

# Groundwater Law & Climate Change: Commonwealth Perspectives

Victoria, Australia & British Columbia, Canada

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# Aims

1. Overview of a nexus (..or lack of) between groundwater and climate change in legislation in 2 developed commonwealth states.
2. Significant gaps in both British Columbia, Canada and Victoria, Australia
3. Does not fit into broader goals of climate mitigation, and climate solidarity.
4. Invite discussion on how nexus can be dealt with by the law.

# British Columbia, Canada



# Groundwater in British Columbia

- 30% of Canada's population depends on groundwater for drinking water. 80% of rural population relies on groundwater for its entire water supply.
- Primary use of groundwater in British Columbia is for industrial use (55%)

**Climate Change** – impacts on recharge, permafrost thawing, ability to predict groundwater supply. Reduced groundwater recharge and increased demand in a warming climate.

**Climate Change** - affects demand and supply. However specific effects are seen as “uncertain” in much of literature.

# Groundwater Regulation in British Columbia

- Shared role between Provincial (primary responsibility) and Federal Government.
- BC is only province where no general licensing requirement for groundwater extraction above a defined threshold level.
- Lack of legal framework lead to controversies. Eg – Nestle, bottling controversy.
- Fracking

# (Proposed) Water Sustainability Act

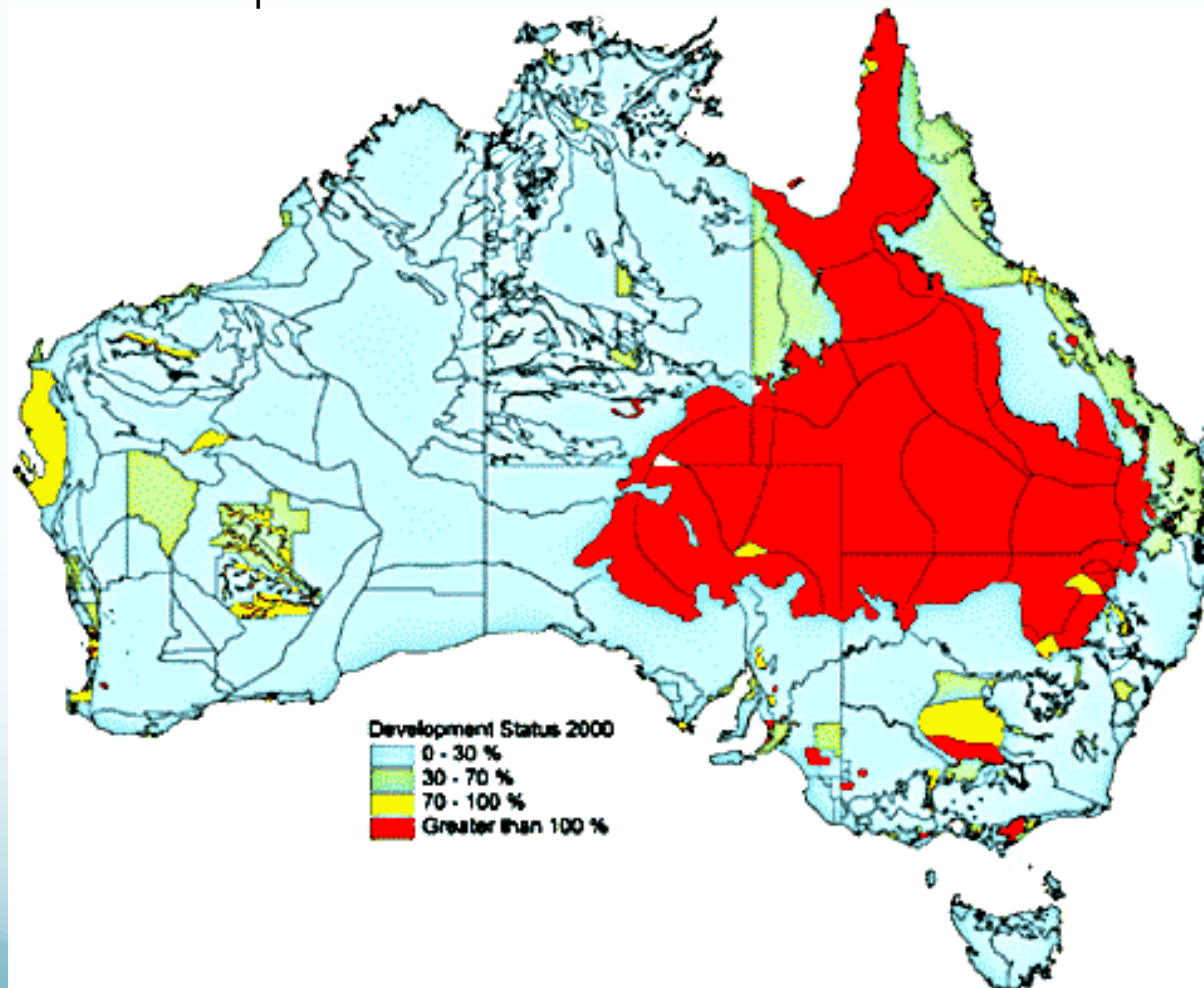
- Expected to pass this year. No express/direct link between climate change and water
- Under the Act:
  - All groundwater users would get water licenses based on their historic use of water.
  - A non-compulsory registration system for domestic users.
  - Licensing system for new non-domestic well users.
- Saline groundwater exempt from Regulation
- Secondary tools w/regard to expanded powers

# Issues

- Allocation
- Fracking
- Secondary tools
  - “Emergency”

# Australia

## Groundwater Development Status



Source: Australian Dept of Env



# Australia – Groundwater, Climate Change & Legislation

- The extreme effects: drier climate + increased scarcity of surface water.
- Recognized to some extent at policy level – paper commissioned by the National Water Commission released in December 2011.
- In Victoria - Victorian Groundwater Act 1969, Water Act 1989, Climate Change Act 2010. None specifically deal with the nexus.
- At a federal level – Murray Darling Basin Plan through Water Act 2007 deals with the nexus. Though not specifically mentioned at the outset.

# Climate Change + Groundwater: Victoria Australia

- Climate Change Act 2010 – Government decision makers to take climate change into account (“have regard to”) in for water strategy.
- Weak provision – and not extended to licensing and allocation issues under Water Act.

# Concluding Thoughts

- Lack of recognition of the nexus in legislation fit in with broader goals of climate solidarity and climate mitigation obligations (international agreements and associated obligations)
- Issue which remains “out of sight, out of mind.”
- Issue of science citing uncertain impacts, but certain there will be impacts. Bridging this communication gap between science, politics and legislation.