**GROUND WATER (QUALCO-SUNLANDS) CONTROL BILL 2000**

**Legislative Assembly, 31 May 2000, pages 1314-7**

Second reading

**The Hon. M.K. BRINDAL (Minister for Water Resources)** obtained leave and introduced a bill for an act to reduce the risk of waterlogging and salinisation of land and increased levels of salinity in the River Murray caused by the irrigation of land in the Qualco-Sunlands irrigation area; to make a related amendment to the Irrigation Act 1994; and for other purposes. Read a first time.

The Hon. M.K. BRINDAL: I move: That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansard without my reading it. Leave granted.

The Qualco Sunlands district, immediately downstream from Waikerie on the River Murray, comprises about 2700 ha of high value horticultural crops, mainly citrus and vines, which are irrigated by sprinkler irrigation systems. Large scale irrigation development in the Qualco Sunlands district commenced in the 1960’s.

Drainage waters from irrigation applications have resulted in sustainability difficulties in a number of the irrigated properties as shallow water tables developed on underlying clay layers. Until recently the local management strategy was to install bores to drain excess water through the clay layers to the underlying materials, which resulted in a groundwater mound developing under the region and increased seepage of saline drainage water to the River Murray.

This practice is also clearly unsustainable, for both irrigation development and the River Murray. The Sunlands-Qualco irrigators (as the Qualco-Sunlands Drainage District Inc) have, with funds made available through the Murray Darling Basin’s Drainage Program, assessed future drainage management options and have developed a comprehensive plan of action which includes new drainage infrastructure. The proposed infrastructure comprises a series of groundwater bores equipped with pumps that will draw down the groundwater mound and dispose the saline waters to the Stockyard Plain Evaporation Basin.

The Scheme will prevent (and reverse) the salinisation and waterlogging of prime horticultural land due to the irrigation induced groundwater mound under the district. There will be a significant reduction in the local saline groundwater discharge into the River Murray and hence an improvement of the River waters salinity over the next 30 years. A grower-motivated drive to improve irrigation efficiency is also occurring, which over time will reduce the volume of drainage water generated. In addition, the Scheme will enhance economic development in the district by enabling future sustainable development, without additional impact of salinity or drainage on the River Murray.

A range of beneficiaries of the proposed works have been identified including downstream River Murray users (from salinity reduction); with the ratio of private to public benefits that have been estimated to be achievable by the SA Centre for Economic Studies to be 45:55. The private and public contributions to the whole of life costs in the Scheme are commensurate with this ratio which can be adjusted periodically to ensure that the private and public cost benefit ratios remain equivalent.

The SA Centre for Economic Studies prepared, in 1997, an analysis of the economic benefits associated with the proposed Scheme, which include production, environment and salinity benefits, and are estimated to have a value of about $50 million npv.

The capital cost of the works is approximately $7m and the operating cost $0.26m pa. Funds for the capital component of the scheme have been approved by the Natural Heritage Trust. 50 per cent of the capital funds required will be provided by the Commonwealth Government, and 50 per cent by the State through River Murray Catchment Water Management Board, and State NHT contributions. Irrigators will fund operating costs to achieve sustainability and salinity reduction benefits, over 30 years, to meet their agreed cost share of the project.

On completion, the Scheme will control the irrigation induced groundwater mound and will lead to sustainable irrigation of high value crops in the district. In addition, all irrigators contributing to the Scheme will achieve a zero salinity impact on the River Murray. Any new development in the district will also be required to achieve zero salinity impact and will be able to do so through access to the Scheme.

The salinity benefits from the Scheme will assist South Australia in meeting salinity impact obligations from irrigation development. The State intends, through the Minister for Water Resources, to use the salinity benefits generated by the Scheme operation to claim salinity credits under the Murray Darling Basin Salinity and Drainage Strategy.

The Parliamentary Works Committee and Parliament have endorsed the project.

To accommodate the arrangement for Scheme funding and cost sharing between the Governments and the community on the beneficiary pays basis already referred to, it has been necessary to develop special legislation to enable the Scheme to proceed and to formally secure financial contributions from each benefiting irrigator within the designated district. The Ground Water (Qualco-Sunlands) Control Bill has been drafted for this purpose. The draft Bill has been subject to community consultation and as a result of comments received, modified to meet both community and Government expectations. Passage of the Bill through Parliament will then allow for construction of the Scheme to proceed with completion planned for late 2000.

Explanation of Clauses

PART 1 PRELIMINARY

*Clause 1 and Clause 2:*

These clauses are formal. Clause 3: Interpretation

*Clause 3 provides definitions of terms used in the Bill.*

*Clause 4: Provisions relating to irrigation districts*

Clause 4 provides for the fact that part of the Scheme Area is comprised of the Sunlands Irrigation District constituted under the Irrigation Act 1994.

If some or all of the irrigated properties comprising the district do not have water allocations under that Act the whole district will be taken to be an irrigated property under the Bill and the irrigation trust will be a member of the Trust established by the Bill if a waterlogging and salinity risk management allocation is attached to the irrigated land of the district. If on the other hand all of the irrigated properties under that Act have a water allocation each of them that has a risk management allocation will be regarded as an irrigated property for the purposes of the Bill.

PART 2 THE QUALCO-SUNLANDS GROUND WATER CONTROL TRUST DIVISION 1—ESTABLISHMENT OF THE TRUST

*Clause 5: Establishment of the Trust*

*Clause 5 establishes the Qualco-Sunlands Ground Water Control Trust.*

The members of the Trust are the owners of land in the Scheme Area to which a risk management allocation is attached. Risk management allocations will not be allotted until the end of September and in the meantime members of the Qualco-Sunlands District Drainage Incorporated will be members of the Trust in order to transact the initial business of the Trust (see Schedule 4).

*Clause 6: Transfer of assets etc. of Qualco-Sunlands District Drainage Incorporated to Trust*

Clause 6 provides for the new Trust to take over the property, rights and liabilities of Qualco-Sunlands District Drainage Incorporated and its employees as well.

*Clause 7: Presiding officer and deputy presiding officer of the Trust*

Clause 7 provides for the presiding officer and deputy presiding officer of the Trust.

DIVISION 2—MEETINGS OF THE TRUST

*Clause 8: Calling of meetings*

Clause 8 provides for the calling of meetings of the Trust.

*Clause 9: Procedure at meetings of Trust*

Clause 9 provides for the quorum and other procedural matters at meetings of the Trust. Resolutions at meetings of the Trust require a majority in number and value to be carried.

*Clause 10: Notice of meetings where ownership of property changes*

Clause 10 provides that a further notice of a meeting of the Trust is not required where a change of ownership of land has occurred.

*Clause 11: Voting Clause 11 provides for voting at meetings.*

DIVISION 3—BOARD OF MANAGEMENT, COMMITTEES AND DELEGATION

*Clause 12: Board of management*

Clause 12 allows the Trust to appoint a board of management to carry out the daily operations of the Trust.

*Clause 13: Delegation*

Clause 13 enables the Trust to delegate its functions and powers.

*Clause 14: Notice of resolution*

Clause 14 provides for the period of notice of a resolution to appoint a board of management or to delegate functions or powers.

DIVISION 4—ACCOUNTS AND AUDIT

*Clause 15: Accounting records to be kept*

Clause 15 requires the Trust to keep proper accounting records.

*Clause 16: Preparation of financial statements*

Clause 16 requires the preparation of financial statements and that the statements be audited. Subclause (5) makes failure to cooperate with the auditor an offence.

*Clause 17: Accounts etc. to be laid before annual general meeting*

Clause 17 requires the Trust to lay a copy of the audited financial statements of the Trust before each annual general meeting. The Trust must prepare a report on its operations for the previous financial year and lay that before the meeting as well.

DIVISION 5—APPOINTMENT OF ADMINISTRATOR

*Clause 18: Appointment of administrator*

Clause 18 enables the Minister to appoint an administrator of the Trust if the Trust persistently fails to perform its functions, or contravenes or fails to comply with a provision of the Bill or has been guilty of financial mismanagement.

PART 3 FUNCTIONS AND POWERS OF THE TRUST DIVISION 1—CONSTRUCTION AND MAINTENANCE OF THE SCHEME INFRASTRUCTURE

*Clause 19: Construction of the Scheme infrastructure*

Clause 19 provides for the construction of the Scheme infrastructure.

*Clause 20: Infrastructure for reuse of underground water*

Clause 20 enables the Trust to acquire or construct infrastructure to recover underground water for the purposes of irrigation.

*Clause 21: Maintenance and repair of infrastructure*

Clause 21 requires the Trust to maintain and repair the Scheme infrastructure.

*Clause 22: Vesting of Scheme infrastructure*

Clause 22 provides that the Scheme infrastructure is vested in the Trust.

*Clause 23: Insurance of Scheme infrastructure*

Clause 23 requires the Trust to insure the Scheme infrastructure and to insure itself against normal risks and risks prescribed by regulation.

DIVISION 2—DISPOSAL BASINS

*Clause 24: Provision of disposal basins*

Clause 24 places the responsibility of providing disposal basins on the Minister.

DIVISION 3—OPERATION OF THE SCHEME

*Clause 25: Operation of the Scheme*

Clause 25 requires that the Scheme be operated so that the benefit derived by the Government on the one hand and growers on the other in relation to their respective financial inputs is as far as practicable equal.

*Clause 26: Creation of salinity credits by Trust*

Clause 26 enables the Trust to enter into agreements to use the Scheme infrastructure to produce salinity credits on behalf of the other party to the agreement.

DIVISION 4—POWERS OF THE TRUST

*Clause 27: Powers of Trust*

Clause 27 sets out the powers of the Trust.

PART 4 WATER DISPOSAL EASEMENT

*Clause 28: Acquisition of easement*

Clause 28 authorises the Minister to acquire the necessary easement for the Scheme infrastructure by agreement or compulsorily under the Land Acquisition Act 1969. Subclause (4) requires the Minister to transfer the easement to the Trust.

*Clause 29: Rights conferred by easement*

Clause 29 sets out the rights conferred by the easement.

*Clause 30: Minimisation of damage etc.*

Clause 30 requires a person exercising rights under the easement to minimise damage to land and vegetation on the land and avoid unnecessary interference with the land and the use and enjoyment of the land by other persons.

*Clause 31: Issue of certificate of title for water disposal easement*

Clause 31 provides for the issue of a certificate of title for the easement.

*Clause 32: Dealing with easement*

Clause 32 requires the approval of the Minister to an agreement or other transaction affecting the easement.

PART 5 IMPACT OF IRRIGATION ON WATERLOGGING AND SALINISATION DIVISION 1—CLASSIFICATION OF LAND

*Clause 33: Classification of land in the Scheme Area*

Clause 33 provides for the classification of all irrigated land in terms of the impact of irrigating the land on the groundwater mound and the underground water lying above the layer of Blanchetown Clay in the Scheme Area. The classification of the land will translate through provisions in the regulations into the categorisation of the land. The category of irrigated land will affect the contribution to be paid under Part 7 in respect of it.

*Clause 34: Members of the Trust to be consulted*

Clause 34 requires that before the classification of land is varied the owners of land affected by the reclassification must be consulted.

DIVISION 2—CATEGORIES OF LAND

*Clause 35: Categories of land Clause*

35 provides for categorisation of land.

DIVISION 3—CERTIFICATE OF ZERO IMPACT

*Clause 36: Certificate of zero impact*

lause 36 enables a landowner who wishes to opt out of the Scheme to create his or her own drainage system and obtain a certificate of zero impact. Subject to clause 52 a certificate of zero impact excludes the obligation to contribute to the Scheme under Part 7 in respect of the land to which the certificate applies.

*Clause 37: Variation or termination of certificate*

Clause 37 provides for the variation or termination of a certificate of zero impact. Clause 38: Appeal to the ERD Court Clause 38 provides for an appeal if an application for a certificate of zero impact is refused or if a certificate is varied or terminated.

DIVISION 4—REDUCING THE IMPACT OF IRRIGATION

*Clause 39: Rewards for reducing the impact of irrigation*

Clause 39 provides for the making of regulations to set up a scheme to reward growers who reduce the adverse impacts of irrigation.

PART 6 ALLOCATION OF THE SCHEME’S RISK MANAGEMENT CAPACITY

*Clause 40: Waterlogging and salinity risk management allocation*

Clause 40 provides for waterlogging and salinity risk management allocations. The Scheme has a finite capacity to manage the risk of waterlogging and salinisation of land caused by irrigation and a waterlogging and salinity risk management allocation (or a risk management allocation) is a share of that capacity. A risk management allocation is attached to land and a grower who irrigates land that does not have an allocation attached to it will have to make a substantially increased contribution to the Scheme in respect of the irrigation of that land.

*Clause 41: Application for initial risk management allocation*

Clause 41 gives existing growers the right to be part of the Scheme by applying for a risk management allocation equivalent to the quantity of water set out opposite their water licence in Schedule 2. They can apply also at the same time for a share of the excess risk management capacity (if any) of the Scheme.

*Clause 42: Determination of excess capacity*

Clause 42 provides for the determination and redetermination from time to time of the risk management capacity of the Scheme by the Minister and the Trust.

*Clause 43: Request for increase in, or for a new, risk management allocation*

Clause 43 enables owners of land in the Scheme Area to apply to the Trust for a share, in the form of additional risk management allocations, of the risk management capacity of the Scheme.

*Clause 44: Transfer of risk management allocations*

Clause 44 provides for transfer of risk management allocation from land within an irrigated property to other land within the property if the land to which the allocation is transferred is not of a category having a higher risk of irrigation induced degradation.

*Clause 45: Agreement with landowner to increase risk management capacity*

Clause 45 enables a landowner or group of landowners to enter into an agreement with the Trust to increase the capacity of the Scheme infrastructure in return for a share of the increased risk management capacity of the Scheme.

PART 7 FUNDING THE OPERATION AND MAINTENANCE OF THE SCHEME DIVISION 1—FUNDING THE SCHEME

*Clause 46: Money required for operation and maintenance*

Clause 46 provides for the determination by the Minister and the Trust of the money required by the Trust in the next contribution year to operate and maintain the Scheme infrastructure.

*Clause 47: Payment by the Treasurer*

Clause 47 requires the Treasurer to pay the amount determined under clause 46 to the Trust in 4 equal instalments.

*Clause 48: Recovery of money paid by Treasurer to Trust*

Clause 48 provides for the recovery by the Minister of the money paid by the Treasurer from the owners and occupiers of irrigated properties. Subclause (2) preserves the right of existing growers to elect not to be part of the Scheme by not applying for a risk management allocation and not increasing their water allocation above existing levels.

*Clause 49: Adjustment of contributions*

Clause 49 provides for adjustment of contributions when actual quantities of water used for irrigation are used.

*Clause 50: Payment in respect of the unauthorised use of water*

Clause 50 provides for payment in respect of the use of water which is unauthorised by a risk management allocation.

*Clause 51: Computing overuse of water*

Clause 51 explains that the quantities of water used will be averaged over 3 years to determine if water has been overused.

*Clause 52: Rules for computing water used where certificate of zero impact applies*

Clause 52 sets out the benefits of a certificate of zero impact.

*Clause 53: Dry year declarations*

Clause 53 provides for the notional reduction in the quantities of water used for irrigation where the recharge to the ground water mound and the water above the Blanchetown Clay is reduced because of a dry year or for any other reason.

*Clause 54: Irrigation declarations*

Clause 54 requires the owners of properties to which a risk management allocation is attached to provide the Trust with an annual irrigation declaration in accordance with the regulations.

DIVISION 2—RECOVERY OF MONEY FROM OWNERS AND OCCUPIERS

*Clause 55: Liability to pay Minister*

Clause 55 specifies the people who are liable to pay to the Minister contributions towards the cost of the Scheme.

*Clause 56: Notice to persons liable of amount payable*

Clause 56 provides for the service of notices on the persons primarily liable to contribute of the amounts payable.

*Clause 57: Interest*

Clause 57 provides for interest on unpaid contributions.

*Clause 58: Amount first charge on land*

Clause 58 provides that an amount unpaid under this Part is a first charge on the land.

*Clause 59: Sale of land for non-payment*

Clause 59 provides for the sale of land to recover an amount owing.

*Clause 60: Money recovered to be paid to Treasurer*

Clause 60 requires the Minister to pay money recovered to the Treasurer.

PART 8 WELLS

*Clause 61: Activities relating to wells*

Clause 61 prohibits certain activities in relation to wells in the Scheme Area without a permit granted by the Trust. The provisions of this clause and the other clauses of Part 8 mirror the provisions of the Water Resources Act 1997 which they replace in the Scheme Area.

*Clause 62: Permits*

Clause 62 provides for permits under this Part.

*Clause 63: Defences*

Clause 63 sets out defences to an offence under clause 61. Paragraph (a) enables pre-existing use of wells to continue.

*Clause 64: Notice to rectify unauthorised activity*

Clause 64 enables the Trust to require a person who has undertaken an activity in contravention of clause 61 to rectify the effects of the activity. If the person fails to do so the Trust may take the necessary action and recover the costs from the person at fault. Clause 65: Right of appeal

Clause 65 gives a right of appeal against the refusal of an application for a permit or against the conditions imposed on a permit or against the variation or revocation of a permit.

PART 9 OPERATION OF THE WATER RESOURCES ACT 1997 IN THE SCHEME AREA

*Clause 66: Exclusion of section 9(3) of the Water Resources Act 1997*

Clause 66 excludes the operation of the Water Resources Act 1997 in relation to the need to hold a permit to undertake activities in relation to wells in the Scheme Area. Part 8 of the Bill will provide for the permits.

*Clause 67: Problem of disposal of water not to be considered on application for water licence etc.*

Clause 67 provides that the Minister under the Water Resources Act 1997 should not consider the problem of disposal of water on an application for an increased water allocation in relation to land to which a risk management allocation is attached. The reason is that Scheme will provide adequately for the problem of water disposal.

*Clause 68: Lower levy for certain irrigated properties*

Clause 68 requires a lower levy under the Water Resources Act 1997 to recognise the benefits provided by the Scheme under this Bill.

*Clause 69: Scheme to be acknowledged in applications under section 140 of the Water Resources Act 1997*

Clause 69 provides that where the River Murray Catchment Water Management Board is considering an application for a refund under section 140 of the Water Resources Act 1997 it must regard the Scheme as a land management practice adopted by the applicant if a risk management application is attached to the applicant’s land.

PART 10 MISCELLANEOUS

*Clause 70: Inspection of infrastructure etc. by Minister*

Clause 70 provides for inspection of the Scheme infrastructure by the Minister.

*Clause 71: Entry onto land*

Clause 71 enables a landowner to inform the Minister and the Trust of procedures to be followed when entering his or her land to avoid the spread of disease. A person entering land under the Bill who has notice of the procedures in accordance with this clause must follow them.

*Clause 72: Property in water*

Clause 72 provides that water that is in the Scheme infrastructure is the property of the Trust.

*Clause 73: Measurement of water usage*

Clause 73 provides for the measurement of water used to irrigate land.

*Clause 74: Testing of meters*

Clause 74 provides for the testing of meters.

*Clause 75: Estimation by Trust of water usage*

Clause 75 enables the Trust to estimate the quantity of water used to irrigate land if the quantity is unknown.

*Clause 76: Owners and occupiers of land to provide information*

Clause 76 enables the Trust to require an owner or occupier of land to provide it with information for the purposes of the Bill.

*Clause 77: False or misleading information*

Clause 77 makes it an offence to provide false or misleading information under the Bill.

*Clause 78: Service of notices*

Clause 78 provides for the service of notices.

*Clause 79: Expiry of Act*

Clause 79 provides that the Act will expire at the end of the 2029/2030 contribution year.

*Clause 80: Regulations*

Clause 80 provides for the making of regulations.

SCHEDULE 1 The Scheme Area Schedule 1 is a map of the Scheme Area.

SCHEDULE 2 Waterlogging and Salinity Risk Management Allocations Schedule 2 sets out the risk management allocations that the holders of the water licences set out in the right hand column are entitled to apply for.

SCHEDULE 3 Classes of well in relation to which a permit is not required Schedule 3 sets out the classes of wells in relation to which a permit is not required under Part 8.

SCHEDULE 4 Transitional Provisions and Amendment of Other Acts Schedule 4 sets out transitional provisions and makes a consequential change to the Irrigation Act 1994.

Mr HILL secured the adjournment of the debate.