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The Secretary,
Senate Standing Committee on Rural and Regional Affairs and Transport

Submission - Inquiry into the Management of the Murray-Darling Basin

I wish to refute the impression Minister Burke has been giving that he has legal advice that the *Water Act 2007* will deliver a “triple bottom line” outcome. I attach a copy of an article I wrote that was published in *The Australian Financial Review* on 16 November 2010.

In summary, I wrote that:

1. Contrary to the impression the Minister gave, the legal advice he tabled in the House of Representatives on 25 October 2010 did not advise that social, economic and environmental considerations may be taken into account when determining the water allocation for the environment.
2. The Act requires that only environmental considerations are relevant to determining the water allocation for the environment.
3. The Minister implicitly acknowledged that in his speech on October 25.
4. The Murray Darling Basin Authority’s approach to the effect of the Act was correct when it determined the water allocation necessary for the environment as set out in the published Guide.
5. If the Murray Darling Basin Plan were prepared on the basis that economic and social considerations can be taken into account when determining the water allocation for the environment, it would be open to legal challenge –successfully in my view.
6. The Parliament should be honest with the people of the Basin and the nation and acknowledge that the Act does put the environment first.

If the Parliament wants to change that, it will have to amend the Act.

Yours faithfully,