The conservation and use of the waters of the Murray-Darling Basin always have been, and probably always will be, contested. The law has always played a key role in framing that contest and, in recent years, that role has grown. Since 1994, national water policy has proposed legal reforms, alongside Commonwealth funding initiatives, as the principal instrument for achieving the sustainable management of water resources. The resultant State and Territory law reform is the most significant since water resources statutes were first enacted over a century ago. The Commonwealth itself has also legislated in a major way with the Water Act 2007. Most of the impetus for the development of the national policy and the primary focus of the legal reforms has, of course, been the Murray Darling Basin.

The flow of reform will reach a new peak with the release of the draft Basin Plan under the Water Act 2007 (Cth), presently proposed for November 2011. Although the crescendo of community concerns aroused by the release of the Guide to the Proposed Basin Plan in October 2010 has subsided, and the stress of drought has been relieved by the rains of the past year, the draft Basin Plan will be scrutinised very carefully by all sections of the community. Legal and policy questions will abound about whether and how the Basin Plan will achieve its statutory purposes: especially that purpose ‘to promote the use and management of the Basin water resources in a way that optimises economic, social and environmental outcomes’.

This national conference—the first major water law conference held in Canberra for many years—will identify and explore those questions.

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
</tr>
</thead>
</table>
| 9.00am | **INTRODUCTION**  
Professor Tim Bonyhady, Director, Australian Centre for Environmental Law, ANU College of Law |
| 9.10am | **SESSION 1**  
The Key Points of the Draft Basin Plan  
Dr John Williams, Commissioner, Natural Resources Commission NSW, Member of the Wentworth Group of Concerned Scientists |
| 9.45am | **The Key Legal Issues for the Murray-Darling Basin**  
Associate Professor Alex Gardner, University of Western Australia & Adjunct Professor, ANU College of Law |
| 10.20am | **Australia’s International Obligations to Protect the Murray-Darling**  
Professor Donald R Rothwell, ANU College of Law |
| 11.00am | Morning tea |
| 11.20am | **SESSION 2**  
Can the High Court Save the Murray-Darling?  
Professor John Williams, Law School, University of Adelaide |
| 12.05pm | **The Constitutional Protection of Water Rights**  
Andrew Macintosh, Australian Centre for Environmental Law, ANU College of Law |
| 12.50pm | Lunch |
| 1.45pm | **SESSION 3**  
Prioritizing the Environment? Weighing Economic, Social and Environmental Factors  
Professor Tim Bonyhady, Director, Australian Centre for Environmental Law, ANU College of Law |
| 2.30pm | **The Legal Framework for Water Trading: An Overwhelming Success?**  
Janice Gray, Law School, University of New South Wales |
| 3.15pm | Afternoon tea |
| 3.45pm | **SESSION 4**  
The Commonwealth Environmental Water Holder and the Basin Plan  
Dr Daniel Connell, Crawford School of Economics and Government, ANU  
(Daniel Connell has replaced Stephanie Secomb who has withdrawn from the conference) |
| 4.30pm | **The Problems and Prospects of the Murray-Darling**  
The Hon Tony Windsor MP and Senator Nick Xenophon |
| 5.15pm | Close |
THE SPEAKERS

Tim Bonyhady is Director of the Australian National University’s Australian Centre for Environmental Law and its Centre for Climate Law and Policy. His many books about environmental law include The Law of the Countryside: the Rights of the Public, Environmental Protection and Legal Change, Places Worth Keeping: Conservationists, Politics and Law and Climate Law in Australia. He has also written extensively about art and history—particularly in Images and Opposition: Australian Landscape Painting 1801–1890, Burke and Wills: from Melbourne to Myth, The Colonial Earth and, most recently, Good Living Street: The Fortunes of my Viennese Family. In 2008–09 Tim was a member of the expert panel for the Hawke review of the Commonwealth’s Environmental Protection and Biological Conservation Act 1999. In 2010 he was an expert adviser to the Victorian Parliament’s Environment and Natural Resources Committee.

Daniel Connell is an environmental historian at the Crawford School of Economics and Government at The Australian National University. His research focuses on the governance of trans-boundary rivers in the federal systems of Australia, South Africa, United States, Mexico, European Union (Spain), India and China. He also contributes to the ongoing debate about the future of the Murray Darling Basin—the subject of his book Water Politics in the Murray-Darling Basin published in 2007. He recently co-edited with Quentin Grafton Basin Futures—water reform in the Murray-Darling Basin, ANU E Press 2011, to which he contributed a chapter on ‘The Role of the Commonwealth Environmental Water Holder’. There he argues that the current conflicts in the MDB could result in a situation where the Commonwealth focuses mainly on environmental outcomes—working through the Commonwealth Environmental Water Holder—leaving the states to manage water for irrigation, with minimal coordination between them. That would render the Basin Plan largely irrelevant.

Alex Gardner is Associate Professor of Law at The University of Western Australia where he teaches Administrative Law, Environmental Law and Water Resources Law to undergraduate and postgraduate students. He is also Adjunct Professor at The Australian National University College of Law where he teaches Water Resources Law to postgraduate students. Alex researches in Natural Resources and Environmental Law, with a special focus on Water Resources Law. He is the lead author with Richard Bartlett and Janice Gray of Water Resources Law, 2009. He is also one of three legal academics participating in the National Centre for Groundwater Research and Training, established in 2009 with funding from the Australian Research Council and the National Water Commission: http://www.groundwater.com.au. Alex maintains an environmental law practice, assisting the Environmental Defenders Office (WA) for many years as well as private firms and companies. In recent years, he has advised the Government of Western Australia on water resources legislative reform and, in alliance with consulting firms, has advised the Australian Government on issues in the Murray Darling Basin.

Janice Gray lectures in Property, Equity, Trusts and Water Law at the Faculty of Law at the University of New South Wales. In 2009, she was a Visiting Scholar at both the Centre for Socio Legal Studies and Wolfson College, University of Oxford. Janice has published nationally and internationally on water law, sewage law, property and equity, and native title. She is the lead author of Property Law in New South Wales, 2nd edn 2007, and a co-author of Water Resources Law, 2009. Her research and publications on water resources address the legal character of water access rights and the regulatory regimes for water trading. A chapter on ‘Water Trading and Regulation in Australia’ was recently (2011) published by Lumen Juris in Brazil. Janice is presently part of a research team investigating more sustainable sanitation options, with Janice focusing on the legal and regulatory frameworks associated with alternative sanitation options. Janice is Editor in Chief of the Australasian Journal of Natural Resources Law and Policy, co-editor of the Human Rights Defender published by the Australian Human Rights Centre and on the international advisory panel of the Canadian Native Studies Journal. In 2008, she was a member of the Property Law Committee of the Law Society of New South Wales.

Andrew Macintosh is the Associate Director of the Australian National University’s Centre for Climate Law and Policy. He has published extensively on the Commonwealth’s Environmental Protection and Biological Conservation Act 1999 as well as on climate law and policy and (with Tim Bonyhady) has recently edited Mills, Mines and other Controversies: The Environmental Assessment of Major Projects and (with Tim Bonyhady and Jan McDonald) has edited Adaptation to Climate Change: Law and Policy. Andrew has worked as a solicitor at Mallesons Stephens Jacobs and Minter Ellison in the firm’s environmental and planning law group; he was an environmental advisor to the Australian Democrats and, before joining the ANU, was Deputy Director of The Australian Institute.

Donald R Rothwell is Professor of International Law, Assistant Head of School, Director—LLM Programs, and Deputy Director of the Australian Centre for Military Law and Justice at the ANU College of Law, The Australian National University, where he has taught since July 2006. He was previously Challis Professor of International Law and Director of the Sydney Centre for International and Global Law, University of Sydney (2004–06). His research addresses many intersecting areas of international law with a specific focus on law of the sea, law of the polar regions, and implementation of international law within Australia which is reflected in over 150 articles and book chapters in international and Australian publications. Don has authored, co-authored or edited 14 books, including most recently, The International Law of the Sea (Hart, 2010) with Tim Stephens, and International Law: Cases and Materials with Australian Perspectives with Stuart Kaye, Afshin Akhtarkhavari and Ruth Davis (CUP, 2010). He is presently working on projects assessing Antarctic security, international legal practice in Australia, and Arctic navigation, and is the current Co-Editor of the Australian Year Book of International Law. He has taught
a range of courses including Law of the Sea, International Environmental Law, International Law and Use of Armed Force, International Humanitarian Law, Military Operations Law, and Public International Law. Rothwell has acted as a consultant or been a member of expert groups for UNEP, UNDP, IUCN, the Australian Government, and acted as advisor to the International Fund for Animal Welfare (IFAW). He is a regular media commentator.

**John Williams** is Dean of Law at the University of Adelaide. One of Australia’s leading constitutional lawyers, he has a particular interest in water management. He advised the South Australian government on its recent section 92 case against Victoria. In 2010 (with Adam Webster) he wrote on ‘Section 100 and State Water Rights’ in the *Public Law Review*. His books include *The Australian Constitution: A Documentary History, Peace, Order and Good Government: Constitutional and Parliamentary Reform* (with Clem Macintyre) and *Intention in Law and Philosophy*.

**John Williams** is one of Australia’s most respected scientists, and has led the national debate about sustainable land management. Prior to joining the Natural Resources Commission in 2006, he was Chief Scientist and Chair of the Department of Natural Resources’ Science and Information Board and Adjunct Professor in Agriculture and Natural Resource Management at Charles Sturt University. He retired from CSIRO as Chief of Land and Water in 2004. In 2005, he was awarded the prestigious Farrer Memorial Medal for achievement and excellence in agricultural science. John has extensive experience in providing national and international thought leadership in natural resource management, particularly in agricultural production and its environmental impact.

**Tony Windsor** MP is the Independent Federal Member for New England. He is the chair of the House of Representatives Committee on Regional Australia which, in June 2011, issued its report Of Drought and Flooding Rains on the impact of the Murray-Darling Basin Plan in Regional Australia. Besides twenty years in State and Federal politics, Mr Windsor has been a primary producer in the Liverpool Plains region of northern New South Wales. He has a long term interest in natural resources management and regional economic development and has served on a number of House of Representatives committees relevant to these issues. He is also a member the Prime Minister Gillard's Multi-Party Committee on Climate Change.

**Nick Xenophon** is an Independent Senator for South Australia. He was a lawyer for fifteen years (1982–97) in South Australia before holding a seat in the South Australian Legislative Council (1997–2007). He was elected to the Senate for South Australia in 2007, his six year term beginning in July 2008. Well known for his campaign on gambling law reform, Senator Xenophon has also pursued in the Federal Parliament water resources management issues vital to South Australia, co-sponsoring the Emergency Water (Murray-Darling Basin Rescue) Bill 2008 and the Water (Crisis Powers and Floodwater Diversion) Bill 2010. He has also participated in relevant Senate Committee inquiries; including the Senate Standing Committee on Rural and Regional Affairs and Transport report on Water management in the Coorong and Lower Lakes (2008) and the Senate Legal and Constitutional Affairs References Committee inquiring into the *Provisions of the Water Act 2007* (2011).

**V E N U E**
Weston Theatre, Crawford School of Government & Economics,
Building 132, Lennox Crossing, The Australian National University

**E N Q U I R I E S**
E coast@law.anu.edu.au   T 02 6125 1096