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in public interest environmental law.*

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**DRAFT GUIDELINES FOR ENVIRONMENT IMPACT STATEMENT  
SOUTH AUSTRALIAN DEPARTMENT FOR ENVIRONMENT AND  
HERITAGE/WATER MANAGEMENT AND USE/GOOLWA CHANNEL/SA/GOOLWA  
CHANNEL WATER LEVEL MANAGEMENT PROJECT  
REFERENCE NUMBER: 2009/5227**

We act on behalf of the River Lakes and Coorong Action Group Inc and thank you for the opportunity to comment on the Draft Guidelines which the South Australian Government will use to prepare the Environment Impact Statement ("EIS").

**SCHEDULE 4 OF THE ENVIRONMENT PROTECTION AND BIODIVERSITY  
CONSERVATION REGULATIONS ("EPBC Regulations")**

In preparing tailored guidelines, the Minister must seek to ensure that the draft statement will address any matters specified by the regulations<sup>1</sup>. Regulation 5.04 provides that the Minister must seek to ensure that an EIS addresses the matters mentioned in Schedule 4.

We acknowledge that the draft guidelines annexe schedule 4, however, the guidelines do not require the proponent to address the issues set out in schedule 4<sup>2</sup>. This is of particular concern as:

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<sup>1</sup> S102 Environment Protection and Biodiversity Conservation Act (EPBC Act")

<sup>2</sup> Draft Guidelines p3, paragraph 6

- the items of schedule 4 dealing with proposed safeguards and mitigation measures to deal with relevant impacts of the action<sup>3</sup> have not been included in the guidelines;
- the alternative of taking no action (that is, not installing the regulators) is not included in the draft guidelines (as required by 2(g)(i) of Schedule 4). Indeed, in this instance the proponent should consider the alternative of removing the regulators (given that they are already in place).

Accordingly, we recommend that the guidelines be altered to require the proponent to address the issues set out in schedule 4 including the alternative that the regulators be removed.

## ASSESSMENT

The draft Guidelines provide that the description of the environment must be assessed with reference to certain Ramsar material, the 2006-2007 Environmental Management Plans Icon - Lower Lakes and Coorong and the draft long term plan for managing the Coorong Lower Lakes and Murray Mouth region<sup>4</sup>.

We also recommend that the description of the environment be assessed against:

- the report titled "Engineering a Crisis in a Ramsar Wetland"<sup>5</sup>. The report addresses the issues fundamental to the management of the region and was written by leading scientists on the region, two of whom are also part of the expert scientific panel appointed by the Minister for Climate Change and Water, Senator Penny Wong in October 2009<sup>6</sup>.
- the following reports which provide findings contrary to the proponent's assessment of acid sulfate soils (which formed the basis of the first referral urgently requiring the regulators):
  - Earth Systems, "Lower Murray Lakes Project: Management Options for Acid Sulfate Soils in the Lower Murray Lakes, South Australia, Stage 1 – Preliminary Assessment of Treatment Options" December 2008;
  - Earth Systems, "Lower Murray Lakes Project: Management Options for Acid Sulfate Soils in the Lower Murray Lakes, South Australia, Stage 2 – Preliminary Assessment of Prevention, Control and Treatment Options" December 2008;

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<sup>3</sup> 2(e) and 4

<sup>4</sup> Ibid p5, para 5

<sup>5</sup> Kingsford R, Fairweather P, Geddes M, Lester R, Sammut J and Walker K, "Engineering a Crisis in a Ramsar Wetland", Australian Wetlands and Rivers Centre, University of New South Wales

<sup>6</sup> Professor Richard Kingsford and Adjunct Professor Keith Walker

- Sullivan, L, Burton, R, Watling, K and Bush, M, “Acid, Metal and Nutrient Mobilisations Dynamics in Response to Suspension of MBOs in Freshwater and to Freshwater Inundations of Dried MBO and Sulfuric Materials”, Centre of Acid Sulfate Soil research Southern Cross Geoscience, Southern Cross University, Lismore, New South Wales, 2008.

These reports propose other credible options for the treatment of acid sulfate soils which do not have the intrusive impact of the regulators on the region.

In these circumstances, we are concerned that failure to consider and analyse the description of the environment in the light of the above reports is directly contrary to the Minister’s obligations under the EPBC Act, in particular, clause 2(g) of Schedule 4 of the EPBC Regulations which requires any feasible alternatives to be considered.

### **INTERACTION WITH OTHER ACTIONS AND INFRASTRUCTURE**

The draft Guidelines indicate that the EIS must provide information on how the action interacts with any other actions in the region and lists various actions, but does not include<sup>7</sup>:

- the construction of the road along the peninsular at Pomanda Island, being referral number 2008/4674. This action should be included given that the wetlands in the vicinity of Pomanda Island are likely to be affected by the significant diminution in flow of water resulting from the construction of the regulators;
- the construction of pipelines in the region, being referral number 2009/4743, which take water from Lake Alexandrina, Lake Albert and the Coorong.

It is critical that a whole of region approach is considered as required by s74A of the EPBC Act and so we recommend that the guidelines refer to the above two actions.

### **ENVIRONMENTAL DEFENDERS OFFICE (SA) INC**

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<sup>7</sup> Draft Guidelines, pp 5-6