

RIVER MURRAY ACT 2003: ANNUAL REPORT 2012-2013

**HOUSE OF ASSEMBLY
LAID ON THE TABLE**

30 October 2013



Government of South Australia
Department of Environment,
Water and Natural Resources



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1. Introduction

The *River Murray Act 2003* (the River Murray Act) was enacted in 2003 after recognition of the need for improved policy frameworks and integration of activities between agencies to ensure adequate protection of the River Murray.

This is the tenth annual report, reporting on the relevant activities that have occurred in the period from 1 July 2012 to 30 June 2013.

Section 10 of the River Murray Act requires the Minister responsible for the administration of the River Murray Act, on or before 30 September of each year, to prepare a report on the operation of the River Murray Act for the preceding financial year. The Minister for Water and the River Murray must provide a copy of the report to both Houses of Parliament within six sitting days of the report being prepared.

As per Section 10(2) of the River Murray Act the report must include:

- a. information on the implementation of the River Murray Act (taking into account the provisions of the River Murray Act 2003 Implementation Strategy (the Implementation Strategy);
- b. information on the extent to which the Objects of the *River Murray Act 2003* and the Objectives for a Healthy River Murray (ORMs) are being achieved; and
- c. report on the following matters for the financial year
 - i. the referral of matters to the Minister for Water and the River Murray under any related operational Act;
 - ii. the enforcement of the general duty of care; and
 - iii. action taken by the Minister for Water and the River Murray or an authorised officer under Part 8 of the River Murray Act (protection and other orders).

The Annual Report has been compiled from information provided by the Department of Environment, Water and Natural Resources (DEWNR) and other relevant agencies. Agencies contributing to the report are listed in Appendix 1. Current programmes and projects relevant to the achievement of the ORM for 2012-2013 are set out in the River Murray Act 2003 Annual Report 2012-2013 Supporting Document (Supporting Document).



2. Overview

2.1 Overview of the Act

The River Murray Act aims to protect, enhance and restore the River Murray in South Australia, ensuring that its use and management is sustainable.

The River Murray is defined in the River Murray Act as the main stem of the River Murray and its associated natural resources.

The natural resources include:

- a) the River Murray system including all of its anabranches, tributaries, floodplains, wetlands and estuaries;
- b) soil, ground water and surface water, air, vegetation and ecosystems connected with the River Murray system;
- c) cultural and natural heritage, and amenity and geological values, connected with the River Murray system; and
- d) minerals and other substances, and facilities, that are subject to the operation of a Mining Act and are such that activities undertaken in relation to them may have an impact on the River Murray.

This definition recognises the range of River Murray values that need to be protected.

In addition, the River Murray Act provides for the declaration of River Murray Protection Areas (RMPAs) by regulation (see Figure 1: River Murray Protection Areas on page 8). The RMPAs are defined areas for regulating activities and policies to ensure that they are consistent with the protection of River Murray values. There are two RMPAs: the River Murray Floodplain Area (including the main stem of the river) and the River Murray Tributaries Area.

The River Murray Act has a set of key Objects and Objectives for a Healthy River Murray (ORMs) (see Appendix 2) to guide effective management of the River Murray.

The Objects cover the requirements to:

- incorporate the principles of ecologically sustainable development into management and rehabilitation of the river;
- ensure development does not compromise the values of the river;
- recognise indigenous and local communities' views of managing the river; and
- ensure that strategies and plans developed take into account the river values.

The ORM's give specific criteria which determine what a 'healthy' river is, and what should be pursued as 'good river health'. The ORM's are grouped under the following themes:

- river health;
- environmental flows;



- water quality; and
- the human dimension.

The River Murray Act furthers the Objects and ORMs by providing a legislative framework which ensures that all reasonable measures are taken to safeguard, restore and enhance the River Murray. This framework includes regulations, referrals, compliance tools and policies.

The River Murray Act plays a key coordinating role and interacts with other agencies, related operational Acts, existing instruments and plans, to improve the focus on the River Murray, in particular the protection of river values. The establishment of the referral mechanism for related Acts to refer relevant issues to the Minister for Water and the River Murray is central to the integration of the river's protection into other regulatory frameworks.

The administration of the River Murray Act aims to serve community based activities and plans as well as government programmes.

The Implementation Strategy was adopted in 2006 to help guide implementation of the River Murray Act. The Implementation Strategy:

- sets out priorities that the Minister for Water and the River Murray will pursue in order to achieve the Objects of the River Murray Act and to further the implementation of the ORMs;
- sets out strategies that the Minister for Water and the River Murray intends to adopt to meet those priorities; and
- takes into account the *State Natural Resources Management (NRM) Plan* and the *Planning Strategy*.

The key priorities outlined in the 2006 Implementation Strategy are as follows:

- abate the clearance of native vegetation;
- achieve an environmental flow regime for the River;
- improve water quality; and
- conserve and protect heritage value.

The strategies which are deemed to be required for achieving the outcomes in each priority area are:

- providing advice or direction;
- promoting integration;
- undertaking or promoting programmes;
- enforcement and compliance; and
- adopting a leadership role in relation to management of the Murray-Darling Basin.

The Implementation Strategy was reviewed in 2010-2011. The review made a number of recommendations for the development of a new Implementation Strategy to ensure that when implementing the River Murray Act, the focus is aligned with the emerging risks and current opportunities for the River Murray, such as:

- alignment with the Murray-Darling Basin Plan (the Basin Plan);
- effective compliance and enforcement, by increasing the number of authorised officers throughout the region and clearly identifying roles and responsibilities;



- development issues and practices, such as illegal development, river front development, amenity values, and irrigation and farming practices;
- water quality issues, such as salinity levels and meeting the requirements of the Basin Plan;
- sustainability, climate variability and drought issues, such as responses to future drought or flood events and increasing variability in climatic condition, as well as the flow on effects to communities and regional economies; and
- erosion and riverbank instability and collapse, which pose a risk to public health and safety as well as river health.

The review found at the following link: <http://www.environment.sa.gov.au/managing-natural-resources/river-murray>.

A new Implementation Strategy was drafted in 2013 and has built upon the contents of the 2011 review, consultation with Government agencies, and the Murray-Darling Basin Plan: South Australian Implementation Strategy 2013-2019.

2.2 Overview of the Report

The report is structured around the reporting requirements of Section 10 of the River Murray Act.

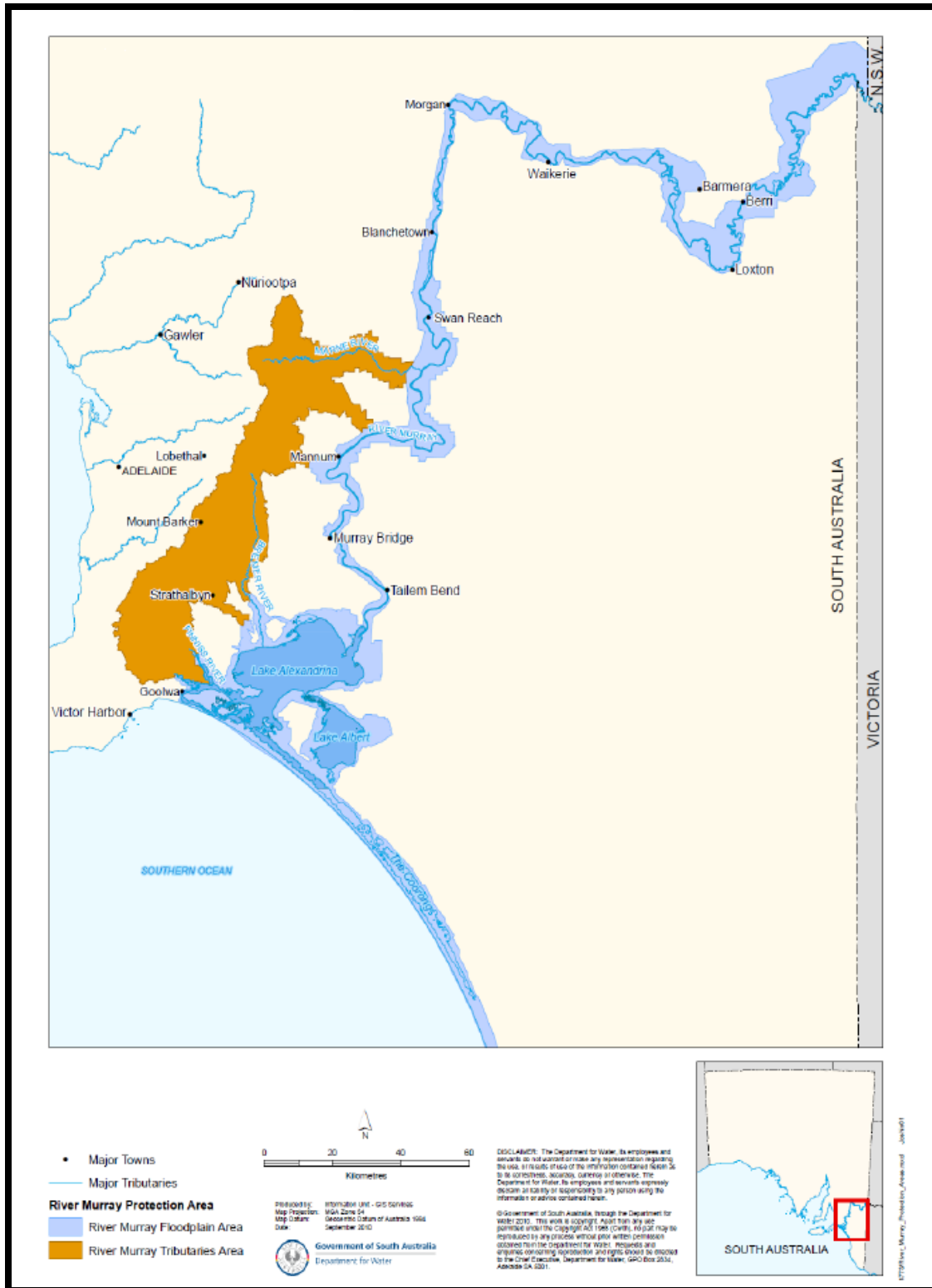
Section 3 explores the extent to which the Objects and ORMs of the River Murray Act are being achieved, drawing key achievements from the wide range of projects and programmes undertaken to deliver a healthy working River Murray, as outlined in the Supporting Document. These projects and programmes also demonstrate progress against the priority areas of the 2006 Implementation Strategy and align clearly with its strategies, as they demonstrate the provision of advice or direction, promotion of integration, undertaking or promoting programmes and adopting a leadership role in relation to management of the Murray-Darling Basin.

Section 4 reports on referrals of matters to the Minister for Water and the River Murray under related operational Acts, the enforcement of the duty of care, and any action taken by the Minister for Water and the River Murray or an authorised officer under part 8 of the River Murray Act. It also outlines how enforcement and compliance activities are implemented. This section also describes a number of policy developments that contribute to delivering the ORMs of the River Murray Act, as well as work that has been done on the Implementation Strategy.

Section 5 documents emerging issues that may potentially impact on future implementation of the River Murray Act.



Figure 1: River Murray Protection Areas



3. Achievement of the River Murray Act 2003 Objects and Objectives for a Healthy River Murray

A substantial number of government programmes played a role to further progress the Objects and ORMs of the River Murray Act in 2012-2013. These included both statewide projects and those focused on the River Murray region.

A number of government agencies were responsible to lead and partner in such activities according to their specific obligations and agency focus. A range of community groups were also instrumental in the implementation of projects including Aboriginal groups and Local Action Planning Associations.

Each government agency provided information involving relevant programmes and projects under the four themes of the 'healthy River Murray'. These projects are fully detailed in the Supporting Document and a summary of key outcomes is detailed below according to the four ORMs.

3.1 River Health Objective

Major achievements and successes in 2012-2013 include:

- Adoption of the Basin Plan. South Australia campaigned successfully for provisions to be included in the Basin Plan for the return of up to 3,200 gigalitres (GL) of water to the environment;
- South Australia signed the Intergovernmental Agreement on Implementing Murray-Darling Basin Reform (the Intergovernmental Agreement) – an agreement between the Australian Government and other Basin states outlining how all jurisdictions will work together to deliver the Plan. Signing the Intergovernmental Agreement makes available to South Australia \$445 million of Commonwealth funding for environmental infrastructure and industry diversification measures;
- Development of the Murray-Darling Basin Plan: South Australian Implementation Strategy 2013– 2019 – will ensure that the Basin Plan is fully integrated into South Australia's water management arrangements;
- Securing funding from the Commonwealth for \$137 million over five years (2012-2016) for the Coorong, Lower Lakes and Murray Mouth Recovery Project, for important works such as re-vegetation, managing acid sulfate soils, and protecting native fish populations and habitats;
- The re-introduction of approximately 5,500 threatened small-bodied fish into four sites in the Lower Lakes through the Critical Fish Habitat Project;
- The South Australian Regent Parrot Recovery Team was nominated for a Premier's NRM Award for their contribution to research and innovation; and



- The Wetland and Floodplain Programme provided ecological and hydrological technical support to 50 wetland projects, many of which had community and landholder involvement. On ground works were completed successfully at 15 priority wetland sites covering 850 hectares of aquatic habitats.

For more detailed information please refer to the sections in the Supporting Document that relate to River Health.

3.2 Environmental Flow Objective

Major achievements and successes in 2012-2013 include:

- Investment of more than \$87 million through the Commonwealth's Water for the Future Initiative, to the Riverine Recovery Project. The feasibility and design phases for environmental works at the Pike and Katfish Floodplain were completed;
- The establishment of an Environmental Water Reserve delivered 2 GL of entitlement and 12 GL of allocation to improve the biodiversity of the Lower Lakes, Coorong and Murray Mouth; and
- Environmental water allocated by the Commonwealth enhanced barrage releases, providing continued connectivity between the Lower Lakes and estuary, and reducing salinity in the Coorong. A smaller summer peak enhanced flows to provide for breeding of large bodied native fish.
- The 'Monitoring Ecological Response to Commonwealth Environmental Water Release' project is funded jointly by the Commonwealth Department of Sustainability, Environment, Water, Population and Communities and the Commonwealth Environmental Water Office to investigate short term ecological responses to environmental water provided by the Commonwealth;

For more detailed information please refer to the sections in the Supporting Document that relate to Environmental Flow.

3.3 Water Quality Objective

Major achievements and successes in 2012-2013 include:

- The adoption of the Basin Plan which has secured specific salinity targets for various points along the River Murray and at the Lower Lakes, and established a salt export objective to ensure adequate flushing of salt from the River Murray System into the Southern Ocean;
- Continued progress in salinity management, ensuring that South Australia's Lower Lakes maintain pH levels that are within the Australia and New Zealand Environment and Conservation Council (ANZECC) water quality guidelines since the return of higher water levels;
- Monitoring acid sulfate soils in the Lower Lakes to guide adaptive management for potential future periods of low inflows and re-wetting events;
- Upgrading a number of river vessel waste disposal stations along the South Australian River Murray;
- Addressing the risks of riverbank collapse and bank stabilisation to public safety, infrastructure and the environment, and looking at alternative ways to stabilise riverbanks; and



- Securing Commonwealth funding of \$36.5 million to support the delivery of individual irrigator projects and deliver 12 GL of water savings.

For more detailed information please refer to the sections in the Supporting Document that relate to Water Quality.

3.4 The Human Dimension Objective

Major achievements and successes in 2012-2013 include:

- Securing Commonwealth funding worth \$265 million for South Australian River Murray communities to be delivered over a six year period, commencing in 2013-2014, to go towards the River Murray Improvements Programme and a regional development research and innovation programme;
- ‘The Fight for the Murray’ campaign was successful in the fight for a final, fair and environmentally sustainable water allocation system for the Murray-Darling Basin. It garnered public support through social media (nearly 19,000 supporters on its webpage and 28,000 ‘Likes’ on Facebook), along with a number of public figures spearheading the campaign as ‘River Champions’;
- Delivery of a range of education, training and development initiatives, such as the natural resources management education schools programme; the Brainwave learning series which promotes student awareness towards water issues; and the WaterWise Communities initiative which encourages businesses, community groups, and households to be responsible users of water;
- Community involvement in the restoration of a number of habitats, including the introduction of approximately 10,000 native plants at Meningie Lakefront ; and revegetation works at Moorook Game Reserve and Katarapko;
- Increasing the participation of South Australian Indigenous peoples in natural resource management through the provision of training and employment, allowing for the protection and restoration of cultural assets and the growth of cultural awareness within communities; and
- Delivery of “Prospering in a Changing Climate: A Climate Change Adaptation Framework for South Australia”, which will help inform and build capacity of regional areas along the River regarding the impacts of climate variability and the resilience of the economic, social, and environmental sectors.

For more detailed information please refer to the sections in the Supporting Document that relate to the Human Dimension.



4. Report on Relevant Matters

The provisions within the River Murray Act for establishing referrals and the general duty of care are important tools in ensuring the protection of the River Murray.

With the formation of DEWNR in early 2012-2013, an opportunity arose to unite various business areas through the pooling of staff and subsequent knowledge and resource sharing. For example, compliance officers that have primarily dealt with native vegetation and the *Natural Resources Management Act 2004* (NRM Act) may now be trained as compliance officers under the River Murray Act. Staff dealing with development and planning matters for Coast and Marine areas can share their knowledge and expertise with the staff working on River Murray planning matters. This translates to more staff being knowledgeable and trained in a greater range of legislative tools.

The referral provisions of the River Murray Act require the Objects and ORMs to be taken into account in the administration of related operational Acts. Input from the Minister for Water and the River Murray must be sought before granting approval for certain types of activities in particular locations. Most of the referral provisions are activated through regulations under the relevant related operational Acts, which in turn, set out the types of activities that need to be referred. Section 4.1 outlines the referrals under related operational Acts for 2012-2013.

As part of the referral process, a one-stop-shop service is operated by DEWNR on behalf of the Minister for Water and the River Murray. DEWNR is the central coordinating body for receiving referrals and sending them out for comment to relevant technical experts, both internally and to other government agencies. A consolidated response is then provided to the planning authority which typically directs the authority to apply specific conditions to any approval, and recommends notes to be applied for the proponent's advice. In a small number of cases where a proposal cannot be supported due to its incompatibility with the Objects and ORMs of the River Murray Act, the planning authority will be directed to refuse the development application.

The River Murray Act also establishes a duty of care for the River, enforceable by a River Murray Protection Order or Reparation Order. All persons have a general duty of care to take reasonable measures to prevent or minimise harm to the River Murray through actions or activities. A breach of this duty does not constitute an offence but the issuing of a Protection Order or Reparation Order can enforce compliance. Information on the enforcement of the general duty of care and actions taken during 2012-2013 is provided in section 4.2.

Section 4.3 sets out broader policy matters associated with the River Murray Act, including the development of a new River Murray Act Implementation Strategy as well as work done on the River Murray Act Compliance Guidelines that will aid Authorised Officers under the River Murray Act.

4.1 Referral of Matters under the Related Operational Acts

4.1.1 Overview

In 2012-2013 there were 457 statutory referrals made to the Minister for Water and the River Murray (in comparison to 479 in 2011-2012) with the majority of referrals made through the *Development Act 1993* (the Development Act) (please refer to Table 1: Referrals in 2012-2013).

Referrals were received for statutory authorisations including applications proposing the construction of buildings, land division, dredging, mining exploration and leases, aquatic activity licences and exemptions to provisions of the



Fisheries Management Act 2007. A smaller number of statutory instruments were also referred, including Development Plan Amendments (DPAs) under the Development Act.

In 2012-2013, DEWNR staff continued to progress the process of reducing red tape and unnecessary referrals. The following actions were undertaken:

Development applications under the Development Act

The delegate of the Minister for Water and the River Murray participated in a whole-of-government referral reduction project in 2009-2010 with the aim of reducing development referrals overall by 40%. During 2012-2013, the Minister's delegate has taken steps to further progress the recommendations that were made as part of the Planning Review, however, further action on this remains pending.

Referrals under Acts related to the River Murray Act

There are a number of opportunities to improve efficiency and reduce referrals under other Acts related to the River Murray Act to ensure that efforts are focused where they add value. These continue to be pursued:

Mining Act 1971 Proposals to exempt exploration licences, which involve remote sensing and desktop analysis, from being referred have been developed and will be considered further in 2013-2014.

Harbors and Navigation Act 1993 Previously, a significant number of applications for relatively benign activities such as canoeing and swimming regattas were referred to the Minister for assessment against the provisions of the River Murray Act. It was determined that there were exemptions present within the Harbors and Navigation Act, which meant that the vast majority of applications did not require referral. In 2011-2012, the Department of Planning, Transport and Infrastructure (DPTI) ensured that all relevant staff members were aware of the existing exemption, resulting in a decrease in referrals from 31 in 2011-2012 to 14 referrals in 2012-2013.

Fisheries Management Act 2007 A significant number of applications are for exemptions to the requirements of the Fisheries Management Act for scientific research or removal of alien species by organisations such as the regional NRM Board and the South Australian Research and Development Institute (SARDI) and as such, are always supported by the Minister's delegate. Review by DEWNR indicated that these should be exempt from referral. However, the most appropriate method to ensure that these activities are not referred would be via a change to the Fisheries Management Act. This will be pursued during the consultation stage of the next statutory review of the Fisheries Management Act.

Table 1: Referrals in 2012-2013

	Statutory Authorisations	Statutory Instruments
Development Act 1993	414	3
Mining Act 1971	21	0
Harbors and Navigation Act 1993	14	0
Fisheries Management Act 2007	8	0
Total	457	3



Case Study 1: River Front Development

In September 2012 a development application referral was received proposing the construction of a 270 metre long causeway across a significant wetland adjacent to the River Murray. The proposed causeway would provide the landholder exclusive access to the riverbank without the need to leave the property. The proposal included the potential use of culverts within the causeway and de-silting of blockages elsewhere around the wetland in order to maintain water flows. At an on-site meeting between staff from DEWNR, the Environment Protection Authority (EPA), the relevant NRM Board, and the applicant, it was determined that investigations made into the effect on environmental water flows were insufficient and did not provide a high level of confidence that the impact of the development would be neutral or beneficial, and would present an unacceptable risk to water quality and river health. As such, the Delegate for the Minister (the Delegate) directed that the proposal be refused. Following refusal, the applicant sought and received further informal advice on alternative proposals that would have neutral or beneficial impact to the River Murray system, and sought guidance as to the level and detail of information required to support a new application. A new application is expected to be submitted.

4.1.2 Referrals from the *Development Act 1993*

Statutory Authorisations

A range of applications for statutory authorisations were referred to the Minister for Water and the River Murray including buildings (i.e. dwellings or sheds), river structures (i.e. jetties, pontoons, mooring posts, and boat ramps), earthworks within the floodplain, activities requiring River Murray water (i.e. irrigation, feedlots, or aquaculture) and land divisions. Buildings comprised more than half of the referrals, whilst river structures comprised 20 percent, and land divisions 10 percent. All referrals were assessed against the River Murray Act Objects and ORMs.

Some referrals were the result of discovering unapproved development that had occurred along the River Murray such as jetties, moorings, and retaining walls. These activities were followed up through DEWNR staff liaising with the local council to determine the most appropriate action. In most cases, the issues were resolved when the applicant went through the development application process. The majority of those that went through retrospective applications received development approval, although it was often after modification or amendment to plans so as to take the Objects and ORMs of the River Murray Act into consideration.

Most referrals received in 2012-2013 (414 out of a total 417) were mandatory referrals under Schedule 8 of the *Development Regulations 2008*. All but five were addressed within the statutory time frame of eight weeks.

In addition, 40 non-mandatory referrals were made to the Minister for Water and the River Murray. In these instances, recommendations were provided to the referring body for consideration in their decision-making process.

Of the mandatory referral responses issued, 38 applications had been formally placed 'on hold' prior to completion. This 'on hold' mechanism was utilised to seek further information (where, for instance, plans were lacking in detail) or as a result of a request to modify the proposal. As per section 37(2) of the Development Act, the processing of these applications was halted until all requested information was received.

Requests for further information or minor modifications to proposals were sought for a further 15 to 20 percent of applications, without the need for formal holds.



Applications received were initially reviewed to examine any key issues and decide whether specific advice would be required. Where required, advice on the referrals was sought from a range of specialist staff and groups within DEWNR and other agencies as part of the one-stop-shop service (refer to Table 2: Specialist Groups/Agencies Consulted in Relation to Referrals in 2012-2013 below). This advice resulted in referrals being examined in relation to their impact on a range of natural resource assets, for example water resources, environmental flows, vegetation and cultural heritage.

Table 2: Specialist Groups/Agencies Consulted in Relation to Referrals in 2012-2013

Group/Agency	Percentage of applicants referred (approximate)
Aboriginal Heritage (Department of the Premier and Cabinet)	85
Crown Lands (DEWNR)	30
Transport Safety (DPTI)	15
Native Vegetation and Biodiversity Management (DEWNR)	10
State Heritage (DEWNR)	7
Biosecurity (Department of Primary Industries and Regions SA)	5
Water Licensing (DEWNR)	5
Groundwater and surface water (DEWNR)	4
Maritime Heritage (DEWNR)	3
Coastal Conservation (DEWNR)	3
River Works (including Riverbank collapse) DEWNR	1
Environmental water management (DEWNR)	1

Applicants were also advised of their obligations under other legislation including the Crown Land Management Act 2009, the NRM Act, the Native Vegetation Act 1991, the Coast Protection Act 1972, the Heritage Act 1993, the Historic Shipwrecks Act 1981, the Aboriginal Heritage Act 1988, the Environment Protection Act 1993, the Harbors and Navigation Act 1993, and the Environment Protection and Biodiversity Conservation Act 1999 (Cth).

For the majority of mandatory referrals, conditions were attached to the approval. The conditions generally required that during works, the site be appropriately maintained, that waste material be properly contained and disposed of, and that the potential for erosion and sedimentation of water resources be minimised through responsible stormwater management.

The majority (94 percent) of mandatory referrals during 2012-2013 related to activities occurring within the River Murray Floodplain Area. The remainder of mandatory referrals related to activities within the River Murray Tributaries Area.

A number of additional activities (primarily land divisions) occurring within the RMPAs of the wider South Australian Murray-Darling Basin region were also referred to the Minister for Water and the River Murray as non-mandatory referrals. Applicants were advised of their obligations under relevant legislation and conditions were recommended.



Case Study 2: River Structures and Navigational Safety

Where development applications involve the construction or modification of river structures such as jetties and pontoons, the Delegate seeks advice from the Transport Services Division of DPTI to determine whether any navigational safety issues may arise as a result of the proposal. As a general rule, such structures may protrude a maximum of eight metres into the main channel of the river, however the one-stop-shop process provides for a determination of what dimensions would be appropriate in specific localities.

In March 2013 the Delegate received a development application proposing the construction of a jetty protruding eight metres into the river at an angle of approximately 75 degrees to the riverbank. DPTI marine safety staff inspected the area by boat and advised that an over-water length of five metres would be more consistent with existing jetty structures in the locality and would still be sufficient to safely moor and access vessels at the site. In addition, it was advised that the proposal would provide a safer outcome if it was further modified such that the jetty was built perpendicular to the riverbank rather than at an angle.

The Delegate used this advice to request amended plans (with an opportunity for the applicant to justify any desire not to change the proposal) and the applicant was comfortable to make the necessary amendments. Subsequently the applicant was advised that there were no objections to the proposal, provided that specific conditions and notes were attached to any approval by the Planning Authority.

Statutory Instruments

A number of statutory instruments relating to the Development Act were referred in 2012-2013 to the Minister for Water and the River Murray as required under section 24(3) of the Development Act. This included three DPAs relating to land within the Murray-Darling Basin region. Such instruments are important in determining future land use, with proposals scrutinised to ensure that any changes of land use were appropriate in the context of the River Murray Act's River Health Objectives.

This assessment is subsequent to earlier assessment by DEWNR at the Statement of Intent stage and the Agency Consultation stage of the DPA process. Relevant matters are typically addressed in the earlier referrals. The assessment at the final stage acts as an important final check to ensure that the River Murray Act Objects and ORMs are not compromised.

4.1.3 Referrals from the *Mining Act 1971*

A total of 21 mining applications were referred in 2012-2013 including exploration licences and mining leases in accordance with the Mining Act 1971. Of these applications, 16 were for exploration licences and exploration licence renewals. In all instances, the Minister for Water and the River Murray concurred with the Minister for Mineral Resources and Energy regarding the outcome, but provided advice to applicants regarding their obligations on matters such as water use, Branched Broomrape control and native vegetation.

4.1.4 Referrals from the *Harbors and Navigation Act 1993*

A total of 14 Aquatic Activity Licence applications were referred in 2012-2013 in accordance with the regulations of the Harbors and Navigation Act 1993. Activity licences typically included closing off part of the river for special activities such as regattas, and wakeboarding and water skiing competitions. The role of the referral process in this respect is to provide education regarding relevant responsibilities to the organisers and the public for protecting the river.



4.1.5 Referrals from the *Fisheries Management Act 2007*

The Minister for Agriculture, Food and Fisheries must consult with the Minister for Water and the River Murray prior to issuing a licence, permit, or an exemption from the requirement for a licence under the Fisheries Management Act 2007 for activities that relate to waters within the River Murray system.

In 2012-2013, eight such matters were referred, almost all relating to exemptions from the requirement of needing a permit for projects conducted by research, scientific, or conservation agencies that were found to further the Objects and ORMs.

Case Study 3: Referrals involving State Heritage Places

Development applications that are referred to the Minister are sometimes forwarded to the DEWNR Heritage and Landscape Conservation Unit for advice where the subject land comprises, or is within close proximity to, a State Heritage Place.

DEWNR staff from the Heritage and Landscape Conservation Unit carry out an assessment of such applications against the Heritage Places Act 1993 and subsequently advise the Delegate as to whether the proposal would have no impact on the heritage values of the place, or whether additional information or amendments to the proposal need to be made to avoid any adverse impacts on the heritage values. The Delegate has rarely been required to direct the refusal of development applications based on State Heritage matters. However, this occurred once in March 2013, where the proposal involved the demolition of a State Heritage Place.

In all applications where the proposal may materially affect the context within which a State Heritage Place is situated, the Delegate recommends a note be attached to any approval to advise the applicant of relevant requirements and obligations under the Heritage Places Act.

The Heritage and Landscape Conservation Unit also facilitate a similar process regarding proposals where the subject land is within close proximity to historic shipwrecks or historic relics protected under the Historic Shipwrecks Act 1981.

The number of compliance issues that were reported in 2012-2013 was significantly less than in previous years. This apparent reduction in the number of compliance issues is likely to be attributable, in part, to the current compliance programme which focuses on education.

The compliance issues that were identified during 2012-2013 were reported by DEWNR field staff, members of the community, as well as through referrals from other government agencies. The main compliance issues included the unmetered taking of water, damage to the riverbank, and unauthorised development. Other issues such as sinking houseboats, dumping of materials on the floodplain, and breaches of the building code were attended to jointly and/or referred to local government, the EPA, and DPTI.

A total of three matters were reported in relation to activities that breached the general duty of care by being likely to cause damage to the river. Two of these issues involved the apparent discharge of water into the River Murray. However, upon investigation it was found that mechanical faults had caused water being pumped from the River Murray to overflow from storage tanks and subsequently return to the river system. These issues were therefore able to be remedied without the need for further compliance action.



The majority of compliance issues were resolved through round table meetings between referral staff, investigation and compliance staff, local council staff, and proponents. A small number of incidents still required more formal action to repair the damage caused by some activities, but these were resolved through meetings and provision of information. No protection orders or reparation orders were issued in 2012-2013.

Investigation and compliance officers, with support from DEWNR referrals staff, remained vigilant to detect issues along the river and determine whether such activities had gone through appropriate approval processes. Water extraction, from the River Murray channel and tributary areas, was also monitored in 2012-2013.

Investigation and compliance officers continued to work closely and liaise with local councils, staff from the Native Vegetation Group in DEWNR, and regional NRM Boards along the River Murray, to employ a mutual information exchange that has aided in compliance matters being resolved in a timely manner. As part of the new approach, key community stakeholders are continually engaged to proactively encourage higher levels of voluntary compliance.

4.2.2 Compliance approach

During 2012-2013, DEWNR continued to promote and use a risk-based compliance strategy, which is built upon the principle that the majority of people wish to be compliant. This approach has a strong focus on education and engagement with landholders and the wider community, to make people aware of their responsibilities under the River Murray Act and facilitate voluntary compliance.

Following the updated compliance approach and the review of the River Murray Act Enforcement and Compliance Guidelines (the Guidelines) in 2011-2012, the Guidelines were comprehensively updated in 2012-2013 (see **4.3.2 Compliance and Enforcement Guidelines**).

4.3 Policy Activities

4.3.1 Draft Implementation Strategy

The most significant policy activity for the River Murray Act in 2012-2013 has been the development of the 2013 Draft River Murray Act Implementation Strategy (the draft Implementation Strategy). The purpose of the Implementation Strategy is to identify the priorities that the Minister for Water and the River Murray will pursue to progress the Objects and ORMs of the River Murray Act.

The previous Implementation Strategy was developed in 2006, and reviewed in 2011. The review sought input from a large number of stakeholders and resulted in a number of recommendations about future priorities. This work has resulted in the development of a Draft Implementation Strategy so as to ensure the implementation of the River Murray Act is aligned with the emerging risks and opportunities for the River Murray.

The development of the draft Implementation Strategy has built on the outcomes of the review and further consultation across Government agencies which lead priority areas and actions. The development of the Murray-Darling Basin Plan: South Australian Implementation Strategy 2013-2019 took precedence and the draft Implementation Strategy will build on this work and focus on the powers and functions of the River Murray Act and how they can best support the implementation of the Basin Plan. The draft Implementation Strategy outlines the priorities and actions to achieve the priorities and will be used to guide business planning and reporting to ensure an effective and coordinated approach to the implementation of the River Murray Act.



4.3.2 Compliance and Enforcement Guidelines

A review of the previous River Murray Act Compliance and Enforcement Guidelines (the Guidelines) was undertaken in 2010-2011, and were subsequently updated in 2012-2013. The Guidelines now incorporate a risk-based compliance strategy, a requirement of the National Framework for Compliance and Enforcement Systems for Water Resource Management, which provides a nationally consistent approach by strengthening water compliance and enforcement within each State and Territory in Australia.

The Guidelines will be incorporated into an online training module for Government staff involved with compliance and investigations, and will provide guidance in the interpretation and application of the compliance and enforcement provisions of the River Murray Act. The aim of the Guidelines is to promote a consistent approach to compliance and enforcement activities throughout the South Australian River Murray.

4.3.3 General Business

The *Accounting for the Taking of Water by Artificial Water Bodies along Prescribed Water Courses in South Australia Operational Policy* was updated in 2012-2013. Primarily, the operational policy sets out the criteria for determining volumes of water to be taken by artificial water bodies such as marinas and canal estates. The operational policy also provides guidance on the types of conditions that may be endorsed on approvals for the taking of water by new artificial water bodies for initial fill and annual evaporative losses. The policy was updated to reflect the unbundling of water rights on the River Murray and principles were formulated that can be included in the 2014 amendment of the Water Allocation Plan for the River Murray Prescribed Watercourse. The policy was originally developed in response to a referral of a proposed marina development under the River Murray Act 2003 and highlighted a policy gap in terms of accounting for the take of water by artificial water bodies.

A number of state-level policies have been developed and completed that support better water planning and management across the State and will support progress towards the Objects and ORMs of the River Murray Act.

A consistent risk management approach to water planning and management was introduced, with the adoption of the *Risk Management Framework* for water planning and management. Risk management is one of the seven principles contained in the NRM standard of the State NRM Plan 2012-2017. The Framework has already been applied in a number of areas such as water allocation planning, the process of granting licences to existing water users, and has also been used in the development of the draft Implementation Strategy.

The Framework can be found by following the link below to Waterconnect:

<http://waterconnect.sa.gov.au/WaterManagement/WaterPlanning/Pages/PoliciesGuidelinesToolsAndFactSheets.aspx>.

South Australia's National Water Reform Priorities 2012-17 was developed, which helped to inform the development of an enhanced national water reform agenda by the end of 2012. Some of the priority areas align with priorities identified in the review of the 2006 River Murray Act Implementation Strategy, for example climate change adaptation.

The *Policy for the Release of Unallocated Water* was reviewed and updated in 2013. This policy will be relevant for the implementation of the Eastern Mount Lofty Ranges Water Allocation Plan and any other prescribed water resource where there is water available for allocation within the sustainable extraction limits and after existing user licences have been granted.



A position paper has been developed regarding the establishment of environmental water holding as an administrative function within DEWNR. As a result of the agreement with the Commonwealth, South Australia now holds environmental water on a Minister's licence which forms the basis of the holding. This water is intended to contribute to the ecological objectives outlined in the annual environmental watering plan. In 2012-2013, 2 GL of entitlement and 12 GL of allocation were delivered from this licence to improve the biodiversity of the Lower Lakes, Coorong and Murray Mouth.

The formation of DEWNR in 2012-2013 has required a consolidation of website content that was previously spread over a number of Government websites. River Murray Act legislation and information is now available on the DEWNR website (<http://www.environment.sa.gov.au/managing-natural-resources/river-murray>) and has provided an opportunity for a review of River Murray Act web material. Annual reports, triennial reviews, the Implementation Strategy and various fact sheets are now available to access via the DEWNR webpage.



5. Emerging Issues for the River Murray Act

The context for management of the River Murray is constantly evolving and some major changes have occurred during 2012-2013 and/or are currently in development, providing future drivers for change.

5.1 Murray-Darling Basin Plan Implementation

The Murray-Darling Basin Plan (the Basin Plan) was adopted by the Commonwealth Minister on 22 November 2012. It was developed under the *Water Act 2007*. During the writing of the Basin Plan, South Australia recognised its importance and set up a specialised task force to lead the State's response. The task force ensured that South Australia's interests and future were provided for in the negotiations. South Australia was successful in securing a return of 3,200 GL of environmental flow, end of system objectives, targets and actions as well as a host of other measures that will help provide for a healthy river into the future. Having signed the Intergovernmental Agreement, South Australia will now benefit from Commonwealth government funds aimed at removing constraints to the delivery of water and implementing other requirements of the Basin Plan.

With the signing of the Basin Plan, the Basin Plan Inter-Governmental Agreement, as well as the development of a South Australian Implementation Strategy for the Basin Plan, there is a clear focus for efforts to achieve a healthy River Murray in the future. The River Murray Act may play an important role, because of its integrated and coordinated approach to the River Murray system. The River Murray Act is able to ensure that decisions and actions that may affect the River are all assessed to achieve a healthy River Murray. It also ensures that significant investments in the return of environmental water, and addressing constraints to the delivery of water, are supported by decisions at the local and regional scale across a wide range of sectors. The works and measures powers in the River Murray Act may also provide a vehicle to support the implementation of the Basin Plan in the future.

5.2 Climate Change Adaptation Framework for South Australia 2012

Managing the impacts of climate change is one of the most important challenges facing Australia.

Adaptation to climate variability is the focal point of the 2012 release of South Australia's *Prospering in a Changing Climate: A Climate Change Adaptation Framework for South Australia* (the Framework). The Framework is a guide to aid in the development of well-informed and timely actions so that the State is prepared and ready to take action on the impacts of climate change.

The Framework's objectives are focussed on building the capacity of local and state governments, industry, the community and non-governmental organisations in future action against climate change. South Australia's approach to climate change adaptation will be to build a more resilient state through leadership and direction, use the best scientific knowledge to develop policy responses to climate change, have an adaptable and well-functioning natural resources system and sustainable, productive landscapes, and to promote resilient, healthy and prosperous communities. The Framework is in place so as to enable strategic direction, make information and decision-making



tools easily accessible, engage with local communities, improve the timeliness and responsiveness of government policy, and determine science and research priorities.

The Framework highlights the need for an adaptable approach across the regions in South Australia, as the economic, social and environmental impacts of climate variability will differ from region to region around the state. By conducting regional vulnerability studies, locally relevant adaptation responses can be developed based upon identified vulnerabilities, ensuring that future strategies encompass local knowledge and expertise when responding to climate variability. The outcome of the regional vulnerability studies may have significant impacts on the ongoing use of the River Murray.

5.3 Ongoing integration of the Department of Environment, Water and Natural Resources

The South Australian Government agencies previously known as the Department for Water and the Department of Environment and Natural Resources were formally amalgamated at the beginning of 2012-2013 to create DEWNR.

Of particular importance to the administration of the River Murray Act, the integration of DEWNR brings together significant, and previously cross-agency, expertise with respect to science, monitoring, planning, compliance, operations and policy work. Water resource management, natural resource management, River Murray infrastructure management, national parks and Crown lands management, state heritage, native vegetation, coast and marine management, and wetland management are now all supported by staff within DEWNR. This will create opportunities for further collaboration, integration and efficiency in the future.

The formation of the department will benefit a range of business activities, which may involve streamlining referrals under the Development Act, responding to Development strategies and Development Amendments, liaising with local government, and compliance and education activities by authorised officers.

The regional integration that is currently underway within DEWNR will aid in the alignment of NRM Board and DEWNR actions, and will have clear benefits for all in aiming to achieve the Objects and ORMs of the River Murray Act. However, work across agencies and governments and the community will continue to be required.



6. Appendix 1: List of Acronyms

ANZECC	Australia New Zealand Environment and Conservation Council
Cth	Commonwealth
DEWNR	Department of Environment, Water and Natural Resources (Government of South Australia)
DPA	Development Plan Amendment
DPTI	Department of Planning, Transport and Infrastructure (Government of South Australia)
EPA	Environment Protection Authority (Government of South Australia)
GL	Gigalitre
MDB	Murray-Darling Basin
NRM	Natural Resources Management
ORM	Objective(s) for a Healthy River Murray
RMPA	River Murray Protection Area
SARDI	South Australian Research and Development Institute



7. Appendix 2: Objects and Objectives for a Healthy River Murray (ORMS)

7.1 Objects

The *River Murray Act 2003* is guided by a set of Objects or guiding principles to ensure adequate protection of River Murray values.

- i. to ensure that all reasonable and practicable measures are taken to protect, restore and enhance the River Murray in recognition of its critical importance to the South Australian community and its unique value from environmental, economic and social perspectives and to give special acknowledgement to the need to ensure that the use and management of the River Murray sustains the physical, economic and social well being of the people of the state and facilitates the economic development of the state;
- ii. to provide mechanisms to ensure that any development or activities that may affect the River Murray are undertaken in a way that provides the greatest benefit to, or protection of, the River Murray while at the same time providing for the economic, social and physical well being of the community;
- iii. to provide a mechanism so that development and activities that are unacceptable in view of their adverse effects on the River Murray are prevented from proceeding, regulated or brought to an end;
- iv. to promote the principles of ecologically sustainable development in relation to the use and management of the River Murray;
- v. to ensure that proper weight is given to the significance and well being of the River Murray when legislative plans and strategies are being developed and implemented;
- vi. to respect the interests and aspirations of Indigenous peoples with an association with the River Murray and to give due recognition to the ability of those Indigenous people to make a significant contribution to the promotion of the principles of ecologically sustainable development in relation to the use and management of the River Murray;
- vii. to respect the interests and views of other people within the community with an association with the River Murray and to give due recognition to the ability of those people to make a significant contribution to the promotion of the principles of ecologically sustainable development in relation to the use and management of the River Murray; and
- viii. otherwise to ensure the future health, and to recognise the importance, of the River Murray.

7.2 Objectives for a Healthy River Murray (ORMs)

The *River Murray Act 2003* also sets out a list of Objectives for a Healthy River Murray (ORMs). The ORM's were developed by the Murray Darling Basin (MDB) Commission and endorsed by the MDB Ministerial Council. They outline some of the specific improvements being sought for the River Murray.



River Health Objectives

There are four river health Objectives collectively covering the issues of:

- maintenance, protection and restoration of key habitats and ecological processes;
- protection and restoration of River Murray environments, particularly high-value floodplains and wetlands of national and international importance;
- prevention of native plant and animal extinctions; and
- avoiding and overcoming barriers to the migration of native animal species.

Environmental Flow Objectives

Three environmental flow Objectives address the matters of:

- reinstatement and maintenance of ecologically significant elements of the River Murray system natural flow regime;
- keeping open the Murray mouth in order to maintain navigation and fish passage and to enhance the health of the River Murray system and Coorong; and
- significantly improving connectivity between and within the environments constituted by the River Murray system.

Water Quality Objectives

The four water quality Objectives seek to:

- improve water quality within the River Murray system to a level that sustains the ecological processes, environmental values and productive capacity of the system;
- minimise the impact of salinity on the ecological processes and productive capacity of the River Murray system;
- manage nutrient levels within the River Murray system so as to prevent or reduce the occurrence of algal blooms, and to minimise other nutrient related impacts; and
- minimise the impact of potential pollutants, such as sediment and pesticides, on the environments within the River Murray system.

Human Dimension Objectives

The human dimension Objectives aim to:

- implement a responsive and adaptable approach to the management of the River Murray System, taking into account ecological outcomes, community interests and new information as it comes to hand;
- promote the health and proper management of the River Murray system by gathering, considering and disseminating the community's knowledge and understanding of the system;
- take into account the interests of the community by recognising indigenous and other cultural and historical relationships with the River Murray environs, and by ensuring appropriate participation in processes associated with the management of the system; and



- recognise the importance of a healthy river to the economic, social and cultural prosperity of communities along the length of the river, and the community more generally.





Government of South Australia
Department of Environment,
Water and Natural Resources