



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

ENVIRONMENT AND COMMUNICATIONS LEGISLATION
COMMITTEE

Estimates

(Public)

FRIDAY, 16 FEBRUARY 2024

CANBERRA

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ENVIRONMENT AND COMMUNICATIONS LEGISLATION COMMITTEE

Friday, 16 February 2024

Members in attendance: Senators Davey, Grogan, McKenzie, McLachlan, David Pocock and Roberts

CLIMATE CHANGE, ENERGY, THE ENVIRONMENT AND WATER PORTFOLIO**In Attendance**

Senator McAllister, Assistant Minister for Climate Change and Energy

Department of Climate Change, Energy, the Environment and Water**Executive**

Mr David Fredericks PSM, Secretary

Ms Lyn O'Connell PSM, Deputy Secretary

Ms Luise McCulloch, Deputy Secretary

Ms Rachel Parry, Deputy Secretary

Finance Division

Mr Robert Hanlon, Chief Finance Officer

Ms Jill Mand, Branch Head, Property and Protective Security

Ms Michelle Crowther, Branch Head, Financial Management Branch

Environmental Water and Aquatic Ecosystems

Dr Simon Banks, Division Head and Commonwealth Environmental Water Holder

Dr Marcus Finn, Branch Head, Northern Basin, Science and First Nations Branch

Ms Liz Rodway, Acting Branch Head, Policy, Engagement, Policy and Wetland Branch

Mr Hilary Johnson, Branch Head, Southern Basin, Taskforce and Portfolio Branch

Portfolio Strategy Division

Ms Michelle Croker, Division Head

Ms Dana Sutton, Branch Head, Ministerial Liaison and Governance Branch

Ms Anita Agett, Branch Head, Communications and Media Branch

Water Infrastructure and Investment Division

Ms Ruth Wall, Division Head

Mr Mark Darrough, Branch Head, Water Grid Infrastructure Investment Branch

Mr Lachlan Simpson, Acting Branch Head

Mr Malcolm Southwell, Branch Head, Water Recovery Branch

Mr Dan Croucher, Branch Head, Program Design Branch

Mr Greg Whalen, Branch Head, Regional Program Delivery Branch

Water Policy Division

Mr Matthew Dadswell, Division Head

Mr Angus MacGregor, Acting Branch Head

Ms Lou-Ellen Martin, Branch Head, Regulation and Governance Branch

Ms Angie McKenzie, Branch Head, Strategic Water Policy and International Engagement Branch

Ms Sheryl Hedges, Branch Head, First Nations Water Branch

Water Reform Division

Ms Rachel Connell, Division Head

Ms Emma Solomon, Branch Head, Water Markets Reform Branch

Mr Brett Ward, Acting Branch Head

Ms Jacqui Hickey, Branch Head

Mr Phil Coates, Principal Economist

Inspector-General of Water Compliance

The Hon. Mr Troy Grant

Mr Daniel Blacker, Deputy Inspector-General of Water Compliance, Regulatory

Ms Holly Young, Acting Deputy Inspector-General of Water Compliance, Capability

Murray-Darling Basin Authority

Mr Andrew McConville, Chief Executive

Mr Angus Payton, Acting General Manager, River Management Portfolio, Assets

Mr Tim Goodes, Executive Director, Basin Plan Portfolio

Mr Scott Ashby, Executive Director, Basin Strategy and Knowledge Portfolio

Ms Annette Blyton, Chief Operating Officer, Business Services Portfolio

Ms Kelly Casey, General Counsel, Legal and Government Relations Branch

Dr Joseph Davis, Senior Director, River Management Portfolio, River Modernisation

Ms Jack Knowles, General Manager, Communications, First Nations and Strategic Policy

Ms Megan Winter, General Manager, Basin Plan Implementation, Water Resource Plan, Accounting Branch

Dr Matthew Coleman, General Manager, Applied Science, Basin Strategy and Knowledge Portfolio

Ms Katrina Tonkin, General Manager, Finance, ePMO and Governance Branch

Dr Andrew Kremor, General Manager, Basin Strategy and Knowledge Portfolio

Dr Tony Mcleod, General Manager, Basin Strategy and Knowledge Portfolio

Australian Competition and Consumer Commission**Water Regulation and Compliance Division**

Mr Mick Keogh, Deputy Chair

Mr David Salisbury, General Manager, Small Business and Agriculture

Committee met at 08:59

CHAIR (Senator Grogan): I declare open this hearing of the Senate Environment and Communications Legislation Committee into the 2023-24 additional estimates. I begin by acknowledging the traditional owners of the land on which we meet, and pay our respects to their elders past, present and emerging. The committee's proceedings today will begin with the Inspector-General of Water Compliance.

The committee has fixed Friday 5 April as the date for the return of answers to questions taken on notice. Under standing order 26, the committee must take all evidence in public, and this includes answers to questions on notice. I remind all witnesses that, in giving evidence to the committee, they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee. Such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence. The Senate has endorsed the following test of relevance of questions at estimates hearings. Any questions going to the operation or financial positions of the departments and agencies which are seeking funds in estimates are relevant questions for the purposes of estimates hearings:

I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. The Senate has resolved also that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Witnesses are reminded of the Senate order specifying the process by which a claim of public interest immunity should be raised, and I incorporate the public immunity statement into the *Hansard*.

The extract read as follows—

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

CHAIR: I remind all senators that, as we continue our work implementing the *Set the standard* report, as chair I will ensure that proceedings are conducted in an orderly, respectful and courteous way. I now welcome Senator the Hon. Jenny McAllister, Assistant Minister for Climate Change and Energy, representing the Minister for the Environment and Water. Minister, would you like to make an opening statement?

Senator McAllister: No, thank you.

Inspector-General of Water Compliance

[09:02]

CHAIR: I also welcome Mr Troy Grant, Inspector-General of Water Compliance. Would you care to make an opening statement?

Mr Grant: I would, thank you.

CHAIR: Excellent. Please go ahead.

Mr Grant: Good morning, Madam Chair and senators, and thank you once again for the invitation to be here. I am pleased to join you this morning, along with the deputy inspector-general for regulatory, Daniel Blacker, and my acting deputy inspector-general of our capability section, Ms Holly Young. For the majority of people here, including this committee, the end of 2023, with the introduction of the Water Amendment (Restoring Our Rivers) Bill, has focused the attention of the Office of the Inspector-General of Water Compliance in relation to the new and adjusted legislative and administrative arrangements of the Commonwealth Water Act and the Basin Plan. Our new water market data enforcement role has not commenced yet. We continue to perform the enforcement role for sensitive water market information rules until they move to the ACCC at some stage before 1 July 2026, and also the trade price reporting rule compliance role until the new rules commence on 1 July this year. With other aspects of the bill we are and have been, as recently as this week, working with the office leadership team to map out the next work plan we are producing, with our new responsibilities front and centre being integrated and aligned with our legislative functions for the work we are undertaking in the year ahead. This is, as always, to ensure transparency and integrity in Basin Plan implementation.

As a result of the bill, I have agreed to conduct a body of work in line with the government and crossbench commitment to examine environmental water. I am currently looking at the options that the team and I have, prior to detailed scoping. As part of that planning, I will look at the tools and powers available to complete this work. It may be a compliance audit; it may be a combination of other tools or activities. Those decisions come at the end of the detailed scoping that we will undertake. I will provide further detail in my upcoming work plan for the next 12 months and keep this committee updated through the progress of that work.

Since we last met, I am pleased to inform the committee that we have this week received the raw data from our latest sentiment survey, conducted by ORIMA Research. We use this data to monitor and report on community sentiment towards the Basin Plan and its management and importance. Importantly, as an integrity agency, it is an independent report card, for this committee's use, on the performance of the Inspector-General of Water Compliance through the eyes of the most important people, those being the community, whose improved trust and confidence in the plan is our foundational goal. My team is working quickly to get that information to you in a digestible format that we will also publish, as we do with all our work for transparency, as soon as possible.

There are a couple of headlines from that raw quantitative and qualitative data, for your information. Since the last survey results, which were our first, in 2022, community sentiment towards water management in the basin is now more positive. Confidence and trust in, and the perceived performance of, our office have increased. This is pleasing for us. Not surprisingly, the sentiment of water licence holders to basin water management has declined, as has their support for the plan. Positively, however, their rating of us and our performance has improved. Still of concern, where more work is to be done is on the lack of knowledge that the basin exists. Substantial gaps of understanding remain, consistent with the 2022 results. The importance and benefits of an independent compliance and enforcement agency remain high. Confidence and trust remain consistent among water licence holders, but have increased significantly among community members, which is a pleasing and key finding from the survey.

Of greatest concern for our office are the results relative to independence. There is an overwhelming body of evidence from both the public and water licence holders that our independence from government is most critical to them. However, the survey showed a lower result for confidence that our independence was as credible as they desire. I look forward to sharing the full suite of results with you to digest and understand. It is important to note that this survey was conducted during the passage of the Water Amendment (Restoring Our Rivers) Bill in November. With all of these products, there are always things to learn, and things to work on and improve and, critically, key lessons—for those who are prepared to hear what the community are saying—to act on. I am pleased to report that our relationship with state regulators is continuing to grow into a strong, constructive, and collaborative place.

The Regulatory Leaders Forum, which we refer to as the RLF, is proving to be a godsend to developing interstate cooperation on the regulatory front. The median report card, a joint product of the collective, is growing in maturity, with the next report card due for release by April this year. In addition to that, the latest product we are working on is aimed at transparency in collecting compliance performance data from each of the jurisdictions to consistently show how each jurisdiction's activities and outcomes are performing in relation to regulatory compliance. We are ingesting that data currently from the states and the ACT. We are targeting that to be a product that we can provide to you later this year—the first of that information—and to the Australian public in an easy-to-read and understandable format. I am pleased to report that I have been accepted to join the Commonwealth's Integrity Agencies Group forum and look forward to contributing, along with other integrity agencies, to that body of work, such is the criticality of integrity to everything we do and everything our office stands for.

We currently have 12 open investigations, 10 of which are Basin Plan water-trading rules and two of which relate to environmental water. From a staffing viewpoint, despite a tough employment market, we continue to have a strong regional presence in the communities across the basin.

That is a snapshot for you all, but we warmly welcome any questions and, as always, are very happy to answer any and all questions and assist you in any way we can.

Senator DAVEY: Thank you for your comprehensive opening statement, Mr Grant. It is good to see you again. You mentioned in your statement that the new rules don't come into force until 1 July 2026 and that you are still undertaking your existing responsibilities, one of which is trade price reporting. Can you give us an overview of how that looks—what you do on trade price reporting currently?

Mr Grant: Sure. I will open with a few remarks and then let Daniel go to specific detail, given that he represented us on the working committee and led the body of work for the legislation. The water trade price reporting rules currently sit in the Basin Plan; the changes have moved them into the Water Act. At the last estimates hearings I was critical of those rules, and how that was reported.

Senator DAVEY: A sign of your independence.

Mr Grant: Yes. My frustrations have largely been dealt with in the legislation. My biggest concerns related to the information that needed to be provided for those trades, in that it only came from one entity and not both, and the current 'reasonable excuse' rules, which are rubbish. That has now been rectified and we look forward to the new rules commencing.

Mr Blacker: The old rules continue until 30 June this year; the new rule commences on 1 July. I reported at the last estimates hearings that we did 59 investigations into that former rule. We published a report on our website with all of our findings on that, and the sorts of areas that were of concern to us—like 'reasonable excuse' and the rule only applying to the seller, and not to the buyer and the seller. They have been rectified in the new rule, which commences 1 July, as part of the restoring our rivers bill.

Senator DAVEY: Is that 1 July this year or 1 July 2026?

Mr Blacker: There are many different elements within the restoring our rivers bill that relate to water markets. Some of them relate to the ACCC's work, some of them relate to the bureau's work and some relate to us. We have two pieces. The first is that we will be the enforcement agency for the new water market data standards. That is likely to commence around mid-2026, but it is yet to be determined by regulation. That requires the Bureau of Meteorology to develop those water market data standards for us to enforce first, and hence the time frame. The second piece is the trade price reporting rule changes. As the inspector-general said, that moves from the Basin Plan to the Water Act on 1 July this year, and we will continue to be the enforcement agency for that new rule. That will be about false and misleading information, which will cover trade price reporting and a range of other reporting.

The other piece that may be relevant is the sensitive water market rules that sit within the Basin Plan at the moment. They continue to reside with the inspector-general until the point at which they are transferred to the ACCC. That point is not yet determined, but it is to occur before 1 July 2026. To precede that, the ACCC will need to develop a range of regulatory instruments and codes. There are regulations to be developed by the policy agency to enable all of that. So, until that occurs, we continue to enforce the sensitive water market information provisions in the Basin Plan, which people sometimes refer to as 'insider trading rules'. We highlight our previous views on those rules that there was not a robust insider trading framework, and hence the changes in the bill last year.

Senator DAVEY: Hopefully, the changes, depending on how the regulations land, will be more robust and more enforceable.

Mr Blacker: That is our view. The rules have addressed some of the key shortcomings that we highlighted through our investigations report. There was a 'reasonable excuse' test in there. We thought that was a particularly low bar to get over and it has been removed. The requirements only related to the seller in a transaction. We asked for them to apply to both the buyer and the seller, and that has occurred. There are some other elements in there as well, which will come through in the data standards. We want to see the strike date on contracts. The thing that matters to water market participants is when the price was agreed, and not when it was reported. There can be a significant delay between those two things.

Senator DAVEY: I know; I have questions on that.

Mr Blacker: I figured that you might. The ACCC recommended that be collected. That's certainly something that we're working with the bureau on, making sure that it's collected as part of those new water market standards. Everyone is in agreement that we need to collect the strike date.

Senator DAVEY: On the date and the reporting dates, one of the recommendations from the ACCC was that there be near real-time reporting, which already happens in certain jurisdictions and on certain different exchange platforms. That is where, once an agreement is made, it is reported then and there, at the price for the product, openly and transparently. What is 'near real-time'? Is it that instant whereby an agreement is made and it's reported then, or do you think there is some leniency?

Mr Blacker: There are two pieces to that. The first is that the system to provide that near real-time reporting is still an objective. The Bureau of Meteorology are responsible for developing that system and they will provide that data to us, as the enforcement agency. The specifics around how that's being done and how that will work are matters for the bureau. I think what you're referring to here is that there can be a big delay between the time that there is a trade of an entitlement to the point at which it's reported on state registers. That will depend heavily on whether the bureau takes that data from state registers or whether it is getting it from another source. Those are matters that they're considering in the design. The objective there is to get as close to near real-time on everything as we can. How that is done is yet to be determined.

Senator DAVEY: I'll give you a real-time example. Yesterday we saw that \$205 million of Australian taxpayers' money has been expended on 26.3 gigalitres of water. As yet—I double-checked this morning; it might have come

up since I've been walking the halls—I still can't really follow it on any New South Wales water register. It's still not all loaded on the AusTender website, so there is a big question mark over what water product, from what water valley, for what and at what price. Water market participants have been told that all the water needed in the New South Wales Murray has been purchased, which was 10 gigalitres, which is a substantial volume of water, but not at what price or when the price was agreed. There are all these questions going on in the market, such as 'What value is my water?' People have been watching this. We don't even know what date the agreements were entered into. Really, we've got the biggest water market player at the moment, being the Commonwealth government, operating behind a veil of opacity, and water market participants are on tenterhooks because they don't know the information that they're seeking.

Mr Blacker: We would acknowledge that there are shortcomings in the existing rules, as they stand. They are being rectified through the changes that will come through, either mid this year for trade price reporting or subsequently for other data standards.

Senator DAVEY: If this tender was repeated post 1 July 2024, would they have to report their prices in a faster turnaround time for the trade, the product, the place and the price?

Senator McAllister: Senator Davey, I think the officials will find it easier to answer your question if it doesn't involve speculating about whether a certain thing will happen in the future, because that would require them to make a series of assumptions that may not be easy for them to—

Senator DAVEY: The legislation comes in—

CHAIR: Senator Davey, the officials certainly can speak to the intent of the reform process and the legislative changes that went through at the end of last year.

Senator DAVEY: If we take the government out of it, post 1 July this year, it's not a government tender; it's not anything. Post 1 July this year, a water market trade occurs. What will the difference be in reporting processes?

Mr Blacker: It might be helpful if I give a specific example related to the matter that you raised in terms of the government tender process and how that works and then give the answer to your question about at which point the different things improve. For example, as part of that tender process that you mentioned, there is one trade in the Lachlan for general security water of 500 shares, and that was at \$1,850 per share. That has been on the AusTender website for a little while and has only recently gone onto the NSW Water Register, on 2 February. As for the strike date that I referred to earlier, that contract was executed on 24 October last year. That's a good example of what happens at the moment when there is an entitlement trade. You have a potentially protracted negotiation process. Once you reach agreement on price and a strike date, which in this case was 24 October last year, you then have to go through the process of providing the state with all of the documentation and information that they require to execute that trade. That can be quite an extensive process. Often, there are many lawyers involved in that. It's not dissimilar to a purchase of land, where you have a long period of contract obligations to get through. At the point at which that goes to and is approved by the state approval authority, it is then put on the state register.

That's what we're seeing here; 24 October is the contract date. There's the long period—November, December, January—while they go through that paperwork application and trade approval process, and then on 2 February it is put on the state register. That is the point at which people must report the price and when we would seek to think about compliance and enforcement for that obligation.

Senator DAVEY: Currently.

Mr Blacker: Currently. On 1 July this year, we get an enhanced set of rules, but the architecture and system to give us real-time comes in 2026 with the bureau's work. In that period, we can still seek that data from states that hold it, but it's not supplied to us; we have to go and get it. We do that currently when we investigate something. As for the 59 investigations that I referred to earlier, we went to the state approval authority and sought that data. They provided that data and we analysed it and looked for compliance. That will become a much more efficient process when the bureau has a system to collect that in near real time and provide it to us, as the enforcement agency, in close to real-time. There are two big improvements: one is in the rule and the other is in the system that gives us data. The rule happens mid this year; the data happens mid-2026, or earlier if they can get there, but that is a big undertaking that they have to deliver.

CHAIR: What I'm hearing is that it will be quite a significant piece of work to develop that system.

Mr Blacker: Very much so, yes.

Mr Grant: The bureau are in a far better position than we are to inform you on the progress and timings.

CHAIR: Yes.

Senator DAVEY: Unfortunately, they have been spilled over. I've got a lot of questions for them too.

CHAIR: They are on 26 February.

Senator DAVEY: You mentioned insider trading, for want of a better term. What do we call it? The official term is—

Mr Blacker: Sensitive water market information.

Senator DAVEY: 'sensitive water market information', which is very important. It was reported in the *Australian* newspaper, so it's no secret. I thought I had the *Australian* here with me so that I could table it. I'll seek to get it. On 4 April, I wrote to the inspector-general, raising concerns about water market integrity and the potential for the water minister to have inadvertently shared inside information with reporters and journalists from the ABC 7.30 program. Has that matter been resolved?

Mr Grant: Yes, in parts. There are two components: one relative to the minister and one body of work in relation to the department. The ministerial side of it has been completed. My investigators have informed me—the deputy can elaborate—that there's no case for her to answer. Everything she did was well within the law and she actually went above and beyond, so she is cleared absolutely in our mind. As for the work being undertaken in relation to the department, we have contracted independent auditors. That work was due to be completed and we could have given you a fulsome answer on the entire investigation. Unfortunately, the entire team got COVID at the same time—

Senator DAVEY: That's what happens when you work too closely together.

Mr Grant: It's just a matter of weeks away to give you a full response.

Senator DAVEY: And then you'll respond.

Mr Grant: Is there anything that you want to add in relation to that?

Mr Blacker: No. I'm happy to take any follow-up questions.

Senator DAVEY: One of the key concerns was what steps were taken to ensure that the film crew and the journalists understood that they might be exposed to sensitive information and that they would not then use that information. Was there a contract signed or an undertaking that they would not participate in the water market post interview, which is where the concern came from?

Mr Grant: Sure. Because the two are linked, it's difficult to answer that until we finish the complete investigation, and we'll provide that in full to you. But I will give you the assurance that the minister has been cleared and has committed no breaches.

Senator DAVEY: I'm happy with that.

Mr Blacker: She went above and beyond in relation to that.

Senator DAVEY: I always assumed that it would have been inadvertent. The only other thing is whether there are there similar concerns, not about the minister but about other issues. Does sensitive information come up often in your—

Mr Blacker: It's something that we think about quite frequently. There are a few different elements. The first one is about the rule. The rule at the moment, as I mentioned earlier, is not what we would consider to be a robust insider trading framework. That is coming with the changes from the bill last year and has been designed through a whole range of regulatory instruments that the ACCC, once that transfers from us, will be the enforcement agency for. The new rules will give them a much broader set of things to look at. The rule, at the moment, requires that the announcement be provided generally to the public. How most agencies do that is by putting it on their website. We are always encouraging people to take the step beyond the base compliance of making it available and actually get it out to people who want to know. People aren't sitting there waiting, checking the website every day, in case someone announces something. We're asking people to get it out there. In that circumstance, a national broadcast, for us, would be the step beyond. Some of the things that you pointed to as ideal contract arrangements or other things in place are not requirements of the current rules. They are matters in the design that the ACCC might think about. We talk quite frequently with the ACCC about what we know about the rules and what future rules might look like.

In relation to the piece of work that the inspector-general mentioned before, we're very conscious that the department is setting the rules for the water market and also acting in the water market as either a purchaser or a seller, depending on which part of the department it is. That requires a management framework to make sure that sensitive information is appropriately managed. That's the focus of the current audit. We've just finished the fieldwork component of that, and once the team is back on deck we'll be able to get into the reporting phase. It's only a matter of a couple of months before we'll be able to provide a more detailed set of findings around that audit.

CHAIR: In your opening statement, you talked about some of the water licenceholders being less enthused about the Basin Plan now than previously. Obviously, there was a tick-up in challenges when the legislation was introduced last year, and concern. Obviously, our colleagues in the National Party did not support these changes. I'm wondering whether you can step out for me what sort of feedback you're getting from water licenceholders. Obviously, the improvement in the system is about transparency and making sure that people are doing the right thing. Are you getting feedback about how they're feeling about these changes?

Mr Grant: Yes. There's a 20 per cent drop from water licenceholders in relation to their confidence regarding water management and, therefore, flowing on to their confidence in the Basin Plan management overall. The qualitative data in the research is saying that they're frustrated with the people running the decisions, basically, and government more broadly.

CHAIR: And anxiety about the transparency and the tightened conditions that you're bringing in?

Mr Grant: Yes. Each of the sections, when we provide them to you, breaks that down. We have percentage changes in individual metrics; then we have index changes, when you ask a broader question about overall satisfaction: whether it's transparent and whether they have confidence. Those sorts of questions are combined and they give you an index change. I don't have the report in front of me in order to give you all of those specifics, but we're providing that to you very soon; that will also be published.

Mr Blacker: I might add that the piece of work that the inspector-general is referring to is our survey work, but we also have field officers out on the ground every day and engaging with community. I'll provide a couple of things that we're hearing through that engagement; I don't think any of them will surprise members of this committee, from a water licenceholder perspective. That was a group of people who, as the survey shows, were not supportive of some of those changes. They raise issues around the 1,500 gigalitre cap. They raise issues about the neutrality test. They're raising issues with us about consultation processes and uncertainty around changes. In relation to the cumulative impacts, we're hearing quite a bit that they want those to be considered as people implement those changes. The perception is that buybacks in one area may have a higher impact. I don't have the data to say whether that's true or not, but the view that's been put to us by the community is that, if there have already been buybacks, anything above that can have a cumulative effect, and they want that recognised in this process. That's what we're hearing on the ground from our field officers as coming from water licenceholders, but that's not the only group that we're talking to.

Mr Grant: For example, that snapshot of data is from 152 engagements and, as an example, 40 of those 152 are about buybacks.

CHAIR: Is that because it was writ large when you did the survey?

Mr Grant: This is an ongoing process. We get these monthly reports from our field officers and they do a thing that we call 'shoulder surveys'. When we do our comprehensive sentiment survey every other—second—year, it also feeds in and helps to give us a currency of sentiment. Out of the 152, 40 related to buybacks. Of the 13, which were the 450 gigalitres, nine related to SDLAM; 24 related to deliverability; 17 related to trade markets; 16 related to WRPs; 13 related to metering; 26 related to environmental water; 28 related to decisions around river operations; and 32 related to overall trust and confidence. It's a fairly broad spread. As the deputy said, they then cumulatively add up to the 20 per cent drop in the overall results.

CHAIR: Senator McLachlan, do you have any questions?

Senator McLACHLAN: I have some questions. I have one on that. Do you break the complaints down by state and territory?

Mr Grant: Yes.

Senator McLACHLAN: Are you able to do that for the committee now?

CHAIR: They're going to provide us with a report.

Mr Grant: Yes.

Senator McLACHLAN: Okay. I'm interested because those sentiments would vary, depending on what part of the river you're on, I'd imagine.

Mr Grant: They do. We have that information, yes.

Senator McLACHLAN: Can I take you to another topic, staffing? I touched upon a question on the adequacy of your staffing. I know that we're in a period of change and potential change, and I am aware of your comments in your submission to the review of the Murray-Darling compliance. But do you have anything to say to the committee at this point in time about the adequacy of your staffing and your views on, when the new act comes in, maybe

potential changes of staffing? I know that the ACCC are taking on some compliance, so I appreciate that it is probably a bit of an unfair question, but are you happy at the moment and what's your view going forward?

Mr Grant: Thank you for the question; it's a really good question. I'll ask my deputy for capability to help with actual figures of staffing numbers currently as well. We have some challenges coming up in relation to staffing. We will have a need to conduct one of our functions that we currently aren't staffed or resourced for, and we currently have an ask with the government in relation to that. For the work that we're doing at the moment, we have enough people. The challenge we have, with the new work that we're doing and the growing demand on our workload, is the specialist staffing skills that we require in the office. It's a really shallow pool, and there's a lot in the water space after the same people. Also, we have the challenge that we can't offer the greater salaries offered by other competitors in the market—that's a challenge for us—so what we offer is being the best place to work. We're building ourselves up to be better than the rest of these guys so that they want to come and work for us. We've been reasonably successful in that. We're very strong culturally. Obviously, we offer a lot of flexibility, in that you can live and work anywhere in the basin. We have multiple regional offices available to work from as well, which is attractive. Can you give the senator our current staffing numbers, Ms Young?

Ms Young: Absolutely. The inspector-general is currently supported by 45 staff and, as Mr Grant mentioned, around a third of them are based regionally, in our regional offices, and the rest are in the state offices.

Senator ROBERTS: What was that breakdown in regional?

Ms Young: Just over a third of our staff are regional.

Mr Grant: We can tell you state by state, if you'd like.

Senator McLACHLAN: I would. Because it's estimates, I'm interested in the potential budget implications. What will be the nature of the ask that you're going to need, given a new regulatory regime, and have you finalised that figure? I appreciate that there will be some variances.

Mr Grant: Yes, we have mapped out our needs. I met with the minister as late as yesterday in relation to that.

Mr Blacker: Just to pick up on the change in activity, we're already funded for the new water markets activity, so that's already been provided to us. We're using that for current investigations of the water market rules as they stand now and, as those changes occur, we'll reorient ourselves. There are a couple of challenges for us as we establish. We're coming into our third year of existence. In year 1 of any new agency, there's a ramp-up in terms of people, so we've gone through that phase. Inevitably, you have a budget and you struggle to get the people to utilise that budget fully to have the impact that you need to have. We're at the point now where, at the end of two years, we're fully utilising our budget and we have pressures, trade-offs and prioritisation that we have to do.

There's also a shift in our business. A lot of the early work was about regulation, investigations, audits and the things that you would expect a regulator to do. We also have quite a substantial piece of work to do as an oversight agency, and that's a different skillset. That's where we're looking to build and recruit specific skillsets to undertake what is, in effect, a brand-new activity.

Mr Grant: I think there are seven inspectors-general in the Commonwealth. We're the only inspector-general that's both a regulator and an oversight body. All of the others are just oversight.

Senator McLACHLAN: What's the anticipated increase in the budget post regulatory change? We've changed the regulation, but—

Senator McAllister: Senator McLachlan, you'd understand that the budget process proceeds in the ordinary way and that those matters are cabinet-in-confidence, until such time as the budget processes are concluded.

Senator McLACHLAN: You've made your ask, anyway. We'll have to wait until the next estimates to prosecute whether you're adequately funded. Thank you, Minister.

Mr Grant: Yesterday, I made it abundantly clear to the minister, who was very receptive, how critical my ask is.

Senator McLACHLAN: Yes. I was coming from that angle of making sure that you're adequately funded, given the changes that have come into place. Can I take you to investigations? I appreciate that you gave a figure in your opening statement. I'm interested in how many have been closed. That's just one figure that's currently on the books, and we had a conversation last time saying that you had 21 open. I'm interested in how many are new, how many are closed and your turnover.

Mr Grant: Yes, we have all of those figures here. Deputy Blacker leads that team, so I'll let him answer.

Mr Blacker: We've had 88 investigations since our inception. We currently have 12 open investigations and they're at varying stages. Some of those, potentially, are coming closer to an enforcement decision rather than the

beginning of an investigation. Of the open 12, 10 relate to Basin Plan water trading rules and two relate to environmental water. We have another category that we don't capture in our statistics, which is when somebody brings an allegation to us and we determine that's best dealt with by a state regulator through their jurisdiction as the first port of call, and we refer that. They aren't in our statistics. To give you an example, at the moment we have six allegations in relation to Queensland that relate to storages; other water supply works; a take of water, including overland flow; and a harvesting. They are matters we refer to the Queensland department for their action. We then work cooperatively with them, under a memorandum of understanding about how that works. They take the lead on the investigation, we follow that and monitor that through to a conclusion and an outcome and then they provide us with all of the details of their outcome in that space. That's another category of activity that's not always seen through our statistics.

Senator McLACHLAN: What's the average time for an investigation? I appreciate that's like asking how long a piece of string is, so I'm not coming from that perspective. What's your opening and closing average?

Mr Blacker: I'll take that on notice. I don't have those details in front of me, but I'm happy to supply those on notice.

Senator DAVEY: Just out of interest, are there KPIs regarding what you hope to achieve with investigations, after receipt and commencement?

Mr Grant: No, not specifically, because they're all different in complexity and they're all different in type. Also, a lot of the time, we're relying on information that's provided to us, so there's sometimes a lag in information to us and/or other circumstances outside our control. But the staff and the deputy are very clear about my expectations that we move briskly, as fast as we can. We have established structures in place with a triage committee in relation to which way complaints come, whether they're an audit, an investigation et cetera.

Mr Blacker: There's a whole other category that come in that are triaged that don't lead to an activity. Everything comes in to our triage committee. We then look at the matter and all of the tools available to us—whether that's investigation, audit or inquiry—and we look at the most appropriate way to do that. Some things don't get to any of those tools because they don't meet the threshold of potential noncompliance or there's a range of other reasons. But we have criteria that we apply to each of those incoming matters to determine whether it moves forward or not.

Senator McLACHLAN: Do you break it down by state and territory?

Mr Blacker: The investigations?

Senator McLACHLAN: The investigations.

Mr Blacker: We do. I don't have that summary in front of me, but I am happy to supply it on notice.

Senator McLACHLAN: I would like to know the category of matter and where it is coming from.

Mr Grant: We would be happy to give that to you.

Senator McLACHLAN: Would it be easier to ask for after a six-month period? I am trying to get a snapshot of your heat map, if that term is appropriate, of where the problems are coming from, from your regulatory perspective.

Mr Grant: We also heat map what I was referring to in response to your earlier questions; about where the sentiment is coming from, and that is valley by valley down to that granular level.

Senator McLACHLAN: I was going to ask for that when it is available.

Mr Grant: We will supply that to you as well.

Senator McLACHLAN: Yes. While we are on investigations, last time we touched on referrals to the National Anti-corruption Commission; have any referrals been made? I will not ask about the nature of the referral.

Mr Grant: We have met with two integrity oversight bodies in relation to a matter which is ongoing and which had not been resolved.

Senator McLACHLAN: I will not pressure you any further on that. You have touched on the ACCC. Have you had any interactions with the South Australian river commissioner?

Mr Grant: No.

Senator McLACHLAN: Have you sought any engagement with him, from your perspective?

Mr Grant: No.

Senator McLACHLAN: Have you had any correspondence with the SA river commissioner?

Mr Grant: I would have to triple-check, but I don't believe so.

Mr Blacker: I am happy to say that no, we have not. The potentially minor exception to that answer is that we are aware that the South Australian government released an updated response to its royal commission recommendations recently. A number of references to the inspector-general were included in that published document.

Senator McLACHLAN: That was the reason for my questioning. We may have a different answer when we next come together, given that release.

Senator ROBERTS: Thank you for appearing again. It is good to see you, Mr Grant.

Mr Grant: You too, Senator.

Senator ROBERTS: I have some questions about the sentiment survey. Who is surveyed, how many people are surveyed and how are they selected?

Mr Grant: I don't have those exact figures before me in my notes, but we are happy to provide them to you.

Senator ROBERTS: But could you talk about them now—not the exact numbers; we will get those on notice. Perhaps you could talk about how you make sure this survey is accurate and representative.

Mr Blacker: It is critically important that the design of that survey has a method which makes sure that we capture all of the various sentiments at different locations. We look at geographic representation, at volume and at the ability to show a 'representative'. So there is the number of people to whom we speak and the different categories of how we speak to them—whether face to face, in focus groups, online or via telephone. We use a range of different methods. We break that down to capture all of the different aspects across the basin geographically that are going to represent that. Then we break down the results accordingly.

Senator ROBERTS: So that selection process is done internally.

Mr Grant: It is conducted by the contracted survey company ORIMA.

Senator ROBERTS: So you specify the broad range of people, and then they will do the selection?

Mr Blacker: They do the selection and make sure that it is statistically valid and that the results are reliable.

Senator ROBERTS: Perhaps you could comment on the decrease in perceptions of independence and who they are referring to as being not as independent; is that you?

Mr Grant: The public broadly, as well as water licenceholders.

Senator ROBERTS: So the public generally perceive a decrease in independence?

Mr Grant: Yes.

Senator ROBERTS: Is that of your office?

Mr Grant: Yes, it is more their perception of our independence. An example that came out of the survey was that with any material that says 'the Hon. Troy Grant' they think I am a government representative. So we are removing that from our publications. On any of our promotional material we have the Inspector-General logo. Because we are funded by the Australian government, the Australian government coat of arms sits on our shirt. So when we go to a field day like AgQuip and engage with people, the sentiment is: 'I am not talking to you; you're just another mob from the government.' We have that conversation, explaining that we are independent, and then they engage thoroughly. For that type of thing, we have inquired and sought approval to not have that on our clothing when we are at field days, et cetera. But there is a flipside to that. Being the body we are, the reports we produce and publish have the coat of arms on them because it gives them that authority figure. So there are two parts to the sentiment in that regard.

CHAIR: That would make it hard to manage. On the one hand it is an upside, and on the other hand it is not.

Mr Grant: We consider ourselves to be the 'little engine that could', so we overcome any challenges.

Mr Blacker: We break the 'who' down by groups so that we can see the different types of things people are telling us. We look at community as a broad, we look at water licenceholders and we look at First Nations. We break the results down by category. Each one of those, again, is built to be statistically valid through the methodology.

Senator ROBERTS: The comment about independence would indicate to me that, if they perceive that you are from the government and they are a bit wary, there is not so much trust for the government involved in the Murray-Darling Basin.

Mr Grant: There is a general sentiment of distrust of all governments out there, from what we are hearing.

Senator ROBERTS: I wasn't talking about the Albanese government; I meant the federal government.

CHAIR: Any government.

Mr Grant: My answer is that all governments are perceived that way.

CHAIR: Like all politicians.

Senator DAVEY: I have questions on outstanding issues. Mr Grant, at the River Reflections Conference in June 2022 you were scathing about the failure of New South Wales to have any of its water resource plans accredited. The hope at the time was that this issue would be resolved. It has now been 18 months. How many New South Wales water resource plans have been accredited in that time?

Mr Grant: That specific question is best for the Murray-Darling Basin Authority; they have that role.

Senator DAVEY: I will ask them too.

Mr Grant: I am just getting the figures for you. Quite a few have been accredited, so significant progress has been made, and we are happy with that progress. Obviously, we will only be satisfied once they are all accredited.

Senator DAVEY: Are they mainly groundwater, though?

Mr Grant: There is a mixture, but the majority to date have been groundwater. Of a total of 20 in New South Wales, there are 11 groundwater WRPs and nine surface waters.

Mr Blacker: As for the current status in terms of those that are operational from a compliance perspective, of the 11 groundwater, nine are operational and two are outstanding. Of the nine surface water WRPs, one is operational from our perspective, with eight to go. Those eight represent a significant portion of the water take in the basin, so they are a key focus for us. We meet regularly with them in order to understand their status and any process impediments. In this issue and a whole host of other issues, we want to see intent and progress. We understand that they are late and are not going to get there on time, but we want to see those two things. When those two things are not evident, we become increasingly concerned. As the Inspector-General has said, we are looking for an outcome there.

Senator DAVEY: I too have been following the progress of New South Wales water resource plans, so I share your frustration. The New South Wales DPI website states that key water resource plans, including the New South Wales Border Rivers, the Lachlan, the Gwydir, the Macquarie-Castlereagh, the New South Wales Murray Lower Darling, and the Barwon-Darling were withdrawn due to 'minor cross-referencing errors'. Through this committee, over multiple years now and multiple inquiries like this, we have had the same sort of feedback: minor typographical cross-referencing errors. Is it accurate or adequate that this is at least the third time they are dealing with typos for something so critically important?

Mr Grant: The information you have just taken from their website, I am not even sure is accurate from the information I have. They are questions best for the MDBA, to give you a better status.

Senator DAVEY: I will go to the MDBA as well, but I have a print-out from the website—

Mr Grant: I am not doubting that what you are saying is on the website. As the deputy has said, we talk regularly to the MDBA and also the New South Wales water minister. So that is for them to talk about; not us.

Senator McLACHLAN: I take you back to staffing. You have said that you are competing in a market of high demand for staff. Who are your competitors for staff? Private enterprises?

Mr Grant: Other government bodies, private ones and universities, tertiary.

Senator McLACHLAN: And they are all paying more. What is the average increase you could get—

Mr Blacker: It depends on the skillset we are after. One of our challenges, as what I will call a 'micro agency' with a very small footprint, is that we need a broad specialist skillset. We currently have people in our team who are water market specialists, trade specialists and modelling specialists. That needs to be broken down between a groundwater and a surface-water modelling specialty. We are always interested in water accounting skills. So there is a broad range of things. We have investigations skills; that is people who come from enforcement or with an enforcement background. So it depends on the skill we are after and the market we are competing with. Some of the things we need most acutely are water knowledge and highly experienced and skilled people in those specialty roles, like modelling. They are skillsets that can take decades to develop in a person. The number of people who have those skillsets can be quite small, and often they are already engaged fully within the agencies we regulate. So there is a challenge there about how we manage that capability and where we source it from. Competitive rates play into that, as the pay scales of different jurisdictions and agencies differ. Some of those, as they accelerate in one jurisdiction, will draw talent, and there is the opposite of that—but equally, a level of employment. At the moment, we have one SES role, which limits our ability to bring people in at a senior level.

Mr Grant: I can assure you that the ones we have are all crackers; they are terrific.

CHAIR: As in a good way.

Senator McLACHLAN: Do you then need to adopt, as you have suggested, a different incentive to come to you, given that you are looking to potentially take employees from state bureaucracies, let's say? In that context, how do you also manufacture this talent? Are you going to have an internship program or something like that to build this knowledge, rather than look to a state bureaucracy?

Mr Grant: You must have been at our meeting on Monday, Senator. Yes, we do all the above. We're actively considering different employment types and arrangements to attract that. My team is actively meeting with universities currently, looking at bursary projects, our own internship-type things. We do access the department's internship program and we've had enormous success there. We've had some brilliant interns in the two-odd years. One is back as a permanent employee, which we're really proud of. We're very active in that space and very mindful about not only having to think about the current marketplace or workplace but also looking into the future for the water industry to make sure that there are more skilled people there.

Senator McLACHLAN: With a small pool of knowledge in a community, how do you mitigate the risk that the regulator is populated by people who come from within a small knowledge family? From your regulator perspective, that additionally creates a risk that everyone knows everybody.

Mr Grant: Sure, but we're an integrity agency as well, so we've got a tonne of safety checks in that regard. We use the contracting ability to contract in specialist services for set projects as well.

Senator McLACHLAN: I don't want to delay this, so perhaps you could take on notice to provide the integrity measures which you apply internally to ensure that you've got the firewall there.

Mr Grant: It's part of our recruitment process, it's part of our induction process and it's an annual process that we have.

Senator McLACHLAN: But you're unique because your knowledge of water, relative to the nation, is within a small knowledge base—

Mr Grant: Yes.

Senator McLACHLAN: It is within academia, state bureaucracies, the federal bureaucracy and you. You have an interesting challenge, unlike any other regulator, I would suspect.

Mr Grant: I can concur with some of those sentiments; yes.

Senator DAVEY: I want to make a last comment. The compliance reports, Inspector-General, are continuing to improve. In your opening statement, you said that you're continuing to work with the states on those compliance reports. Are they getting closer to comparing apples to apples?

Mr Grant: How about apples to mandarins?

Senator DAVEY: It's getting close.

Mr Grant: At least it's all fruit; that's possibly a good way to put it. Similar to the report card that we get, we want a narrative to explain the language differences for what they all call the same thing. That's a big component in what we're building into our dashboard and the explanatory notes when they're reading the figures. One jurisdiction will call a penalty infringement notice just that and the same thing in another jurisdiction will be called something else, but they are the same thing. We're reconciling all that. That's the challenge in the data compilation: to then present it in a legible and digestible format. The hope is to have an easy dashboard—to push a button and that information will pop up and a list of all those similar categories will be there, with an explanatory note.

CHAIR: Thank you so much for coming to spend some time with us. We will let you go now. We look forward to seeing you in a couple of months.

Mr Grant: Thank you very much, Senator. Thank you for your time.

Department of Climate Change, Energy, the Environment and Water
Murray-Darling Basin Authority
Australian Competition and Consumer Commission

[10:03]

CHAIR: I now call officers for Murray-Darling Basin Plan cross-portfolio matters. Welcome, Mr Fredericks, Secretary of the Department of Climate Change, Energy, the Environment and Water; Mr McConville, for the Murray-Darling Basin Authority; and Mr Keogh from the Australian Competition and Consumer Commission. Would any of you like to make an opening statement?

Mr McConville: No.

Mr Fredericks: No.

CHAIR: As we all know, we spend the whole day riffing off the various elements in the room. I was going to ask my colleagues to consider chiming in on particular issues, but I see that we're missing a few. We'll try to be as structured as possible whilst allowing people to ask whatever questions they require. But I will say that the ACCC will only be with us for a short time and everybody else will be with us for the whole day, so perhaps I could ask you all to focus your questions and get the ACCC done because I will be letting them go earlier. Would you like to make an opening statement, Mr Keogh?

Mr Keogh: No. I'm fine, thank you.

CHAIR: Senator McLachlan, do you have anything for the ACCC?

Senator McLACHLAN: Yes, I'll ask a couple of questions. In your water monitoring report, I noted that you had received seven complaints about water related matters. I'm looking for an update on the processing of those complaints and the number of complaints that are currently on your books.

Mr Keogh: The current number of complaints, technically speaking, is three; four others were more in the nature of inquiries. The complaints relate to concerns about an infrastructure operator changing charges and potentially restricting trades, and also a complaint about a water intermediary, a water broker, who put out information that could potentially be considered misleading in relation to some water market information.

Senator McLACHLAN: Of those seven in the annual report, how many have been resolved?

Mr Keogh: The ones that are subject to investigation are still under consideration.

Senator McLACHLAN: What number was that, of the seven?

Mr Keogh: Three.

Senator McLACHLAN: So, in essence, at the moment on your books you have three outstanding investigations.

Mr Keogh: Yes.

Senator McLACHLAN: Have any new matters come in?

Mr Keogh: Not that I'm aware of, no.

Senator McLACHLAN: You can correct this on notice. I'm not trying to necessarily press you on the numbers; I'm just trying to understand the nature of the complaints coming out of the system to the agency.

Mr Keogh: Our complaints relate mainly to, for example, intermediaries, infrastructure operators.

Senator McLACHLAN: So, as at this moment, we're looking at three on the books.

Mr Keogh: Yes.

Senator McLACHLAN: And there have been no new ones since then that you can recall.

Mr Keogh: No.

Senator McLACHLAN: Can you break them down by state?

Mr Keogh: I'd have to take that on notice.

Senator McLACHLAN: If the complaint is against an agent, a particular entity, it might be nationally operating.

Mr Keogh: Yes.

Senator McLACHLAN: If it's possible, break it down by state, but I appreciate that there may well be just a complaint against a national entity. Perhaps you could clarify that in the data in your response.

Mr Keogh: Yes.

Senator DAVEY: You commented that some of your investigations are into water market intermediaries. Through my office, I've had people complaining about water market intermediaries as well. Given the structure of a lot of water market intermediaries, where their customer base is subcontractors—so the intermediary owns the bulk of the water licences and then subcontracts them out—how much scope does the ACCC have within that arrangement to act on complaints about intermediaries?

Mr Keogh: It's probably limited at the moment. In effect, that's part of the objective of the development of an intermediaries code, which is work that's about to commence and, hopefully, will be close to fruition by early or mid-next year. That is the interesting issue: that there are potential breaches of competition law and Australian Consumer Law, misleading and deceptive conduct, that occur where an intermediary, for example, doesn't disclose information. But it would be quite challenging and it would have to be a very blatant example to take action under Australian Consumer Law, for example, because that typically has to be progressed as a matter through the Federal Court. That means we have to collect evidence and get a response from the party that's the subject of that. Then we

have to seek external advice from a senior counsel about our reasonable grounds for a prosecution. Once that is completed, we would lodge a statement of claim in the Federal Court. Then the Federal Court would proceed to commence hearings, which usually involves a number of directions hearings regarding evidence et cetera, and then finally the hearing proper. That process can take several years and we're really in the hands of the courts. We have to be strongly convinced that there's a very significant breach that's causing harm before we take action under that regime.

Senator DAVEY: The existing one, yes.

Mr Keogh: With a code in place, a code will have specific obligations in terms of record keeping, information and disclosure et cetera. A breach of the code will be a much simpler matter. That's certainly our experience with the other codes that we administer; they can be much more actively engaged with as we go.

Senator DAVEY: Are you getting good cooperation from industry in developing and designing this code? Is there good buy-in from the industry?

Mr Keogh: That's a function that the department has. Certainly, in our inquiry into water markets in 2018—I think I've commented before—it was the first time ever that we had an industry group saying, 'We want a code.' I suspect that the cooperation will be good, but, really, the department is responsible for developing that code.

Senator DAVEY: I think the code might go some way, as well, to helping the industry reputation.

Mr Keogh: I suspect that was part and parcel of their enthusiasm for having a code in place.

Senator McAllister: Senator, Ms O'Connell can provide some additional comment about the process that's being undertaken to develop the code.

Ms O'Connell: The department is leading the work on the development of the code of practice. As Mr Keogh said, there's certainly support for that. Strengthening the water market reforms is what the legislation, in its passage, is about. It's generally welcomed as increasing transparency and rigour in water markets. I'll ask Ms Solomon to talk to the development of the code.

Ms Solomon: We have a whole schedule of engagement with stakeholders about all the elements of the reforms, including the water markets intermediary code. We will, of course, be working very closely with the ACCC on the development, given that they will be the regulator and given all their experience in administering other codes. That process kicked off this week. We had emails go to all the relevant stakeholders to set out a consultation timetable: the basin states, entities, individuals and the Australian Water Brokers Association IIOs, because some of them may act as water market intermediaries. There will be a webinar in the next couple of months. There will be some workshops and the ability for some people who are directly affected to have one-on-one discussions. We hope to put out an exposure draft for consultation this year.

Senator DAVEY: This year.

Ms Solomon: Yes.

Senator DAVEY: I note that the ACCC are here for a limited time. I do have further questions on that process, but I'm happy to come back to you. Mr Keogh, we also heard this morning from the inspector-general about the new water market rules and their staged implementation. Some come into effect on 1 July this year and some come into effect in 2026. They incorporate the inspector-general, the ACCC and the Bureau of Meteorology. One of the recommendations of your road map was to provide 'near real-time pre-trade and trade information reporting'. What was meant by that? What's 'near real-time' and what's 'pre-trade' and then 'trade'—also acknowledging the sensitive water market information provisions?

Mr Keogh: Pre-trade is, in fact, the bids and offers on exchanges. For example, there might be a parcel of water available, either an allocation or an entitlement, and there will be bids and offers associated with that. From a market integrity perspective, it's quite important to be able to access that to see whether there's any manipulation going on in terms of, for example, bids for quite small parcels at high prices that are giving the impression of a higher market price than might actually be the case. It's those sorts of things. All of that information is quite important in terms of the rules that we will have, which are the market integrity rules. The critical issue, though, is that information has to be readily available to interrogate as an effective way of enforcing those rules. It's not much good having those rules in place if you can't actually access the information you need to mount a case or to decide whether or not poor behaviour has been occurring. That's why those market integrity rules, for example, don't come into effect until 2026, because that requires that information to be available, the data hub to be set up and, hopefully, the information to be there as quickly as possible, adjacent to when the actual trade occurs.

Senator DAVEY: Effectively, there are two water markets. There's the market for permanent trade—

Mr Keogh: Yes.

Senator DAVEY: and the market for temporary trade, and a lot of people like to think that they're synonymous. But permanent trade is quite clunky, isn't it? It's actually a licence transfer, so it has to go through—

Mr Keogh: The state.

Senator DAVEY: state regulators.

Mr Keogh: In the case of where it's a permanent trade from inside an IIO, for example, it may have multiple steps, and then the state authority, before it becomes part of the official registry, if you like, of the state. At that point, that information becomes more readily available. It's not unlike the real estate market, for example. A sale may occur, but there's a process that occurs before the sale information becomes publicly available; whereas with allocation trades, you're right. You would expect them to occur much more quickly. You would expect the approval associated with them to be much simpler; therefore you would hope that the information arising from them would be more readily available and in a more timely fashion.

Senator DAVEY: We heard from the inspector-general about the difference regarding a permanent trade strike price, which is the date when a trade is agreed and the terms on which it is agreed, but then it can take some weeks to actually appear on the register. There is a thought that the strike date should be reported as well as the registration date so that people can actually see the point in time, because sometimes the market has moved quite substantially in the intervening period and people scratch their heads and say, 'But I've just entered a trade which is a completely different price,' not realising that the actual strike date might be in the preceding two months.

Mr Keogh: The department might be more responsible for the fine detail of exactly what has to be recorded and when.

Senator DAVEY: But it was your road map, Mr Keogh, that actually made the recommendation. When you wrote the recommendation, what were you envisaging?

Mr Keogh: As a general principle, markets work better when there's a balance of the information available to all parties involved in the market; that's just simple economics. As much as possible, it's ideal that there's ready access to information from all participants in the market in a timely fashion. As we see in the real estate market, it's near that; it's not absolute. Probably the best example to look at in the agricultural sector is the wool industry. The Australian Wool Exchange runs the auctions and makes all of the information, including buyers, sellers and price, readily available in near real time; you can follow the market that closely. Other markets in Australia are less so. With beef and sheep meats, for example, there's a partial collection of the information and that information is probably accessible within a day or so, but that's about the time frame. It varies, depending on different markets and different commodities. In broad principle, ideally, the better the information is and the more timely that it's available to all participants in the market, the more efficiently the market operates.

Ms Connell: A critical focus of the reforms, obviously, is improving information and transparency across water markets. A significant amount of funding has been made available to the bureau to establish a water data hub and there are other regulatory mechanisms and rules that are being put in place. I might ask Ms Solomon to address some of the detail of those.

Senator DAVEY: I am trying to focus on the ACCC while we have them here, because they have to leave. I have the rest of you wonderful people until 4 pm, so I can always come back to you. Mr Keogh, would you consider requiring people to sign non-disclosure agreements to be in keeping with open and transparent marketplaces?

Mr Keogh: I'm aware of allegations or claims of that practice occurring. I do not have any more information about that. You might better direct that question to the department or other officers.

Senator DAVEY: I'm happy for the department to step in while it's on a specific topic.

Ms Solomon: I'm sorry; I missed the question.

Mr Keogh: Whether participants in the recent water tender have had to sign non-disclosure agreements.

Mr Fredericks: Mr Keogh, that is very helpful of you. I might get the senator to ask the question again, please.

Senator DAVEY: Is requiring people to sign non-disclosure agreements in keeping with an open and transparent water market?

Ms Solomon: As a general proposition, it is unlikely, but I'm not involved in the actual purchasing of water.

Ms O'Connell: I think we'd need to know the specific circumstances.

Senator DAVEY: On the significant circumstances, my understanding is that, with the tenders that were announced yesterday, the \$205 million for 26.25 gigalitres of water, part of that arrangement required the participants in that tender process to sign non-disclosure agreements.

Ms Connell: Apologies. Neither Ms Solomon nor I were involved in that process, but we can bring the appropriate person to the table who can speak to that.

Mr Fredericks: The relevant staff aren't sitting at the table now; they are here.

Senator DAVEY: That's all right. We'll come back to it later.

Mr Fredericks: I would have thought why don't we—

Senator DAVEY: My question was more specifically to Mr Keogh and whether, in developing his road map, he ever considered that non-disclosure agreements would be part and parcel of an open and transparent market.

Mr Keogh: I'll go back to what I said before. The greater the degree of transparency and the timeliness of that transparency, in general, the more efficiently a market operates. There are different markets and different rules that apply but, in general, that is a reasonable statement.

CHAIR: There would be a commercial impact here, potentially. If there's a tender on and they're negotiating prices, would that have an impact on why you would have such a non-disclosure?

Mr Keogh: It's up to the department and the relevant authorities to set the rules of that tender, and sometimes the rules of that tender, in fact, are dictated by other provisions of government about transparency and tender processes, for example. For example, I'm aware that, in the case of the Emissions Reduction Fund, there's a set of rules associated with the tender for ACCUs or projects associated with that fund. I think that participants in those markets, as long as the rules are transparent and clear and there are no surprises, can work reasonably well. Whether that includes a requirement for non-disclosure is really a matter for the designers of the tender to determine, in consideration of how they're going forward.

Senator DAVEY: I will go to the work that the bureau have received funding for. They've received \$32.7 million to develop a new data hub, a water markets website and water markets data standard. We will hear from the bureau on another day. How much involvement are you having with the bureau in their work to design this so that it is consistent with the recommendations that you drafted in the road map?

Mr Keogh: My comment would be that there's close engagement with all of the various components, if you like, of delivering the road map recommendations. Certainly, the bureau has been out engaging quite closely with stakeholders. They engage with us as well in relation to developments that are occurring. It's a process that involves, as you would understand, state governments, infrastructure operators, brokers and traders, as well as regulators, so it is quite a complex task. But my understanding, from reports and engagement with the bureau, is that they're heavily involved in that at the moment.

Ms O'Connell: That's right. The department brings together the key agencies involved in the water market regulatory reforms; we bring them together on a regular basis. That's the ACCC, the inspector-general and the bureau, with the department. We bring them together in a formal governance committee. We also work quite closely in work streams across the various areas to implement the 21 recommendations from the road map.

Senator DAVEY: This question is for the department. Is all of that data hub expected to be up and running by 1 July 2026?

Ms Solomon: That's our expectation and that's what we're working with the bureau to do. I might add something regarding how the bureau is determining the types of data. It's working very closely with the ACCC and the I-G about what their data requirements are to do the compliance and enforcement; then that becomes the requirements of the data hub and the standards. In fact, it's the department that drafts the standards and it's the bureau who put it into practice.

Senator McLACHLAN: I have a question for Mr Keogh. As for the tender which Senator Davey was referring to, was the ACCC consulted ahead of those tenders in relation to potential market impacts?

Mr Keogh: I don't believe so.

Senator McLACHLAN: Please take it on notice; thank you.

Senator DAVEY: Did you have or do you have any complaints come in as a result of that process?

Mr Keogh: Again, not that I'm aware of, but I can check.

Senator DAVEY: That would be appreciated. When the new standards are implemented, they will apply equally to all market participants, regardless of whether they're government entities, private or public investors, or public companies.

Mr Keogh: I might ask you to clarify which standards you're talking about, because there are the data standards associated with price and trade information, and there are also—

Senator DAVEY: The market sensitive.

Mr Keogh: the market announcements standard or at least a regulation associated with market announcements that will specify the coverage of that requirement.

Senator DAVEY: My question is about both. If you are a private individual water market player you are probably unlikely to get the sensitive market information; but you never know. If you are a publicly listed company—some of those are operating in the water market—you could be a water broker or a government agency. Will it be consistently applied?

Mr Keogh: The department would probably answer this better than me, but my understanding is that yes, to the extent it is possible—remembering that we are dealing with government agencies and governments themselves. There are some interesting interplays of who can regulate whom as part of that.

Ms Solomon: Under the current rules there is no exemption for government agencies. In relation to water-sensitive information and water announcements, there are generally more requirements on government agencies because they do allocation decisions, et cetera. Those kinds of things are called out in the act as being water-sensitive information. In relation to the new reforms, there is no exemption for any government agency; it is intended that the rules apply to everyone equally.

Senator DAVEY: One of your recommendations, Mr Keogh, was that the Basin Officials Committee be more transparent. Are you seeing any movement toward that? Your recommendation was that they put out communiques following their meetings. I haven't yet seen that start to occur.

Mr Keogh: I am not aware of whether the Basin Officials Committee has made any decision on those sorts of issues. Again, that is probably more in their gambit.

Ms O'Connell: We produce a communique each time we meet and it is publicly put on the website. We have been doing that for over a year now. I will have to get the exact date we started doing that.

Senator DAVEY: There have also been calls that you should provide your agenda prior to meeting. That doesn't occur yet?

Ms O'Connell: No, it doesn't. We put out a communique after the meeting.

Senator DAVID POCOCK: I was hoping to get a progress update on the plan for the upper Murrumbidgee. It has been just over two months since the plan was made. Where does implementation sit within the department, including the annual report on the release of environmental water?

Ms O'Connell: Three measures were announced as part of the Mid-Year Economic and Fiscal Outlook in December. There is an interrelated set of measures to improve the health of the upper Murrumbidgee based around four guiding objectives: increasing the involvement of First Nations peoples; focusing on improving the health of the upper Murrumbidgee, given that there are some significant habitats for threatened species—it is a source of drinking water as well, so that is a critical focus for us going forward—and securing energy supply as part of the National Electricity Market. The measures all fit together as an interrelated set of work. We are in the implementation planning phase at the moment. We are working closely with New South Wales and Victoria. Complex legal arrangements govern the use of water in that scheme. We are working closely with the ACT and we have been engaging—and will continue to engage with—Snowy Hydro Ltd. In terms of progress around the measures, \$15 million has been set aside for catchment management matters. Our approach will be to provide that funding through Federation Funding Agreements to the ACT government and the New South Wales government. The funding is over three years, from next financial year. We have started conversations with those two governments about what the approach should be; the kind of program of work that can be captured under what we expect will be grant programs they administer. Another component of that measure is \$5 million over the next three years to improve the research and monitoring being done in the system.

We have started those conversations. We have had some early engagement with First Nations groups as well. Increasing their involvement in the management of the system going forward is one of the priorities. We are in the early stages of planning for a First Nations workshop with the three First Nations groups that are involved. We have had correspondence with MLDRIN, Murray Lower Darling Rivers Indigenous Nations, which is essentially the peak Indigenous body for groups in the lower Murray Darling Basin. They have corresponded with us to set out their priorities and concerns. We are looking to hold a workshop with First Nations: hopefully in the next four to six weeks.

The other critical component of the package of measures is reviewing the operating deed. The deed is between Commonwealth, New South Wales, and Victoria. We have had early conversations with both of those states about starting to develop the terms of reference for the deed. We are conscious that lots of parties are interested in this new package of measures. We recently put some information on our website. Our intention is to update that in the coming month with a more developed project plan.

Senator DAVID POCOCK: You mentioned 'catchment'. I am clarifying that is specifically the Upper Murrumbidgee Catchment.

Ms O'Connell: That is right; part of the broader Murrumbidgee catchment.

Senator DAVID POCOCK: Has the engagement with New South Wales and Victoria in looking at the deed been positive so far?

Ms Connell: Yes. We have had one initial meeting with Victoria and New South Wales. They are concerned about funding to participate in the processes. That is a key issue that is generally raised first with us when we embark on new areas of work.

Senator DAVID POCOCK: They want to be paid to be involved in updating the deed?

Ms O'Connell: The principal focus for them in discussions about funding is in relation to the \$20 million. That is for the catchment management matters and the monitoring and science programs. My colleague Ms Hickey will comment on whether they have specifically sought funding from us for involvement in the deed.

Ms Hickey: We had a conversation with our Victorian colleagues yesterday; they were aware of the commitments. They understand the challenge the upper Murrumbidgee is facing. They have been tasked to go away and think about whether there is anything in the deed review process they would specifically like looked at. They have generally been supportive and understand the challenge we are trying to address in the upper Murrumbidgee.

Senator DAVID POCOCK: Are you confident that the issues around funding will be resolved?

Ms Hickey: Yesterday no issues were raised around funding. They raised concerns around the numerous initiatives the Commonwealth is driving at related to catchments, which include northern Victorian catchments, and said they would need to look at their resourcing and priorities so that they expend enough effort in the right places.

Senator DAVID POCOCK: What about New South Wales? Where do they sit in this?

Ms Hickey: New South Wales are very supportive of the deed review. I have not been involved in any conversations with them specifically seeking money for the deed review. Obviously, they are a key party for us in implementing the other initiatives that form part of the upper Murrumbidgee package. We are talking to them about funding, as Ms Connell said, for the upper Murrumbidgee River health program. Those moneys would be given to them through an FFA.

Ms Connell: I was speaking to the relevant senior executive from New South Wales earlier this week. We are planning a more fulsome discussion in the next couple of weeks across the range of measures and looking at how the work can be broken up and progressed as a priority.

Senator DAVID POCOCK: I am interested in what progress has been made in looking at increasing flows out of Tantangara Dam.

Ms Connell: Are you seeking information in relation to the contingency reserve?

Senator DAVID POCOCK: Yes. Has any work started on modelling how much could come out of the dam? I know the outlet is also an issue.

Ms Connell: No, not at this stage. As we have said, we have started initial conversations. We are aware that New South Wales have done some work over the last couple of years on looking at the climate scenario—new modelling in the water space, not the energy space. They have done quite a bit of work over the last couple of years to develop new climate scenario models as part of their regional water strategy work. One of our key areas of priority will be to talk to them about how that work has progressed and how it can be used. Snowy Hydro itself maintains a range of different operational models. I understand that the models that New South Wales has developed in the context of its regional water strategies have drawn on information from Snowy Hydro. We won't be starting from zero in that case. Quite a bit of work has already been done.

Senator DAVID POCOCK: Regarding the \$15 million for river restoration projects, how do decisions get made on which projects get funded? What is the process there?

Ms Hickey: We are currently working with our ACT and New South Wales officials to develop an investment program logic. It is really important that our investment adds to the investments that are already happening across the various tributaries and mainstem of the upper Murrumbidgee. We expect that will form part of the FFA agreements with the states. We have a bit of work to do to list—

Senator DAVEY: What is FFA?

Ms Hickey: Federal funding agreement. We've got a bit of work to do to work out what are the broader strategic outcomes that we want to achieve, making sure that builds on the work of New South Wales and the ACT. Then there will be a prioritisation matrix to support the ACT and New South Wales in their work with the on-ground

providers, catchment management groups and those other groups that have the experience to then put those projects forward.

Senator DAVID POCOCK: On that New South Wales and ACT catchment management riverine restoration work, do you have a line of sight over what is actually being spent where?

Ms Hickey: We are in the process of getting that.

Senator DAVID POCOCK: Could I ask for that on notice. I have found it really difficult to get out of the ACT government what has been happening on the upper Murrumbidgee. In terms of who will then undertake these projects, will that be decided at a state and territory level or will the Commonwealth be deciding?

Ms Connell: The purpose of the federal funding agreement is to channel the money to the ACT government and the New South Wales government for them to administer the program of work. Our overarching objective will be to develop a strategic framework that will sit over all of these pieces of work. That will be reflected in the federal funding agreement clauses in the key areas that we want the states to prioritise. At the end of the day, they're responsible for land and water resource management. Our intention is to work quite closely with them and make sure that there's an appropriate strategic framework over all of these pieces of work, because we want to make sure that the on-ground works are supporting the way environmental releases might change in the future.

Obviously, the work that is done under the monitoring and research programs is going to need to be drawn on for the issues that the deed review is going to have to look at in terms of future management of environmental releases. It is going to be critical that we are joined up and we've got appropriate governance in place to make sure that there's strong communication between the different measures.

Senator DAVID POCOCK: What exactly is a strategic framework? What does that look like?

Ms Connell: We've got three discrete measures that are being funded. We want to make sure we've got the principles articulated clearly for how that money is spent and distributed. Obviously, some of the money is going through the states. Some of the money is coming from us. As I said at the beginning, we've got four key objectives in relation to this body of work to improve the health of the upper Murrumbidgee. One is to bring First Nations more into the management of the resource and providing input into the decision-making. We also have the key overarching environmental objectives and making sure that critical human water needs are catered for, but through all of this a key priority will be the national energy market.

We basically want to have a clear statement—and we'll put it on our website—that articulates what the key objectives are in relation to these measures. We want to make sure that those key objectives filter through in terms of how the FFAs are implemented and how the grant programs are delivered.

Senator DAVID POCOCK: In terms of where this sits in DCCEEW, you're responsible for this?

Ms Connell: That's right. It has recently moved to the water reform division.

Mr Fredericks: The water group will be primarily responsible for delivery of this. They are very well joined up with the energy team as well. We engage very strongly with Snowy Hydro. I think the last three months have been a manifestation of that. The one issue in the reforms, the reform of the statement of expectations, will be worked up in the energy group. That will be done collaboratively with the water group as well.

Senator ROBERTS: I want to reference the *Snowy Montane Rivers Increased Flows: Safety Management Plan 2022-2027*. The plan calls for increased flows into the upper Murrumbidgee in a series of high-flow releases from Tantangara Dam. Page 37 is headed 'Key issues/considerations'. The very first one refers to an increase of 40,755 megalitres to be released into Snowy montane rivers from Tantangara reservoir. This is an increase of 35,800 megalitres from the 2022-23 water year. Is that correct?

Ms Connell: I don't have that document in front of me. We can take it on notice to look at that. Given conditions over the last couple of years, I wouldn't be surprised if there had been an increase from 2021-22 to 2022-23. I would need to take it on notice.

Senator ROBERTS: It seems to be to repair or restore the Murrumbidgee. I am not arguing that case.

Senator McAllister: Senator Roberts, I think you've heard the official say that she doesn't have the document in front of her.

Senator ROBERTS: I will get it on notice.

Senator McAllister: If you did want to ask further questions about that, presumably we can find it. Providing the reference would assist us to do so.

Senator ROBERTS: It is by the New South Wales government. You can have this, if you like.

CHAIR: Maybe table it, Senator Roberts.

Senator ROBERTS: Tantangara storage holds 250 gigalitres. However, Tantangara reservoir has never been more than 70 per cent full in the 23 years to December 2020. This means there has never been water available to generate 350 gigawatt hours of electrical energy. In addition, the long-term average weekly volume of the Tantangara reservoir in the same 23 years is 18.15 per cent, which allows only 32 gigalitres to be used for generation. The long-term average storage available in Talbingo is found to be approximately 33 gigalitres. These new high-surge flows, plus the existing daily water inflow into the upper Murrumbidgee, will account for 100 per cent of the water storage in Tantangara, based on the last 23 years of inflows. There's no water in Tantangara for Snowy 2.0. Is this correct?

Mr Fredericks: Senator, in fairness to you, the questions that you are asking are really about the business of Snowy Hydro Ltd. I suspect they will be able to give you a high-quality answer to your question. If it is okay, I will take that on notice for them to come back on notice and respond to it.

Senator ROBERTS: I would like you to answer it.

Mr Fredericks: I can't answer it. I will take it on notice.

CHAIR: Senator Roberts, the officials from the department will answer what they can. In directing your questions, if the questions are about the operation of Snowy, they need to go to Snowy.

Senator ROBERTS: I understand that.

CHAIR: The department can help you, via the interface they have there.

Senator ROBERTS: I understand that, Chair, very clearly.

Senator DAVEY: To be fair, I was at the Snowy hearing. Senator Roberts did ask these questions of Snowy, and Snowy were a bit ambivalent and suggested that he ask the department.

CHAIR: Put them on notice to both sets and then, through the committee, we'll deal with whether the response covers your questions.

Senator ROBERTS: I want to know because Snowy Hydro 2.0 said, 'There's plenty of water in Tantangara.' Clearly, there is not.

Mr Fredericks: I will take that on notice for Snowy Hydro.

Senator ROBERTS: Thank you. I would like you to answer the question about the availability of water. This is crucial.

Mr Fredericks: That is fair enough. I will take it on notice.

Senator ROBERTS: The water in Tantangara cannot be used for hydro via the existing connection to Lake Eucumbene, which flows into the Murray, or the new Snowy 2.0 connection, which flows into the Tumut and then the lower Murrumbidgee. This means that all the water for Snowy 2.0 will have to be pumped up from Talbingo before coming down. That's not a problem. We understand that, because with pumped hydro you either start with the water at the bottom or you start with the water at the top and you end up in the same place. My critical question is about the availability of water. Here is the second question. Snowy 2.0 is making one-third of its revenue from selling insurance policies to underwrite the lack of continuity of supply of unreliable wind and solar as generators. The basic idea is that if an unreliable renewable project, like solar and wind, can't supply its contracted power then Snowy will let the water flow down the hill and generate power for them. One-third of the revenue of Snowy 2.0 comes from insurance, we were told.

That suggests the water must be available in Tantangara year round to provide for immediate electricity dispatch. We're talking about critical peak hour generation. The water in Tantangara is fully allocated, so water will have to be pumped up the hill and stored against future needs, under these insurance contracts. Some of that will be lost in seepage and evaporation—quite a lot. How has that been dealt with in Snowy Hydro's water licence? Does Snowy Hydro have a water licence?

Mr Fredericks: I'll need to take that on notice. In deference to you, I'll take it on notice for Snowy and for the department as well.

Senator ROBERTS: I would like an answer from your department in particular. We can get it from Snowy. Do they have water agreements?

Mr Fredericks: On notice.

Senator ROBERTS: If they do have any water agreements, are they sufficient to match the insurance policy that Snowy Hydro is going to be getting one-third of its revenue from?

Mr Fredericks: On notice for both—Snowy Hydro and us.

Senator ROBERTS: This deals with water in the high mountains. Thank you very much.

Mr Fredericks: You're welcome.

CHAIR: Thank you, Senator Roberts. Senator Davey.

Senator DAVEY: I too am bringing questions to you that I did put to Snowy Hydro as well, and they said, 'That's a question for the department.' Through this deal with Senator Pocock, you have \$30 million in a contingency reserve, plus \$20 million to go towards catchment health of the upper Murrumbidgee and \$500,000 to support First Nations to participate in the process; is that correct?

Ms Connell: Broadly correct. The \$500,000 is to support First Nations participation in the review of the operating deed.

Senator DAVEY: My reading of MYEFO is that the \$30 million disappears in three years.

Ms Connell: The \$30 million is available from next financial year for three years, yes.

Senator DAVEY: For three years?

Ms Connell: That's right.

Senator DAVEY: The \$20 million is over five years?

Ms Connell: That's right—\$20.3 million over five years, also from next year.

Senator DAVEY: That \$20.3 million is the portion you're talking about that will be distributed through federal funding agreements with New South Wales and ACT?

Ms Connell: That's correct, Senator.

Senator DAVEY: Those conversations are ongoing?

Ms Connell: Yes.

Senator DAVEY: Before this deal was struck with Senator Pocock, what conversations were had, particularly with New South Wales and Victoria, who are pivotal in this SWIOWD, however you—

Ms Connell: We can just call it 'the deed'. We'd have to take that question on notice. I understand there were a range of conversations to inform the development of the proposals. My colleague Dr Finn might be able to provide some further information.

Dr Finn: In developing parts of the agreement and trying to deal with the issues that we had, in particular, my team at the time—I have recently moved roles—had a number of conversations with both ACT and New South Wales government officials. Around the \$15 million for river health, for example, we were trying to extract an indication of the types of direct action works in river health that might be desirable and available and get a rough costing. It's fair to say that those ideas that came back to us added up to much more than we made available ultimately. We had a number of conversations with state officials around those river health projects.

Senator DAVEY: The states weren't blindsided by this announcement; they were expecting it to come?

Dr Finn: Certainly not. We had conversations with officials to get ideas to drive our consideration of the funding from the proposals.

Senator DAVEY: Can someone explain to me how the \$30 million in contingency reserve works? Does it just sit there and is available if needed but won't be drawn on unless we enter into the conditions expected?

Ms Connell: That's correct. As you might be aware, there were extreme, dry conditions experienced in the upper Murrumbidgee during 2017-19, as there were across quite a large part of the basin. In parts of the system the river actually stopped flowing. The concept is to make available funding from next financial year, if it's required. At this stage, given current conditions, we do not expect that the funding would need to be drawn down, but it may be the case in subsequent years. As I was trying to explain before, but I possibly didn't do a very good job, the measures are interrelated. One of the key priority focus areas for the review of the deed will be to confront some of the issues about getting in place an appropriate drought trigger to deal with what we know are increasingly dry conditions in the basin and the upper Murrumbidgee.

Senator DAVEY: Is that review of the deed separate to the review of the Snowy Hydro operating licence that is managed by New South Wales—the water operating licence—or is it the same thing?

Ms Connell: No, they are separate legal instruments. The deed is a heads of agreement between New South Wales, the Commonwealth and Victoria. It was entered into in 2002, following an inquiry which looked at environmental conditions and environmental flows. The deed sets parameters for managing environmental water. The licence for the water that Snowy uses is issued by the New South Wales government. That's subject to a review

every 10 years. I think the next review is up in 2027. If our sequencing and approach work well, the measures that are being funded and the review of the deed will feed into the next statutory review of the Snowy licence.

Senator DAVEY: I appreciate that Senator Roberts tabled that New South Wales report about Snowy montane rivers increased flows. The management of the Snowy montane rivers increased flows is already there. Provisions for environmental releases of water from Tantangara into the upper Murrumbidgee are already in existence; is that correct?

Ms Connell: There's a framework, but that framework hasn't been reviewed for over 22 years.

Senator DAVEY: So we've just set aside \$50 million to review a framework that is already existing.

Ms Connell: No, that's not correct. As I said earlier, \$5 million dollars of the funding is being directed to improve research and monitoring in the area. In terms of the review of the deed, \$5 million has been set aside.

Senator DAVEY: Five million dollars for review of the deed; and that comes out of the \$20.3 million bucket?

Ms Connell: No. That is a separate measure in MYEFO.

Senator DAVEY: Not on the same page?

Ms Connell: Yes. But as you would appreciate, when you're looking at water uses and environmental management of water, there is a lot that needs to go into looking at the modelling, how the rules have operated, gaining information about conditions and how that environmental water has been used and released. There's obviously an additional priority, in terms of the way this review is conducted, to look at the needs of the national energy market. It's not a straightforward process.

Senator DAVEY: That was going to be my next question. Is the \$30 million contingency there for if the conditions arise? At the moment, Snowy can release water from Tantangara into the upper Murrumbidgee and Snowy montane rivers, up to 150 gigawatt hours of forgone energy production. That's because water released that way doesn't go through the turbines, so it's forgone revenue for Snowy. Is that \$30 million for, 'This year we need more than that 150 gigawatt hours and here we're going to reimburse you for your lost'—

Ms Connell: I'll pass to Dr Finn in a moment. No, the contingency reserve is for when drought conditions are being experienced. In terms of our approach, and I'll get Dr Finn to explain it in more detail, as a standard practice in relation to water resource management, we take the last worst dry period as the baseline to determine what water releases might be required to deal with environmental outcomes and critical human water needs. I'll ask Dr Finn to explain further what the approach is.

Dr Finn: I will try to pull apart the main moving parts of the agreement or the investment that we have. There was a recognition that the SWIOID, the Snowy Water Inquiry Outcomes Implementation Deed, was 20 years old. The arrangements in that are what flows through to the Snowy water licence. Those are their obligations for releases. Obviously, in the upper Murrumbidgee there are a whole range of issues that have been presented over quite a long period of time. The longer term solution to looking at those arrangements is to review the framework of the deed and then think about whether something can be done in the deed and the water licence to try to address the issues in the long term. There is also a recognition that it is not a short and sharp process to find some of those solutions, and there might need to be some more immediate investment. The immediate on-ground component of that is the \$15 million of healthy river works and the monitoring to inform and check on that.

The \$30 million over three years is also a recognition. As a pretty strong example, in 2019, at the end of the last major drought, the upper Murrumbidgee essentially stopped flowing in that period of time. With the \$30 million in that framework, we have a long-term review of the management framework. We have, shorter term, over a number of years, investment in direct river health; then there is a need to be prepared, should drought-like conditions return. That \$30 million investment is intended to allow us to address that, should those conditions re-emerge in the period when we're reviewing the deed and the management arrangements, if that's a useful way of thinking about it.

Senator DAVEY: Could that \$30 million be used for, say, infrastructure to access what is currently dead storage in a dry period? As Senator Roberts pointed out, Tantangara is not known for being full supply very often. In a drought period it's very low. The river is very dry and, unless you're going to pump water up, you're going to need potentially to access dead storage or other things. I am trying to work out what the \$30 million could be drawn down for.

Dr Finn: There is a 'could' in terms of the infrastructure. I might give a specific example that we thought our way through. The main driver for the \$30 million is that forgone energy generation. In a circumstance where you could imagine that Snowy—

Senator DAVEY: You could have said 'yes' when I asked that question before.

Dr Finn: I want to give you a fulsome answer, Senator. That's a major part of the thinking. In a circumstance where, for example, we ask Snowy Hydro to release down a different flow path where they can't generate energy, and they need to be compensated for that forgone energy generation, it's available for that. One of the other things that we discussed with Snowy Hydro is that Snowy montane rivers increased flows are actually released down a number of rivers. Some of those are just weirs and infrastructure works that are set in place, and Tantangara releases the balance of the s if that make sense. Snowy also talked about, 'There might be opportunities to adjust the infrastructure works on some of the other montane rivers to get some additional water down Tantangara.'

I'm trying to express that the main part of the thinking was that forgone energy generation. It is not closed to that, should there be opportunities that would improve flows down the upper Murrumbidgee.

Senator DAVEY: My one other concern is that, currently, under the operating licence—Snowy call it 'buckets'—they don't own water; they manage water. But there is a legal requirement for them to release a fixed amount of water into both the Murrumbidgee and the Murray systems every year. Anything over and above that they release, which they might do for energy production, is a bonus downstream. There's no Commonwealth-held environmental water in the Snowy system; that is my understanding.

Dr Finn: That's right.

Senator DAVEY: If water is released from Tantangara, I understand it still flows into the Murrumbidgee. That's fine. For people who are watching who like to correct me, I'm just making sure that you understand that I understand that. However, if it's a drought-like scenario, it's like a big sponge up there. You release that water in a drought-like scenario and not all of the water that you release will make it to the next point—say, Burrinjuck—which is where it then gets released as required, an annual release into the Murrumbidgee. But when Snowy are operating and managing their water, what is the risk that they say, 'We've released 100 gigs from Tantangara as part of our required annual release. It's not our fault it didn't get past Burrinjuck?'

CHAIR: Before you answer that question, we are going to take our break at 11.15. We can come back to this. If you have a swift answer, that would be great.

Dr Finn: With the required annual release that I think you are referring to, there is no proposal in the \$30 million contingency reserve arrangements to adjust that. That is the obligation for Snowy to release a certain amount out of the scheme for downstream irrigators. We are not proposing to adjust or implement that.

Senator DAVEY: My only concern is that someone could get a bit tricky and say, 'Yeah, we release it, but this year we release part of it from Tantangara.' Or is the requirement to actually release it from the head works of the Murrumbidgee as known for regulated river, because the upper Murrumbidgee is not regulated?

CHAIR: I know that this will just keep going and keep going.

Senator DAVEY: Ms Hickey wants to answer it. Then I can move on from Snowy, if she has a quick answer.

CHAIR: We have more on Snowy. We will take a break.

Proceedings suspended from 11:15 to 11:33

CHAIR: We return to Murray-Darling Basin Plan cross-portfolio matters. We will go back to Senator Davey.

Senator DAVEY: We left on a cliffhanger, and Ms Hickey was going to answer me. It's how we keep people watching at home.

Ms Hickey: I'll try. It might not be the exact answer that you are looking for, Senator Davey.

Senator DAVEY: You never give me the exact answer I'm looking for.

Ms Hickey: Regarding the \$30 million in the contingency reserve, as you know, the purpose is to improve conditions in the upper Murrumbidgee, should drought-like conditions occur. Tantangara reservoir itself does end up diverting 90 per cent of those headwater inflows into that dam. There can be occasions when the lower half of the system is in drought but there is still volume sitting in the Snowy scheme, including water that might be discretionary, like in their above-target accounts. We are still doing the work to confirm what the drought-like triggers are. Part of that is that we need a clear decision-making framework that then allows us to say, 'Right; if we're in those conditions, how do we assess the various options available to us to try to improve the flows in the upper Murrumbidgee downstream with Tantangara?' Part of the intent of that is that we're looking for solutions that have minimal impact on the other users of the Snowy Hydro scheme, including the water users in the western rivers, and the energy market. We would be careful around any conversations that might be looking to do that double accounting.

Senator DAVEY: But you are aware of the risks and you are trying to manage those risks in your deed review so that any potential adverse impacts are considered and, hopefully, mitigated.

Ms Hickey: Yes; absolutely. The contingency reserve is the immediate safety net for the next three years if we return to dry conditions. We need the signatories of New South Wales and Victoria to kick off the deed review, and then any recommendations from that deed review would need their support. They would obviously have those sorts of interests as well.

Senator DAVID POCOCK: I want to finish off some of the questioning around the science and monitoring projects that have been flagged for the upper Murrumbidgee. I am keen to understand how the decisions will be made on which projects and who undertakes them.

Ms Hickey: We are working with the ACT and New South Wales, as I said before. They have already been talking to some of their key catchment stakeholders. As Ms Connell referred to previously, it's important for us that we are really clear on the outcomes that we want the investment to achieve. That flows through to prioritisation or some sort of assessment criteria, which then enables us to help the states prioritise which of the catchment works, riparian on-ground works, would be most beneficial. We are in the early stages of understanding what they have got on the ground already, what catchment management strategies they have, and then how this investment can help uplift the health of the river on top of those.

Senator DAVID POCOCK: Is there a time line for the different phases of work?

Ms Hickey: Yes. The idea is that we want the river health program—for want of a better name; it is not formally called that—for the upper Murrumbidgee ready to start for next financial year. We have between now and then to land all the things like the investment framework, the federal funding agreements et cetera.

Senator DAVID POCOCK: So on 1 July you are hoping to be able to implement that. You talked about progress towards getting ready for the SWIOID review and starting to engage. Again, is there a time line for that?

Ms Connell: We are aiming to kick off at the beginning of the financial year. One of our challenges is that the Commonwealth is one of three parties, so we are working closely with the other two states to get their support and buy-in. We will work with them on the draft terms of reference. We'll need to test those terms of reference with other key stakeholders. Obviously, Snowy is going to have a key interest, and the ACT government. We have made commitments to keep them closely involved in the process. As I said before, we have started conversations with First Nations people. Part of the commitment is to fund them to be involved in the deed review. There are three First Nations groups, and we want to bring them all together for an initial discussion. There are quite a few components we have to manage.

Senator DAVID POCOCK: On First Nations engagement, what sort of level are you engaging at? I have heard concerns about a historical lack of engagement and token attempts. We have seen some pretty pointed criticism from MLDRIN around water. I am interested in how you plan to ensure that changes.

Ms Connell: In terms of the approach that we have generally taken in the water group over the last couple of years, we've bolstered our First Nations area. We've now got a branch head that leads on First Nations water. She's providing us with advice on the approach. As our first step, we want to bring the groups together to have a discussion about what involvement in the deed development looks like for them and to get their views. I think we've taken some pretty significant steps over the last six to 12 months to work more closely and effectively with First Nations groups. MLDRIN have reached out to us on behalf of some of the First Nations that have traditional connections and responsibilities for this land. We are aware that there are other people that need to be part of the conversation.

Senator DAVID POCOCK: When you talk about groups, how do you define them?

Ms Connell: I think that is a matter for the First Nations people.

Senator DAVID POCOCK: I guess that's my question. Obviously, there is diversity of views.

Ms Connell: We get guidance internally from the branch head of First Nations in the water group. One of the things we try to do is communicate as broadly as we can in that particular area to make sure that we get information out about meetings and to make sure that there is an opportunity for people to attend who want to attend.

Senator DAVID POCOCK: What does that outreach look like? How are you getting that information out to First Nations people?

Ms Connell: We are in the initial planning stages at the moment. I will pass to Ms Hickey to talk about what we are looking at in terms of next steps.

Ms Hickey: Another thing is that we are seeking advice from our state colleagues as well, because they are, in some cases, closer on the ground to some of those First Nations stakeholders. As mentioned, we have been contacted by two of the groups. We do want to write and make sure that we're getting out the message on the opportunity to be involved in the deed review right from the start. We're in the process of reaching out to the range of First Nations groups across the upper Murrumbidgee. The intent of the first conversation is to let them know what the

commitments are and to get them to think about how they would like to be involved. It's important for us that they are consulted before we land the final scope and the terms of reference of the deed review.

Ms O'Connell: We would also like to say that if there are more effective ways that we can engage, we are very happy to take that advice on board at any time.

Senator DAVID POCOCK: That sounds like a good approach. If I hear anything, I will definitely get in touch. Mr Fredericks, you mentioned earlier the statement of expectations for Snowy Hydro. I'm interested in where that is up to.

Mr Fredericks: Work is underway on that. The starting point of that is that there is work being done between the energy people, the water people and finance. Finance are a key stakeholder, as one of the representatives of the shareholding minister. That work has already commenced. In due course, we will engage with each minister. I can't give you a time line. You've seen Snowy Hydro lean in. We're very keen to get that done as quickly as we reasonably can.

Senator DAVID POCOCK: There was discussion about adaptive flows out of Tantangara. I am interested to know if that has progressed at all and how it is looking.

Dr Finn: I can talk a bit about the original discussions. Certainly, one of the things raised through the negotiations late last year, just to frame this up a little bit, was that Snowy have requirements for releases outside of the system that are in their water licence, but the timing, the frequency and the targets for those flows are worked up with New South Wales. There is a detailed operations plan released at the start of a water year that defines when they should release water—daily flow rates, those sorts of things. One of the observations is that process is important for giving Snowy information on when releases are environmentally beneficial and required. Also, given that it is an annual planning cycle, it does place some limits on the flexibility, for example, to respond to spawning cues for fish. Macquarie perch in the system is one that is keenly focused on because it is a threatened species and was really limited in its previous range. We did have conversations with both New South Wales and Snowy Hydro as we worked our way through that.

In the water licence there's the opportunity for modifications to that annual operation, with the agreement of New South Wales and Snowy Hydro. Both Snowy Hydro and New South Wales indicated that they are very happy to engage in those sorts of things.

In terms of the example I gave around fish spawning cues, we work with both to check gauges downstream. There are real-time temperature gauges downstream. There is a gauge near Bredbo that can facilitate those sorts of conversations. At least in that negotiation, we confirmed that both parties who would need to agree not only were really comfortable but saw the issue and thought it was a good conversation. That formed a part of the agreement that we took forward.

Senator DAVID POCOCK: Is there a time line to try and formalise some of that into being able to release, based on temperature cues? It sounds like everyone is saying, 'Yes, we're open to it,' but how do we arrive at a point where there's some plan or framework to allow that to happen?

Ms Hickey: I'd have to take that on notice. My understanding is that there's some variation being made to Tantangara's release component of the Snowy montane increased flows; then the riparian releases are happening in and around that to meet those other minimum flow conditions. There's already work underway to shape some of those releases. I'd have to take on notice what the next steps would be to formalise those more.

Senator DAVID POCOCK: Maybe this can be taken on notice, too: one of the issues that came up when you start looking at adaptive flows was that the outlet is two gigalitres, maybe, and they are saying that, to be able to get a decent pulse through the upper Murrumbidgee to Burrinjuck, that would have to be upgraded at some time. On notice, in talking to New South Wales colleagues, what has been done to scope out that work and potentially cost it?

Ms Hickey: It is certainly one of the things that we're keen to look at first, in terms of the ability to have more long-term flexibility in the rules on the Tantangara releases within the existing outlet. But the outlet infrastructure itself is something that we would be keen to see in the terms of reference for the deed review.

Senator McLACHLAN: Can I have an update on the environmental impacts on the river system in South Australia as a consequence of the flooding? When we last gathered, you indicated you would be better placed to answer at a subsequent estimates.

Mr McConville: A number of streams of work have since been undertaken. There was the flood review work that we were requested to complete by the basin officials. That's in the process of being presented there. The findings from that will be made public. That's more around the communication of issues as they related to that. Currently,

we have a situation, again, of unregulated flows across the border into South Australia. We have had good inflows. That is where we sit now. More specifically, Senator, can you elucidate further?

Senator McLACHLAN: There was an indication that there may even be positive impacts on the Murray mouth and associated lakes. I am interested in that. I'm interested in chemicals and debris, and whether you've formed a view on whether there have been any adverse impacts on the river system—not just the mouth and the lakes, but further up the river.

Mr McConville: In the context of the lower Murray, we certainly saw that dredging ceased for an extended period. Dredging has once again commenced, but the flows through the mouth were very significant. There was a good level of improvement of water quality through the lakes as a consequence of that. Angus, would you care to add anything?

Mr Payton: Certainly, the floods improved the conditions of the lake, with fresh water in the Coorong and the lakes. As Andrew said, we could stop the dredging because of the significant flows out of the mouth and scouring of sand out of the mouth. That's really positive. Dredging has started up again, just to keep that mouth open.

Senator McLACHLAN: Do we have any visibility of chemicals and debris having an adverse impact? I note that there have been considerable debris issues closer to the border. Is anyone able to update me on that?

Mr Payton: I am not aware of any issues. We can take it on notice.

Mr McConville: If we may, we are happy to come back to you with some feedback from South Australia as well.

Senator McLACHLAN: You've mentioned dredging. I understand there is a new, larger dredger.

Mr Payton: That is correct, yes.

Senator McLACHLAN: Do we have any oversight of the impact that dredging is having at the moment?

Mr Payton: The dredger operates out of South Australia. We have an oversight role of that operation. Certainly, the indications are that the dredger is performing very well, and probably more efficiently than the previous two dredgers that were operating down at the mouth.

Senator McLACHLAN: What is the cost of the ongoing dredging?

Mr Payton: The annual budget that we have for dredging is \$4.7 million.

Senator McLACHLAN: With the greater efficiency, is it envisaged that the dredging in the short term will need to cease, or is it the view of the authority that we will be dredging for the foreseeable future, given current data? I know that you can't commit.

Mr Payton: We have to dredge if the flows aren't sufficient to keep the mouth open. Certainly, unless we have significant flow events, we will have to keep operating the dredger. The dredger is now operating for 12 hours a day, five days a week, whereas in previous dry times the two dredgers were operating 24/7.

Senator McLACHLAN: Is it reasonable to say that, because the dredging has recommenced, the impacts of the floods have abated as far as the Murray mouth is concerned?

Mr Payton: That's correct, yes.

Senator McLACHLAN: If the additional 450 gigalitres comes down the river, do we have a view on the impacts of the need to dredge?

Mr McConville: Additional flows in the river will bring benefit. That is absolutely the case. The situation with dredging, given the nature of the flow and the movement of sand, is that there's a requirement to continue to manage that almost regardless of flow. If there is additional water in the system, that will certainly benefit the lower lakes and the mouth.

Senator McLACHLAN: In South Australia, we will be seeing a dredger there at least for the foreseeable future?

Mr McConville: I think that will be the case; for the foreseeable future, dredging will continue.

Senator McLACHLAN: Is anyone able to update us on the impact on flora and fauna post flood?

Mr McConville: I am not in a position to comment, but I am happy to come back to you in terms of reports that have been done.

Senator McLACHLAN: I am particularly interested in relation to the lakes and the Murray mouth.

Mr McConville: Understood.

Ms Connell: We have a contribution to make from the department, from the Commonwealth Environmental Water Holder.

Dr Banks: We have some monitoring that has been going on in the lower Murray system. As part of that, we can see the benefits from environmental water use, which are additional flows into the lower lakes. We have information and an understanding of what is happening from a salinity perspective. I can get Mr Johnson to talk in more detail about native fish. For example, golden perch have benefited from the floods; it is also closely connected with the use of environmental water down there.

Senator McLACHLAN: I would be interested in that. My interest particularly is in how long we will be seeing the impacts of the flood, both positive and negative. Obviously, there will be short-term issues or challenges and positive benefits. I would also like your view of the longer term.

Dr Banks: A good example of that is salinity levels in the Coorong. You'll see them come down on the back of the floods. In those intervening periods between the floods, you see the salinity levels slowly increase. We've been able, through the Commonwealth environmental water, to slow that rise in salinity levels. You get a really good response from the local ecology in relation to salinity levels. That's keeping them at levels that are a lot healthier than they have been.

Mr Johnson: In terms of going to specific species responses, fish, both golden perch and Murray cod, have responded very well post flood. We've seen golden perch spawning and recruitment. Some of that has been fish that have recruited locally; they have been hatched within the lower Murray itself. We have also seen fish migrate from places like the Darling River. That will add to the population, ideally, in a longer-term sense. A lot of those fish that we have seen have been in really good condition, too. Normally, they have a size that you'd expect after a year of growth, and these were more like 1½-year-olds in size. They were really fat and supercharged in their growth, which means they're in really good condition and that gives them the best chance of longer-term survival.

In terms of some of those other impacts that we've seen within the Coorong, it's basically dramatically changed the Coorong, particularly the southern Coorong. Those salinities have dropped down to levels we haven't seen for a really long time. We are seeing estuarine species, fish species, move down further into the southern Coorong. With other species, such as *Ruppia*, which is a seagrass, the response has been quite amazing. Again, we will have to see for how long those impacts last, but it is quite positive.

Similarly, on the floodplain, we are seeing that the understorey has completely changed on the riverland floodplain. We were out there in spring of last year and it was a dramatically different landscape to what it had been prior to the floods. That's essentially a massive change in the nature of that community. Some of that will change if we move into drier periods. Even this year, we have seen, with unregulated flow events, water getting back out into some parts of that floodplain, and giving it another top-up. We will be looking to use Commonwealth environmental water over the coming years to be able to try to sustain and build that resilience in those fish communities and on that floodplain vegetation, where we can.

Dr Banks: That intervening period between the floods is really important for how we manage Commonwealth environmental water. That's to maintain or slow the rise in salinity levels in the Coorong, as an example.

Senator McLACHLAN: I think there was a comment made that, whilst some species might benefit, other species might be challenged. Are there any particular species that are challenged by greater fresh water?

Mr Johnson: There are probably two things that we do see on the negative side in particular. One is an increase in carp numbers. Right across the basin, we have seen some really large carp numbers following the floods, which is not unusual. We have seen that in previous flood events as well. The other one is that some of the higher flows in the Coorong have meant there has been a reduction in mudflats, which some water birds rely on. That habitat hasn't necessarily been available in the lower lakes and Coorong because they have had higher flows go through them. That said, there's other habitat across the basin that those birds can access as well.

Senator McLACHLAN: Coming back to salinity, with the floods and the reduction in the levels of salt, does that provide a consequent benefit further upstream—for example, in water health in Victoria?

Dr Banks: Australia's landscape is very salty. One of the things we have been able to show, through the use of Commonwealth environmental water, is that we estimate we've exported about four million tonnes of salt. We've also stopped the salt water coming in. As water runs across the landscape and picks up the salt, you want that salt to be exported out of the system. It does play an important role. There have been other interventions historically to try to manage salt in the landscape.

Senator McLACHLAN: If I were an irrigator in Victoria, I would be happier that the Murray mouth is reducing the salinity because of the floods. Is that a fair proposition?

Dr Banks: I can't talk on behalf of Victorian irrigators. The point is that the export of salt is important. Having the connection of the Murray River to the mouth and exporting that salt—you hear a lot about it being a waste of water going out, but it actually plays a really important role.

Senator McLACHLAN: That environmental process, that process of nature, is benefiting all of the river, not just the immediacy near the mouth?

Dr Banks: It is a river-wide thing, absolutely. It's a benefit. The export of salt that is present in the landscape is good for those landscapes and good for the river. It means that water is going out through the Murray mouth. We have played an important role at times—we have been able to maintain connection of the Murray River to the Coorong; as a consequence, keeping flows moving through the system. There is a target of about 695 gigalitres. We have played the important role—again, in those drier times—of ensuring that those targets are met. On over 700 days Commonwealth water is relied on to be able to hit those targets.

Senator McLACHLAN: Are we in a position to measure the benefits of that all the way up the river?

Dr Banks: The MDBA might be able to comment more broadly on salinity measurement. We have a science program where we are monitoring seven selected areas throughout the system. We can't monitor everywhere. That is in relation to the role Commonwealth Environmental Water plays in protecting and restoring the Basin, effectively. Our problem with the salinity level is knowing what we are contributing in terms of that export at the lower end of the system, and not necessarily monitoring salinity in every location we are doing monitoring.

Mr Johnson: That's correct.

Mr McConville: In all the Basin Plan reporting sites, salinity levels remain below the target values that have been set out. That has been the case for over 14 years now.

Dr Banks: I will correct it. The target is 650 gigalitres in the system flow.

CHAIR: I appreciate the line of questioning from the senator in terms of the way the flood water has improved circumstances, not just down the river but across the whole river. I spend a bit of time bleating on about this in the chamber. The health of the bottom end of the river is related to improved health all the way across the system because it is a connected system. If I could just connect the issue of the flood to the 450 gigalitres of water—which is often characterised as 'purely a political piece', which I think is a poor characterisation and not accurate—do you see that 450 gigalitres of water improving the health of the river, not just in South Australia, but also providing opportunities to improve the health of the river all the way up the system?

Dr Banks: It depends where that water comes from. It can play a role in improving the broader health of the system. You mentioned connection of the system. Connectivity is an important part of it. If some of that water is from the northern basin, then our ability to manage that into the southern basin will be important. That has benefits for the local environments but also for connectivity from the north to the south. You mentioned the Coorong. If there is additional environmental water, we can enhance the environmental outcomes from use of that water in the lower end of the system to manage the salinity levels between floods, which is important in the Coorong. Again, depending on where that water is recovered, there are outcomes that we can achieve in many locations within the basin. The environmental demands in the basin far exceed what water we have. With the additional water to be recovered, it still exceeds that. We will manage it as effectively as we can. We have been able to demonstrate that by managing a relatively small portion of the inflows to achieve extremely good outcomes across the basin in each of the catchments, but also from a connectivity perspective.

Senator ROBERTS: With all the numbers flying around, I feel confused sometimes; things don't seem to change. I would like some clarification. Talk of water buybacks created a lot of anger when the Albanese government came to power. That talk seems to have gone quiet. There was a plan to buy back 44.3 gigalitres immediately, a threat to use buybacks to get another figure to complete the plan—I will raise that in a minute. How much has been purchased so far? Your website is still saying that you need another 38 gigalitres, yet we heard the tender was oversubscribed.

Ms O'Connell: In terms of the open tender, we were seeking 44.3 gigalitres for the Bridging the Gap component. I want to be specific here; that was for Bridging the Gap. It was oversubscribed. We had 250 tender responses, which accounted to 90.34 gigalitres in terms of across the catchments.

Senator ROBERTS: So double?

Ms O'Connell: Yes, just over double. These Bridging the Gap requirements are catchment specific. There is a certain amount of water to be recovered in a certain catchment. It was oversubscribed in total, but specifically we are purchasing to an amount in a particular catchment. It also has to represent the right type of water, and value for money, before we proceed. From that 44.3 gigalitre tender we have agreed to purchase 26.25 gigalitres towards that target. We will, as a result of that, complete the requirements in three of those specific catchments.

Senator ROBERTS: So you still have the fourth catchment to do?

Ms O'Connell: There are six catchments in total.

Senator ROBERTS: You still have three of the six to do.

Ms O'Connell: That's right; to complete the recovery.

Mr Southwell: That is correct. There are three catchments that we expect to recover through this tender, subject to all contracts being finalised, and three to go. I might take this opportunity to give an overview of where we are in the process. The tender sought to recover 44.3 gigalitres. When all of those contracts are signed, we expect to have spent around \$205 million. Contracts are still being signed. That is important to note in terms of where we are up to. A table on our website provides an outline of each catchment, the volumes we expect to have recovered and the volumes that remain.

Senator DAVEY: That table was only uploaded today.

Mr Southwell: It was uploaded yesterday, I think, Senator.

Senator DAVEY: Late yesterday.

Mr Southwell: I understood it was later than 9 am yesterday morning.

Senator ROBERTS: You will still buy the 90 gigalitres that came in as tenders?

Mr Southwell: No.

Senator ROBERTS: Just the 26.25?

Mr Southwell: That tender process was specifically for Bridging the Gap, and the volumes that we are purchasing are for Bridging the Gap.

Senator ROBERTS: That is 26.25?

Mr Southwell: Correct.

Senator ROBERTS: I note that the Restoring our Rivers Framework, currently under consultation, is for the full 450 gigalitres South Australian flow; your website says 424. Can I have this confirmed: this is the same bucket of water, whether it is 424 or 450—not two buckets?

Ms O'Connell: No, there are not two buckets. The requirement is 450 gigalitres, of which 26 gigalitres is contracted, delivered or underway. The remaining component is 424. So it is one lot of 450, with 26 already recovered.

Senator ROBERTS: Senator Hanson-Young, in an interview with the ABC last November, said there was a further 300 gigalitres of water to be found to complete the plan, not 38 gigalitres. This was not including the 450 gigalitres. Is that statement correct? If so, can you explain how that figure is arrived at?

Ms O'Connell: We would have to see what exactly she was referring to and get that quoted number.

CHAIR: Could you table it? Do you have it with you?

Senator ROBERTS: I don't have it with me, no.

Mr Fredericks: We will take that on notice.

Ms O'Connell: For us to be able to answer that, would you be able to provide the document as well, so we can make sure we are referring to the right thing?

Senator ROBERTS: Yes. By our calculations, if you get the remaining 38 gigalitres on buybacks, you will also have 78 gigalitres of excess purchases in some bailees. Will you sell this back to the farmers?

Ms O'Connell: On Bridging the Gap, which is what we have been talking about, it is a catchment-specific amount that we need to recover. We don't intend to buy more than what is needed. There is a minor amount of incidental overrecovery that happens when you buy water, but that is minor and incidental. Our intention is to bridge the gap through the 44.3 gigalitres.

Ms Connell: In relation to the 78 gigalitres of overrecovery you referred to, there are two issues to highlight. The number of overrecoveries won't be confirmed until New South Wales water resource plans are accredited. A significant proportion of that figure relates to overrecoveries in New South Wales. The other thing to keep in mind is that water is currently held by the Commonwealth Environmental Water Holder and used at the moment.

Senator ROBERTS: Minister, once you get that figure, the 38, and the 450, minus what is underway now, is it done? Is there anything else? Can what remains of farming in the Murray Darling Basin get on with growing food and fibre to feed and clothe the world, without this nightmare of the plan hanging over farmers? Is that the end of it?

Senator McAllister: I think the best way to describe the government's intentions is to implement the plan in full. That was the purpose of the legislation that went through the parliament. As you have observed, there is

substantial work to do. That work includes the recovery associated with Bridging the Gap, which the officials have been talking about. It also includes establishment of the framework for reaching the 450-gigalitre target. The government is presently consulting on that framework. That document is in the public domain and we are seeking public comment about that approach. There are other elements of the work associated with completing the plan; the officials can talk you through that. Rather than accepting your summary of the work before us, I would prefer to point to the way the government characterises the work that is underway.

Senator ROBERTS: What amounts are required to finish the plan? That is what I heard you say: when the plan is finished, that is it—no more buybacks.

Ms Connell: In the first instance, the plan doesn't finish. It is an ongoing instrument, subject to a review by the Murray Darling Basin Authority in 2026. That will be the first review of the Basin Plan. Under the current Basin Plan, there are two key targets.

Senator ROBERTS: That means that the plan could change.

CHAIR: Senator Roberts, the river is a living thing. The reason why we ended up with the Murray Darling Basin Plan in the first place was over-extraction and the utilisation of the river.

Senator DAVEY: Happy to replace the chair to answer questions from the committee. Thank you, Chair.

CHAIR: Thank you, Senator Davey. Minister, maybe you could help us out here. It is a point of clarification that is worth making.

Senator McAllister: I am happy for officials to talk through the approach. The main point is that the government's commitment is to implement the Basin Plan in full. Under the previous government, insufficient progress was made on some important initiatives. Progress basically stalled for an entire decade. We talked about this a lot during the committee stage of the Senate debate. You are aware of the government's perspective on this. It is for that reason that we had to change the legislation. We are presently consulting on the key initiatives that are underway. The officials can talk you through all of the important next steps.

Ms O'Connell: In terms of the Basin Plan, it is about sustainable river systems long-term management. There are two major components in the plan to be fulfilled that need to be delivered. We have been talking about Bridging the Gap. The remainder is the 450 gigalitres. There are new legislative time frames for delivering those that provide more time, more options, greater flexibility and greater accountability to be able to deliver on those targets. Beyond that, there is a review role for the Murray-Darling Basin Authority in terms of the long-term sustainability and sustainable management of our river systems. That review is not until 2026, which would foreshadow what might be required in the longer-term future.

Senator ROBERTS: Let me understand that, Ms O'Connell. The plan as it is—as we have just been told, it's a living document and a living plan and it could change—the 450 and the 38, that's it; but it could change in 2026 when the review is done. Because it is a living plan, the plan could grow another arm and leg.

Ms O'Connell: Yes.

Mr Fredericks: I don't think we can pre-empt that review.

Senator ROBERTS: People's livelihoods are at stake, Mr Fredericks.

Mr Fredericks: I understand that fully. There is a review. It is in 2026. It will be very well conducted by the MDBA. I don't think that, sitting here in 2024, we, as departmental officials, can really pre-empt that review.

Senator ROBERTS: I am thinking of farmers in southern Queensland, New South Wales, Victoria and South Australia who are wondering whether or not to invest in their future and the future of their communities. Businesses in many rural communities have gone downhill, in large part due to the Water Act and the plan. These people want to know that they've got something more than two years. They just want to know: is this the end?

Senator McAllister: Can I make this point, Senator Roberts? The origin of the plan lay in a recognition across the country that we had overallocated the Murray-Darling Basin system. That had very significant consequences for basin communities. It had very significant consequences for the food and fibre producers in the Murray-Darling Basin, who depend on reliable access to water. It had consequences, of course, for the natural systems in the Murray-Darling Basin, which were under enormous pressure. It's a while back now, but it really came to a head in the millennium drought. We saw some very severe impacts across the basin at that time. There was a recognition across the country, including within the basin, that we couldn't go on in this way and that the overallocation needed to be addressed. That is the origin of the plan.

It matters to farmers and food and fibre producers that these issues are tackled and addressed because there is an interrelationship between the access to water by communities, the access to water by farmers, the availability of

water for environmental purposes and, increasingly, the recognition that cultural water matters to First Nations people as well.

All of these things are interrelated and, at their heart, the success of all of those stakeholders, and the interests of all of those stakeholders, lies in having a healthy, working river that is being appropriately managed. Those are the underlying ideas that drive our government's commitment to implementing the Basin Plan.

Senator ROBERTS: Minister, while we do argue about the science underpinning the Basin Plan, let's set that aside. Modern civilisation cannot exist without a healthy environment. We get that. A healthy environment cannot be achieved without modern civilisation because it reduces the pressure on the environment. Landholders are the number one protectors of the environment—that means farmers. At the moment, farmers and small businesses in rural communities see a shifting of the goalposts repeatedly. That's what's bothering them. They get the point about the need to protect the environment. They're tired of having the goalposts shifted on them. That's why my question was: is this the end of it? So far, what we've got is: 'No, it's not. In 2026 we'll have a review and see what happens.'

Senator McAllister: The plan has been in place for a very long time, Senator Roberts.

Senator ROBERTS: Since 2007.

Senator McAllister: Our party has been very consistent in supporting the implementation of that plan. Our view is that the plan should be implemented. For much of that period, that was the stated position of the coalition parties as well. Unfortunately, in the final years of the last government—in fact, really across the period of the last government—the Liberal and National parties undermined and sabotaged the plan's implementation.

Senator Davey interjecting—

Senator McAllister: That has caused a very significant problem.

CHAIR: That is the minister's view. She is entitled to answer the question as she sees fit.

Senator DAVEY: I dispute that. The terminology 'sabotaged' is absolutely—

Senator McAllister: Senator, I think you said—

CHAIR: The minister will finish her—

Senator DAVEY: We might have had a different perspective on how to implement the plan.

CHAIR: Senator Davey, the minister will finish her answer and then you will have a turn.

Senator McAllister: I think the core facts are before us. In nine years, that government delivered just two of the 450 gigalitres—two gigalitres, under the 450-gigalitre target—

Senator DAVEY: We were focused on the environment and a sustainable level—

CHAIR: Senator Davey!

Senator McAllister: which would have meant that the plan would have been completed at some time around the year 4000. Steps needed to be taken to get the plan on track. We are taking those steps. I think the government's priorities in terms of implementation are very clear. As I've indicated a couple of times now, we're engaged in consultation with the community about the practical ways that we're going to take the next steps together.

CHAIR: Maybe, Mr McConville, you could take us through the relevance of the sustainable diversion limits and the shortfalls there.

Mr McConville: Sure. I'll ask Mr Goodes to come forward as well. There are a number of component parts. The SDLAM project, which you are referring to, is a 605-gigalitre amount of water equivalence. The role of the authority in that regard is to conduct a reconciliation at the end of 2026. Until that point, we're not able to categorically say whether that full amount has been recovered. There was a reference previously to the different volumes. The authority has, on several occasions, issued its assessment of progress in relation to SDLAM. Our last statement was that, on the basis of the evidence available, we believed that there would be a shortfall of somewhere between 190 and 315 gigalitres.

Mr Goodes: The last assurance report was provided prior to the passing of the restoring our rivers legislation. We gave an indication then that 14 of the 36 modelled and relevant measures were already in operation. There were six that we indicated were likely to be in operation by the middle of 2024, and there were 16 that we were certain wouldn't be or were unlikely to be in operation there. One assumes that, with 2½ years of additional time, there is a greater likelihood that some of those measures will be complete. We will continue to provide updates about progress between now and 2026 on that pathway, which then opens up the question of what the difference might be when the authority conducts the reconciliation in 2026.

Mr McConville: If I may add, that's a separate process to the Basin Plan review, which is the plan in its entirety. That's the first of the statutory reviews. They are scheduled for every 10 years and this is the first such review.

CHAIR: In terms of the review, what planning is being put in place now to take us through to that?

Mr McConville: You would appreciate that it's a fairly complex and large undertaking. We are progressing. The first key point is to complete the science that will underpin the review. In 2024, there will be a review of what we call the basin environmental water strategy. In 2025 there will be an evaluation, a look back at the effectiveness of the Basin Plan to date. Then we'll also be completing what are called the Sustainable Rivers Audit and Sustainable Yields, which are scientific inputs into the review. For the actual review itself, there are requirements set down in legislation as to how that must occur. That will commence in 2026, using all of those scientific inputs and processes of public consultation and the like. The review will be delivered by the end of December.

To date, the authority has publicly stated its key four areas of focus in relation to the review. We are providing six-monthly updates on progress. The first of those was released in December. Around the middle of the year, we will release what we are calling an early insights paper, which will be where our thinking is evolving, given the science that is underway, as to what we might think are the key issues that we are seeking feedback on and where our thinking is going.

CHAIR: I was at the Coorong, Lower Lakes and Murray Mouth Research Centre opening a couple of weeks ago, as was Senator McLachlan. Can you step out for us how that work is going to support the review through the research that they're undertaking?

Mr McConville: Sorry, in relation to?

CHAIR: It could be that the department is more appropriately placed to answer that.

Mr McConville: It is a very specific question in relation to work being undertaken by that agency. Is that your question, Senator?

CHAIR: Yes.

Mr Dadswell: The Goyder research institute is where the Coorong, Lower Lakes and Murray Mouth Research Centre is based. That was a funding commitment by the government of \$8 million over four years, from 2023 to 2027. Its purpose is to support, through research and community engagement, the management of the Coorong, lower lakes and Murray mouth, and particularly the capacity for that area to adapt to and mitigate climate change. At the moment, we are awaiting project plans, research plans, First Nations engagement plans, coms engagement plans and governance arrangements. As you mentioned, you were at the launch of that on 3 February, close to World Wetlands Day on the 2nd. We're expecting that the research outcomes of that will inform, for that region, the ways to adapt to and mitigate climate change and its impacts on ecosystem services and threatened species. In that regard, it certainly will be generating information that will be relevant to the Basin Plan review.

CHAIR: What they have planned there, in terms of how they are going to conduct that research, certainly was very impressive. We will break for lunch now.

Proceedings suspended from 12:27 to 13:31

CHAIR: Good afternoon. We will now resume with Murray-Darling Basin Plan cross-portfolio matters, and we will go directly to Senator Davey.

Senator DAVEY: I want to come to the latest water tender, about which we have been seeing bits and pieces come out over time. The tender was announced last year. It opened in March and closed in May. I totally understand that it takes time to work through these things. Did the department engage consultants to value or provide advice on the price and the types of entitlements?

Ms O'Connell: We'll outline the framework for the evaluation of the tenders, which also involved having valuations and valuers available to provide advice. I'll hand to Mr Southwell to talk through the framework for the valuation and the use of valuers as part of it.

Mr Southwell: With the publication of the tender last year we had a strategic audit purchasing framework that outlined how we were going to approach the task and the three principles upon which we would evaluate that program. That was around whether water could bridge the gap around the environmental utility, the cost and other financial factors. We also engaged a probity adviser. Our intent with this whole process was to make sure that we followed all the Commonwealth procurement rules and did it by the book.

We engaged a consultant, Marsden Jacob Associates to provide input to us around the value for money framework and we also did some program evaluation work and ensured we also had a readiness review for the program before we launched.

Senator DAVEY: Were the consultants you hired, including Marsden Jacob, chosen through a competitive tender program, a preferred supplier program or a tap on the shoulder?

Mr Southwell: Off a Commonwealth panel.

Senator DAVEY: A Commonwealth panel, which is a preferred supplier standard use. I understand that in lodging an expression of interest, part of the process was that tenderers or people lodging an expression of interest were made aware that they would be named in certain circumstances.

Ms O'Connell: In this process we've basically followed the Commonwealth procurement rules, which do involve disclosure. At the appropriate point in time—and Mr Southwell can say that—if there is a purchase then there is an obligation to disclose the entity to which that Commonwealth funding was given. In the process of the tender we made it very clear to people that that would happen. There's a prescribed time frame from when that happens—I think it's 42 days after contract. It is listed on AusTender. There are a number listed that have already taken place that are on AusTender now. People who were tendering were advised multiple times through the process. I'll just ask Mr Southwell to say how often that was.

Mr Southwell: There were four places that we advised tenderers that would occur. One was in the approach to market. Another one was in the tender application form, and then in the sale agreement, for those that were successful. Then we also had some frequently asked questions on our website relating to the tender process itself where we disclosed what would be published.

Senator DAVEY: To be clear, they're only disclosed on exchange of contract. There's no, 'This person has offered us—we're not going to take it'?

Mr Southwell: That is correct. Look, the disclosure requirement—it's about transparency. It comes from two sources. One is this place: the Senate has an order around public information when we're spending money for contracts that are over \$10,000. That is one of our obligations, the AusTender requirements, which is the publication within 42 days. When a contract is signed by both parties, that then starts the clock around the publication on AusTender. The other disclosure element relates to state water registers. When the trade is processed and registered it goes on the relevant state water register.

Senator DAVEY: I appreciate that and I appreciate the state water registers. The state water registers operate on a licence number, a numerical identifier, rather than name and address identifiers. You talk about transparency. Given the desire for transparency, is there a reason that tenderers were required to sign a non-disclosure agreement on their part?

Mr Southwell: Not a non-disclosure requirement. It was a confidentiality provision, which was around preventing collusion. We designed the tender on the basis of probity advice, and our legal advice and the advice of the Australian Government Solicitor. That is standard practice, I should say.

Senator DAVEY: If it is to prevent collusion, I get it. That is, I've lodged a tender, and I can't be talking to Senator McKenzie to say: 'I lodged it at this price. What are you lodging yours at?' I get that. Are you telling me, then, that now that the contracts are passed and signed, they are free to go out and tell people?

Mr Southwell: Yes, they are. We emailed all tenderers to say that for those who were unsuccessful their obligations are completely removed, and for those that were contracted we are publishing the results. That requirement is gone.

Ms O'Connell: To reinforce, the full disclosure requirement, which is after the contract is signed and listed on AusTender, has always existed. There was always going to be disclosure. The confidentiality was a short point in time associated with an open tender to prevent the collusion. It is temporary and is now dispensed with.

Senator DAVEY: I note the table that was listed—yes, it was dated yesterday, but we only found it this morning, and we did look last night, but it was dated yesterday—of Bridging the Gap, which breaks down the valleys, the volume and the valley and the average price paid in the valley. It doesn't separate out the different product types. Is that information coming?

Mr Southwell: Yes, we will publish more comprehensive information. At the moment, as I said in my comments before lunch, we're still signing contracts. Once that process is finished, we will be able to provide more detail around the types of products in each valley.

Senator DAVEY: And, to be clear, you said that for any person who lodged an offer and wasn't successful they are now expunged?

Mr Southwell: They are. All of the rights that they signed up to are closed.

Senator DAVEY: This table shows that you had more offered, for example, in the New South Wales Murray than you purchased. Any of the volume related to that which wasn't purchased—they don't have to sit there and wait for the 12 months that was in the original tender?

Mr Southwell: They do not, no. The whole purpose of this tender was to bridge the gap. When we went to market, we said that it was to bridge the gap. You'll note that in that table there is a small incidental overrecovery of 0.4 giganlitres because of the parcel sizes that were offered to us. Outside of that process, we're not using it for any other purchasing. It was very clear that we're not able to do that. We advised tenderers at the time last year that this was only for bridging the gap. Anyone who's tendered through this process has either been successful through a contract or they haven't. Anyone who hasn't been successful has no further obligations in relation to this process.

Senator DAVEY: Now this table is out. It was quite confusing a couple of days ago to have the announcement that you'd only managed to recover 60 percent of the 44-gig target, so 26.25 giganlitres rather than the 44 gig which was sought. Looking at this table, was that because the offers of volume—the minister came out in October last year with a big statement, 'We've got 250 offers and more than double the volume that we require,' and then came out with, 'Well, we didn't quite buy the volume that we required.' There were a lot of people going: 'Well, what happened? Why couldn't you get the 44 gigs if you had all those offers—if so many people wanted to sell you their water?' Can you explain to us why that happened?

Mr Southwell: Absolutely. The minister's press release in October last year was factually correct. That table will show you the volumes we received in excess of a tender, and there were 137 giganlitres nominal overall and 90 giganlitres of long-term diversion limit equivalence or LTDLE. That's weighted towards—the majority are in the southern basin. Through this tender, we could only recover 10 giganlitres for the New South Wales Murray, for example. So once we hit that threshold, that's all we were recovering.

We went through an evaluation process with three principles: Did it meet bridging the gap? Was there environmental utility? What are the costs and other financial factors? Together, all of those three are value for money. When we've got to that threshold, and we've evaluated every tender and sought to buy on the best price possible to meet our Commonwealth obligations under the procurement rules, that's when we stop. Regarding the balance of that 90 giganlitres of LTDLE, we've been able to purchase 26.25 giganlitres towards bridging the gap and 26.65 giganlitres overall. Where we've fallen short it's because either there were insufficient bids, or they did not represent value for money.

Senator DAVEY: Value for money—that's the important thing.

Senator McKenzie: One hundred and twenty-nine bucks a litre.

Senator DAVEY: It's very hard for us, without the breakdown of the product and its value. If you tell us that you paid \$2,400 a megalitre in the New South Wales Murray, it's very hard to say—if I'm thinking high security, you got a bargain. But if I'm thinking general security, that's over and above. Until we have that added detail, it's very hard for people to judge whether it is value for money or whether you paid a price premium, which a lot of people perceive is the government's usual practice.

Mr Southwell: I appreciate that comment. It is an average, and I think this is important. It works out at less than one cent a litre. These are average prices across those catchments, as you point out, for a mix of products. Until those contracts are signed, I'm not able to provide more detail around the prices paid per product.

Senator DAVEY: I've got so many questions about this tender. There is still a volume remaining, something like 18—

Mr Southwell: Point zero five.

Senator DAVEY: In which valleys is that?

Mr Southwell: We've got a gap remaining of 1.28 giganlitres in the Barwon-Darling, 8.48 giganlitres for surface water in the Condamine-Balonne, 3.2 giganlitres of groundwater in the Condamine-Balonne and 5.09 giganlitres in the New South Wales areas.

Senator DAVEY: Will that be a future tender? There wasn't enough interest in this round, so you haven't got offers sitting there that could be revisited. You'll have to do another tender process or another process yet to be—

Mr Southwell: We will need to do another process of some description to recover that water. We are in active conversation with the Queensland government, and we will also have conversations with the New South Wales government. We've started conversations with groundwater users in Queensland as well, to understand the opportunities to recover that water.

Senator DAVEY: I note on the table you've got 'volume offered nominal', which would be the number of licenses, then you've got 'volume offered LTDLE', or long-term diversion limit equivalents—is that correct,

Mr Southwell: Yes.

Senator DAVEY: There are never enough acronyms in water! Where can people source your table of conversion factors?

Mr Southwell: The MDBA, I think, in relation to that data. That's where it comes from. The reason we convert that—nominal is what the irrigators offer us. They have a licence, and each licence has a volume. That's why we reflect that number. What we actually contract on is a nominal volume, bridging the gap to ensure that each water type is of equal value, so we're comparing apples and apples. Each water type has a conversion limit equivalent, and bridging the gap requires 44.3 gigalitres of long-term diversion limit equivalents. So that's what that column of 26.65 total purchase—26.25 towards bridging the gap—relates to.

Senator DAVEY: Mr Goodes from MDBA has come to the table. Where can I find the conversion factors these days?

Mr Goodes: I suspect they're on our website.

Senator DAVEY: Have you got an address or a link?

Mr Goodes: We can provide it.

Senator DAVEY: Are those conversion factors locked in?

Mr Goodes: Not across the whole basin. They are known and definite where there are accredited water resource plans, with the exception of some valleys in Queensland. The Queensland regime often requires the determination of a factor at the entitlement level, each individual entitlement, given that there's not necessarily a huge number of entitlement holders in some of those catchments. So when there's a requirement for a trade, there's discussion between the Queensland government and us about those factors. That's a process. The factors for the New South Wales resource units that don't yet have accredited water resource plans are not finalised but will be when those plans are accredited.

Senator DAVEY: When purchasing this water, which is to bridge a gap, you are using conversion factors that could change?

Mr Goodes: Yes, we're using best available conversion factors. The work's been done by New South Wales, on existing modelling and allocation regimes, and has been subject to independent reviews, so we're comfortable and confident that they are robust, being mindful that New South Wales is bringing forward different modelling arrangements. But the factors on prior transactions are than subject to—

Mr Southwell: We used the best available information: the factors published in 2018.

Senator DAVEY: These ones?

Mr Southwell: LTDLEs for New South Wales. That comes back to the principle in the tender, which is that we can only purchase water where it would contribute to bridging the gap.

Senator DAVEY: One of the issues I have is that once upon a time it used to be that the Lachlan River was considered overrecovered, and then—I think it was in about 2018, when this 'NSW updated factors for water recovery', which I'm happy to table, was published—all of a sudden the people of the Lachlan Valley woke up to find that they were underrecovered. Hence, you've now gone forth and bridged the gap with a purchase in the Lachlan Valley, but against conversion factors that may or may not change depending on the final water resource plan. Can you understand why farmers would be sitting there thinking: 'Where is the certainty? We don't even know the value of our existing licence, because people, at the stroke of a pen, decide to change the value of the conversion factor'? I'm happy to take a comment from anyone sitting there looking decidedly uncomfortable at the moment.

Mr Southwell: Sorry—the question is?

Senator DAVEY: You've had one example where, overnight, one valley went from being overrecovered to underrecovered, based on renewing their conversion factors. You've just gone out with another process of purchasing more water and utilising conversion factors that may or may not change.

Mr Southwell: The best available information that we had, going into the tender, was that the Lachlan required 0.9 of a gigalitre of recovery, and we've agreed to purchase 0.91 gigalitres.

Ms O'Connell: Earlier in the day we covered evidence in relation to water resource plans. I think, once water resource plans are in place, it provides greater certainty for all.

Senator DAVEY: I acknowledge that the water resource plans, which keep going backwards and forwards—and I've got lots of questions for the MDBA on those as well—are not finalised, despite multiple lodgements, revisions and revocations. I think the frustration from communities is that they are the ones who bear the brunt of the uncertainty that is created—yes, by lack of water resource plans. But, when we entered into this process, all of

these valleys had in place water-sharing plans and known conversion factors that even the MDBA was working off back then. In 2018 you get different conversion factors. Some of them changed the actual value of the water product quite significantly. And farmers get no say in this. At the end of the day, they are told: 'No, sorry; you've gone from having a product that is worth 0.83 to a product that's worth 0.5.' There's no process; there's no openness.

CHAIR: Do you have a question?

Senator DAVEY: That's my little spiel. I'm happy to share. I'll move on to my next topic afterwards.

CHAIR: Senator McKenzie.

Senator McKENZIE: Thank you for your dedication, shadow minister, to our communities. I have some questions that I'm going to run through. Apologies if they've been asked before, but I'd appreciate fresh answers. I want to go to the costs to recover the 450 and the 605. What is the expectation of how much that will cost? How has that been established?

Mr Dadswell: On our website, we published the full budget for the Murray-Darling Basin Plan. This is in reference to the \$13.4 billion that has been committed to that plan to date. The amount of funding that is set out from 2023-24 to 2026-27 in the forward budget for water recovery is \$2.711 billion, which is against water infrastructure recovery—for recovery of water through infrastructure projects.

Senator McKENZIE: So the 450 is not included in the \$2.711 billion?

Mr Dadswell: That's correct.

Senator McKENZIE: Again, I go to my question: how much do you expect it to cost to recover the 450 gegalitres?

Mr Dadswell: That was a matter that was not for publication in the October 2022 budget.

Senator McKENZIE: Then can you tell me under what metrics or methodology the yet-to-be-disclosed figure was calculated? Ministers have to go to ERC with quite a detailed proposal for treasurers to approve a lot of money, as your secretary will recall.

Mr Fredericks: You are absolutely right. And, because those ministers have to go to ERC, the material they take with them is cabinet-in-confidence. I'm happy to take it on notice and have a look at it for you, but my instinct is that what you just asked is subject to cabinet-in-confidence.

Senator McKENZIE: In terms of a cost-benefit analysis, is that something that would be attached to such a request for funding?

Mr Fredericks: I will have to take on notice the specifics of that question because it does relate to what the minister might have taken to cabinet.

Senator McKENZIE: I appreciate that.

Mr Fredericks: Of course, you and I know from the past that, from time to time, cost-benefit analyses such as those go to cabinet, but they are subject to cabinet-in-confidence.

Senator McKENZIE: So it has been costed; it is in the decisions taken but not yet announced. Is that what you just said?

Mr Fredericks: No. Strictly—I'll stand to be corrected—it's announced, but it's not for publication.

Ms O'Connell: It's not for publication because it's commercially sensitive.

Mr Fredericks: It is a measure, but it's an NFP.

Senator McKENZIE: Would it be typical for methodologies used to calculate costings to be confidential?

Mr Fredericks: At the end of the day, it's a matter for cabinet process. I know it's a legitimate question, but I can't answer it, because at the end of the day it's—

Senator McKENZIE: I think the communities are wanting to ascertain that the government has fully costed the benefits and the costs, not just to the budget but to the communities that are ultimately paying the price for this. When will that be released? Do we have to wait 30 years for that one?

Mr Fredericks: That's a matter for government.

Senator McKENZIE: Minister, when do you think it would be appropriate for communities to understand the basis on which the government has made the decision?

Senator McAllister: I think that we canvassed this reasonably extensively in the Senate debate about the legislation, but the figure itself is not for publication for the reasons previously explained. It would impact the negotiating position and the capacity of the Commonwealth to obtain value for money in its contractual

negotiations. In relation to analysis that supports cabinet decision-making, I think the secretary has provided you an answer. He's taken on notice what may be provided. I can't add to his answer.

Senator McKENZIE: Are you making a public interest immunity claim on the modelling that underpins these decisions?

Senator McAllister: I think the secretary has taken on notice your request that materials in relation to the methodology be released. Are you asking a different question?

Senator McKENZIE: No. I assume that'll come back with either the modelling or the PII claim.

Mr Fredericks: As you know, I can't make such a claim. I can take your question on notice, understanding what you're asking.

Senator McKENZIE: Yes, and that is within the standing orders, so away we go.

CHAIR: Senator McKenzie, maybe I can help you out here. This committee has quite a settled process about how we do these things in agreement across the committee. When we receive the information, we can then discuss whether it's sufficient and whether we then go back and say, 'No, it's not,' or call for a PII. So, just for your information, the committee will consider it.

Senator McKENZIE: Yes. I think we've had this debate over estimates in other committees seeking modelling as well. Just saying something is a consideration for cabinet is actually not a reason to not disclose to a committee.

CHAIR: But taking it on notice to see what they can provide you is absolutely in order.

Senator McKENZIE: Well, we've waited this long. I understand the Victorian Farmers Federation wrote to the minister early in January seeking a response on the issue of how much water recovery the government believes is required from each valley. You'll appreciate that the southern connected basin, particularly Victoria, has done the lion's share of lifting and recovery thus far. Our farmers are very concerned, at a granular level, about individual valley targets that may be a part of the government's plan. Can somebody go to those details for me?

Ms Connell: Yes, I can. I will refer you to the draft restoring our rivers framework to deliver the 450 that's currently out for public consultation. I'm happy to table a copy of that document if that would assist.

Senator McKENZIE: I'm wanting to go specifically to the VFF's concerns about the valley. You're out consulting right now on the valley targets themselves?

Ms Connell: The draft framework doesn't include valley targets.

Senator McKENZIE: No. That's why the specialists in this area, the irrigators from Victoria, are seeking the individual valley targets. These are individual farmers operating enterprises in specific places.

Ms Connell: I'm happy to table the document and take you through the approach. At the higher level—

Senator McKENZIE: But the problem with the approach, as I understand it—

Ms Connell: If you let me answer the—

Senator McKENZIE: is that it doesn't go to the individual—

CHAIR: Senator McKenzie, you've asked the question. Can the official please respond.

Senator McKENZIE: Yes, of course.

CHAIR: Thank you.

Ms Connell: One of the major criticisms we've had of Basin Plan implementation over the last years is the need to be more outcomes focused, more flexible and more adaptable. The draft framework includes an explanation of what enhanced environmental outcomes are—there's a part of the framework that articulates those. We are in the program design phase at the moment. The framework sets out a number of programs to deliver on the 450 target.

At the same time as the draft framework was released, we did open a program to deliver, through non-purchase mechanisms—the state-led Resilient Rivers Water Infrastructure Program was opened on 30 January, and we're currently consulting on a range of other programs and approaches to deliver the target.

One of the things we heard loud and clear at the end of last year was a desire for particular industry sectors and irrigation networks to have more detailed and deeper conversations with the government about the approach. We're honouring that feedback, and we've designed the framework with that in mind.

We're currently having conversations with the dairy industry and the rice sector, and we've had a quite a few detailed discussions now with IIOs. We've received some really good feedback to date. One of the things that have been drawn to our attention is whether there's an opportunity to apply the current way we've got the program framed more flexibly. IIOs have raised with us whether there's an opportunity to combine infrastructure efficiency

approaches with purchase, with community adjustment assistance. We're currently open for consultation until 4 March, and that consultation will inform the government's approach going forward.

Senator McKENZIE: Is it your anticipation that, by the completion of the consultation and the release of the final design framework, Victorian irrigators will have an understanding of the government's specific valley targets?

Ms Connell: As I said earlier, we are not proposing to take a valley-by-valley target approach. We got quite clear feedback over many years, which you're probably familiar with, about the fact that we should take a much more outcomes focused approach to implementation of the Basin Plan. The draft framework sets out early on an articulation of what enhanced environmental outcomes look like.

Senator McKENZIE: Okay. We've all been involved in a lot of Senate inquiries that have mapped that out. Which specific environmental sites are you looking at and which specific outcomes—or is that part of your consultation right now?

Ms Connell: That's right—

Senator McKENZIE: And that won't be known until when?

Ms Connell: One of the things we will be doing is working closely with the Commonwealth Environmental Water Holder, who is obviously the key source of expertise and advice on the value of environmental water, the need for particular assets and sites. We will be drawing on advice from Dr Banks but we will also be working closely with states and territories.

Senator DAVEY: Can I ask a clarifying question—sorry, Senator McKenzie. You said you're working on unpacking and determining what enhanced environmental outcomes will look like. Enhanced environmental outcomes is for the 450, which is over and above the environmentally sustainable level of take. My understanding is the MDBA still stands by the ESTLs in the original Basin Plan modelling. If that position has changed, it's changed since the production of documents. But the 450 and the enhanced environmental outcomes were modelled back pre-2012 and there were certain environmental indicators determined with and without relaxed constraints. Isn't that what we're striving for?

Ms Connell: That is right. That's the original advice from the MDBA. As you will be aware, there have been 10 years pass since that advice was provided. The Commonwealth Environmental Water Holder now has considerable experience of operating with a sizeable portfolio of water. They're doing on-ground condition monitoring, and we will be taking advice from the Commonwealth Environmental Water Holder about the way the acquisition of water should happen in delivering on the 450. I might—

Senator DAVEY: Sorry, I laugh because I've been looking at that since I stepped in this place. We now have all these learnings we can base it off. We should look at outcomes instead of volumes, and I keep getting told, 'No, when the Basin Plan was designed, it was determined on these volumes and you can't adjust that.' Now you're saying we can adjust this because we've now got all these learnings. I get frustrated—sorry.

Ms Connell: I would direct you to the framework, page 8. We're consulting on it. We are happy to receive feedback.

Senator DAVEY: I have a lot of questions about that paper.

Senator McKENZIE: Sorry, I've got a little bit more. With the consultation, how are communities and irrigators to respond if they don't know what the local impact is going to be? I reckon they'd all say 'not my valley'.

Ms Connell: We've published a draft approach. The legislation obviously went through at the end of last year. We've come out relatively quickly, articulating a broad—

Senator McKENZIE: I appreciate that.

Ms Connell: view. We are working quite closely with IAOs and sectors we know that are heavily water dependent, so we're having, as I said, conversations with the dairy industry and the rice industry. We're meeting with local government organisations and First Nations groups as well.

Senator McKENZIE: I appreciate you have a comprehensive consultation schedule ahead of you; I get that.

Ms Connell: We are happy to provide further briefings as required.

Senator McKENZIE: Do you understand my question? Does anyone understand my question? You're going out to consult, you're asking for feedback on this, but no-one understands the impact on them and their local community and their individual businesses without having some range, if you have to do a range, or some expectation of what the valley targets are. How do you respond to that?

Ms Connell: I appreciate that feedback. This is a staged approach, and we will be consulting as we go. The first step was to articulate the broader framework and the proposed programs. We're seeking specific information as part

of the consultation process around four key areas. Leasing might be one particular mechanism that can be used to recover water. We also committed to seek feedback from communities and organisations about past experience of assistance programs. That was a commitment in the agreement between ministers, so we're seeking that as part of the consultation process. That will all be used to inform whether we have the program settings right. I will just refer you again to the draft framework document.

Senator McKENZIE: I really appreciate it. You have done a great job of outlining the government's consultation process. My farmers are no clearer on the expectation for their valleys and for their businesses and their regions, so I am done there. Has the minister applied to the VFF's letter? Has the department sent a draft to the minister's office?

Ms Connell: I would have to take on notice—

Senator McKENZIE: Really? I'm pretty sure, looking at the room, that someone knows—

Ms Connell: I can confirm it.

Senator McKENZIE: Could you? Have you received the VFF's letter?

Ms Connell: Yes, we have.

Senator McKENZIE: Has the department drafted a response for consideration?

Ms Connell: I understand we have. I have to confirm whether that's been transmitted to the minister's office.

Senator McKENZIE: But it has not yet been sent to the VFF?

Ms Connell: I would also have to confirm that. I am happy to take it on notice.

Senator McKENZIE: I'm not prepared to wait another 30 days to get an answer to that very simple question from a department of the Commonwealth on a correspondence register.

CHAIR: I wonder, how long will it take you to obtain that information?

Ms Connell: We can check that this afternoon.

Senator McKENZIE: I'm very confident that is a text and a text. Thank you very much. The VFF has also sought assurance the government will identify socioeconomic impact assessments at the local community level and to transparently report that. Is that something the department is developing?

Ms Connell: Again, I direct you to the document that is available on the website. Page 18 explains that one thing the government is doing is preparing an updated impact analysis.

Senator McKENZIE: So that will be a socioeconomic assessment at a local community level? Is that the intent?

Ms Connell: I would refer you to the Sefton report.

Senator McKENZIE: I am very aware of the Sefton report. I quoted it ad nauseum when this government chose to ignore the negative socioeconomic impact of the take already out of my communities.

Ms Connell: One of the things that you would appreciate from the Sefton report is the challenge of identifying and isolating what the impacts are on regional communities. The ability to isolate the impacts—

Senator McKENZIE: I'm pretty sure the former detailed that quite—

Mr Fredericks: Senator, with the greatest respect.

Senator McKENZIE: I'm getting a little frustrated being referred to the framework document, Secretary.

Mr Fredericks: I understand that.

Senator McKENZIE: Excellent work—gold star.

Mr Fredericks: To be fair, my official was mid-sentence when you talked across her.

Senator McKENZIE: Ms Connell, was it? I am sorry; I'm getting old, and my eyes can't see that far. If you are going to run me through the framework, I will go back to my office and look it up. If you have nothing more to add—

Ms Connell: I am referring you back to the key finding of the Sefton report—

Senator McKENZIE: I can read that as well.

CHAIR: Senator McKenzie, please let the official respond.

Ms Connell: I would like to get this on the record. The Sefton report took the approach that, given the complex drivers of socioeconomic impacts, multiple lines of inquiry need to develop robust, evidence based understandings of Basin communities. So we know—

Senator McKENZIE: Thank you for the Sefton report reference. I assumed that would have been taken into account in the water minister's MINCO that came up with the drafting of socioeconomic determinants to be assessed before the 450 could be released. They would have drawn on that report, I'm sure. Minister, can you provide a commitment that Minister Plibersek will respond to the concerns the Victorian Farmers' Federation have raised?

Senator McAllister: Minister Tanya Plibersek is of course interested in what a wide range of stakeholders have to tell us about the policies we are pursuing. I think you will know that Victoria has elected not to join the agreement with the other Basin states in relation to the arrangements for—

Senator McKENZIE: Yes. They are protecting our irrigators.

Senator McAllister: I think the minister has often emphasised that, should Victoria wish to engage in that agreement, it would be warmly welcomed.

Senator McKENZIE: Minister, you will not often hear me say this, but I congratulate the Labor Party in Victoria for recognising that we have done the heavy lifting thus far. To be backing our irrigation communities to take more—you can get guaranteed water out of Victoria because we manage it so well—is something to be applauded. It shouldn't be used by the Commonwealth minister as a reason to not appreciate Victoria's stance and to take a stick to Victoria. I'm very concerned that because Victoria has chosen to stand up for our irrigators it could be somehow cut out of any detailed negotiation that comes out. Everyone sitting around here knows what Victoria has done and also knows the impact. Does the government support the compulsory acquisition of flood easements to relax constraints?

Ms Connell: The issue of compulsory acquisition is one for the states. States are responsible for delivering on the constraints relaxation program of works.

Senator McKENZIE: If Victoria is carved out then there should be no compulsory acquisitions in Victoria, if it's a matter for the states.

Ms Connell: I am not aware—

Senator McKENZIE: But how would that work? Actually that's a—

Ms Connell: If I could just answer the question—I'm not aware that any of the states at the moment are contemplating compulsory acquisition. I understand the approach at the moment is to engage with landholders and affected parties in terms of the rollout of the program.

Senator McKENZIE: Do you think that constraints can be relaxed without the creation of easements, or is that a matter for the states too?

Ms Connell: Yes, I think land management issues are a key issue for the states to deal with.

Senator McKENZIE: What if a state chooses not to participate in this, such as Victoria? Does the Commonwealth have power in this space at all?

Ms Connell: Not that I'm aware of.

Senator McKENZIE: So constraints wouldn't be relaxed by the creation of flood easements in Victoria and there wouldn't be compulsory acquisition of flood easements to relax constraints in Victoria if Victoria is not participating.

Ms Connell: I think they're all hypothetical scenarios that we're not in a position to deal with.

Senator McAllister: I don't think officials can speculate about Victorian government decision-making.

Senator McKENZIE: But, Minister, the official is right; these are state government decisions. But if a state government is carved out of negotiations—or has chosen not to participate, as everyone just said Victoria has done—the flow-on decision-making that may evolve as part of Commonwealth and state decision-making on this wouldn't be applicable in Victoria?

Senator DAVEY: This comes to river operations. If there is no resolution of the constraint issues for whatever reason, whether it be state participation, landholders or whatever, what does that mean for river operations? This may be a question for the MDBA rather than the department.

Mr McConville: In terms of the relaxation of constraints, certainly it does then lend greater effectiveness to the water that is recovered for environmental purposes.

Senator DAVEY: But if there's no resolution that means you have to maintain river operations within current channel capacities.

Mr McConville: That's correct.

Senator DAVEY: So we're not getting environmental outcomes on the low flood plains?

Mr McConville: The environmental—

Senator DAVEY: What do they call it—lateral connectivity?

Mr McConville: I think environment outcomes are certainly being achieved. The relaxation constraints can bring a larger delta to that, but I wouldn't want it to be said that no environmental outcomes are being achieved.

Senator DAVEY: I wasn't implying that. You're still getting great stuff.

Senator McKENZIE: Can I just finish, and then I'm out.

Senator DAVEY: That was me butting in.

Senator McKENZIE: No; it's all good. There is serious bank erosion along the mid-Murray—I'm sure that's already been canvassed today—but can we guarantee that the delivery of additional water to South Australia won't make the problems worse?

Mr McConville: Sorry, can you repeat that question?

Senator McKENZIE: We all know serious bank erosion is occurring mid-Murray. I'm sure that's all been canvassed today. If it hasn't in this forum it will have been in other places. Can we guarantee that additional water delivered to South Australia won't make the situation worse?

Mr McConville: I'll ask Dr Davis to come up. What I'd say by way of an opening comment is that maintaining or addressing constraints is very, very difficult and additional flows need to be managed very appropriately, there's no doubt.

Dr Davis: It depends on your question. It depends how we deliver them. You recover water from the environment and it takes it out of the regulated supply. The erosion in the rivers really doesn't regulate supply. If we can then transfer them overbank, and in the mid-Murray we run to about 15,000. That's pretty agreed across that thing. It probably reduces the erosion impact, especially that bank notching in summer. So it really depends on how that water's delivered and what environment outcomes we're seeking.

Senator McKENZIE: Are you saying maybe it will make it worse, depending on how it's delivered?

Dr Davis: I can't say it's a guarantee. If that water was to run through the regular supply it's going to cause bank notching. We've seen that as an issue on the mid-Murray and we're trying to address that. If it's delivered overbank, up to 15,000, even if we don't have the constraints in place that actually takes pressure off the banks in those really peak areas, so it could help the erosion issue.

Senator McKENZIE: In the case that it does make it worse, is it a Commonwealth responsibility to pay to fix the problem?

Dr Davis: Currently what we're doing is working with our ministerial council on that issue, so all governments are involved in that. All that money—

Senator McKENZIE: Is Victoria involved with it?

Dr Davis: Yes. Very much so. The Victorian government is a very keen and a very active partner in that. We're working through what's called the joint venture of the Murray-Darling Basin to get all parties on board and we're trying to provide a consensus approach about how we go forward with that approach.

Senator McKENZIE: What more needs to be done to avoid delivery restrictions into the Mallee?

Dr Davis: I think we've done a lot of work on that. We've got a shortfall response plan which I work with all governments on and make all governments aware of. Victoria has done a lot of work in allowing their customers to understand the risk.

There's been a wide range of options put on the table. We've done the Barmah-Millewa feasibility study. We're working through some of the options about how we might push water around the choke, basically, and we're also looking at the issues within the choke about understanding the drivers causing the bank erosion. We're in a good place with that work, I think.

Senator McKENZIE: I'm probably talking about the explosion of almond plantations and therefore demand downstream of the choke, which is essentially driving these delivery issues.

Dr Davis: I disagree with that.

Senator McKENZIE: Really? Do you. Why?

Senator DAVEY: Really?

Dr Davis: The growth of almonds is largely a trade-driven thing. There are permanent entitlements being used, there's trade restriction across the choke, so basically it's not the upstream entitlements coming through the choke

to meet the almonds. That said, out of the tributaries, out of the Goulburn especially, there's been a lot of water moved from the Goulburn into the Murray to satisfy that demand.

Where we're at with the ministerial council regarding that is during every period—and we're about to do another mapping of that in mid-2024—we go back to council and say, 'These have been the changes since last time.' We're trying to make all governments aware of that because ultimately it is a state government that can put any restriction on it.

Senator McKENZIE: Absolutely. So when you have one side of the river saying let's restrict these types of developments for sound reasons—because we hypermanage our water in Victoria—and you have the government across the river, so the development just jumps the river but the water delivery task remains the same.

Dr Davis: Potentially, yes. How do you—

Senator McKENZIE: Is it a potential or an actual problem?

Dr Davis: The Murray-Darling Basin agreement operates by each state setting their own policy for water management. Yes, Victoria has a different one to New South Wales.

Senator DAVEY: Can we put South Australia into the mix too. They've got a lot of almond growers.

Dr Davis: Yes, but if we're talking about the almonds upstream of the South Australia border, it is those two states really that are fundamental in this. South Australia has its own unique issues.

Senator McKENZIE: To limit delivery risks, questions have been raised as to whether states should also limit new irrigation developments. I'm wondering if the government, the department or the MDBA has a view on that.

Mr McConville: It's a question for the states.

Senator McKENZIE: Anyone? Same answer, department?

Ms O'Connell: It's an issue for the states.

Senator McKENZIE: I want to get the response from the department to the Productivity Commission report—I might put those on notice. I just want to understand from the government, the department or the minister: how will you ensure that Victoria receives its fair share of funding for projects for the Basin Plan implementation going forward?

Senator McAllister: Did you indicate that you're seeking to have this answered on notice?

Senator McKENZIE: No, they're my Productivity Commission report questions. My question is: will the government ensure that Victoria receives its fair share of funding for projects for Basin Plan implementation, given state Labor's view of federal Labor's handling of this, or does state Labor's rejection of Tanya Plibersek's approach mean that Victoria won't get the investment from the Commonwealth to fund projects for Basin Plan implementation? I want to understand the fallout from this agreement.

Senator McAllister: I think Ms O'Connell can talk you through the nature of the agreement that has been struck between the Commonwealth and New South Wales, South Australia, the ACT and Queensland. Self-evidently, the fact that this agreement has not been struck with Victoria does limit their capacity to benefit from some of the elements of that agreement. But Ms O'Connell can talk you through the specifics.

Ms O'Connell: The agreement was about providing additional time for the projects—and that's been legislated; additional flexibility for the implementation of the plan; additional transparency; and additional funding. As the assistant minister pointed out, a number of states have signed on.

Senator McKENZIE: I'm just interested in Victoria.

Ms O'Connell: We're continuing discussions with Victoria. We would like them to sign on in order for that funding to be able to flow.

Senator McKENZIE: Is the funding flow subject to Victoria agreeing to water buybacks?

Ms O'Connell: It's not directly about water buybacks; it's about agreeing to implementation of the plan in full.

Senator McKENZIE: Water buybacks is part of implementing the plan. The minister has made it very clear that the plan implementation includes water buybacks.

Ms O'Connell: The plan implementation will include water buybacks. Indeed, we're doing—

Senator McKENZIE: Ms O'Connell, I'll take you to the evidence you've just given. The funding agreement is subject to a state agreeing to the implementation of the plan in full—

Ms O'Connell: Yes.

Senator McKENZIE: and that means a state agreeing to water buybacks, yes?

Ms O'Connell: Yes, although it's also fair to say that states would prefer that buybacks were absolutely minimised and that all of the other options on the table—and there are more options on the table now—are pursued.

Senator McKENZIE: Given that Victoria has contributed—how much has Victoria contributed? Is it over half of the recovery so far?

Ms O'Connell: I think that information is publicly available through the MDBA.

Senator McKENZIE: I'd like you to tell me. So Victoria hasn't signed the funding agreement because they don't agree to water buybacks. Is that correct?

Ms O'Connell: I won't speak for Victoria. But they haven't signed on. That is correct.

Senator McKENZIE: I think the minister from Victoria has made it very clear. So under no circumstances is the Commonwealth going to reconsider water buybacks in the Victorian sense—within the Victorian southern connector basin. They have to sign up to water buybacks in order to get any funding. Is that correct?

Mr Fredericks: We're going around in circles here. They have to sign up to the plan.

Senator McKENZIE: Does that include water buybacks?

Mr Fredericks: If they signed up to the plan, that opens up options. That includes options other than water buyback. That's the plan. It speaks for itself. As Ms O'Connell said, we as a department are open to those discussions. They continue with Victoria. We have a good, strong relationship with Victoria, and we'll continue to utilise it.

Senator McKENZIE: Ms Connell?

Senator McAllister: What question are you seeking to have Ms Connell answer?

Senator McKENZIE: The numbers of Victoria's previous contributions.

Ms Connell: In terms of the contribution to the 450?

Senator McKENZIE: No, to the recovery thus far of the plan.

Ms Connell: We're still doing the calculation. I can tell you that they've contributed approximately 17 gegalitres to the 26 that's been recovered, so—

Senator McKENZIE: So it's 17 divided by 26 times 100. If I could have those numbers at some point when you get them this afternoon, that would be awesome.

Ms Connell: I've just got that number. It's approximately 800 of the 2,100—

Senator McKENZIE: So, 800 of the 2,100 and 17 of the 26.

Ms Connell: That's correct.

Senator McKENZIE: Thank you, officials. I'll have some questions on notice.

CHAIR: Senator McLachlan.

Senator McLACHLAN: What are the implications for South Australia because Victoria hasn't signed onto the agreement? What are the risks for my state?

Ms O'Connell: I think the risks in terms of Victoria not signing on—the Basin Plan agreement is across all jurisdictions. It's a collective effort in delivering the outcomes of the Basin Plan. Those risks are a shared contribution across all jurisdictions.

Senator McLACHLAN: I'm trying to avoid a hypothetical for your benefit: with no agreement with Victoria, will South Australia need to, under the current management of the plan, deliver more water in addition to what it's currently obliged to in order to meet the plan's objectives? Is there a flow-on effect that we're currently facing?

Senator DAVEY: I think he's worried that if you can't get your water from Victoria, you're going to get it from South Australia.

Senator McLACHLAN: Or any other state.

Ms O'Connell: It's not a matter of if you can't get the water from Victoria. The government's commitment to the 450 is to deliver the Basin Plan in full. The issue of when it comes time for delivery of the 450 for the voluntary purchase component is something that the Commonwealth can proceed with, whether the jurisdiction signs on or not. It's still a commitment to deliver the 450 gegalitres as part of the—

Senator McLACHLAN: I'm not necessarily questioning the commitment. I am just interested in what the implications are of Victoria not signing on. The government has seen a benefit of entering into an agreement with the other states. The other states have seen a benefit because they've signed on. One state has not. There must be an implication of one state not signing on, either to my state at the end or to another state. Is it the case that the

agreement advances the particular state that engages with the Commonwealth for whatever reason, and Victoria misses out? What does Victoria miss?

Senator DAVEY: Money.

CHAIR: Cold hard cash. I get where you're going, and I'm right with you as a South Australian. At the moment—trying to avoid the hypothetical—we're in a situation where Victoria has not signed onto the agreement. My interpretation of that is that they're potentially limiting the ways in which the water can be recovered to achieve the plan, which is a plan signed up to by all states, right?

Ms O'Connell: Yes.

CHAIR: So, therefore, at the end of the day, when it comes to the reckoning of achieving the targets, the Commonwealth could maybe end up doing the things Victoria may not want it to do.

Ms Connell: Correct.

CHAIR: At the moment that would be the fact of the matter.

Ms Connell: The first program open to deliver the 450 is the state led infrastructure program. Our preferred delivery pathway for community adjustment assistance would be through federal funding agreements with states. So, if Victoria doesn't sign on to the agreement, we'll be exploring the option of looking at a grant framework from the Commonwealth to Victoria to deliver that benefit.

CHAIR: So the situation, as we see it now—I've heard the minister say this a number of times and Ms O'Connell say it this morning—is that the intention is to go into a buyback scenario not as the primary first objective. Therefore, one would interpret that the first objective would be to look at this infrastructure plan that has now gone out for the states to contribute to, and any state that's signed up can avail of that.

Ms Connell: That's correct. The priority approach in terms of delivering the 450 is to lead on non-purchase options; that's what stakeholders have asked for loud and clear. The resilient rivers infrastructure program was launched on 30 January. Until Victoria signs on, those kinds of opportunities and the opportunity to deliver community adjustment assistance are not available to them.

Ms O'Connell: So, by not signing on, there's less participation by that state in the programs that can deliver alternatives other than voluntary purchase.

Senator McAllister: As the secretary indicated earlier, our preference is to work collaboratively with all the basin states. That dialogue with Victoria continues. As the minister has publicly indicated, we'd warmly welcome reaching an agreement with Victoria, and we continue to speak with them.

Mr Fredericks: To the South Australian perspective: at the end of the day, with South Australia, irrespective of what Victoria does, there is the commitment to the delivery of the 450, which is the ultimate goal South Australia has sought here. That doesn't change; that's there. There are now states leaning into that. To the extent that something is different because of Victoria missing out, it's the fact that Victoria, at the moment, doesn't get to engage in a process through which they could receive funding.

Senator McLACHLAN: So South Australia is between Victoria and the Commonwealth, and we're looking to the Commonwealth to keep its commitments, as a state?

Mr Fredericks: The South Australian interest is ensuring the Basin Plan is delivered as it is now designed to be delivered. That's the commitment of the Commonwealth.

Senator McLACHLAN: To the outstanding issue of PwC contracts—many senators across the aisle are interested in this. Last estimates the authority advised it had two contracts with PwC and was going to review them. I'm interested in the wash-up, since there's been, to coin a phrase, a lot of water going under the bridge in the public discourse regarding that firm and the contracts with it.

Senator McAllister: Did you use that joke last time?

Senator McLACHLAN: No; I think it's a new one. Maybe the Nationals used it, and I adopted it; there's a first!

Mr McConville: The contracts to which you refer are in relation to the Integrated River Modelling Uplift project. We wrote directly to and sought assurances from PwC, now Scyne Consulting, in relation to no links to the issues that emerged in that organisation, and assurances around the independence and governance concerns there. We have received those assurances in writing from PwC, now Scyne Consulting, and we have satisfied ourselves in relation to that. So Scyne, the newly created separate arm, is continuing to provide services to us on that IRMU contract.

Senator McLACHLAN: Last estimates, you gave me the termination dates. Secretary, have there been any new consulting contracts with PwC or KPMG? You can take it on notice.

Mr Fredericks: I'm happy to answer now. There are no current contracts with either KPMG or PwC. There are two expired contracts, one with each, that are quite small. The PwC one is \$42,000-odd—a water safety campaign, I think. That wound up on 30 December 2022; I think that was before the PwC issues arose. The KPMG one is \$40,000-odd; that wound up on 7 June 2023. I'm not quite sure what that one was about; I can take that on notice. But, for this group, they are two minor contracts that are now well and truly expired.

Mr McConville: If I may: was your question to me also in relation to KPMG or just PwC?

Senator McLACHLAN: We discussed PwC, but if you've got some information on KPMG—

Mr McConville: For the sake of completeness: yes, we have two contracts with KPMG. One is for a quality assurance provider, that expires on 30 June this year, for approximately \$382,000. KPMG was engaged to do a review of scheduling for the various programs of work for the Basin Plan review; that contract was started on 30 November 2023 and will complete on 30 June 2024. We can provide you the specific details of that as well.

Senator McLACHLAN: Could you take on notice the consulting firm contracts with the department and the Basin Plan—if there are any on foot? I don't need it today.

Mr Fredericks: Just in relation to the Basin Plan?

Senator McLACHLAN: Yes. Secretary, given the public discourse around these consulting firms, have you changed the practices and procedures in your department at the moment to ensure that, when engaging, you have the necessary sureties regarding the probity of behaviour?

Mr Fredericks: As a result of the lived learnings for all Public Service departments, we have received advice from the Department of Finance about all the necessary steps and changes that should properly be made to ensure that we're acting consistently with the PGPA Act and otherwise. My department has moved to do that. I should say—I've had this discussion previously—we're under an obligation to contract for value for money. In an open tender process, where a consultancy puts in a bid, I'm under an obligation to consider that along with anyone else on a value-for-money basis. It is important to preserve in mind that the ultimate obligation we have is value for money. That means tenders offered by consultancies need to be considered in that framework.

The bigger point more generally is: what is my department doing about this issue? We are trying to lift our capability internally, as a collection of public servants, so we can minimise our reliance on consultancies. In many ways I see that as the large part of the cure, rather than trying to finesse or run marginal arguments around implementation of the PGPA Act. I haven't got the stats with me—I can table them—but over the last year or two the reliance of my department on consultancies has declined greatly.

Senator McLACHLAN: Thank you for that. My question was less around cost and more around how the Commonwealth ensures ethical behaviour, which has difficulty particularly for a large complicated model.

Mr Fredericks: Correct—which is about the implementation of our obligations under the PGPA Act as advised by Finance. The other thing to note—and you've heard it mentioned here today—is we rely on probity advisers quite strongly to help guide us through these issues because they're not always easy. Given your background, you fully respect that. Probity advice is something I personally get a great deal of comfort out of in trying to navigate these things.

Senator McLACHLAN: Thank you. Another topic?

CHAIR: We might spin across to Senator Davey now and do a bit of sharing and caring.

Senator DAVEY: Thank you very much. I have some questions that might be of interest to South Australia. Thank you for providing the documents in accordance with order of the Senate 318. I had a wealth of documents to wade through—very interesting reading, certainly—and the back-pocket brief documents that get prepared before you come and see us in estimates. This also relates to the 'Restoring our rivers: delivering the Basin Plan' discussion paper that you've put out. That document, and talking about the 450, acknowledged that now, through the legislation that passed through the parliament, the 450 can come from anywhere in the basin. One of the back-pocket briefs in the OPD 318 talks about whether you get water from the north or the south. It also talks about how the modelling highlights that not getting all the 450 from the south would have very little impact on outcomes at the Coorong (Lower Lakes) and Murray mouth. Is that correct? Can someone step us through that modelling, which has shown that you can shift your water recovery venue and not impact the Lower Lakes?

Ms Connell: I think that's a question for the MDBA.

Mr McConville: I might ask Dr Coleman to come forward and talk a little bit about that.

Dr Coleman: I'm pretty sure the work you're referring to is—MDBA were working on a draft document last year, looking at the geographic distribution of the 450. The basis of that work was the modelling that MDBA conducted during 2011 and 2012 to support the development of the Basin Plan. What we were doing through that

work was re-examining that existing modelling to see if we could pull out any additional learnings about the geographic distribution of the 450.

Senator DAVEY: From my reading of the back-pocket brief that we got—we didn't get all the modelling, although I remember the 2012 work—it indicates that you could shift around 100 gigalitres of the 450 away from the southern basin without substantially changing mid and lower Murray flood-plain outcomes and that there wouldn't be a significant decrease in outcomes at the Coorong (Lower Lakes) and Murray mouth if around 150 to 200 gigs were shifted away from the southern basin.

Dr Coleman: That's right. The conclusions we got to through that report were draft conclusions. When we had a look at the analysis in greater detail, we found we were essentially taking the modelling and analysis that we'd done in 2012 and extrapolating it beyond its ability to give us meaningful results. That report remained in the draft stage. We kicked it around internally a bit more amongst our science team and decided that the conclusions that we made in that report weren't valid. We'd essentially taken the modelling beyond its ability to give us meaningful answers.

Senator DAVEY: So the position now—because that's a draft, so that is not going to be pursued—is that the full 450 needs to come from the southern basin?

Dr Coleman: No. Our position is that the 450 can come from across the basin. The Basin Plan details the outcomes that could be achieved if the 450 were to be recovered fully from the southern basin. But the MDBA's position is that the Basin Plan does not stipulate where the 450 can come from; it refers to the 450 looking to achieve enhanced environmental outcomes. The location of those outcomes, of course, depends on the location of the recovery.

Senator DAVEY: If it comes from the north and if the draft modelling is not robust, what changes in outcomes in South Australia would occur—if you've tipped the balance? I agree that the Basin Plan does not specifically say it must come from the north, south, east or west.

Dr Coleman: Sorry, the question you're asking is—

Senator DAVEY: That draft modelling said there'll be no change to outcomes at the Coorong and Lower Lakes if you've got that much from the north. If you've decided that that modelling was not robust and so not to be followed, but the government proceeds to get 150 gigs from the north, does that imply that maybe the outcomes in South Australia would be less than originally assumed when the Basin Plan was drafted?

Dr Coleman: It's possible. There's a lot of devil in the detail in terms of where the water is recovered, how it's recovered and, most especially, how it's then managed through Menindee Lakes. It's hard for us to comment without knowing a specific proposal.

Senator DAVEY: I'm glad you mentioned Menindee!

Senator McAllister: As was canvassed earlier with Senator McKenzie, the consultation we're going through at the moment is precisely about what kind of environmental values we are seeking to obtain through the recovery of the 450 and about looking for feedback on that so that the criteria can be established. I think—Ms O'Connell will correct me if I'm wrong—it speaks to connectivity but also to a range of other values that are of interest.

Ms O'Connell: The framework document is all about that outcomes approach, and we have mentioned that in terms of the consultation there's a heavy reliance on the MDBA for modelling of those outcomes.

Senator DAVEY: I know they've got a heavy workload. I'll move on to the consultation paper. One of the beauties of these estimates processes is that people who watch on from home can then incorporate what they're hearing in evidence into their feedback. Hopefully, we're helping the consultation process, not hindering it!

Ms Connell: I might add, in addition to what Ms O'Connell said, that we're being quite transparent about the proposed approach and set it out in quite some detail. There's quite a detailed explanation of the proposed approach to implement delivery, in terms of not just high-level programs but also the approach in the northern basin versus the southern basin. One of the critical things that we need to take into account in terms of how the 450 is targeted and delivered is what we saw in the northern basin between 2017 and 2019. To say it was unprecedented is probably a bit of an understatement. Off the top of my head, what we saw in the Namoi over a couple of years was inflows being something like 80 per cent less than the previous—

Senator DAVEY: Worst.

Ms Connell: lowest inflows and, in the Macquarie, something along the lines of 60 per cent less than the last experienced worst inflows. We obviously need to take into account those significant differences. There is just one other thing that I would note. We understand that what happened in the Macquarie matched some of the new climate scenario modelling that New South Wales is undertaking in terms of the most conservative projection that they

were looking at 30 years out. The framework makes it clear that we want to have a look at, in terms of implementing the 450 gigalitres, being able to deal with those seriously low flow conditions—

Senator DAVEY: I would also highlight that those seriously low flow conditions were a result of no rain and not a result of any overallocation of the river, because no-one had any allocation. There was zero allocation everywhere, and it didn't rain for two years. We had serious ecological and environmental stress, but it wasn't because the river was overallocated. This is where there's a little bit of a mismatch in the rhetoric sometimes—

Ms Connell: That's right, but—I might see if Dr Banks is able to talk to this in more detail—I will point out that, during that period, it was the Commonwealth environmental water holder entitlements that were used to not only replenish fish habitat but also replenish some of the town weir pools that had been depleted for considerable periods of time.

Senator DAVEY: I acknowledge that. More importantly, I want to come back to what Dr Coleman was saying regarding how water is managed through Menindee Lakes because your consultation paper also mentions it. You're looking at ways to—'shepherd' is your term—manage environmental water through Menindee Lakes. Currently, any water that enters Menindee Lakes, be it environmental unused irrigator's water or just river base flows, is effectively resocialised and becomes parts of the New South Wales and Victorian shared resource. That's correct?

Dr Coleman: That's correct.

Senator DAVEY: When people talk about shepherding, they're talking about quarantining water that comes into the lakes and ensuring that that water retains that sort of entitlement value to come out of the lakes. I'm just trying to lay it out in very simple layman's terms.

Mr McConville: There are the rules around the operation of Menindee as to when it's a shared resource and then when it reverts to New South Wales, as you're aware.

Senator DAVEY: Yes. I'm talking about the over 640 gigalitres. When it's MDBA, then it's a shared resource. I don't want to get into the nitty-gritty of the 460-640 rule. In the MDBA's terms, when you're talking about shepherding, currently, the way Menindee Lakes is operated and managed is under the Murray-Darling agreement, not the Basin Plan. Am I right?

Mr McConville: That's correct. The lakes are part of the irrigation resource for the Murray system. They haven't been for several years. There was, late last year, a call on that resource. There's an order of priority. As the most inefficient storage, it is called upon first. That was the first time since 2017, but yes. So it may be called upon as part of meeting the needs of the Murray irrigation system.

Senator DAVEY: If you were to change how the water's managed—currently, it's resocialised—if you were to say, 'No, we are now going to have a shepherding provision for Menindee Lakes,' does that require changes to the Murray-Darling agreement?

Mr McConville: I believe it would. Yes.

Senator DAVEY: Does that mean we can review the whole agreement?

Dr Davis: I think we can do it. We've done it before. There was the Toorale purchase back in 2010, if you remember. That water had come through. There was a drought response back when the Lower Lakes was quite suffering. At the end of the drought in 2010, we transferred that water through Menindee. It needs agreement with basin states—Victoria and New South Wales, specifically. Do we need to change the MDBA agreement? Probably not, to do it on a trial basis or to look at the issues. But, yes, we would like to formalise that through the agreement if we could.

Senator DAVEY: To make it a permanent provision.

Dr Davis: Absolutely, and also for both states to understand what their rights are now for that water.

Senator DAVEY: Are conversations currently occurring with the states?

Dr Davis: Yes. Currently, we're talking to New South Wales about a potential trial. They've got a method to calculate environmental water coming towards Menindee at the top. Obviously, Victoria are very focused on what that calculation is and what it looks like, and they are also looking at the accuracy of that from their point of view, because inflows from Menindee Lakes are shared fifty-fifty. Water is a shared resource and obviously will affect both states.

Mr McConville: Obviously, changes to the Murray-Darling Basin Agreement are then a matter for the contracting states—not for the MDBA.

Senator DAVEY: Yes, and all the states must agree.

Mr McConville: That's correct.

Senator DAVEY: I'm thinking of this shepherding. When it's a shared resource, any impact to the reliability of the resource impacts New South Wales and Victoria equally, when it's MDBA. But I'm also thinking, if you are opening the Murray-Darling Basin Agreement, does that afford the opportunity to look at other aspects of the agreement that may no longer be fit for purpose? One thing that springs to my mind is additional dilution flows, which might prick the ears of South Australia.

Mr McConville: It could do. For the situation of the additional dilution flows of late last year, which you're obviously referring to, we came up with a solution, which was to work with South Australia, New South Wales and Victoria to find a solution down the Anna Branch. But, again—consistent with Dr Davis's comments—a longer-term solution would require a change to the agreement, and that's for the contracting states to do.

Senator DAVEY: Given you've done modelling on shifting water recovery of part of the 450 gigalitres or maybe 100 gigalitres to the north, you've considered that you need shepherding to make it a viable proposition environmentally. Have you also done modelling on the potential impact to New South Wales and Victorian water resources and the reliability of their allocation products?

Mr McConville: Not that I'm aware of. I may have to take that on notice.

Senator DAVEY: Please take that on notice.

Dr Davis: I can add to that. This is new water, effectively. This water that's coming into Menindee shouldn't be part of the historical base. Therefore, it shouldn't have an impact on the reliability in New South Wales and Victoria. We have to check; it definitely is something that the states will be very, very focused on—

Senator DAVEY: I would hope so!

Dr Davis: and your constituents especially will be very, very focused on that. So, yes, that is something we have to be very open and transparent about. New South Wales has a method, and they've put it on the website. I can provide that on notice.

Senator DAVEY: I think we have to be really careful with our terminology. When you say it's 'new water', would I be writing and saying, 'These are entitlements you may have purchased off a northern irrigator that, in the past, never made it to Menindee, but, through environmental water managing regimes, could make it into Menindee'?

Dr Davis: Yes.

Senator DAVEY: So it's not new water; you're not creating a new entitlement in this aspect.

Dr Davis: No; sorry. It can be through efficiencies in the northern basin. It could be about entitlements that were purchased in the northern basin which used to be taken out and now are entering the Menindee Lakes system. Basically, we need the calculation to say what that volume is. That volume, historically, wouldn't have appeared in Menindee Lakes. Therefore, it shouldn't be part of the historical basis. The water that enters Menindee is very episodic at times. At the minute it's quite healthy, but there have been periods with zero flow and things like that. We have to work through all that. Also, we have to work through whether that water is stored in Menindee and how we would release it. We're working very closely with the water holders.

Senator DAVEY: If you're looking at this, would you be looking at loss factors not only through Menindee but also from Menindee to the South Australian border?

Dr Davis: It depends how that water comes out. If that's environmental water, the loss factors in that generally are paid by the water holders. Also, the route becomes important, so if it goes via the Anna Branch or via the Barwon-Darling, those are different. Also, we have to then make sure we don't just re-regulate that in Lake Victoria but that we pass that into South Australia for that solution. There's a bit of work to do, but we're in the early stages.

Senator DAVEY: That's a lot of work. The other issue—

CHAIR: Senator Davey, I encourage you to consider sharing the call with your colleague.

Senator DAVEY: This is all outlined in the discussion consultation paper, and the other issue that's identified in there is that rule changes can be used as part of the recovery of the 450, but then it clearly states that rule changes have to result in entitlement transfer; can you talk me through that? What is the expectation? Is it that entitlements will be created out of the results of rule changes or that you'll change rules but then get entitlements from somewhere? When I've spoken to people in the New South Wales department and the Victorian department, and farmers, they have all said, 'No, you can't just create entitlements and rule changes should not result in entitlements; rule changes are managing differently, getting better outcomes and leaving water in the river, but as soon as you make that water in the river an entitlement you have an impact on the liability.'

Ms Connell: The draft framework refers to a body of work that New South Wales is undertaking under the banner of the Northern Basin Connectivity Program. The other key element to keep in mind is that to contribute to the 450 we require an entitlement. As the framework points out, we are talking to New South Wales about the possibility of the body of work that they're undertaking—which will result in some changes to water-sharing plans in the northern part of the basin—

Senator DAVEY: We haven't even got water resource plans from the northern basin yet—you're talking about changing them already.

Ms Connell: No. As you'd be aware, the state instrument—the water-sharing plans—those base plans have been in place for more than two decades in New South Wales, and that's the principal state-based instrument that manages water shares in the state. We are discussing with New South Wales the potential for that program of work to contribute to the 450. It's currently subject to an independent assessment at the moment, and there's information about that process on the New South Wales government website. Ultimately, that will be an issue for New South Wales, so I refer you to them on that fact.

Senator DAVEY: I can feel the angst of all the northern New South Wales irrigators right now as they're sitting there thinking, 'I'm seeing the reliability of my water product being whittled away by people who think they've got a good idea of changing rules and getting water from A to B,' but if it's an entitlement, and my good friend Dr Banks starts to manage it as a callable entitlement, it is going to have a markedly different characteristic than it currently does. It will impact on storage space and—

Ms Connell: It's a proposal at the moment. As I understand, it's not new; this connectivity work has been in train for about three years now as part of the Western Regional Water Strategy. I understand—

Senator DAVEY: I've heard about the connectivity work—

Ms Connell: New South Wales has undertaken several rounds of consultation on a couple of drafts of that strategy and is having ongoing conversations with communities up there.

Senator DAVEY: My understanding is that yes, it has been ongoing, but not with the 'we're going to turn it into entitlement' part of the conversation. They've talked about connectivity and all of that.

Senator McLACHLAN: I'm going to the topic I normally ask about, which is on the interactions between the basin authority, the department and the SA river commissioner. Thank you for your response to questions on notice. Other than those declared up until 15 January, which was in the question on notice, have there been any interactions since then?

Mr Dadswell: No.

Senator McLACHLAN: By 'interactions', I include correspondence and/or meetings.

Mr Dadswell: There has been no interaction at all.

Senator McLACHLAN: What about the department?

Ms O'Connell: There has been none from the department.

Senator McLACHLAN: Minister, you might need to take on notice whether there have been any interactions from the commissioner and the minister's office.

Senator McAllister: I'll take it on notice.

Senator McLACHLAN: On the topic of a flood warning network, when we last had a conversation around this it was unclear whether South Australia was going to seek access to funds with regard to its monitoring of flood warnings. Has there been any change? Has South Australia sought some of the funds to upgrade its flow monitoring?

Mr McConville: I think that's probably a question for the department, Senator.

Dr Davis: I'm not sure if they have access to funds. The funds aren't administered by MDBA.

Senator McLACHLAN: The government has allocated some money, and, as I understand it, the states can bid. There was some media at the time saying South Australian flow monitoring wasn't up to scratch—or could be improved, if you want to use more positive language. I'm just wondering whether my state has sought to progress improving its flow monitoring.

Ms O'Connell: Senator, that would have appeared at estimates hearings through the Bureau of Meteorology, for the flood warning indicators. That would be flagged—

Senator McAllister: Senator, because the committee ran out of time on Monday, I understand that attempts are underway to find a time for the bureau to appear. So you may yet ask them these questions in this round.

Senator McLACHLAN: Thank you for that guidance. I'll now go on to South Australia's proposed hydrogen project. Thank you for your responses to the questions on notice, which were that there have been no meetings to date. Has that changed—between either the basin authority or the department—in relation to potential impacts on the plan?

Mr McConville: No, Senator. There has been no discussion. As we stated previously, any activity would still have to fit within the existing basin framework.

Senator McLACHLAN: Thank you. It was going to have to come out of SA Water's existing country licences, I think.

Mr McConville: That's correct.

Ms O'Connell: Just for the sake of completeness—because you didn't mention the department as well—we are aware of proposals from the South Australian government in relation to that and we have had conversations with the South Australian government.

Senator McLACHLAN: For a project like that, what would be the department's interest if, as we discussed last time, it's up to South Australia to decide how it allocates the water that's already allocated to it?

Ms O'Connell: That's right, water allocations are the state's—

Senator McLACHLAN: But what's the department's interest? Why does there have to be a discussion? Is that just a courtesy conversation?

Ms O'Connell: I think it's a fairly significant project for South Australia in terms of their overall infrastructure proposal. It's not just the water allocation.

Senator McLACHLAN: I mean in the context of the plan rather than the department as a whole.

Mr Fredericks: Exactly. So, as to the department as a whole, there are other parts of the department that are working very closely with the South Australian government on this, because of the big plans the department is responsible for in the hydrogen space. So—

Senator McLACHLAN: Sorry to cut across you, but I'm not asking—

Mr Fredericks: You read my mind. I can't add anything more to that, but what I can say is that obviously my expectation of this department—Climate Change, Energy, the Environment and Water—is that, when we are dealing with a discussion about a hydrogen development, we need to bring to the table the understanding we have about implications for water as something that is deserving of consideration. That's in recognising, though, that, at the end of the day, the point you made about an ultimate decision-maker being South Australia is of course right.

Senator McLACHLAN: So from your perspective there has been no change in the situation that, if South Australia is going to proceed from a water perspective, South Australia has to find the water out of its own allocation, which is I think was the status we were at last time.

Ms O'Connell: Yes.

Senator McLACHLAN: Is there any other state that is considering a hydrogen project where they're potentially going to take water out of the Murray?

Mr Fredericks: I don't think so. I'll take that on notice but I am relatively confident the answer is no.

CHAIR: I think there could be a couple of desal plants to take the pressure off.

Senator DAVEY: You probably won't turn them off.

Senator McLACHLAN: I don't think we've quite settled on the desal plants. It's a government decision. I was just interested in whether the status has changed.

Mr Fredericks: I'll just take that on notice.

Senator DAVEY: I have some questions, again, on the consultation paper but also looking at the Productivity Commission report with regard to how much funding there is left. I know that we've already had the conversation about not for publication. However, there are some questions that arise. The Productivity Commission report, on page 55, outlined how much funds were left in different programs, including Bridging the Gap, purchase; Bridging the Gap, infrastructure; supply measures; efficiency measures; constraints-easing; and the Northern Basin Toolkit. It said that, at the time of publication—and I understand things have changed—there was about \$2.168 billion left in all of those existing buckets. It stated that in the WESA fund there was \$1.19 billion remaining for infrastructure, to be used to recover the additional 450. We know that, with the recovery of the 450, the parameters have changed, so now it can be infrastructure or purchase or a series of other options. The Resilient Rivers program overview and

consultation paper states that there is \$494 million to fund infrastructure projects, rule changes and land and water partnerships. That's a difference of \$697 million. Is there a reason for that difference?

Mr Dadswell: This would have been subsequent to the Productivity Commission report. We've updated our website with all the funding against those programs. It's recording programs as funded up to 31 December, so through the Mid-Year Economic and Fiscal Outlook process, and expenditure up until 30 June 2023. On that website it's currently indicating, I think, on the matters that you're raising that, for the WESA, there is the Off-farm Efficiency Program, with remaining funding of \$748 million, and the Resilient Rivers Water Infrastructure Program, a state led program, with \$496 million. The \$2 million difference on what you quoted, between \$494 million and \$496 million, is administrative support versus funding that actually goes to the project.

Senator DAVEY: From the end of WESA, according to your website, the \$748 million compared to the \$496 million—my maths is terrible; I can't do it in my head—is just over a \$100 million difference. What would that be due to?

Mr Dadswell: There is the Off-farm Efficiency Program. There is the Resilient Rivers Water Infrastructure Program. Then there is still \$128 million for constraints projects under WESA.

Senator DAVEY: That would explain it. So that's constraints. In the Productivity Commission report, they've got a lovely map of the different constraints areas. They estimate the best- and worst-case scenario of the cost of those constraints. I think, when I added them all up, it was about \$510 million as the best-case scenario and upwards of \$700 million as the worst-case scenario—and you've only got \$128 million for constraints.

Ms Connell: I just note that there are two funding streams for constraints projects, from WESA and from the Sustainable Rural Water Use and Infrastructure Program.

Mr Dadswell: Under the Sustainable Rural Water Use and Infrastructure Program, there is \$943 million for supply projects.

Senator DAVEY: I also noted in the Productivity Commission report—it may be something on which you refer me to the states, though—that, for constraints-easing, in the 'committed' column there was \$200 million, which was committed way back when the Basin Plan was first drafted. As at 31 May 2023, according to this report, 'spent (including contracted)' was \$128 million. Yet—dare I be rude—nothing's happened. What have we spent \$128 million on?

Mr Dadswell: My figures show that of the total funding of \$200 million, as of 30 June 2023, \$72 million has been spent; \$128 million remains unspent. It may be contractually committed or otherwise, but that's the current expenditure.

Senator DAVEY: So page 55 of the Productivity Commission's *Murray-Darling Basin Plan: implementation review 2023* is not correct?

Mr Dadswell: I'm sorry. I don't have that report in front of me.

Senator DAVEY: I did have it here. Don't you hate it when you have too much paperwork?

Senator McAllister: On this question of detail, it's possible that we could take it on notice and just examine our own records against the description provided by the Productivity Commission and provide an answer to you on notice. Unless it's a matter of some urgency for you to know, it might be most efficient to do it in that way.

Senator DAVEY: Because it is budgetary detail, I am quite happy to take it on notice, because I do want to know where the money's gone. If it is that this much has gone to that state and this much has gone to that state then I will know where to direct my next questions, acknowledging that states have the predominant carriage of dealing with constraints.

Before I move on to infrastructure, in relation to and just slightly further on from my colleague's questions on consultants, in the Senate order for the production of documents—in another one of these beautiful back-pocket briefs; can we get the back-pocket briefs in future? They are really good. I've really enjoyed reading these. The latest one is 23 May. There's a lot of similar information in each one. I note the February one also spoke about a contract put in place between the department and Marsden Jacob Associates of \$711,484. The contract required MJA to provide two analyses, one looking at the impacts of previous water recovery programs. In the February back-pocket brief, it said that a draft had been provided to the department for that portion of the contract. Has that draft been finalised? Is it going to be released publicly?

Mr Coates: That contract commenced in 2019. That work, obviously, is significantly impacted by the new legislation. At the moment, that's paused, but the contract remains open.

Senator DAVEY: The draft analysis of the impacts of previous water recovery remains in draft form, does it?

Mr Coates: Yes.

Senator DAVEY: It's not going to be released anytime soon, while the contract is paused?

Mr Coates: I couldn't give you a time.

Senator DAVEY: This May 2023 brief says that the contract was reactivated in 2022 to further support socioeconomic analysis of water recovery options available to meet the 450 efficiency measures target and that it was varied to allow this work to continue through to 30 June 2023. Was that work done?

Mr Coates: There was a small piece of work around lessons learned from prior community adjustment programs. That was funded through that contract with MJA. The draft framework that was referenced previously, with some principles around community adjustment, was informed by that piece on lessons learned from previous programs.

Senator DAVEY: Earlier, I think Ms Connell said—and she even gave us the page, page 18 of the consultation document—that updated impact analysis is being undertaken. I believe there are conversations—is that like a regulatory impact analysis?

Mr Coates: That's an addendum to the regulation impact analysis of the original Basin Plan.

Senator DAVEY: Of the original Basin Plan. Is there a reason why it wasn't done before the legislation passed through parliament? Normally, regulatory impact statements occur before the legislation is introduced.

Senator McAllister: I think I answered this in the Senate debate, Senator Davey, and the answer I provided at the time was that the legislation itself didn't do anything more than create a pathway for recovery. A decision to do so would be a subsequent and different policy decision, and the officers have given some information about the analysis in support of that.

Senator DAVEY: I think this is where my colleague Senator McKenzie gets concerned, because, to actually evaluate the impact of the regulation and legislation, you need to understand where the changes are going to occur, but we don't know where the changes are going to occur because we don't know where the water is going to come from because it's all voluntary and very difficult to assess. How can you work out the cost-benefit ratio when you can't work out the cost, be it cost to industry, cost to community or cost to government?

Ms Connell: Just further to that comment—

Senator McAllister: Was there a question you were seeking to have answered, Senator Davey? Those are some observations of your own.

Senator DAVEY: That was an observation.

Senator McAllister: But was there something you wanted the department to particularly respond to?

Senator DAVEY: No, but I'm happy to hear what Ms Connell has to say, if she chooses.

Ms Connell: Obviously one of the things that need to be clear in undertaking a regulatory impact assessment is the design of the program that you're assessing. We are currently consulting on a range of program settings. We have made it quite clear in the consultation paper that we've put out that we're also seeking advice back in relation to previous experience of programs and the community adjustment assistance principles. We'll take that feedback and advice, and some of that advice and feedback will come from other states, including work that they've undertaken. That will be collected together and will inform the development of the update to the original regulatory impact statement.

Senator DAVEY: Will those MJA reports, when they're finalised—if they're finalised—be released publicly, or are they just internal reports?

Ms O'Connell: I think we might take that on notice.

Ms Connell: We will take it on notice. We'd need to go back and review it. But our intention will be to publish appropriate material to support the updated regulatory impact statement.

Senator DAVEY: Okay. Bearing in mind where we are in the day, I want to move on to infrastructure. I think they would fall under the National Water Grid purview, which is departmental.

Ms O'Connell: Absolutely.

Senator DAVEY: That's fine. Thank you. I will start in my state, with the Wilcannia weir project, which got federal government funding—and I acknowledge and thank the current government for retaining the commitment to funding Wilcannia weir. It's a very important piece of infrastructure for the community of Wilcannia. When was the Commonwealth government informed of the New South Wales government's last-minute changes to the design of the new Wilcannia weir, which now, instead of being a weir that can actually be regulated and have different

operational modes, will now just be a fixed crested weir with no gates, built to the same height as the existing weir, so that effectively, instead of upgrading and providing a better, more manageable piece of infrastructure, we're going to have the same again?

Ms O'Connell: The New South Wales government is responsible for the design, and the consultation around the design, of the Wilcannia weir. We're obviously aware of the proposed changed arrangements for the weir. Is your specific question, Senator, about the federal government funding applied to that?

Senator DAVEY: Well, the federal government agreed to fund the weir.

Ms O'Connell: Yes.

Senator DAVEY: I have the announcement from August 2022 from Minister Plibersek. The federal government committed \$15 million to the Wilcannia Weir project. I understand it is a project being delivered by New South Wales. Minister Plibersek's announcement said:

The new weir will include gates and a fishway to support downstream flows and enable native fish to travel up and down the river.

This would 'support a healthier Darling River.' That excited us all. We were very happy about that announcement. What we are seeing now coming out from the New South Wales government is a decidedly different design project. So is the Commonwealth still going to fully commit the \$15 million to that project, given we're not getting what we put our money up for?

Ms Wall: I'll go back to your first question, which was about time frames and when the department was informed. In July this year, New South Wales government officials told us that they were going to rescope the project. Then in October they came to us and gave us a verbal briefing on what a new scoped project would look like. Then in December, I think—do you have that?

Mr Whalen: Yes, I have some dates here. Following that verbal briefing from New South Wales, the department wrote to New South Wales asking New South Wales to formally advise if they were going to change the scope of the project, because at that point in time, as you alluded to before, Senator, there was an announcement. The \$15 million was part of the Northern Basin Toolkit funding, and we wrote to New South Wales requesting that they advise us of how they were going to change the scope and if they were going to formalise that in terms of the change to the actual funding agreement as well, because that funding agreement had a scope of works and expectations, as you've just touched on, in terms of the outcome.

Senator DAVEY: Did they provide that formal advice?

Mr Whalen: New South Wales provided some advice in November, but it didn't actually address all of the issues that we asked them to address. We have been in touch with them fairly regularly since then, and even as recently as January we've followed up in writing with them, to remind them that that information was outstanding and also to advise that some of the information that had been provided to the public about the design hadn't been shared with us at that point in time. We were just being very clear about the need to confirm the scope of their existing project and funding agreement.

Senator DAVEY: My reading is that it potentially changes the deed of arrangement, the funding arrangements, if they have significantly changed the design from what the original agreement was. But the formal notification back to the department, with enough information for you to undertake your jobs and what you need to do, has not yet been forthcoming from New South Wales?

Mr Whalen: That's correct. At this stage, in terms of that original funding agreement and the scope, we haven't had the opportunity to amend it yet.

Senator DAVEY: I know you can't speculate. Maybe the best way for me to ask is this. In the past, when projects are significantly rescope, does that lead to a change in the funding provided? I'm not asking about this project, because you haven't got the information in front of you. But in the past, if there is a project that has been significantly reworked and it's coming in under the specs that had been agreed, you can renegotiate the funding arrangements, and it changes how much is committed.

Ms Wall: Your understanding is correct.

Senator DAVEY: Is there scope for the Commonwealth to demand that the original scope of works is what is delivered?

Ms O'Connell: I think it's reasonable that—New South Wales are the people on the ground, consulting on this weir. We want to hear, first, their rationale for the change, what is going to be delivered, and have a chance to look at the new proposal in full.

Senator DAVEY: I understand that, but one of the reasons why I'm so interested in this weir is that I'm getting a lot of calls from people who were also blindsided by the information that has publicly come out from the New South Wales government that is now describing a weir that is not what they expected. They expected what was announced by Minister Plibersek. So they're seeking answers too. I appreciate that you are constrained because you haven't been provided with the information you've been seeking. I was really after how much consultation you've had to and from New South Wales, who are the lead agency in this.

Ms Wall: Yes. In regard to the FFA we have, that is correct. But I would say that we are really eager to see the project achieve its outcomes, especially for First Nations people, for regional communities and also just for general water security for Wilcannia.

Senator DAVEY: And I agree. I echo your sentiments. I certainly hope that New South Wales are forthcoming with their information as soon as possible so that we can actually get that project happening and achieve the correct outcomes. Don't run away, though; I've got other infrastructure questions! I think I saw you go, 'Yay! That's me.' No, it's not! I'm going to jump over to Queensland, where it's beautiful one day and perfect the next, according to their marketing. Cairns Water Security Stage 1—

Ms Wall: Yes, that's an additional water supply project.

Senator DAVEY: you're aware of that.

Ms Wall: Yes.

Senator DAVEY: It was a confirmed 2022 federal election commitment, and the commitment was for \$107.5 million, which was to be matched by Queensland. That's my understanding.

Ms Wall: That is correct.

Senator DAVEY: I'm advised that the Cairns Regional Council has not yet received confirmation of the federal funding commitment. Is there a reason for that?

Ms Wall: The mayor wrote to both the New South Wales and Queensland governments in late December, stating that the project's total cost has increased significantly, to \$472 million, which is an increase of \$257 million. In that letter, the mayor set out the reasons for the price changes. They also articulated that they'd actually entered into a contract for design and construction. They also pointed out in the letter the impact Cyclone Jasper has had on the community. Since receiving that information, the Queensland government—we will contract with the Queensland government to deliver this project, through a federal financial agreement—has been doing its due diligence on the revised costs of the project, which is a really important step, especially for the local council, because under our federal financial agreements any cost overruns are borne by the proponents. So it's really important, when we do go to the contracting stage, that we have comfort with the price. Whilst we haven't entered into a signed FFA, and neither the New South Wales government nor the Australian government have yet committed to that additional funding, there is a lot of work going on to ensure that the costing is right before we enter into that agreement.

Senator DAVEY: The commitment was made at the 2022 federal election. I appreciate that it takes time post an election to formalise things. Is there a reason why there were no funding arrangements finalised with Queensland prior to the council taking it upon themselves to award a tender in December 2023, which was 18 months later?

Ms Wall: It really does depend on where the project is at when the election commitment is made. Yes, the council has contracted. Going out to market helps determine what that costing is going to be. Once again, it is another critical step in ensuring that the FFA values are correct.

Senator DAVEY: One of the questions is: have the costs gone up because there was a delay in the funding being confirmed with the council?

Ms Wall: I might refer to my colleague Lachlan Simpson on that one. There are a lot of factors involved in the cost increases that we've seen since the election for a variety of projects, not just in water infrastructure. I'll ask Mr Simpson to talk about cost increases.

Mr Simpson: The Queensland government were advised of the funding after the first budget after the election. There was notification to Queensland. The business case for the project was still ongoing, and Cairns council have undertaken the business case and completed the business case, which came in with a revised cost estimate that was lower than where we currently are but gave an idea of where the project was up to. There was funding available, but Queensland, given the business case had been completed, chose not to pursue contracting at that point. We've been waiting for further advice from Queensland around the updated cost. They have, in turn, been waiting for council for that information to come forward. Now that we have certainty around cost, the Australian and Queensland governments are in a better position to contract the project and take it forward.

Senator DAVEY: The project was budgeted by the government as per their election commitment in their first budget—that's delivery—but the Queensland government did not confirm their funding. I'm trying to determine the time line and why there was a delay. When the federal government were out of the blocks running, the council went ahead and did their business case, and yet the Queensland government still hadn't signed on—is that correct?

Mr Simpson: No. The Queensland government funding is confirmed as well. There's \$215 million from both governments that's been committed. Now it's a matter of certainty around the project cost. We can't suggest that a project goes into the FFA when we don't know how it's going to be funded. There has always been a cost gap that has existed. In the meantime, I don't think it would be fair to attribute the delay to the cost increase. The reality is that council have continued to progress with the business case and then go through the contracting process and awarding of a contract. That in itself takes time. Council have taken those steps to understand where the project's up to and get it to the current point.

Senator DAVEY: Is the Cairns council now asking for the two governments to fund the entire cost, including the extra \$236 million?

Mr Simpson: That's the request that was sent by council. For the Australian government to consider a funding request it would need to come directly from Queensland.

Senator DAVEY: Yes. That's why Queensland are now doing their due diligence. They're looking at what the council have provided and trying to determine whether it is actually value for money.

Mr Simpson: Yes.

Senator DAVEY: Okay. Paradise Dam: another Queensland project, and another one that the Australian government has committed funding to. The former coalition government committed funding to it and the current government have maintained that commitment. It was \$600 million, and \$600 million from the Queensland government. It is my understanding that originally that was for a refurbishment of the wall.

Ms Wall: Yes. It was to build back the wall to the 2019 level.

Senator DAVEY: We now know that that project has to be significantly rescoped, because that wall is no good. My understanding is that the Australian government has committed to continue to work closely with them. Can you provide an update of your understanding of where that project is and what will be happening to the dam since the announcement that the wall won't be rebuilt?

Ms Wall: As you said, the Australian government remains committed to the project and the outcomes it is to deliver for the community of Bundaberg. In January 2024 it was announced that you can't build back the wall. Since that date Sunwater has been progressing the detailed business case for the new dam. Minister Butcher today released a media release announcing progress on the preconstruction-type activity around the dam that will need to be undertaken once any activity starts on the site. So, we are waiting for Sunwater to progress the business case.

Senator DAVEY: Is that current financial commitment from the Commonwealth still on the table?

Ms Wall: Yes—\$600 million.

Senator DAVEY: It is likely the request may change?

Ms Wall: Yes. That's our understanding.

Senator McAllister: Just for clarity: I think for all the obvious reasons, and all the reasons that I think you would agree are sensible, we will need to carefully consider the findings and the additional information that we expect will be provided by the Queensland government.

Senator DAVEY: Thank you. Yes, I do appreciate the clarity. I know the actual new business case is still pending, but will it require a new environmental impact statement? Are you aware of whether that will be a requirement of—

Mr Simpson: I think it's likely that that'll be informed by the business case that's underway at the moment.

Senator DAVEY: Right. Have you got any indication from Queensland on what the time frame for the new project will be—when you expect to see a business case?

Mr Simpson: Not at this stage. There's a bilateral committee meeting between the Queensland and Australian governments that Sunwater will also attend next week. They've previously advised that they expect to be able to provide some firmer details around timing in March this year. So we're waiting for further information.

Senator DAVEY: I'm sure you can appreciate—and it's not the fault of anyone at this table—that the community up there are very much waiting on tenterhooks to see what the outcomes will be, and they would like to see the project proceeded with in a timely manner, because they've been waiting for a long time.

Senator McAllister: I think what I can say is that we are very aware of the importance of the project and of the community views about it. Our intention is to continue to work very closely with the Queensland government to support the water security objectives attached to this project.

Senator DAVEY: Fantastic. That's good to know. I will finish on one last thing. I just want an update on the Aboriginal water entitlements program.

Mr Dadswell: I'll kick off and then pass to Ms Hedges, who's been implementing that program, to give an update on the more recent engagements. You'd be aware that, in the Mid-Year Economic and Fiscal Outlook, the government provided an additional \$60 million for that program, bringing it to a total of \$100 million. There was also a further \$10.1 million that was provided for transaction costs and conveyancing and so forth. That was announced. So that was the funding announced, and now we can go through with the consultations that have been happening since we last updated estimates.

Ms Hedges: [Indigenous language not transcribed] There are two main things that are happening over the next six months, but I just want to let you know that we've done a lot of consultation over the last six months with specific First Nations through gatherings and symposiums, and we've listened very carefully to them about what they want for this program. The two things that we are progressing over the next six months will be done concurrently. The first thing is initiating an interim governance arrangement whereby we can commence purchasing water entitlements for the First Nations in the basin. We are then concurrently going out and consulting on the type of enduring and self-determined water holding mechanism that the nations would like to have for the future.

Part of that interim governance arrangement is that we are looking to set up an arrangement with nations and the department to co-design and share that process until that enduring arrangement can be put in place. We had a survey in place, which closed on 7 February, where we asked the nations about what type of portfolio they would like us to purchase with them in that interim governance arrangement. We've had over 65 per cent of a response in that space from the nations that attended our symposiums and our gatherings in the last six months. We're in the process of analysing that. Once we do that, then we'll be able to put things in place to go out and start purchasing the water entitlements, which is something that we're really looking forward to doing, and the nations are really keen to get that to happen as well.

Senator DAVEY: It's the governance arrangements and the management arrangements that I'm particularly interested in. At one point, the minister, as a hypothetical, mentioned that it could be a trust. I don't know whether it's come back in the survey that people would be comfortable with that. If it's a trust, who then manages where and how the water is used?

Ms Hedges: There were three models that were and have been initially spoken to with the nations as part of our gatherings and symposiums last year. One was a trust model, one was a fund model, and one was a holder model, similar to the CEWH. We provided some initial information on those three models, and that's what we will be consulting on over the next three to four months with nations about—what it means to have a trust, what it means to have a fund et cetera—so that they're a little bit more informed about what that entails. But, ultimately, whatever water holding arrangement is agreed or desired by the nations in the basin is what we will go forward with to develop and implement, and it will be in the hands of First Nations to then manage that, so there will be no government fingerprints on it once it's handed over to nations. So it'll be a truly self-determined model that will be managed by the mobs in the nations in the basin.

Mr Dadswell: Just to clarify, there are two things here. One is the enduring governance arrangement, which is about the long-term arrangements around the Aboriginal water entitlements program. However, as Ms Hedges outlined, there's still some work to do in that, but we need to get on with the existing program. The thinking is to establish some interim governance arrangements which would sit within the department to manage that, pending the further development that goes into the longer term.

Senator DAVEY: That can then be transferred to whatever model is determined to go forward. Given that NBAN is no longer funded, how are we consulting with northern basin nations?

Ms Hedges: All nations within the basin were invited to send delegates to the symposiums and the gatherings we've held. We write out, we call and we do all that kind of conversation with all the nations in the basin to make sure we've got that correct coverage. Sometimes we might have a nation that's come forward that we weren't aware of. We know there are nations and there are different families in the nations and sometimes they are together and sometimes they split out. Whenever we hear those types of things we make sure that we reach out and we continue to keep those nations in the fold. We've also made sure that we've connected with other peak Aboriginal organisations across the basin, like NTSCORP, NSWALC those types of organisations, because they have their feeders as well, just to make sure that we've got that connection happening.

Senator DAVEY: So you're not limiting yourselves to just the land councils or the established bodies like MLDREN and NBAN, who I think are still operating but they're not funded. Is that correct?

Ms Knowles: NBAN's ongoing business operations are a matter for NBAN but they aren't funded by the MDBA.

Senator DAVEY: I do have some ongoing questions about the NBAN issue and I acknowledge and I thank you for the production of document 319 that you sent in, but I believe that I can probably deal with most of that on notice rather than dragging it out today. I really wanted to understand that. What I'm taking from today is that it's still a work in progress, but the important thing is progress. You've got the three models you're consulting on. When do you expect to have maybe a preferred model and a draft of the structure of the preferred model?

Ms Hedges: We're aiming to get an idea of what that preferred model is by midyear. That's part of the consultation we're doing now. I should add that when we're going out on that consultation we will also be consulting at the same time for the new \$20 million cultural flows planning for cultural economies. We're conscious that we don't want to over engage when we're out as well.

I want to go back to your previous question about who we're engaging with. We value what the peak organisations bring to us, but we are prioritising nation by nation because we've heard quite clearly that they want to have that one-on-one conversation with us and that's why we're taking the time to do that, to make sure we get it right.

Senator DAVEY: I've also heard that the peak organisations are very good and very important in what they do, but that sometimes the nations also want to have their voices heard. I've heard that in the past too. Regarding the cultural flows and the \$20 million that's been set aside for that, there are lots of questions when you're talking about cultural flows and managing water for cultural benefit. There is also the question: what water are we talking about? All the water in the river system is like colour-coded buckets and, to date, there hasn't been a colour for cultural water but there is also concern that there is an acknowledgment that our existing water management regime can be managed better for cultural purposes without undermining the reliability or the effectiveness of the different buckets it comes from. So there is a want for a better understanding of what is meant by cultural flows and how that will impact buckets or whether it will be just the river management regime taking more time to understand cultural needs.

Ms Hedges: When we're talking about the environmental water entitlements program, we use the term 'for cultural purposes'. We're applying the Echuca Declaration to that and so we're looking at the cultural, economic, environmental, social and spiritual outcomes for that. Any water that's going to be purchased as part of that program and designed by the nations will be afforded that opportunity to have that quinary bottom line use for that. What we've heard and what we've been discussing with nations is that there are specific buckets of water out there specifically for environmental outcomes and for pure cultural outcomes. That then gives the opportunity for that enduring management of that model to then potentially go into MOUs or something else with those arrangements so they can utilise those specific buckets. But with the other water, they've then got that broader opportunity to do the commercial thing, like any other purchaser within the marketplace. It's not taking it out of the water.

Senator DAVEY: So it's where water can be used consistent with the Echuca Declaration. I think one of the biggest issues of the Echuca was that economic whereas other cultural water in other parts of the legislation like New South Wales legislation is limited in what can be done with it.

Ms Hedges: Yes. It's broader than that, absolutely, which is really good. I just want to go back to your cultural flows planning, if that's okay. That program is not about purchasing water at all. It's about planning for the use of cultural with, again, that quinary bottom line. We know that some nations have already got their cultural plans in place and others aren't there yet. We want to be able to support that and how that then transitions to some further economic outcomes from that planning process.

Senator DAVEY: So it's assisting nations plan rather than—

Ms Hedges: Yes.

CHAIR: Thank you very much. Ms Connell?

Ms Connell: I undertook to come back in relation to correspondence for the VFF. The department provided a draft response to the minister's office earlier this week.

Senator DAVEY: Thank you for that. I will make sure that Senator McKenzie is made aware of that too.

CHAIR: That concludes today's hearing. Thank you to everyone who has come and appeared and shared your knowledge with us. Thank you very much to Hansard at the end of an extraordinarily long week and to the secretariat, Broadcasting and all the fantastic people who make this place work, particularly in an estimates period. The committee has agreed to any written questions on notice from senators being lodged with the secretariat by 23 February.

Committee adjourned at 16:02