

The Legal Protection of Ramsar Wetlands & Migratory Bird Habitat - Australian Reforms

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Migratory Birds & the flight path for this presentation



4 November 2009

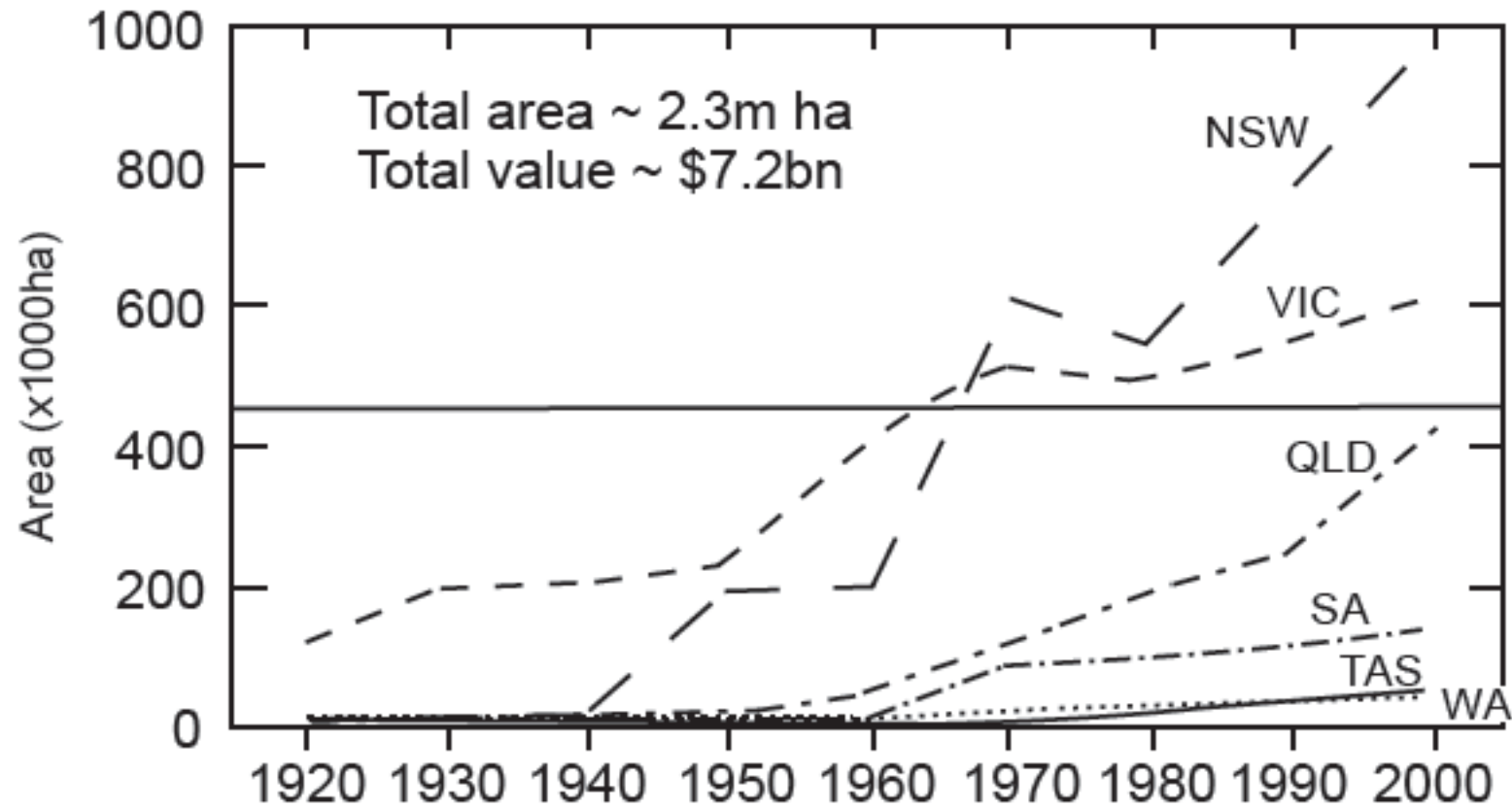
Ramsar Wetlands: Australia

2

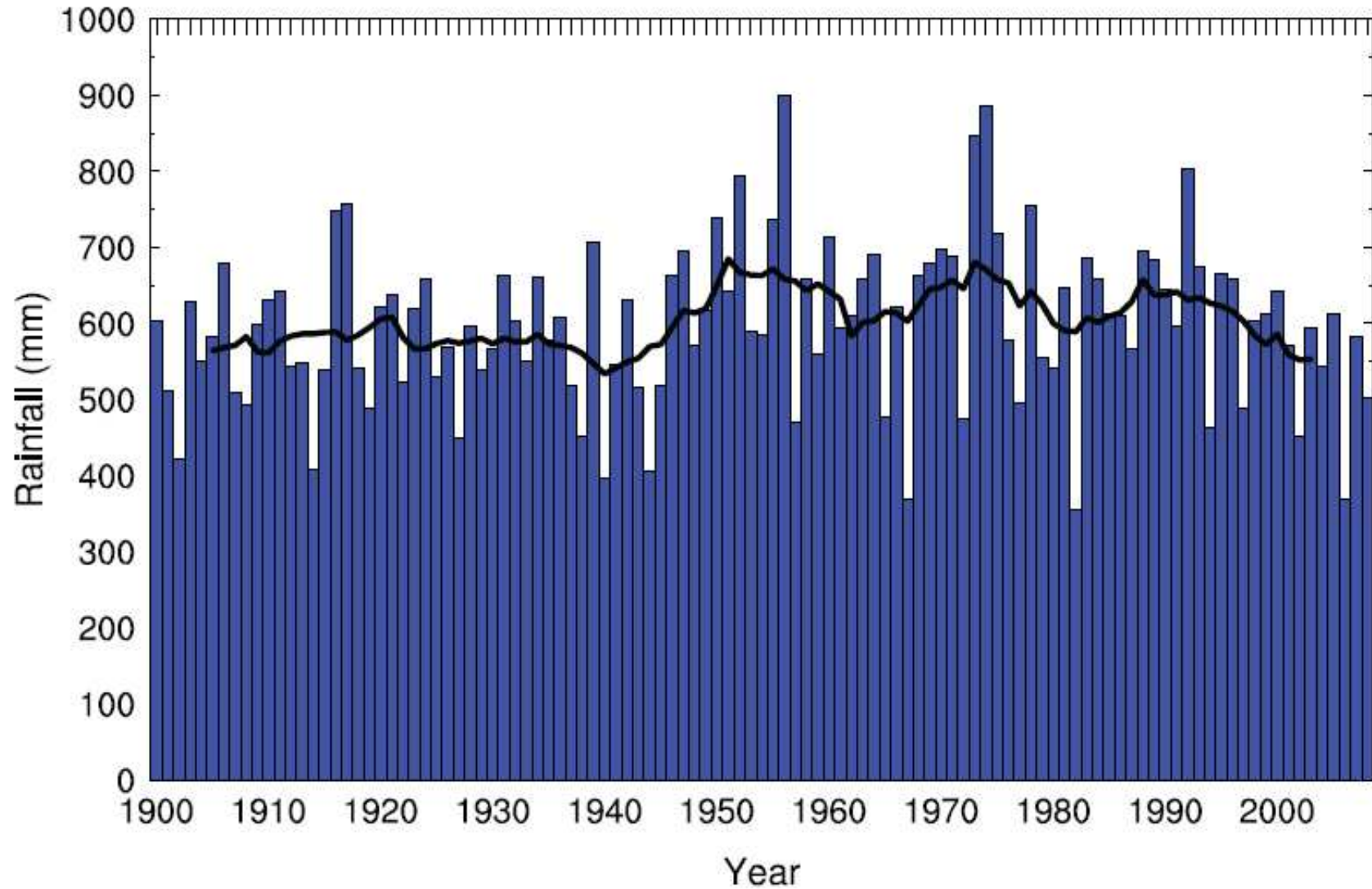
Ramsar Wetlands & the Murray-Darling Basin



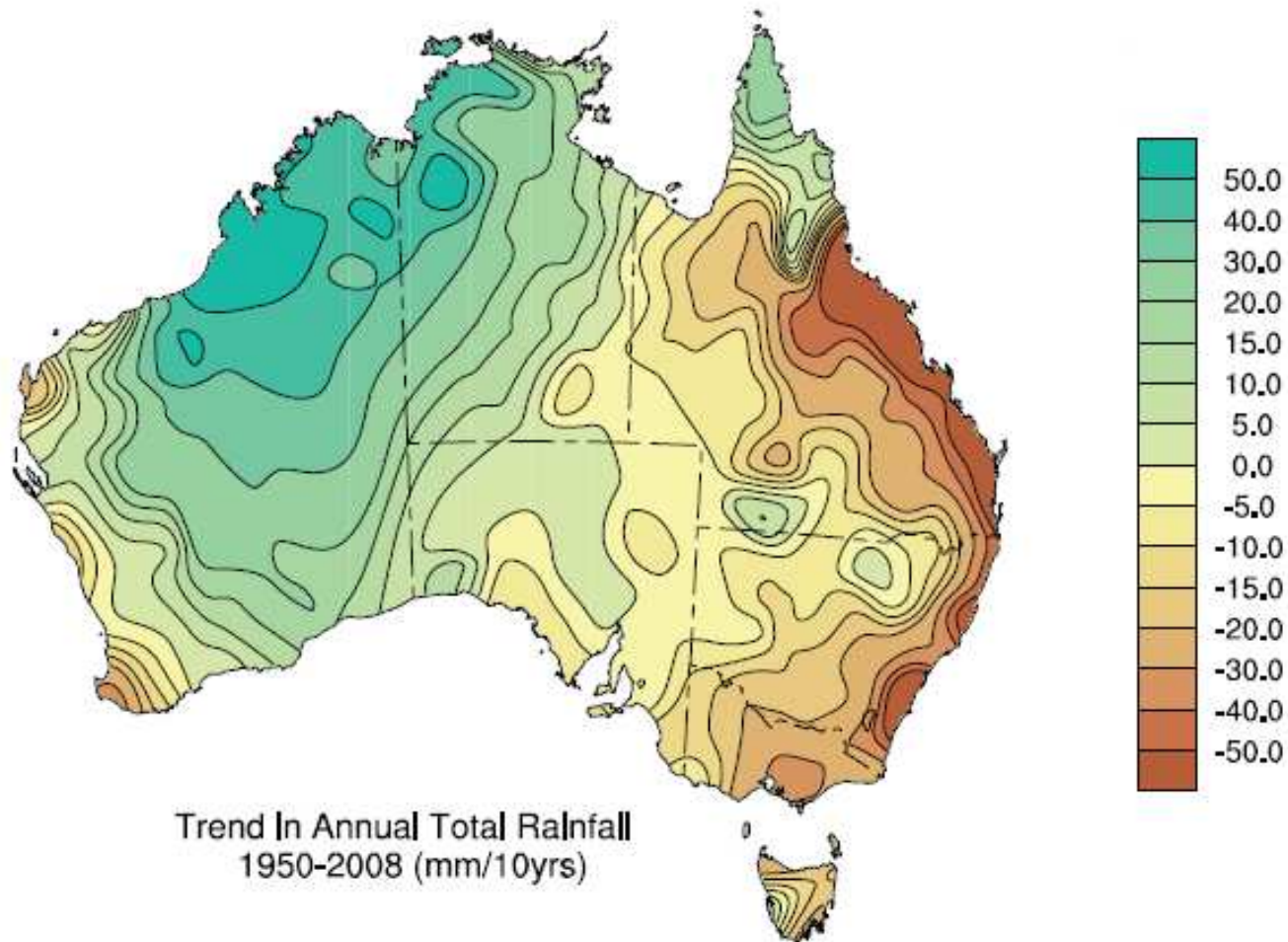
Irrigation Development



Southeastern Australia Annual Rainfall



Overview of rainfall trend



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Ramsar Wetlands & the Murray-Darling Basin



Macquarie Marshes: Wilgara

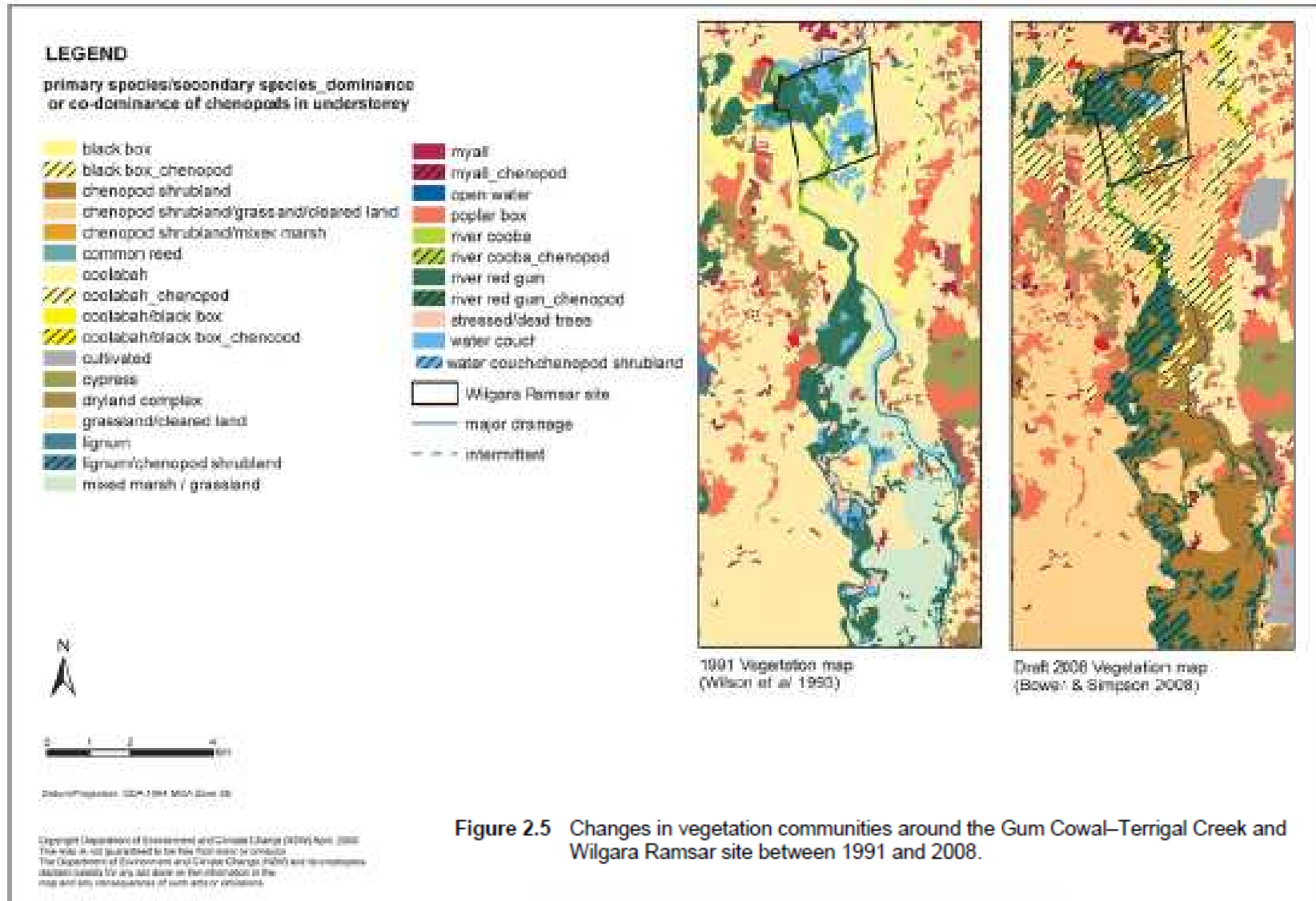


Figure 2.5 Changes in vegetation communities around the Gum Cowl–Terrigal Creek and Wilgara Ramsar site between 1991 and 2008.

The Macquarie River

Use of water in Macquarie

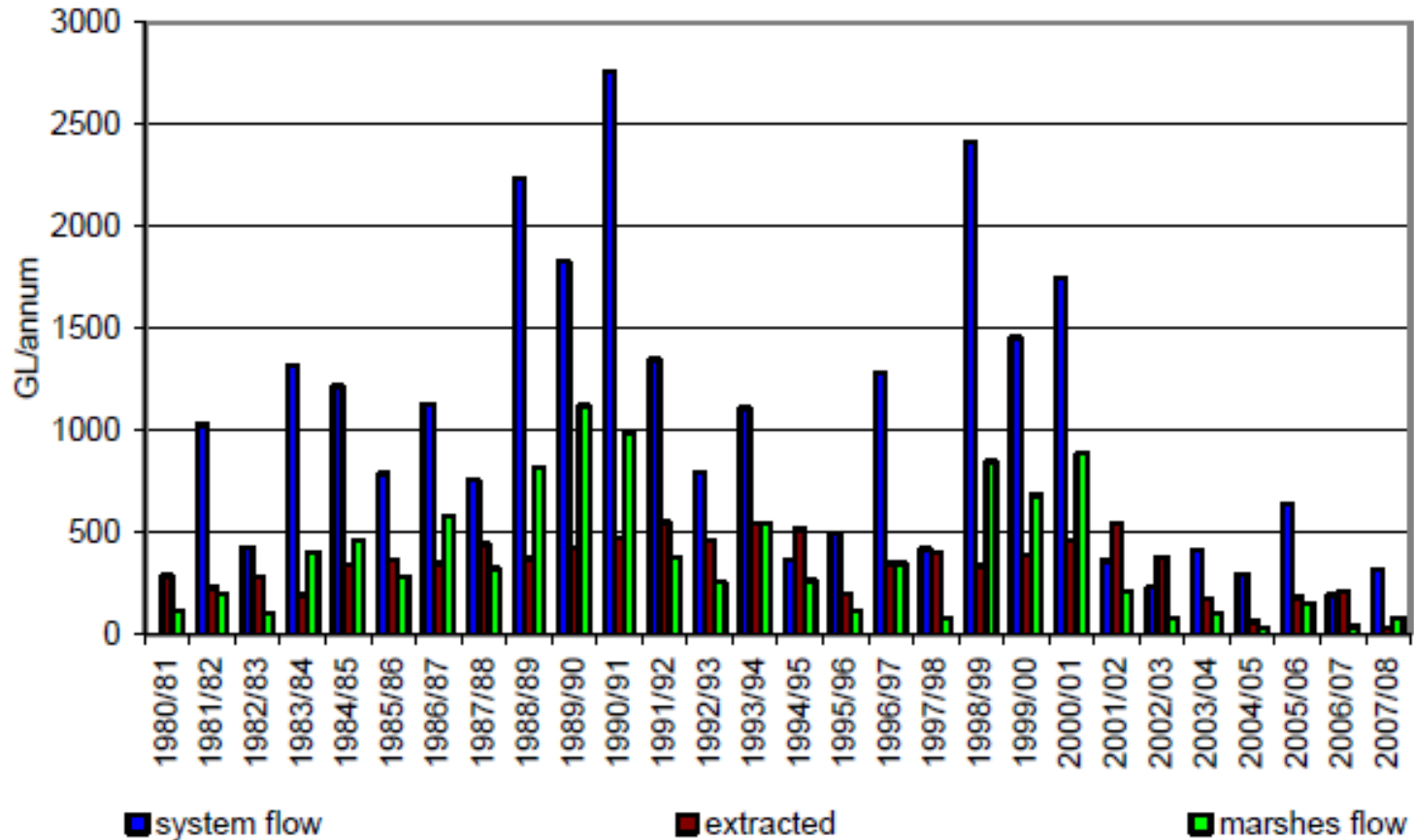
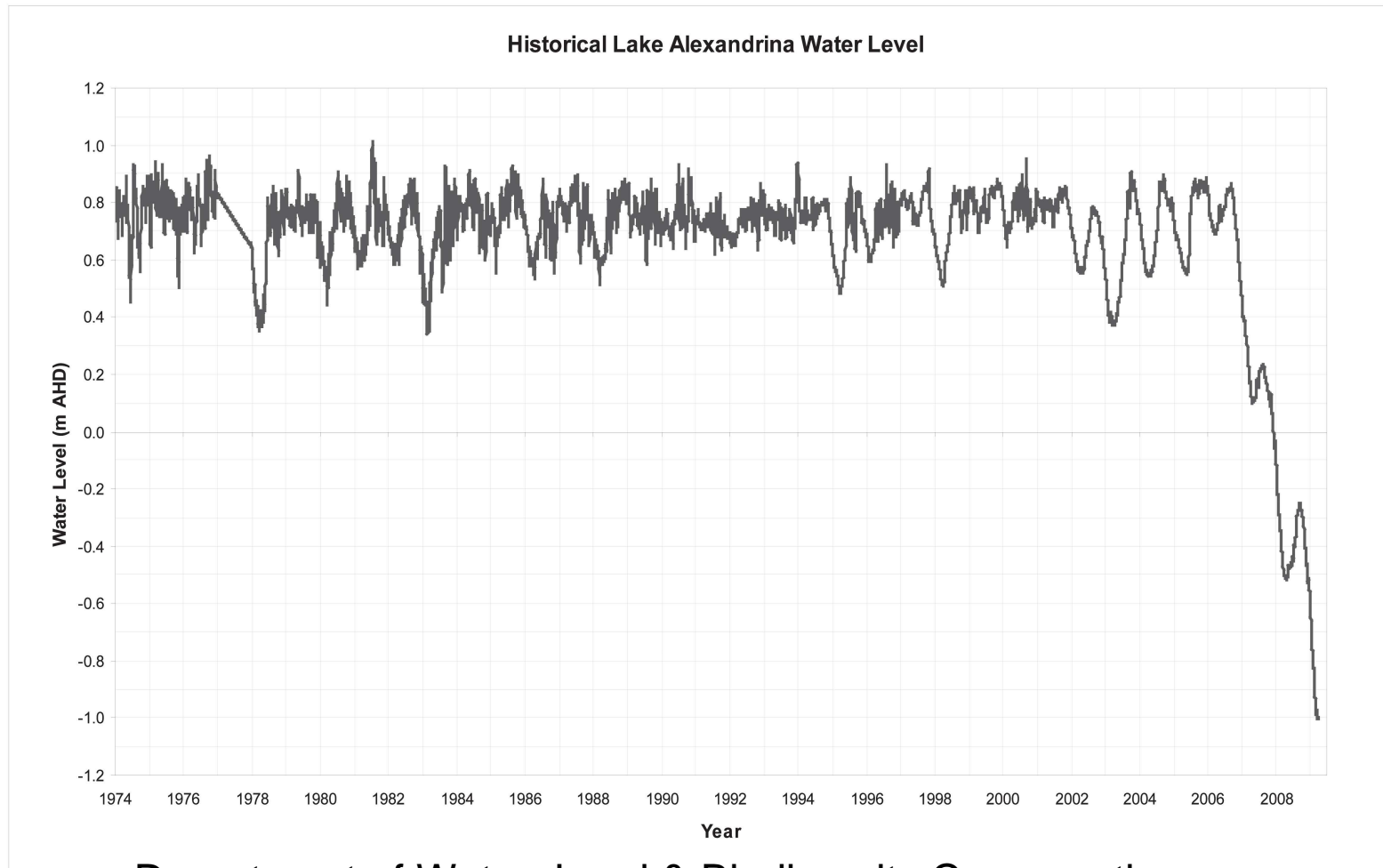


Figure 3.5 Assessed and estimated water distribution and use in the Macquarie Valley, 1980–2008 (State Water).



At the Murray Mouth



Department of Water, Land & Biodiversity Conservation,
South Australia, 2009

International legal obligations and constitutional responsibilities

- Ramsar Convention on wetlands of international importance, esp as waterfowl habitat
 - From site protection to catchment planning
 - CoP 9, 2005: ‘no water, no wetlands’
 - + CAMBA, JAMBA & ROKAMBA obligations
- Constitutional responsibilities
 - States manage water resources
 - Commonwealth has specific powers
 - acquisition of property on just terms compensation

State Water law reforms

- 20th century system of public administered water access rights
- National water policy reforms
 - Transition to water property rights & markets
 - Planning to secure environmental sustainability
- Reform of water access rights
 - landholder rights & tradable “water access entitlements” as a share of available water
- Area management planning for env’tal flows
 - States’ failure to fix over-allocation

Water Act 2007-08 (Cth)

- Co-operative catchment planning
 - The 1995 ‘Cap’ – not sustainable
 - *Water Act* provision for ‘Basin Plan’ from 2011
 - greater Commonwealth control
 - Comprehensive coverage of ‘water resources’
 - diversion limits for whole Basin & management areas
 - diversion limits *must reflect an environmentally sustainable level of take*
- Water trading for the environment
 - 2 Cth programs to acquire entitlements
 - Commonwealth Environmental Water Holder

Conclusion

- dealing with climate change

- National policy formula for risk assignment
 - reduction from:
 - improvement of scientific knowledge
 - change in government policy
 - Seasonal or long term changes in climate, periodic natural events, eg bush fire & drought
- Two State models: NSW & Victoria
- A fair deal on climate change effects
 - A national strict liability regime