

***River Murray Act 2003***

**Annual Report**

**2003 - 2004**

**Prepared for the  
South Australian Parliament  
by the  
Minister for the River Murray**

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**Government  
of South Australia**

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## 1. INTRODUCTION

The South Australian Governor assented to the *River Murray Act 2003 (Act)* on 31 July 2003. It was proclaimed on 20 November 2003 and came into operation on 24 November 2003. This annual report covers the period of 24 November 2003 to 30 June 2004.

Section 10 of the Act requires the Minister responsible for the administration of the Act, on or before 30 September in each year, to prepare a report on the operation of the Act for the financial year ending on the preceding 30 June. The Minister must cause a copy of the report to be laid before both Houses of Parliament within six sitting days of the report being prepared.

The report must include -

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

## 2. IMPLEMENTATION OF THE *RIVER MURRAY ACT 2003*

### 2.1 Summary

In the seven months since the *River Murray Act 2003* commenced, implementation of the Act has necessarily focused on bringing the key provisions of the Act, including the new Ministerial powers, into operation. Implementation has therefore focused on ensuring that the referral mechanism, under which applications for certain activities that are required to be referred to the Minister is phased in strategically. This has involved:

- bringing into operation Regulations under the Act and other Acts to increase protection of the River;
- ensuring that the Minister's powers have been appropriately delegated to relevant Departmental officers;
- appointing authorised officers to undertake enforcement activity;
- preparing a consultation draft of the River Murray Act Implementation Strategy; and
- preparing information to ensure that there is a good understanding of the requirements of the Act in the general community and within State and Local Government.

Apart from the Minister's specific new powers (for example, under the referral mechanism, and regarding management agreements and enforcement, which are reported on in this section) many of the Minister's functions under the Act formalise activities previously undertaken by Government to protect the River Murray. These activities have continued to be undertaken and they now also fulfill some of the Minister's statutory functions. A summary of these activities is reported in Appendix 1.

## **2.2 Establishing the referral process**

The referral process is a key aspect of the Act's operation. The referral process ensures that applications for certain prescribed activities under the related operational Acts are referred to the Minister for the River Murray during the approval process.

The referral mechanism under most of the affected related operational Acts does not operate until Regulations are made to prescribe the applications that are required to be referred. However, applications under the *Mining Act 1971* and the *Petroleum Act 2000* do not require Regulations to trigger the referral. Referral of these applications commenced upon proclamation of the Act.

The following Regulations under related operational Acts were brought into operation on 24 November 2003;

- *Development (River Murray) Variation Regulations 2003;*
- *Harbors and Navigation (River Murray) Variation Regulations 2003.*

### *2.2.1 Referral of development applications*

The *Development (River Murray) Variation Regulations 2003* (Development Regulations) were prepared following consultation with the Murray Mallee Local Government Association and all councils that would be affected by the operation of the Regulations. Consultation covered matters including the proposed boundary of the River Murray Protection Areas and the type of applications to be referred to the Minister for the River Murray.

Liaison between staff from the Department of Water, Land and Biodiversity Conservation (DWLBC), as the Minister's delegates, and council staff has continued. A formal review of the operation of the referral process has been commenced and it is anticipated that it will be completed during July 2004.

The operation of the Development Regulations also commenced the operation of the 'one stop shop' for the referral of applications in respect to the protection of the River. Under this 'one stop shop', the Minister for the River Murray is, with the exception of the Environment Protection Authority, the only 'environmental' referral body for activities affecting the River Murray. DWLBC has established an inter-agency referral system to ensure that all of the objects and Objectives for a Healthy River Murray (ORMs) under the Act are considered during the assessment of applications. This requires former referral bodies, including the Coast Protection Board and the River Murray Catchment Water Management Board, to provide information about applications directly to the Minister for the River Murray. The Minister for the River Murray then provides a single response to the relevant council or Development Assessment Commission.

DWLBC has invested in an upgrade of the database used for the management and tracking of referred applications. The upgrade should be completed by the end of 2004.

The development of policies by which referred applications for activities will be assessed commenced in July 2003. The draft policies seek to further the objects and ORMs under the Act and the priorities set out in the consultation draft Implementation Strategy. There are currently 20 policies well advanced and in draft format. The policies have been developed in consultation with all relevant stakeholder groups and government agencies. The final policies will be available to the public to assist understanding of how applications are assessed and the types of outcomes sought by the Minister.

Regulations to refer applications under other related operational Acts (namely the *Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986*, *Crown Lands Act 1929*, *Fisheries Act 1982*, *Heritage Act 1993*, *Historic Shipwrecks Act 1981*, *National Parks and Wildlife Act 1972*, *Native Vegetation Act 1991*, *Soil Conservation and Land Care Act 1989*, *Water Resources Act 1997* and the *South Eastern Water Conservation and Drainage Act 1992*) are intended to be brought into operation during 2004 – 2005, as required.

### 2.2.2 Referral of harbors and navigation applications

River events that require a licence under the *Harbors and Navigation Act 1993* that involve a number of motorised vessels, as specified in the Regulations, must be referred to the Minister for the River Murray.

### 2.2.3 Referral of mining and petroleum applications

Under the *Mining Act 1971*, applications (including renewals) within a River Murray Protection Area must be referred to the Minister for the River Murray for an:

- exploration licence;
- mining lease;
- miscellaneous purpose licence;
- retention lease; and
- an authorisation to use declared equipment;

Under the *Petroleum Act 2000*, statements for environmental objectives, including a revised statement that applies to any part of the Murray-Darling Basin, must be referred to the Minister for the River Murray.

## 2.3 Regulations under the River Murray Act and other Acts

### 2.3.1 River Murray Regulations

The *River Murray Regulations 2003* (RM Regulations) came into operation on 24 November 2003. The RM Regulations establish the River Murray Protection Areas (RMPAs). There are two RMPAs – one for the main stem, floodplain and cliffs, the other for the tributaries. The RMPAs are the areas in which applications for activities prescribed under the related operational Acts must be referred to the Minister for the River Murray.

The RM Regulations also prescribe a number of minor mechanistic matters, including the prescribed rate of interest for outstanding debts and the manner of notification for certain processes.

The RM Regulations also provide that the Minister will consult certain prescribed bodies in relation to:

- Development of the Implementation Strategy under the Act; and
- Changes to a River Murray Protection Area.

The RM Regulations also require the Minister to consult the Local Government Association and regional local government associations when proposing changes to referrals of development applications under the *Development Regulations*.

### 2.3.2 *Native Vegetation (River Murray) Variation Regulations*

The *Native Vegetation (River Murray) Variation Regulations 2003* (NV Regulations) were made under the *Native Vegetation Act 1991* and came into operation on 24 November 2003.

The NV Regulations remove an exemption that allowed the creation of access paths for pedestrians or vehicles within the River Murray Protection (Floodplain) Area. Given the relationship between riverside vegetation and river health, it is not considered appropriate for such an activity to be undertaken without native vegetation clearance consent.

The NV Regulations also modify the exemptions relating to fire management. The amendments require a fire management plan applying within the River Murray Protection (Floodplain) Area to be referred to the Minister for the River Murray before being approved by the Native Vegetation Council.

### 2.3.3 *Development (River Murray) Variation Regulations*

The *Development (River Murray) Variation Regulations 2003* (D(RM) Regulations) also came into operation on 24 November 2003.

The D(RM) Regulations expand the definition of 'development' to include the placement or construction of infrastructure to take water or drain water or other substances to any part of the River. Such use of land has the potential to harm the River (in particular, the cliffs and banks), yet was not previously considered to be development for the purposes of the *Development Act 1997*.

The D(RM) Regulations also reduce the threshold at which development within RMPAs is referred to the Environment Protection Authority (EPA) and raise the level of the EPA comment to 'direction' for all referrals.

## 2.4 Delegations

Section 12 of the Act allows the Minister to delegate the Minister's functions or powers under the Act or under any related operational Act to a body or person, including a person for the time being, holding or acting in a specified office or position.

Some of the Ministers functions and powers are delegated to positions within State Government departments and statutory bodies, rather than to specific persons. This provides maximum flexibility for officers acting in positions to which functions or powers have been delegated to undertake the functions and powers of the delegated officer without further authorisation.

The delegations are assigned on a hierarchical basis, with persons at more senior positions being able to exercise all of the functions and powers delegated to subordinate officers in addition to their specific delegations.

All delegations are commensurate with the level of knowledge and responsibility required to undertake specific functions. Delegated officers must undertake their functions consistently with the Act.

## **2.5 Appointment of authorised officers**

Eighty-seven officers have been authorised by the Minister under section 13 of the Act. Field officers from several Government agencies and statutory authorities have been authorised. The agencies are:

- Department of Water, Land and Biodiversity Conservation;
- PIRSA Fishwatch;
- Environment Protection Authority; and
- River Murray Catchment Water Management Board.

Authorised officers undertook training in the operation and enforcement of the Act during December 2003.

River Murray Act Compliance and Enforcement Guidelines have been written and issued to authorised officers within the Department of Water, Land and Biodiversity Conservation.

An information sheet, as required under section 14(11) of the Act, has been developed, approved and issued to officers authorised under the Act.

## **2.6 Preparation of River Murray Act Implementation Strategy**

The Act requires the Minister to prepare and maintain the River Murray Act Implementation Strategy.

A draft Implementation Strategy is being prepared and will be released for consultation as required by the *River Murray Regulations 2003*.

In accordance with the requirements of the Act the draft Implementation Strategy –

- (a) sets out the priorities that the Minister will pursue in order to achieve the objects of this Act and to further the implementation of the ORMs;
- (b) sets out strategies that the Minister intends to adopt to meet those priorities; and
- (b) is consistent with the State Water Plan, and takes into account the Planning Strategy.

Key stakeholder representative groups will be consulted in respect to the draft Implementation Strategy. The Strategy will be reviewed at least every five years and may be amended as required.

## 2.7 Raising awareness of the Act

To assist users of the Act and the general public to understand the Act and its requirements, the following publications have been written:

- Fact sheets
  - Overview of the Act
  - General Duty of Care
  - Referrals
- River Murray Act Users' First Guide

These publications are available on the DWLBC web site [www.dwlbc.sa.gov.au](http://www.dwlbc.sa.gov.au) and will be available from the offices of relevant government agencies and local councils in the near future.

## 2.8 Management agreements

Section 18 of the Act allows the Minister to enter into management agreements with owners of land within the Murray-Darling Basin. The potential scope for management agreements is very wide. Management agreements may relate to:

- the conservation or management of water;
- the preservation, conservation, management, enhancement or re-establishment of any aspect of the natural resources of the River Murray; and
- any other matter associated with furthering the objects of the Act or the ORMs.

A management agreement is being developed to assist irrigators in the Angas Bremer Management Zone to meet the requirements of the Water Allocation Plan for the River Murray.

## 3. EXTENT TO WHICH THE OBJECTS OF THE ACT AND THE ORMS ARE BEING ACHIEVED

In the seven months since the Act has been in operation, significant advancements have been made in achieving the objects of the Act and the ORMs. These include the making of Regulations that implement the referral system, the authorisation of officers, consultation with stakeholders, raising awareness of the Act, and the development of policy that ensures that the River is managed as one system within South Australia. All of these activities directly contribute to achieving the objects and ORMs listed in sections 6 and 7 of the Act. The short time that has passed since these activities commenced means that they have only just begun to have an impact on the way that the River is managed. Ongoing operation will ensure that the protection and enhancement of the River Murray continues.

The objects and ORMs are very broad and as such, there are many existing projects being undertaken across Government and by statutory authorities as well as within the Minister's own portfolio. These projects all contribute to the achievement of the objects of the Act and the ORMs.

Information on the major projects undertaken during the reporting time frame has been gathered from:

- Department of Water, Land and Biodiversity Conservation;
- Primary Industries and Resources South Australia;
- South Australian Research and Development Institute;



- Environment Protection Authority;
- Department of Aboriginal Affairs and Reconciliation;
- Department for Environment and Heritage;
- Department of Transport and Urban Planning;
- SA Water;
- Integrated Natural Resource Management Group for the South Australian Murray Darling Basin Inc.;
- Office of Sustainability; and
- River Murray Catchment Water Management Board.

The projects that are being undertaken to achieve the objects of the Act and the ORMs are briefly described in Appendix 1.

## 4. REPORTS

### 4.1 Referral of matters to the Minister under related operational Acts

#### ***Development Act 1993***

##### *Development Applications*

Development applications for prescribed activities within River Murray Protection Areas are referred to the Minister for the River Murray. The Minister may direct the relevant authority to refuse the application or may impose conditions of approval if the application is to be approved by the relevant authority. Of the 191 applications referred, the Minister directed that three applications for land division and one application for a dwelling replacement be refused. The Minister directed approval conditions on 167 referred applications.

<b>Type of Development application</b>	<b>No referred</b>
Dwellings	40
Tourism based	3
Garages, sheds, outbuildings	52
Intensive Animal keeping	2
Dwelling additions	18
Water extraction infrastructure	8
Land division	37
River structures	11
Activities requiring irrigation	5
Industry	3
Construction of a building	12

##### *Plan Amendment Reports*

Plan Amendment Reports (PARs) are referred to the Minister at several stages of the planning process, including the Statement of Intent phase. Under the *Development Act 1993* the Minister for the River Murray must be consulted on PARs.

Eight PARs were referred to the Minister for the River Murray during 2003 – 2004 and the Minister made significant comments and recommendations in regard to the suitability of land use.

***Mining Act 1971***

The Minister for the River Murray must be consulted before any licenses for exploration purposes or authorisations for the use of declared equipment within the Murray-Darling Basin are approved. There were ten license applications and two authorisation requests referred to the Minister during the reporting period.

***Petroleum Act 2000***

Statements of Environmental Objectives must not be approved without the concurrence of the Minister for the River Murray. One Statement of Environmental Objectives was referred to the Minister during the reporting period. The Minister did not raise any objections to the Statement of Environmental Objectives.

***Harbors and Navigation Act 1994***

Licence applications are referred to the Minister for the River Murray for direction or the imposition of approval conditions. One application was referred during the reporting period. The Minister had no objections to its approval.

**4.2 Enforcement of the General Duty of Care**

No actions to enforce the General Duty of Care were instigated during the reporting time frame.

**4.3 Action taken by the Minister or authorised officers under section 8 of the Act**

Authorised officers investigated several matters but no action under Part 8 of the Act was undertaken.