Queensland, will have new obligations imposed on them by water resource plans that will be made under the final Basin Plan. There will be implications for conveyancing ('water rights') as well for land management in river catchments ('compliance with State environmental legislation').

The recent 2010/11 summer floods in south-east Australia have created an opportunity to find a sustainable outcome for the future management of the Murray-Darling Basin rivers.

***A sustainable outcome would prevent the past history of environmental problems in the Basin from being repeated.***

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