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SENATE

ENVIRONMENT AND COMMUNICATIONS LEGISLATION
COMMITTEE

Estimates

Public

FRIDAY, 26 MAY 2023

CANBERRA

BY AUTHORITY OF THE SENATE

ENVIRONMENT AND COMMUNICATIONS LEGISLATION COMMITTEE

Friday, 26 May 2023

Members in attendance: Senators Antic, Brockman, Cadell, Davey, Duniam, Grogan, Hanson-Young, Henderson, Hughes, McKenzie, McLachlan, Payman, David Pocock, Roberts, Thorpe and Whish-Wilson

CROSS-PORTFOLIO MURRAY-DARLING BASIN PLAN MATTERS**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 Cassandra Kennedy, Deputy Secretary

Finance Division

Ms Michelle Crowther, Branch Head, Financial Management Branch

National Water Grid Authority and Water Infrastructure

Ms Ruth Wall, Division Head

Dr Carol Grossman, Acting Branch Head, Policy, Science and Engagement

Mr Lachlan Simpson, Acting Branch Head, Infrastructure, Framework and Delivery

Dr Peta Derham, Branch Head

Water Division

Dr Marcus Finn, Acting Division Head [by video link]

Ms Kirsty Bunfield, Branch Head, Regulation and Governance Branch

Mr Chris Golding, Acting Branch Head, Strategic Water Policy and International Engagement Branch

Mr Angus MacGregor, Acting Branch Head, Basins Policy and Science Branch

Water Reform Taskforce

Mr Matthew Dadswell, Division Head

Ms Emma Solomon, Branch Head, Policy Reform Branch

Ms Jacqui Hickey, Branch Head

Commonwealth Environmental Water Office

Dr Simon Banks, Commonwealth Environmental Water Holder

Mr Hilary Johnson, Branch Head, Southern Water Use, Aquatic Science and Community Engagement Branch

Ms Liz Rodway, Acting Branch Head, Policy, Aquatic Ecosystems and Northern Basin

Inspector-General of Water Compliance

The Hon. Mr Troy Grant, Inspector-General of Water Compliance

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

Ms Bridgett Leopold, Deputy Inspector-General of Water Compliance—Capability

Murray-Darling Basin Authority

Mr Andrew McConville, Chief Executive

Mr Andrew Reynolds, Executive Director, River Management Portfolio

Mr Tim Goodes, Executive Director, Basin Plan Portfolio

Ms Annette Blyton, Chief Operating Officer, Business Services Portfolio

Dr Tony McLeod, Executive Director, Basin Strategy and Knowledge Portfolio

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

Mr Andrew Kremor, General Manager, Integrated River Modelling Uplift

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

Ms Jacqueline Knowles, General Manager, Communications Engagement and Strategic Policy

Electricity

Ms Kirsty Gowans, Division Head

North Queensland Water Infrastructure Authority

Mr Matthew Squire, Acting Chief Executive Officer

Dr Peter Wallbrink, Chief Scientist

Threatened Species Scientific Committee

Emeritus Professor Helene Marsh, Chair [by video link]

Australian Competition and Consumer Commission

Mr Mick Keogh, Deputy Chair [by video link]

Mr David Salisbury, General Manager Small Business and Agriculture [by video link]

Ms Megan Utter, Director, Water Regulation and Compliance Division [by video link]

Committee met at 09:00

CHAIR (Senator Grogan): I declare open this hearing of the Environment and Communications Legislation Committee, looking into the 2023-24 budget estimates. I begin by acknowledging the traditional owners of the land on which we meet and pay my respects to their elders past, present and emerging. The committee has fixed Friday 7 July 2023 as the date for return of answers to questions taken on notice. The committee's proceedings today will begin with the Inspector-General of Water Compliance. Under standing order 26, the committee must take all evidence in public session; 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, and 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 for questions at estimates hearings. Any questions going to the operations or financial positions of the department and agencies which are seeking funds in estimates are relevant questions for the purpose 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 a 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 a superior officer 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 to implement the *Set the standard* report, as chair, I will ensure that all proceedings are conducted in an orderly, respectful and courteous manner.

Inspector-General of Water Compliance

[09:02]

CHAIR: I now welcome the 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.

CHAIR: Inspector-General, would you like to make an opening statement?

Mr Grant: I would; thank you very much. Good morning, Chair, and members of the committee. The year 2023 can very much be seen as the year of restoring integrity and accountability to government, and this year's budget allocation confirms that intent. As the independent head of one of the government's new integrity agencies, I recognise and relate to the Prime Minister's mandate to deliver on the commitment to return integrity, honesty and accountability to Australia's public institutions. One of the reasons why the role of Inspector-General of Water Compliance was created was to bring about a greater level of transparency and to increase community trust and confidence in basin reform. In this year of restoring integrity and accountability to government, I face emerging challenges, some of which are environmental, as is the nature of our job—only Mother Nature herself controls that destiny. Most of the country is just emerging from consecutive years of unprecedented rainfall and, in recent weeks, our forecasters have predicted that there is approximately a 50 per cent chance of El Nino developing again in 2023. As I have said previously in this forum, the speed at which headlines in Australia can change from flood to drought can be as fast as they are unpredictable.

Other challenges in relation to transparency are closer to home, specifically providing the Australian public with the confidence that, as their independent inspector-general, I provide oversight compliance and enforcement functions over government agencies, both state and Commonwealth, who are charged with managing the basin's water resources, including the department, whose role it is to support me in executing my powers and duties.

Senators, at the last estimates hearing in February, there was a question raised about how much Commonwealth money has been put aside for implementing the Basin Plan, including how much of the \$13 billion has been spent and what's left. As someone who in their spare time is the Conjoint Professor of Practice in Public Administration, I recognise that these were, indeed, great questions being asked: questions to which this nation's taxpayers, who face daily cost-of-living pressures and financial hardship, deserve honest and thorough answers.

However, after the February hearings, when I was provided with a copy of the response to those questions, I was disappointed at the lack of detail that was provided. Yes, it was a standard response to a legitimate question

on notice; however, my concern about the overall brevity and lack of detail certainly does not meet the expectations that the community tell me they would reasonably anticipate when explaining what of the \$13 billion has been spent and how much remains committed to complete the implementation of the Basin Plan.

To apply a litmus test to what is fair and reasonable in response to the original question, and in upholding the commitment to transparency that was an integral part of the creation of the role of inspector-general, I undertook a transparency review to determine whether a member of the public could see where the \$13 billion has been spent or committed. I must stress that this review used only publicly available information, such as budget statements and annual reports. I did not seek to use, nor did I use, any of my oversight or inquiry powers afforded to me as the fully independent Inspector-General of Water Compliance.

The key observation arising from my review was that there is no simple definitive public source of information that clearly shows a breakdown of the \$13 billion figure that is generally accepted as the amount allocated to the Murray-Darling Basin water reform. I acknowledge that much has been achieved to date on the Basin Plan implementation. It is important that the public can see where and how public money has been spent or is still planned to be spent. Given the scale of this reform, tracking funding over many years is not an easy task and, quite often, with programs of this size and complexity, funding is reprofiled and moved into and out of various program areas, and various departments and agencies; and varying amounts—\$10 billion to \$13 billion or \$15 billion—have been quoted as expenditure on basin reform, with no clarity on what elements of the reform package this money has been allocated to. I can understand why the community and senators must be confused at times and, therefore, seek answers to many legitimate questions.

Senators, the intention of this review was not aimed at uncovering instances of maladministration or wrongdoing but simply to establish whether or not the community could see where the money, the \$13 billion of taxpayer money, has gone. The Australian public, in my view, has a \$13-billion right to know. From a transparency lens, this review did, however, highlight the benefits of the Water for the Environment Special Account, more commonly known as WESA. Funding from special accounts like WESA provides an increased level of transparency regarding public money allocated and expended from these accounts. Senators, I'm sure that you will agree that is a basic foundational cornerstone of good public administration.

I must again stress that this was not a forensic accounting review. There are other independent agencies, such as the Australian National Audit Office, known as the ANAO, who are tasked with those responsibilities. A lack of transparency is not a new issue when it comes to Basin Plan funding. It was highlighted numerous times in the Productivity Commission's 2018 assessment of Basin Plan implementation, where they noted that community trust and confidence in the plan and basin governance will be reduced if there is a perception that money is being wasted. I'm not necessarily saying that money has been wasted; however, the absence of transparency on this issue has certainly contributed to an environment of low trust and confidence in basin governance.

It is my intention, therefore, to provide a public submission to the Productivity Commission's current inquiry that's been recently announced into Basin Plan implementation. My submission will focus on a number of areas, including the transparency of the allocation and spending of Australian taxpayer money on Basin Plan reform funding. At the conclusion of the Productivity Commission's inquiry, I will then consider all options open to me with my legislative remit to potentially inquire into or review any and all other outstanding questions of the Basin Plan spending and program management.

Senators, this role has afforded me the opportunity to travel extensively across the basin and meet with basin communities face-to-face. Supporting that on-ground engagement, I have a local network of field officers who engage with the community and industry almost daily. Through this network, I am hearing repeated concerns directly from communities right across the basin regarding the current round of water buybacks being conducted by the department. As inspector-general, my role includes engaging with the Australian community in relation to the management of basin water resources, which, from time to time, includes calling out areas of public concern. While I have no formal right, and rightly so, in implementing policy or the manner in which water is recovered, such as buybacks, it is imperative that I acknowledge the concerns of the community which have also been acknowledged by the department.

I note that an ANAO audit into the procurement of water entitlements in 2020 highlighted a concern regarding the transparency of decisions made to purchase particular entitlements. It is vital that processes such as this, where there is a heightened level of community interest, are undertaken in a manner that prioritises both accountability and transparency. Therefore I have alerted the deputy secretary of the water division about these concerns, and she advises me that their framework has been built on the ANAO audit outcomes. I have strongly urged her to examine the execution of this difficult process, as it quickly erodes public confidence and raises the

challenge for us to meet our fundamental objective to build that trust and confidence in the plan. That is because, when it comes to government accountability and transparency, it is what the community expects us to do.

Senators, in closing, I thank you for the opportunity to appear before you early and I appreciate that you're honouring the request that I made at the last meeting. My deputies for regulatory and capability and I are ready and eager to answer your questions.

CHAIR: Thank you. I will just say that the committee has agreed to a photographer being in the room. Senator Davey?

Senator DAVEY: Thank you very much for your very comprehensive opening statement. In your compliance report of August 2022, you quoted from the Pearson report which stated that 'at present there is no established basin-wide set of key indicators that would allow systemic monitoring of compliance and enforcement across the basin'. I asked you questions about that last October. Can you give us an update of what further work you've done to try to establish basin-wide protocols and processes so that we are comparing like with like and can be confident that compliance and enforcement are consistent across the basin?

Mr Grant: I'll make some opening remarks and then allow my deputies, who both have a role in that regard, to respond. A key recommendation in the Pearson report was also to establish a body that brought the basin states together, in order to achieve the outcomes that you've just articulated. We established the Regulatory Leaders Forum, at which all basin jurisdictions gather; we meet on a quarterly basis. To be frank, when we first met, the mood was somewhat acrimonious. I'm not sure that the states particularly wanted to meet with us. They were all pretty comfortable in having their own operating set regarding the way they do things and report stuff. Consequently, from there, I'm proud to say that the collegiate is one that is working extraordinarily well. We've come together already and now are producing the metering report card, of which the first draft has been provided to the Senate; we recently wrote to you with some explanatory narrative around that report card that was missing when it was first published. Our second one is due, I think, around July.

Mr Blacker: In a couple of months.

Mr Grant: It's very soon; that will show some seismic changes from the first one and will also have some explanatory notes where there are some improvements and there are some more clearly identified challenges in the metering space. It is starting to build a proper narrative. Each of the basin states has been on a long journey, at different speeds and with different capacities. The critical body of work is progressing well. The states reported for a period to the compliance compact that they all signed up to, where they would meet key KPIs and then a report card would be done on the compact. That report card was rubbish; it told us nothing. So, together with the RLF, we decided that we would junk it, essentially, replace it and measure what they were doing across all the metrics of metering: SDL compliance, WRPs—the whole remit. There are seven key categories in the compact. That is being built into what we are calling the 'compliance management framework'. We are due to meet in July. At our next meeting, the next iteration of the framework will be developed as to all the metrics that will be in there. Then we will be able to publicly publish that. So you will be able to see on our website how each of the states are tracking and how we are driving to get consistency through that process, utilising that framework.

Senator DAVEY: Mr Grant, one of my biggest beefs all along has been the different standards. While we talk about the requirement for meters to be AS 4747, each state has different protocols about when that has to apply, what sorts of grandfathering protocols they have in place and whether they require telemetry along with the meters; it is all different. So one state says, 'We are 95 per cent of the way there', but when you drill down, they are 95 per cent of the way because they have a grandfather clause. So they are nowhere near 95 per cent AS4747, but they can say that they are 95 per cent of the way towards complying to their standard, which is different to that state's standard. Will this new compliance management framework bring them all in consistently so that they don't have to change their grandfather clauses or anything like that, but have to be highlighted and transparent?

Mr Grant: As you would glean from my opening address, I am all about transparency. The framework, and the reporting of that metering report card, are all about transparency so that people can track where they are up to. I'll defer to both my deputies because there are two parts to your question. One was about standards. We are developing a metering standard, so Deputy Leopold will answer that question. In relation to the three categories, you are talking about telemetry, so I will ask Deputy Blacker to give you a more articulate answer.

Ms Leopold: Under the Pearson report we committed to developing a metering standard; that process is underway. We work with the states on consultation around that standard. That is part of the work we are doing through the Murray-Darling Basin Regulatory Leaders Forum, as the inspector-general pointed out. Also going together with that is the compliance performance reporting framework that the inspector-general referenced. Other than metering, we are looking at a range of metrics to attempt to build a framework that allows a level of

like-to-like comparability that will roll up into outputs and, eventually, outcomes so that we get basin-wide outcome level reporting.

Senator DAVEY: Ms Leopold, if we are developing a metering standard now, what happened to the 2009 agreement for non-urban water metering standards, which was a COAG agreement? That was an agreement for a metering standard. We have the AS 4747 standard, so what is this other one? Is this too much interchanging of the word 'standard', or do we seem to be on a never-ending hamster wheel?

Mr Grant: We have the legislative powers in our act to create standards, so that is what we are talking about. As to whether the term 'standards' was looked at more generically before our time, I would have to get back to you. I will let Deputy Blacker answer.

Mr Blacker: The compliance compact is essentially an agreement between all of the parties—the Commonwealth and the basin states—to implement state metering policies. Those metering policies differ from state to state. Two instruments are at what I would call a Commonwealth or Australian level. One is the Australian Standard AS 4747. The second is the Meteorological Assurance Framework, which is up to its second iteration; it is known as the MAF2. Those two standards effectively set the expectation at a Commonwealth level. But that is not at the moment in any legislative or other instrument; it is simply a guide to the states in their implementation of their state policies through the compact. When the inspector-general role was created in late 2021, it came with a standards-making power for measurement. That means that the states have to have regard to the Commonwealth's expectations in that space. So that is about us bringing together what is already in AS 4747 and MAF2 in a Commonwealth standard that the states would have to have regard to. That would add a level of rigour to arrangements where, at the moment, we are reliant on state policies. At any point those state policies can be amended.

Senator DAVEY: So this is a matter of trying to get a standard of consistency amongst state policies?

Mr Blacker: That is right. We are not looking to introduce a range of new obligations. We are looking to enshrine the existing obligations, which everybody has already agreed to, in a Commonwealth instrument.

Senator DAVEY: They agreed to it a long time ago.

Mr Blacker: Our time line goes back even further than 2009.

Senator DAVEY: I turn to the government's five-point plan to deliver the Basin Plan. In that document, which was released prior to the election—the government has been consistent that they are working towards that—there is a section that says 'compliance' and talks about removal of unauthorised infrastructure on floodplains. That falls directly under you. Do you have any enforcement powers to assess infrastructure on floodplains and to act?

Mr Grant: No, I do not and no, I do not want them. It is not something that I have remotely the capacity within my team to do. It sits with the states, and, in my view, that is where it sits best.

Senator DAVEY: Do you talk to the states about unauthorised floodplain infrastructure?

Mr Grant: Not directly as an ongoing issue, but we do by way of complaints coming in and referrals going to them and that sort of stuff.

Mr Blacker: In August 2021, when the inspector-general role was created, it came with a new offence in the Water Act around water theft. That was the first time that we had in the Commonwealth a water theft offence. As you can imagine, there is a range of interrelated issues between metering on-ground works and take. As we work through those, we work with jurisdictions on offences around metering and on-ground works because they have those already. We can see that they are active. That compliance performance reporting framework we talked about before will give all the statistics about how active they are, what investigations they are undertaking, how many audits they are doing and what activities are happening in the states, like-for-like. But at the moment our focus is on that water theft offence and not on on-ground works. It is a technical, complicated space, with a lot of legacy and history. We look at the volume of the task that states need to get through; it is significant.

Senator DAVEY: When we're talking water theft, it is complex. I am from New South Wales. Is it water theft against New South Wales's water rules and regulations? The Basin Plan limits extraction in jurisdictions; it doesn't have impact on an individual. The impact on an individual is through state regulations and how they comply with the Basin Plan. So what level do your water theft compliance activities roll down to?

Mr Blacker: It is effectively an implementation of state rules, so it is an opportunity for us to enforce in a state. I think the commentary around the establishment was 'unwilling or unable'. We are working through a regulatory policy which will put some clarity around some of those things. We're doing that with jurisdictions

now; we have just done public consultation on that. But the key trigger in the Commonwealth legislation for us to act on a water theft offence is water resource plans, and accredited water resource plans.

Mr Grant: The reason and rationale behind that is to avoid duplication, and particularly confusion, out in the basin. That was one of the states' greatest concerns about how we may unintentionally get in their space and cause issues. They are very comforted that is nowhere near where we are going or our intent now.

Senator DAVEY: Mr Grant, you said that you get complaints in and refer them on to the states, which fits in with what Mr Blacker has just explained as the process. Do you publicly report how many complaints you get in, how many referrals you have made and whether any of those referrals have led to action?

Mr Grant: I report them to you, which obviously is publicly available. They are not publicly on our website currently. That is something we can look at.

Senator CADELL: Thanks for the many points around transparency in your opening statement. Water trading practices irregularity: are there any instances you are taking enforcement actions on, or where you are investigating illegal practices in the water trading space?

Mr Grant: That is a great question. My investigations team currently has 21 open investigations. Since we were here in February at the last estimates, that same team has closed 62 of those investigations. The reason they have been closed is that the legislation is rubbish.

Senator CADELL: Don't hold back!

Mr Grant: I don't think anyone has ever accused me of holding back. The legislation has got more 'get out of jail' clauses and opportunities than a Monopoly board. It needs review. At the conclusion of these investigations, it is my strong intent to articulate that in clear detail for policymakers and legislators to consider.

Senator DAVEY: There are lots of different water rules: you have the water markets rules and the water trade rules. The markets rules are in the Water Act, the trading rules are in the Basin Plan, the MDBA is in charge of the trade rules, the ACCC is in charge of the market rules and the BoM has reporting rules and requirements.

Mr Grant: Yes.

Senator DAVEY: Are you saying that it is all rubbish?

Mr Grant: The ACCC did a report that articulated concerns around the whole lot of it, but my particular concern is about price reporting; that's absolute rubbish.

Senator CADELL: It is not fit for purpose at all, or does it need adjusting?

Mr Grant: You would have to be a moron to get caught doing anything wrong under that legislation.

Senator CADELL: How many morons have you caught?

Mr Grant: None at this stage.

Senator CADELL: If it were yesterday, one would have said that it is a complicated disaster, but we won't be doing that today. In your opening statement you spoke about having your field officers out there travelling across the basin and talking to people. We are getting lots of anecdotal reports of how you are going with that transparency in, and trust of, the organisation. Are you doing any qualitative or quantitative studies to see whether trust is being built?

Mr Grant: Yes. We survey the community, which I've spoken about at Senate estimates, to gauge that. We're working with the states on that process as well. So, to answer that question, that's probably the most qualitative body of work that we're doing at the moment.

Senator CADELL: As part of that, you're talking about the transparency, the openness, the websites and all of that. Is there a more formal study? Is there anything, anecdotally, that we're doing in our communications with the stakeholders so that they feel more empowered by the information? I know there is the report card, and you're talking about a new one coming out. Are there any other steps that we're taking?

Mr Grant: Yes. I'll get Deputy Leopold, who's in charge of this area, to answer. We're just about to finish our engagement strategy. Our media capability and field operations capability are only just starting to come to a level of maturity, because they weren't with us right at the beginning in media et cetera. We've developed an engagement strategy which covers off on all of those issues and is able to report back and feed in with the survey work that goes on. It's a pretty comprehensive bit of work that's being led by Deputy Leopold.

Ms Leopold: Yes. I can add that part of building that framework is about gathering qualitative and quantitative data through our engagements. We are aware that the basin community at times feels over-consulted. So, when our field officers go to these engagements, we're developing structured survey results around what the issues might be so that we can identify, categorise and quantify that data.

Mr Grant: And that data is coming in. Eventually it will be in a dashboard, and there's the potential for us to make that dashboard publicly available. We've got to make things easier for the public to find, access and understand. One of the major issues that I found as the interim inspector-general was that the information was there—agencies were doing their job and putting all the information out there—but you just couldn't find any of it and you couldn't understand any of it. It was more a communication issue. That was probably one of the biggest detriments to trust and confidence that was out there. We've made a recommendation about comms in the report, in relation to the river operations and the Commonwealth Environmental Water Holder. We made a recommendation that that gap needs to be filled. We don't have a specific remit to be the gap filler, but we feel some sense of obligation to do that. That's why we're working hard on this engagement strategy, to try to fill that gap.

Senator CADELL: I'm somewhat scared to ask this question on the back of your water trading answer. On the back of that answer, do you see any other particular gaps in governance or enforcement that, if addressed, would enhance your role or allow you to do a better job?

Mr Grant: Absolutely. We're waiting on the independent review of the Inspector-General for Water Compliance in order to articulate all those issues. In addition, I appeared at the last ministerial council and was asked by the council to prepare a paper on accountability, which is off the back of my comments that there are too many 'get out of jail' escape clauses in the entire structure of the Basin Plan legislation and water acts et cetera that we feel don't have any enforceability connections. If there's nothing to force you to do the right thing or to follow the law, why would you follow the law? Between the two—our review, which we're eagerly anticipating and really want to participate in, and our paper to MINCO—we'll be able to articulate in full the answer to that very question.

Senator CADELL: Does it take you back to the days in blue, on the street: the frustration of knowing who did it but not being able to pin it on them? Is there a sense of frustration in the organisation over that?

Mr Grant: That's a good analogy. I hadn't given that any thought, but I think that's a good summation.

Senator McLACHLAN: Just to unpack that, when will the public understand your views on the shortfalls of the legislation and penalties? Other regulators appreciate that the documents and the review are probably in confidence, particularly to MINCO. I respect that. But regulators like you are also known to give public statements regarding what they see as deficiencies in the law, as part of their public advocacy program. Do you intend to do that? If so, what would be the timing?

Mr Grant: As soon as I'm not restricted by any cabinet-in-confidence processes et cetera, absolutely.

Senator McLACHLAN: When will we be expecting that?

Mr Grant: I don't set those timelines. I wish I knew, because then I would answer you.

Senator McLACHLAN: I'll give you another question about it at the next estimates, if necessary. We had a conversation about resourcing last time. Are you happy with the current level of resourcing? You had 2.6 full-time equivalent investigators. Given that they've efficiently closed 62 accounts, largely because of legislative inadequacies, if we were to repair that, would we be expecting you to ask for more staff? What's the scale? I'm not looking to put you to the sword on it, but will you have to expand, all things being equal, given what you've seen in non-compliance?

Mr Grant: In the budget before last, the government gave us an allocation for more investigative resources for the water trading responsibilities that we're taking on, so that's sufficient at the moment. Our current staffing is at 49, 48 FTE. When I first started and first appeared, I think I had 24, when the transfer from the MDBA water compliance office came over. So we've had some growth. That's about building our capability, given that, once we were established, the weight of work that came at us was quite huge; so we had to build some internal capability and not just rely on going to outside contractors et cetera all the time for everything that we did. So we're at 49. They're located at Goondiwindi, Narromine, Dubbo, Albury, Canberra, Mildura and Loxton, as well as a few in capital city offices in Sydney, Adelaide and Brisbane. It's grown by 20 FTE in the last 12 to 18 months. As I indicated in an earlier answer, that has incorporated media engagement, and field operations and intelligence, which is a role that we identified that we desperately needed. That officer has come on board in the last four weeks. We've also, as you alluded to, expanded our capability in the regulatory space, so we have how many more investigators in the team?

Mr Blacker: We currently have 3.6 FTE in the investigations team, but we have a number of people within that broader FTE who come with significant investigations capability and skills.

Senator McLACHLAN: I appreciate that there are shifting sands and that your organisation is evolving.

Mr Grant: We're looking to expand by eight.

Senator McLACHLAN: In the investigations space or just general compliance?

Mr Grant: I'd suggest that's probably where they are going to land. Either compliance monitoring or investigative will be the priorities.

Senator McLACHLAN: The government has indicated that it wants to allow you to make referrals to the corruption commission. It may require some legislative change. Has that policy work started, from your perspective, or the timings which will allow you legislatively to interact with that organisation? I appreciate that it's in the process of being started up.

Mr Grant: Yes. As I understand it, they go live from 1 July. As the legislation articulates, we're one of those integrity agencies. We look forward to having a strong working relationship with them. We'll be reaching out to them to offer any assistance that they need. As the minister, I personally established an oversight integrity body in New South Wales called the Law Enforcement Conduct Commission. I conceived it, built the legislation, implemented it and then stood it up. So, if they need any help, I'm happy to provide any advice if I can assist in any way. Integrity is in my DNA and I've got a massively strong interest in it, so I look forward to assisting them in any way that we can.

Senator McLACHLAN: Last time, we also had a conversation on your interaction with the ACCC. At that time, you were still bedding it down. Can you enlighten us as to where you're at with that, because obviously there's going to be a lot of interaction.

Mr Grant: Yes.

Senator McLACHLAN: You were doing a separation of functions and, to be fair, there was potentially some overlap of who was doing what, when and how.

Mr Grant: That includes the Bureau of Meteorology as well.

Senator McLACHLAN: Yes. It includes other agencies, and you are unique in your interoperability.

Mr Grant: I'll get Deputy Blacker, who's been physically in all the meetings, to answer. I consider that we have an outstanding relationship with both the ACCC and the Bureau of Meteorology.

Mr Blacker: That work is ongoing. The department is leading the policy and implementation response to the government's road map on water market reform. That road map assigns multiple roles and responsibilities to the bureau, to us and to the ACCC. We're working through the clarity there and feeding our needs into the department, in terms of what we would like to see to facilitate information exchange and sharing, for example. At this point, we have a highly functioning operational relationship with the ACCC and the bureau.

Senator McLACHLAN: Is that going to crystallise itself in a memorandum of understanding or some sort of public document about the interactions? Does it need to?

Mr Blacker: It may or may not need to, depending. I think it will land in a number of different instruments, whether an MOU or something similar or separate. It could be standards, it could be guidelines, it could be legislation, or it could be a mix of all of those things. We're working through that practical detail at the moment, but we're in contact with both the ACCC and the bureau on a very regular basis.

Senator McLACHLAN: My usual question: have you had any interactions, since we last met, with South Australian river commissioner Mr Beasley?

Mr Grant: No.

Senator DAVEY: You have 49 staff, and investigators in your compliance team. I know that you work very closely with state compliance agencies—

Mr Grant: And the MDBA. It's a critical partner in that process.

Senator DAVEY: Do you have any formal arrangements, such as embedding staff into, say, NRAR or one of the other compliance agencies?

Mr Grant: No. We have MOUs established. There are no staff on secondments.

Senator DAVEY: What do the MOUs cover? What do they enable?

Mr Grant: I'll send you a copy of them all. They cover a lot, but it's information sharing and understanding roles and functions. When there was the split of the MDBA into the office of the inspector-general, it wasn't necessarily, in my view, a clean split. There's a little bit of column A and a little bit of column B in relation to who's got what role exactly, so there's clear delineation in the MOUs to make sure that it works functionally well and that there's integrity behind what we're doing.

Senator DAVEY: And, as you said earlier, to avoid duplication.

Mr Grant: Absolutely to avoid duplication.

Senator DAVEY: You refer things to the states. Is there ever an occasion where the states refer back to you? If the states have concerns about their SDL compliance or their operations, do they refer back to you?

Mr Grant: We talk to them all the time, but I'll let Deputy Blacker answer that.

Mr Blacker: The MOU does allow us to do things like secondments. We haven't got any of that active at the moment, but those mechanisms are being built in. We've done the head agreement with the jurisdictions, but we don't have schedules yet. We've got drafts and we're working through the detail of that. But that's the intent of those types of agreements. In terms of referring to the states and them referring to us: yes, we're open to that. There is the opportunity for that. We've talked with state regulators about scenarios like cross-border harm and multiple jurisdictional issues, where it requires a lens broader than a state border. They may seek our support on a matter that they are driving, and we may look at Commonwealth offence provisions in those circumstances. They are ongoing conversations. They generally boil down to a case-by-case basis, but the mechanism to allow that is absolutely being built into the MOU.

Senator DAVEY: So the facility is there; it just hasn't been used yet, because everyone is quite comfortable with where they're at with those things at the moment.

Mr Grant: There's also probably a timing issue with WRPs there as well.

Senator DAVEY: WRPs, yes; I was coming to them. You produced your SDL compliance report, which is on your website. It shows that, where you were able to do the compliance assessment—that is, Queensland, Victoria, South Australia and the ACT—all valleys are compliant to date. But in 2019, recognising that the WRPs for New South Wales were not complete, my understanding is that an MOU was entered into between the MDBA and the New South Wales government where New South Wales committed to ensuring that they would comply with SDLs despite the fact that their WRPs had not yet been accredited.

Mr Grant: Yes.

Senator DAVEY: Did you do an assessment of New South Wales, even in the absence of the WRPs, to ensure that they were operating under sustainable diversion limits?

Mr Grant: Yes. Under the administrative arrangements that are in place, they're still assessed; they're just not enforceable.

Senator DAVEY: So is that assessment available publicly, because it's not included in your compliance report that's online?

Mr Blacker: There are two aspects to that. The first is the accounting, so the MDBA undertakes the accounting function to produce a 'register of take'. For that water year, the MDBA have completed that 'register of take' and published that in full. Equally, there's a more detailed report that is published by the MDBA alongside the 'register of take', which is the Annual Water Take Report. In terms of the compliance assessment, the assessment that we would undertake under the Basin Plan, chapter 6, would be an assessment against the water resource plan and the implementation of the water resource plan. So we get interim numbers for New South Wales for the 'register of take' that show clearly what the sustainable diversion limit is and what the take in New South Wales for that year was. But in terms of undertaking an assessment of whether or not—because the first element in the Basin Plan in our assessment is to assess whether or not the water resource plan has been implemented as it was written. Without a water resource plan, obviously that's a challenge that we can't complete.

Mr Grant: But we will in New South Wales with four. When we started, there was none. Now there are four ground-water ones that are accredited, but it takes 12 months before we can do the accounting et cetera.

Senator DAVEY: Yes, I accept that.

Mr Grant: Also, Deputy Blacker and I met with the new New South Wales Minister for Water two weeks ago and provided her with an incoming government brief for some significant issues in New South Wales, which are well articulated in the public space. I must say that I was really comforted by her reception to the issues that we raised; and, in the issues that we raised, she had already immediately acted on the majority if not all of them and started pushing New South Wales back in the right direction. So, at this stage, we're really pleased with the attitude and approach that the new Government of New South Wales is taking to some long-held concerns.

Senator DAVEY: My understanding is that all the New South Wales WRPs were actually submitted prior to the election, anyway—

Mr Grant: Yes.

Senator DAVEY: but they're yet to be assessed.

Mr Grant: But since then, there has been some progress between the government and the MDBA, which I'll allow the MDBA to talk about.

Senator DAVEY: Yes, I will be asking them about it.

Mr Grant: That's not my space but, with the assurances that we got from the minister, we're quite comforted at this stage that they're now tracking in a far better direction than they previously were.

Senator DAVEY: The assessments that you do that are published on your website are compliance with state WRPs. As for the SDL compliance, when I talk to people on the ground, they're more concerned about SDL compliance, but that sort of falls under—you're saying that WRP compliance is your first port of call and the SDL compliance falls under that.

Mr Grant: Yes. They're integral. The two are the same thing: one is an instrument, and one is a process.

Senator DAVEY: I know that Ross asked you about the water market trading work that you've done and I know that, in the October budget, you were given \$9.1 million to help you to regulate and enforce the new water market data requirements. But then I see that, in this budget, the Bureau of Meteorology has been given a lot of money to develop data hubs, data portals. So who's got responsibility for these data requirements? Both announcements were headlined in water market information and regulation, but I'm now trying to follow all the buckets of money to work them out. I'm seeing lots of improved data but being run by different agencies, and I think this is where, when you talk to stakeholders, the problem is: they don't know where to turn. So who's got overall responsibility?

Mr Grant: This has been in the room every day for the last couple of months, so I'll let Deputy Blacker answer this question.

Mr Blacker: In the interests of simplicity, I would say that the bureau is in the systems development and implementation and the ongoing maintenance, whereas we are in the regulation of any obligations that sit with data standards that will be developed by the BoM. The ACCC is in the conduct regulation space. So the government's road map lays out the roles and responsibilities for the three agencies, and ours will be the regulation of new data standards to be developed by the BoM. I'll let the bureau answer the question about funding and purpose, but it's essentially in the systems, while we're in the regulation and enforcement space.

Senator DAVEY: So, when all of this is rolled out, where do I, as a water market participant, go to to get the most up-to-date, transparent water market information?

Mr Blacker: The bureau.

Senator DAVEY: I'll ask the department as well. I did ask the bureau questions the other day, but I think it was very early in the piece. Then, if I have a complaint about someone's activities in the water market, I go to the ACCC.

Mr Blacker: If it's conduct, it would be the ACCC in terms of code of conduct, whereas we would be looking at data standards.

Mr Grant: But you should be assured that, if we got a complaint of any nature that didn't sit in our remit, we would direct that person to the appropriate body—

Senator DAVEY: Yes.

Mr Grant: and follow that through.

Senator DAVEY: And I take it from your earlier comments, Mr Grant, that one of your key concerns in the water market is the lack of robustness in reporting requirements for reporting prices and reporting trading activity. Is that where, with the regulation of standards, you will be most active? As you say, you'll refer anything. You won't fob anyone off and go, 'Not my bag.'

Mr Grant: Yes.

Senator DAVEY: But when it actually comes to your agency and where you will be most active, where will that be?

Mr Grant: We'll have to wait until all the road map and everything associated with it lands so that we know exactly what's what. But as an independent inspector-general, if it doesn't sit directly with me, whoever it sits with will absolutely hear from me about my concerns.

Senator DAVEY: Are you having any role or participating in consultation in the development of a code of conduct for water brokers, which I'll also be asking the ACCC for?

Mr Blacker: The department leads on the policy implementation of the road map and they seek our advice.

Senator DAVEY: Thank you very much. I'm very cognisant of time and the need for participants to travel. I hope that you enjoy the Choke, Mr Grant; it's a beautiful part of the world.

Mr Grant: I can't wait. I was last there in 2012, I think.

Senator DAVEY: Has it been that long?

CHAIR: Senator Davey, before you dismiss the witnesses, could we please go to Senator Mr Lachlan.

Senator McLACHLAN: I have just a question de jure. Do you have any standing contracts with PwC?

Mr Grant: No. We've only engaged PwC once, and that was when I was the interim Inspector-General. They assisted us with the river ops report. There was the start of conversation with them when I was the interim and then it flew over after we were established and finished in our first year of operation. That's it; no other.

Senator McLACHLAN: Could you just take on notice the term of that contract, as in time, and how much the spend was. If you can give that to me now—

Mr Grant: I can tell you right now. My office engaged PwC in 2021 to assist me in undertaking a consultative assessment looking into river operations as the interim Inspector-General. This ultimately informed my Steady as it Flows report, which was published on my website in September 2022. The total value of the contract awarded was \$283,662.50 GST inclusive. The contract with PwC was signed on 16 December 2021, and they completed their project in June 2022.

Senator McLACHLAN: Are you currently in any conversations with PwC to engage them going forward?

Mr Grant: No.

CHAIR: Thank you very much, Mr Grant. We will let you go, and we look forward to seeing you next time.

Department of Climate Change, Energy, the Environment and Water

[09:55]

CHAIR: Welcome, Mr Fredericks, Mr McConville and, on videoconference, Mr Mick Keogh and Mr Salisbury. Who, if anyone, would like to make an opening statement?

Mr Fredericks: Not from me, thank you.

Mr McConville: No, thank you.

Mr Keogh: No, thank you.

CHAIR: I would ask members to focus their questions on the ACCC, as they will be departing at 11:15. I will hand straight over to Senator Davey.

Senator DAVEY: Thank you to the ACCC for making yourselves available this morning. I do appreciate that you have to leave, so I am more than happy to focus on you for the first session this morning. I've got the MDBA and the department for the whole day, so that is good.

CHAIR: It's very palpable.

Senator DAVEY: It is very palpable. I am very interested in understanding what further activities the ACCC has undertaken in working to deliver on the road map for improving the water markets. The ACCC water markets' report was a very comprehensive document, and I appreciate the work of the Quinlivan committee that then followed up that report. Can you give us an update of where it's all at at the moment?

Mr Keogh: I guess the first point to note is that there were some allocations made in the recent budget in a number of areas but, in particular, from our perspective, to enable us to build up the resources for our anticipated new roles, particularly in terms of market integrity and a number of other areas. So we're very grateful for that. That's given us certainty over the forward estimates in terms of the resourcing that we require, so that's the first thing to note. I think the second area to note is that, in terms of our market integrity role—that's the role which will implement prohibitions on unfair market practices, insider trading and a range of those sorts of things—the discussion has progressed quite well with the department, which obviously has the policy lead on this. It will require legislative amendment. We understand that legislative amendment is being progressed in conjunction with a range of other amendments to the Commonwealth Water Act, and we look forward to seeing that legislation before the parliament and implemented because that's obviously a key step. You have already heard from Mr Grant about the role of the IGWC in relation to data standards, which in turn will underpin the development of much improved market information, which will be available through the Bureau of Meteorology hub. We see that as important for two reasons. One is to give confidence to the market. Greater transparency to the market will give irrigators and others confidence to make sensible decisions regarding the use of their water. But we also see

it as being important from our enforcement perspective in that it will create an opportunity to closely observe and, if necessary, take action in relation to trading behaviours that may be a breach of the market integrity rules. So we are working closely with all the parties involved in that—the department, the BOM and the IGWC—to facilitate that happening. It requires, as you would understand, cooperation with the states and close consultation with water market entities such as infrastructure operators and brokers, et cetera. So they are all progressing. In terms of the intermediaries code, again the department will have policy lead in relation to that. We have an extended experience in industry codes and would, therefore, anticipate being consulted closely as that code is developed. Normally, in the development of codes you also engage strongly with industry, so you would anticipate that the water market intermediaries would be involved in some of those discussions as well. But all those, we think, are progressing quite well, and we are pleased with the developments that are occurring. We look forward to continuing to cooperate with the department and the various other bodies in having those developments implemented. Going back to our report, we see that as critical to the confidence of participants in the market, which in turn means that the economic outcomes from the use of water are likely to be optimised. Thank you.

Senator DAVEY: You say you are working on market integrity rules, looking at prohibitions and insider trading, et cetera. At the moment, covering the water market you have the water market rules in the Water Act—which I believe cover a lot of your existing role in the water markets—under the ACCC—you have the water charge rules, which are also in the Water Act; and then you have the water trade rules, which are managed by the MDBA and which are in the Basin Plan. I thought the water trade rules already dealt with insider trading, but maybe not strongly enough. Is part of the work you are doing in developing the integrity rules going to look at consolidating all of those? You said that there was going to be a requirement to have legislative change to the Water Act. Will part of it be trying to consolidate, streamline and maybe simplify while increasing the robustness of the complicated system of rules covering the water market that exist at the moment?

Mr Keogh: We acknowledge that there is a complicated framework. The point to note is that those respective different rules, as such, apply to different entities in the water market. The water trade rules that are overseen by the MDBA, for example, relate to interstate trade. They are subject to review at the moment, as part of the review of schedule D. The rules incorporated into the Water Act at the moment relate to the way infrastructure operators in the basin operate in terms of transformations and transfers, et cetera. So they are the rules in the Water Act at the moment. The third set we are talking about are the prohibitions on insider trading and misuse of market power, et cetera. The insider trading rule is there at the moment, but it is very difficult to enforce because the information available out of the market is fairly patchy, to put it politely. Therefore, attempting to take enforcement action around that would be complicated. We had access to about six million trade records as part of our inquiry. We were able to put together a comprehensive picture of about an 18-month period and cooperated with ASIC in terms of how they monitor, for example, the ASX, looking for the sorts of things they would look for and didn't see anything that stood out as being untoward. The effort involved in doing that was enormous and highlighted the need to get the market information into a much better form so that those sorts of things could be checked on a routine basis and give confidence to participants in the water market.

Senator DAVEY: You definitely need the cooperation of the states. The states already run various water registers that show trades, but there are various levels of—

Mr Keogh: Quality.

Senator DAVEY: Yes, and ease of access. Some of them are well hidden—not maliciously well hidden but, in the scheme of what is available on the worldwide web, they are not intuitively discoverable. It also varies as to whether it is live or where there is a delay, so that needs to be improved. The other gap in the state information that is available is what is happening within an irrigation infrastructure operator. I am thinking particularly of the state with the biggest infrastructure operators, which is New South Wales. Victoria's operators are government owned, so they are different. How are you going with talking to the irrigation infrastructure operators to ensure that the information they have within their boundaries will form part of the new system going forward? In those conversations, is it being raised that some sort of a package is needed to recognise that the infrastructure operators may need to spend a lot of money bringing their systems up to standard?

Mr Keogh: That question is more appropriately addressed to the Bureau of Meteorology because that is where the engagement on those issues is occurring. We are aware of the concerns of some infrastructure operators that there will be a cost in terms of implementation of whatever the data standards are applied. The bureau is already talking about making sure it is as easy as possible for those infrastructure operators to comply with the data standards, even to the extent of producing APIs that allow them to plug in quickly to the system. So it is recognised. The bureau may have some comments on that. The standard of record-keeping and market information provided by the infrastructure operators in some cases was poor. In some respects, some of the costs

that might be incurred would have been incurred anyway if they had to bring those systems up to a reasonable standard of information-keeping. The bureau is probably better placed to comment on that. Megan, who is online, is involved in some of the discussions with the department and others.

Ms Utter: I agree that questions around the support for the irrigation infrastructure operators in making the changes required to their systems are probably best directed to the department; that is an area they are responsible for. I will just make a slight clarification to a point Mick made earlier around the current scope of the review of the Murray-Darling Basin Agreement. That is not reviewing the Basin Plan water trading rules; it is reviewing the rules and arrangements that permit interstate trades to occur. The Productivity Commission, in its Basin Plan Implementation Review, is considering the question of the implementation of the water trading rules and has signalled an intention to look at opportunities for simplification and effective implementation going forward. We expect that inquiry will consider and address questions around the effectiveness of the implementation of those rules. The ACCC provided advice on the making of the water trading rules in 2010—some time ago now. The plan was made in November 2012. Since then, only very minor amendments have been made to the rules. In 2016 the ACCC provided further advice, and we reviewed the operation of Basin Plan water trading rule 1202 in June 2020. But, as with any regulatory instrument, they warrant review to ensure effective operations. The ACCC's inquiry into the Murray-Darling Basin water markets looked, at a high level, at whether there were barriers to trade or issues that perhaps weren't effectively being dealt with by those water trading rules. But by no means was that a comprehensive and detailed review of the operation of those rules themselves.

Senator DAVEY: The water market rules have been in place now since 2007 and the trade rules since 2012. In that time, the ACCC has always had a role to play, at least in overseeing the water market rules. The ACCC also has a role to play if there is a contractual issue in a water trade. Over the years, how many water trade related complaints has the ACCC dealt with?

Ms Utter: For the period since our role took effect—in September 2009 with the commencement of the water market rules—I don't have the aggregate numbers in front of me.

Senator DAVEY: You can give us those on notice.

Ms Utter: I will take that one on notice.

Senator BROCKMAN: I am not sure of how hard and fast we are sticking to Murray-Darling particularly; this is more of a broad water question. Can I still ask that here?

CHAIR: Have a crack and let's see how we go.

Senator BROCKMAN: I'll have a crack. Mr Fredericks, if you need to take this on notice, I am happy for you to do so. There was a previous budget allocation—this goes back a few years—of \$40 million to the Southern Forests Irrigation Scheme in the southwest of WA. I am looking to see whether there is any recognition on anyone's face. The project was rejected at state level, but there was a commitment, publicly stated by then state minister Alannah MacTiernan, that the money would be retained for the Southern Forests region. I believe this was also publicly stated by Minister Plibersek. How is that reflected in the current budget? It is not a measure; it is money that is effectively allocated but not currently being used. Does that sit in the department's budget within operational reserves? How is that budgeted for in the current budget?

Ms O'Connell: I think you're referring to major infrastructure projects funded by the government. I'll ask my colleagues to outline the detail about the fund, and specifically in relation to that project.

Senator BROCKMAN: Basically, I'd like to know that money is still there and allocated to the Southern Forests region, and where it's currently sitting. I assume it must be in some bucket somewhere or in a contingency reserve.

Mr Simpson: There was \$39.7 million committed to the Southern Forests Irrigation Scheme, which was cancelled in the 2023-24 budget, so it's no longer available.

Senator BROCKMAN: So, even though there are public commitments that money has been retained for the Southern Forests region, there is no allocation.

Mr Simpson: No. That allocation was removed in the 2023-24 budget process.

Ms Wall: There is unallocated funding remaining in the fund, of \$824.4 million. So, when the WA government does have a proposal for that region, they can bring it forward. There's unallocated funding still in the fund.

Senator BROCKMAN: But the \$40 million for the Southern Forests—

Ms Wall: That project has been cancelled.

Senator BROCKMAN: It has been cancelled and that money has gone.

Ms O'Connell: No. That particular project has been cancelled because it had issues. We are open to receiving another proposal from the Western Australian government. We'll consider it and work with the Western Australian government. When there is a proposal to come forward that is able to deliver the outcomes required, we will look at it and assess it, and there is funding. Ms Wall was saying that there is funding available within the grid, but that funding obviously gets applied when there's a proposal that comes forward that can deliver.

Senator BROCKMAN: I just don't see how that gels with the public statements from both the state minister and, I believe, the federal minister—I won't say that I can find that in writing, but I believe it was also the federal minister—saying that money would be retained for the Southern Forests region.

Ms O'Connell: There's funding in the grid. A proposal needs to come forward. After it's been considered and decided, a proposal that has support can come forward and will be considered. So there is funding available in the grid.

Senator BROCKMAN: But there's no funding available that has been set aside for the Southern Forests; that's what was publicly stated by two ministers.

Ms O'Connell: There was funding set aside for that specific project. That specific project—

Senator BROCKMAN: No. Post its cancellation, at state level, there was a statement from the federal and state ministers that money would be retained for the Southern Forests. To me, it sounds as though it hasn't been. There's a bucket there that people can apply for, for any project across Australia, but it hasn't been retained for the Southern Forests.

Ms O'Connell: There's funding in the grid and, without a proposal and a project that's come forward, a specific number cannot be allocated in terms of precise funding. There's funding available within the grid.

Senator BROCKMAN: There was a precise number: \$39.7 million.

Ms O'Connell: That was for a different proposal that has since been cancelled. We're looking for a new proposal to come forward.

Senator BROCKMAN: So those ministers misspoke?

Ms O'Connell: No.

Senator BROCKMAN: Well, that money hasn't been put aside for the Southern Forests. You've just said that it hasn't been put aside for the Southern Forests.

Mr Fredericks: I think the officials are at the limit of what they can tell you. They've described the facts as they are. They've given you evidence on the facts. I'm very happy to take on notice, for the collective, your point about previous statements. I'm not aware of any statements, and I don't think the officials can really address your question about statements. I hope you'll appreciate that my colleagues have given you factual evidence.

Senator BROCKMAN: I accept that, from the department's point of view, that is the answer, but I don't think it gels with what was publicly stated. I'm happy to leave it there.

CHAIR: I wonder whether you'd like to table those statements or provide us with a copy of them.

Senator BROCKMAN: I'm sorry; I don't have a copy with me. It was a while back.

Senator McAllister: Senator Brockman, as the secretary has indicated, we'll take your question on notice and examine the context that you've alluded to.

Senator BROCKMAN: Thank you.

Senator CADELL: This is a line that I used yesterday. Being a newbie here, it seems that one of the more complicated areas in water is understanding the acronyms. As for getting transparency and the confidence of the stakeholders, this morning we heard Mr Grant talking about being able to access information and talk about this. My first question is: as for the minister's visits, how many visits have there been? Who has met with the minister in the basin, and where, since she has taken over on water?

Senator McAllister: The minister has visited the basin a number of times, including all of the basin states, and she's met with a range of stakeholders. I don't have before me a reconciliation of her diary over the last 12 months, so we'll take on notice the more detailed elements of your question.

Senator CADELL: Will that include some stakeholders that she's met with on the ground in those places?

Senator McAllister: We'll see what information can be provided about who and where, noting some of the constraints around individuals' privacy, for example.

Senator CADELL: Thank you. I want to go to limited tenders out there in the world. There is a strict set of scenarios that they can be issued under. How many limited tenders have been issued separately by the department, the authority, the environmental water office and the inspector-general since January 2023?

Senator McAllister: Do you mean generally, in relation to any contractor?

Senator CADELL: Any limited tenders at all.

Ms O'Connell: Just to clarify: is that tenders for absolutely everything and anything?

Senator CADELL: Any limited tenders, yes.

Ms O'Connell: Do you mean limited tenders for projects?

Senator CADELL: Yes.

Mr Fredericks: Perhaps we can take that on notice.

Senator CADELL: On notice?

Mr Fredericks: Yes.

Senator CADELL: On notice, can we have the value and the recipient of each tender, and the criteria?

Mr Fredericks: Yes.

Senator CADELL: Many of these will also be on notice. How many and which reviews, audits or inquiries are currently underway or are scheduled to get underway over the next two years for each water agency? There seem to be a lot.

Mr McConville: In the context of the MDBA, the principal piece of review is the review of the Basin Plan. That is required to be completed in 2026, but work on that review is already underway. In 2025, the MDBA will conduct an evaluation, which is in effect a five-yearly requirement. That is a rear-looking assessment of the performance and execution of the Basin Plan. Mention has been made of the Productivity Commission's review of the MDBA's Basin Plan, which is underway at present. The authority is also undertaking a non-statutory requirement process of what we call the 'basin outlook', which will also be in 2025.

Mr Fredericks: In the same spirit, I'll ask Ms O'Connell to give a couple of the key reviews, and we will take the remainder on notice.

Senator CADELL: Thank you.

Ms O'Connell: It is an area where there are extensive reviews. There are two Productivity Commission reviews. One just kicked off, I think earlier this month, which is a Productivity Commission review. That is a statutory review; it has kicked off and is underway. Its terms of reference are public, on their website, and it's seeking submissions. There's also a review of the inspector-general's role, functions and powers. There's a review of the Water Act. That, too, is a statutory review. They're the major reviews, along with the one that Mr McConville has spoken about: the whole review of the plan. Within that, there are quite a number of extensive minor or next-level types of reviews that are underway or planned or have been conducted. So I'd just ask: are you talking about those high-level ones? Are you comfortable with that?

Mr Fredericks: We can take that on notice.

Senator CADELL: My feeling is that we are always so looking in the mirror at what we're doing and how we're doing it; are we ever doing anything else? There seem to be a lot of reviews.

Ms O'Connell: There are.

Senator CADELL: I'm sure that you will be required to take this on notice. With the panel members or commissioners going through and doing these reviews, audits or anything like that, can I get a list of any who have previously worked for any of the Commonwealth water agencies?

Mr Fredericks: We can take that on notice for all agencies.

Ms O'Connell: We can take that on notice.

Senator CADELL: I'm just going to change it up a little bit here. In May 2023, the CEO—I'm sure the chair will be interested in this—of South Australia's Office of Hydrogen Power said that the water supply for their plans for their \$593 million plant would 'involve solutions from SA's water infrastructure and some of that comes from the Murray, so we'll potentially need to access that'. No numbers for that plan are out yet, but there's an estimate of up to 80,000 megalitres coming from the Murray and being piped to Whyalla. Would that proposal for that hydrogen power plant breach the diversion limit legislated under the Murray-Darling Basin Plan?

Mr McConville: The requirement for South Australia would be that any activity falls within the current sustainable diversion limit that lies across any activity in the basin.

Senator CADELL: Currently? So it would need more water licences to be able to divert more than the current limit?

Mr McConville: That would be a requirement for South Australia, to make sure that they continue to manage whatever activities they're undertaking within the SDLs that already exist.

Senator DAVEY: Just to clarify: if water were diverted from the Murray for hydrogen, it would need to be within the sustainable diversion limit.

Mr McConville: That's correct.

Senator DAVEY: So they can't exceed sustainable diversion limits just to feed a hydrogen power plant.

Mr McConville: That's correct.

Senator DAVEY: That is interesting, because 80,000 megalitres is more than four times what the Renmark irrigation district uses.

Senator CADELL: Are there any other hydrogen projects that the department is aware of within the MDB?

Mr Fredericks: I'm just thinking about that. I don't believe so, so I'll answer that question as follows: the answer is no, but if I'm wrong I'll come back to you on notice.

Senator CADELL: I think that's a very good answer.

Senator DAVEY: I have some questions before the ACCC goes, but I want to pick up on this hydrogen question. I think it's very telling in that we saw, over the weekend, prior to that revelation, the South Australian Premier put out a press release calling on the upstream states to do more to deliver water for South Australia. Then we learn that South Australia wants to divert water from the river for hydrogen production. You can understand why upstream states might be very concerned about all their heavy lifting. I think everyone, including South Australians that I've spoken to, particularly South Australians in the Renmark and Berri irrigation areas, would be very concerned and would want to understand. I know that the licensing is a matter for the South Australian government. Has the MDBA, however, had any conversations with any jurisdiction about creating new licences or a new category of licence for non-traditional water uses?

Mr McConville: I'll ask Mr Goodes to comment.

Mr Goodes: No, not that I'm aware of.

Senator DAVEY: Under the existing rules and the Murray-Darling Basin Authority's auspices of implementing the Basin Plan, any extractions from the river—it doesn't matter whether it's for town water, irrigation or hydrogen generation—still need to be treated under the sustainable diversion limits. In the same way, for any potential new infrastructure the assessment would be done on what the impact on extractions would be.

Mr McConville: That is correct.

Senator DAVEY: I'll go back to the ACCC, because I understand that we've got limited time. Mr Keogh, did you say that you were working on the code of conduct for intermediaries?

Mr Keogh: Just to be clear, the department would have carriage of that in a policy sense. We would certainly be providing them with our views in relation to what elements such a code would require and how it needs to be structured so that it can be enforceable. The department would be very much in the policy lead in relation to the development of that code.

Senator DAVEY: In the development of the market integrity rules that you also mentioned before, and you said it will require legislative amendment, do you have a time line for that work? When do you expect to have a draft done? Also, who are you consulting with on developing those integrity rules?

Mr Keogh: Again, the department is very much in the policy lead in the development of that. That question might be better addressed to the department.

Senator CADELL: Going to the reform process, and going back to the National Water Market System with Common Registry Solutions, how will the funding for regulating the water market get conducted by you over four years? How will it be allocated over the next four years? Is there a time line or rollout plan?

Mr Keogh: As I indicated, we have an allocation that was provided in the most recent budget. It was around \$12 million in the budget, and \$16 million over the longer term. That will be used to employ staff and to put in place systems that we require to conduct that work. That recruitment process will commence, or is commencing at the moment. We will build up that capability to supplement our existing water integrity and water regulatory functions and build up that group within the organisation to conduct that role. Most of that funding would be, in a sense, going towards staff resources. The Bureau of Meteorology will be utilising its funding, I assume, to build up its IT capacity and create the data hub. We will be very much dependent on that in terms of our ability to

oversee what is happening in the market and take enforcement action, where necessary. We also have within the organisation legal and economic staff and, where necessary, they will also be deployed as part of specific work projects around enforcement or compliance.

Senator CADELL: When will consultation on the proposed mandatory code of conduct begin?

Mr Keogh: That would be a question for the department.

Ms O'Connell: In terms of the funding for water market reform, clearly it's come after the extensive ACCC review and consultation with states. A road map was developed and work is underway, in strong consultation with several different bodies, about the reforms. It's funded—

Senator CADELL: The road map isn't developed yet for the rollout?

Senator McAllister: Senator Cadell indicated earlier, rather generously on his part, that he is beginning his journey in understanding this policy area. It might assist if we talk through the sequence of policy work, commencing with the ACCC, then Mr Quinlivan's work and the government response in successive budgets. We will do it quickly. That might assist.

Ms O'Connell: It started initially with the ACCC doing a very extensive review and making a number of recommendations, which were accepted. Following that, there was extensive consultation with states in relation to building and developing a significant road map about water market reforms. That road map has been agreed, endorsed at ministerial council meetings, and work is underway in terms of how to implement that road map in the form of legislation, policies, procedures, practices et cetera by the various different bodies. The department has an initial role in setting it up but stronger ongoing roles with the inspector-general—who was here this morning, talking about his role—the ACCC—who are here now, talking about their role—and of course the Bureau of Meteorology, significantly, in relation to the data role. This work, the major reform of the water market, has been funded in the October budget and in the most recent budget. The funding in the October budget was \$31.6 million, and in the most recent budget there was \$32.7 million to deliver on the election commitments. Really, the reforms of the water market are about restoring trust, integrity and confidence in the water market. It's a very significant and lasting reform. It's worth making sure that we all get it right, in terms of the various roles and some of the complexity that I know Senator Davey was talking about in relation to it.

Senator CADELL: It is one of the most complex areas. Government is a mysterious beast, at best, but this is—

Ms O'Connell: It is complex but it is also absolutely needed. The ACCC report pointed to the issues about having a market where there wasn't the necessary transparency. This will be a foundational reform in terms of delivering that transparency into the water market.

Senator McAllister: The ACCC may wish to provide further information about their underlying policy analysis. The thread that runs through the work that they did, and the road map prepared by Mr Quinlivan, is this: the basin markets lack many of the characteristics that are present in comparable markets, particularly in two areas. One is information, and the other is regulation of conduct. The reform package, which has been agreed through the road map, seeks to remedy that by building up the infrastructure necessary, from an informational and regulatory perspective, to meet that problem. Other officials may have more comments to make on the detail of that, but that's the overarching purpose of the reform project.

Ms O'Connell: To give a sharp example of that, currently our water market has no rules against insider trading—and that's substantial—and no requirements to keep proper records. That's pretty fundamental.

Ms Solomon: I will clarify: there are very limited rules about insider trading, but there are no rules prohibiting—

Senator CADELL: Are they the rules set up to catch the 'morons' that the inspector-general spoke about?

Ms Solomon: Exactly. There are no rules currently on market manipulation prohibitions. The information requirements are wanting, as are the compliance and enforcement frameworks around that.

Senator CADELL: When does the consultation process begin, going forward?

Ms Solomon: The Bureau of Meteorology is currently conducting consultation with irrigation infrastructure operators, data exchangers and basin states, as well as other data providers on the development of the water market data standards, and the user requirements for when they feed into the bureau's new water markets data hub. That's going on at the moment. It is proposed that when the code of conduct is developed—and that timing will be a matter for government. We need to pass legislation in order for that to happen.

Senator CADELL: Amendments to the Water Act 2007?

Ms Solomon: Amendments to the Water Act 2007. Once those amendments are in place, the department will be able to consult with industry, the ACCC and the IG in relation to the mandatory code of conduct that's being proposed under the road map.

Ms O'Connell: Ms Solomon is talking about the current sets of consultations that are underway, and they certainly are. But this is not recent. This goes back some years in terms of when the ACCC report was done, and subsequent lengthy and extensive consultations around the road map. We're giving you a snapshot of the consultations underway now, specifically more on the implementing side of things. There have been years of the journey, in terms of reforming the water markets.

Senator DAVEY: With the water market intermediaries piece, the conversation goes back prior to the ACCC report. There was a whole body of work done by the Commonwealth in about 2014-15, where they looked at several options and costing of those options. Please tell me that's not just collecting dust, and that you've actually shaken it off and you are feeding it into the process.

Ms Solomon: We certainly have.

Senator McAllister: It is generally a forum where we have a quite sober policy exchange. You're really opening yourself up here. This work that was undertaken in 2015: who did that work?

Senator DAVEY: Not me. I was a stakeholder consulted in the process. It is interesting; I have learnt a lot since then. I accept that it has to be updated. Whatever system we put in place now has to be fit for modern purposes. But there was a lot of work that went under that. With the Bureau of Meteorology and their new data hub, we have attempted several times over the last 13 to 15 years to set up single sources of truth, for want of a better word, water market information pages and data hubs. I know that IIOs have had to report their trading information to the bureau since 2008.

Ms Solomon: For a while, yes.

Senator DAVEY: Why have we not been able to do it yet? What is going to be different this time?

Ms O'Connell: I understand we have the BoM here.

Senator DAVEY: No, we don't. We had them here the other day.

Ms Solomon: It probably is better for the BoM to answer those questions. What I will say is that the information that we're going to be requiring out of these reforms is much more comprehensive than the previous information about water markets. That will assist with transparency and integrity for water users and for the regulators.

Ms O'Connell: We can take that question on notice and work with the BoM to provide you with an answer.

Senator DAVEY: On notice: what I would really like is the past expenditure. I know we gave Victoria a whole heap of money to develop a reporting system. Victoria's water register is great—easily accessible and easy to track. Somewhere along the way, it was meant to be agreed to be used by all states. Somewhere along the way, that didn't eventuate. Since 2010, how many iterations of a single source of truth or a data portal—I know that the MDBA had one for a while which compared all of the entitlements. It will be a big piece of work. I am interested to see how we can make sure we get it right this time. It's all good intention and we all want it to happen. For some reason we have never managed to land it properly.

Ms O'Connell: We will take that on notice, work with the BoM and get an answer back to you.

Senator DAVEY: Thank you.

Senator McAllister: I might make one observation. The consequence of having the ACCC's advice and then the work done as part of the road map means that there is a measure of clarity about the purpose of gathering the information and its intended application and benefit to market participants within the system. That measure of clarity that is provided by both of those pieces of policy work, where the informational needs are considered within the broader context of the functioning of the market, will be extremely useful for all of the agencies that are working on implementation.

Ms O'Connell: We do have agreement across all of the jurisdictions at this point, which is useful—noting the complexity.

CHAIR: We have been joined by the Australian Political Exchange Council 14th Delegation from the Philippines. I welcome them and the delegation leader, Ms Eunice Babalcon.

Senator CADELL: This might be a BOM question. In the last three or four years we have had everything from drought to floods throughout the system. We have had a lot of new satellites and new technology up to look at forestation, the effects and flows. Is anyone on the ground matching the modelling for these new plans and

ideas going forward to actuality? Now that we have better imaging and better ideas, have we matched truth to modelling?

Ms O'Connell: Certainly in terms of use of the technology.

Senator CADELL: The Sentinel satellite is up there now, is it not?

Ms O'Connell: I am not sure about a Sentinel satellite, but use of the satellite technology is active in all the data reporting, mapping, et cetera that the bureau undertakes. They talked to that on Tuesday, when they appeared at estimates.

Senator CADELL: Yes, but not so much on the Murray-Darling, the flows, the floodplains, and the forestation. If we had more forestation here, what would the previous models on MDBA be to real life?

Mr McConville: Dr McLeod will give you an overview of modelling and the general approach.

Senator DAVEY: Welcome back, Dr McLeod; it has been some time.

Mr McConville: He is happy to be here.

Senator DAVEY: I am sure he is.

Dr McLeod: Thank you, Senator Davey. I am not familiar with the Sentinel data; there are a whole bunch of them, and there are many different names. Wherever possible, we use remote sensing data in the work we do. I do not have a detailed description of that work to go through for you. In all the work we do, we try to use whatever information is available; increasingly, that is remote sensing data.

Senator CADELL: It is the first time ever we have been able to have really good satellite imagery data of all the model stuff and the different scenarios over such a short period.

Ms O'Connell: You might be referring to a recent announcement by CSIRO on AquaWatch Australia. That was an extensive and important collaboration.

Senator CADELL: CSIRO, was it?

Ms O'Connell: It was CSIRO's AquaWatch. It was a launch earlier this month. Significantly, it was looking at a weather service for water quality to help safeguard rivers, coastal, et cetera. It talked extensively about the use of satellite technology and collaborations to deliver AquaWatch Australia. That was a CSIRO announcement.

CHAIR: The panel has finished with their questions for the ACCC. Mr Keogh, we will let you go. Thank you.

Mr Keogh: Thank you—always a pleasure.

CHAIR: We will throw open the rest of the day to any questions from anyone in the room.

Senator McLACHLAN: I would like to build on some questions regarding the South Australian announcement on the hydrogen plant, probably for the Murray-Darling Basin Authority. Have you been formally advised by the South Australian government that is their intention?

Mr McConville: No, we have not.

Senator McLACHLAN: This is more a process question. Would you expect to be—given the SDL limits and the current arrangements that are in place?

Mr McConville: No, I wouldn't think so. It is a task for South Australia to ensure that the water activities it undertakes are within the existing SDL framework. I would imagine that South Australia at some point, if they were to progress, may consult with us in terms of where they currently sit, in the same way that, if infrastructure were being built in another state or dam or otherwise, the states would consult with us. The requirement in accord with the Basin Plan is that, whatever activity is undertaken, it fits within the SDL framework and the sustainable diversion limits that have been established.

Senator McLACHLAN: Leaving aside advising out of courtesy, I am asking in the context of being technical. What would be the trigger point where they would have to consult with you?

Mr McConville: It is more a question of review than consultation. An annual process and review are undertaken by the MDBA. That is the review point. The requirement exists under the Basin Plan that there should be compliance with the SDL, so there is no formal requirement of consultation in undertaking a particular activity.

Senator McLACHLAN: The use of the water at the moment is purely within the remit of the state?

Mr McConville: Within the context that the states have submitted their water resource plans, which have set down how they are going to manage those resources in the frame of the established sustainable diversion limits and the environmentally sustainable level of take.

Senator McLACHLAN: If the state government decides it will need this water for whatever purpose, in this case a hydrogen plant, it has to take into account its existing submission to you on its water resource plans.

Mr McConville: Correct.

Senator McLACHLAN: I appreciate it is my language; I am just trying to unpack it.

Mr McConville: That's fine. South Australia has its water resource plans. Whatever activity it undertakes would have to be in accord with that.

Senator McLACHLAN: For whatever reason—this project or any other—it has to change the plan, that is when you get involved?

Mr McConville: I will ask Mr Goodes to comment in more detail. Again, whatever activity the state chooses to undertake has to be consistent with its existing SDLs.

Mr Goodes: Not to repeat what Mr McConville said, the SA water infrastructure can be used to deliver water from a number of sources, just one of which is water pumped from the river. Whatever the purpose is, it will fit within the licence conditions that SA Water has under the state water law. That is up to South Australia to determine.

Senator McLACHLAN: There is a public statement by the Conservation Council of South Australia: 'That is when big questions get asked about where we prioritise our water. Is it for human consumption, is it for the environment, is it for irrigators, is it for industrial users'. At this point that is a South Australian debate, if I understand it correctly.

Mr McConville: Correct.

Senator McLACHLAN: It is not a national debate at this point. Has the department or the minister been formally advised of the intention to build a hydrogen plant and use Murray River water?

Mr Fredericks: I don't think so. We will have to take it on notice.

Senator McLACHLAN: Could you take on notice whether the SA Water Commissioner in this context has advised you, since his ongoing dialogue. That is the context in which I am asking—not for any other reason.

Mr Fredericks: Yes.

Senator McLACHLAN: Mr Fredericks, when anyone in the department sees an announcement like that, does that trigger from your side any engagement with the South Australian government?

Mr Fredericks: Wearing my hat for the department as a whole: my officers have had some preliminary discussions about the South Australian project. It is early days. It will need to be considered in the context of other government processes. In many ways that project for the department as a whole doesn't come as any surprise. I don't know whether any of the Murray-Darling Basin water issues arose in any of those discussions. I will take it on notice as to whether they did.

Senator McLACHLAN: I appreciate that is on notice. I was coming from the point of view of process. I know there is the formal process and then there is an ongoing dialogue between the department, which I would encourage. I appreciate that could cross over from an infrastructure perspective. There is also talk about a desalination plant. I know there are other stakeholders involved. Can you take this on notice: in regard to water and water usage, has your department had engagement? If it is in-confidence, obviously you are going to apply. If not, can I ask for the correspondence or the exchange, if it is in that form?

Mr Fredericks: I will take that on notice.

Senator McLACHLAN: If you want to claim public interest immunity, we can go through that at the next estimates. Is that fair?

Mr Fredericks: It sure is.

Senator PAYMAN: Last month, Minister Plibersek announced \$9.2 million in funding for developing First Nations' water holding arrangements. What is the money going to be spent on?

Mr Dadswell: That commitment of \$9.2 million, announced on 26 April, is an important commitment. It funded a number of things: an extension and expanded remit for the Committee on Aboriginal and Torres Strait Islander Water Interests, which was established in 2020. Initially that committee was established to inform the National Water Reform Committee—which is senior officials from all states and territories—on First Nations water matters, which it still does. Its remit has now been expanded to include advice to the Commonwealth minister and to the department. So there was some funding for that committee. More broadly, that funding has gone into allowing work to occur with First Nations and with the department and all states and territories around an enduring arrangement for water holdings for First Nations, which relates to some other policy work that has

been going on. That funding has supported the creation of a First Nations water branch within the department. That branch is being charged with developing the new water trust model for putting in place enduring water holding arrangements with First Nations. Potentially, there will be some positions around transitional water holders and other things. That is what that funding covers. It goes back to things we have been hearing over the last three or four years around the ability of governments that wish to improve First Nations water holdings, which First Nations groups have been asking for. I am aware of the work that has been going on with the inland water target, still to be agreed, of three per cent. Critical to that will be in those circumstances where government is funding the water recovery of entitlements, or gifting water to First Nations groups. When that water is provided to those First Nations groups, that water can be held in perpetuity if in the future that First Nations group is not able to manage that water. We have seen that occur in some past programs. We don't want it to occur with any future program.

We recently published on our website a report entitled *What we heard*, that goes through some of the consultations we have been having with First Nations groups around their feedback saying, 'We need some arrangements that provide for in-perpetuity holding of water access and support for First Nations capability to manage that water'. We're working on that. That is what the \$9.2 million will assist with.

Senator PAYMAN: Thank you for that. You've outlined who your department is working with to deliver this piece of work, but what problem are we trying to solve here? Why was this initiative implemented?

Mr Dadswell: This relates to an early commitment of around \$40 million for Aboriginal water entitlements that was made for the Murray-Darling Basin. The department is looking at how that funding would be allocated. It has looked at a number of models over a number of years with First Nations. That included direct grants of funding or water to those First Nations groups. Past research has shown that in some cases where that has occurred, in circumstances where perhaps a traditional owner group or First Nations group has been unable to manage that water, or been under economic duress, they have to sell that water, and it has left First Nations holdings. That is not a great outcome in terms of an overall increase in First Nations water holdings. We have been trying to work out a mechanism or approach with First Nations people on that. One concept that has been proposed, and that we are looking to develop further, is the concept of a First Nations water holder or trust arrangement. I don't want to go into too much detail. What is required now—and this is what the funding supported—is some further consultation with First Nations people on the design of that program. We need to design it in a way that it can hold water and also provide for self-determination on how waters are managed.

Ms O'Connell: Importantly, where my colleague started off was to say that there is a First Nations committee. It's a committee made up of First Nations people to conduct and assist with that consultation. They are conducting the consultations as part of this.

Senator PAYMAN: How does this work relate to the \$40 million Aboriginal Water Entitlements Program? You touched on it earlier. It was promised in 2018 but not delivered.

Ms O'Connell: Correct. That's a commitment from 2018: \$40 million for the Aboriginal Water Entitlements Program. This work that is being done will now include how that \$40 million is taken forward and used.

Mr Dadswell: We published a report which summarises some of the consultations that have been ongoing on how to deliver that program. I've mentioned some of the challenges and why we are now looking at a water holding arrangement. What that means is that we can move from just talking about that program to implementing it and looking at implementing water purchasing criteria. We can have discussions with First Nations about where it is best to have that water, what are some of the water purchasing principles, and what are some of the types of water entitlements that might be most useful for First Nations. We've got a number of consultations planned. This is just for the Murray-Darling Basin. We've got a couple of workshops in the north and a couple of workshops in the south with First Nations groups, bringing all 40 nations to those respective workshops, in late July and early August. Those workshops will do a number of things. One is that they will give us an opportunity to test the *What we heard* report that we have just put out, to make sure that what we have put out there makes sense, and to see if there is any further feedback on that.

It will help us to address some of those questions about things we haven't heard yet, about what sorts of entitlements, uses and locations for water there are for that \$40 million. It will give us some guidance on the purchasing principles and next steps in the delivery of the Aboriginal Water Entitlements Program, and it will allow us to consult on that broader question of the trust.

As I mentioned, we are looking at both transitional and permanent arrangements for a water holding trust, subject to its design. Permanent would require legislation. It would take some further time and further consideration before a decision is made on that.

Senator DAVID POCOCK: I want to ask about the \$9.2 million and the \$40 million set aside for cultural water. In the budget it says that the \$9.2 million has already been provided by the government. I want to make sure that is \$9.2 million in addition to the \$40 million that is sitting there?

Ms O'Connell: That is correct, Senator. It is.

Senator DAVID POCOCK: Apart from the upcoming meetings that you mentioned, what will that \$9.2 million be spent on?

Mr Dadswell: There are a number of elements. One is that we spent around \$700,000 on improving and extending the remit of the Committee on Aboriginal and Torres Strait Islander Water Interests. Twelve Aboriginal and Torres Strait Islander water experts from around Australia sit on that committee. It's about expanding its remit to now also advise the Commonwealth government, not just all water states and territories, and the department, and to work with us on taking forward the Aboriginal Water Entitlements Program and that enduring water trust arrangement. The remaining funding is for the establishment of a First Nations water branch in the department, which has already been established. That comprises a branch head and a number of sections that are looking at engagement with First Nations on the water trust model, delivering the Aboriginal Water Entitlements Program, policy development and those other things that are needed to implement the Aboriginal Water Entitlements Program and an enduring trust model. There is funding to also engage with First Nations. I talked about workshops, legal advices and all those additional services and activities that are required to engage with First Nations and then also to implement policy.

Senator DAVID POCOCK: Why hasn't the \$40 million been spent? It has been five or six years now.

Ms O'Connell: It was a commitment in 2018. My recollection is that there were consultations at the time. It was a government decision about what should be done with that \$40 million, how it ought to be implemented. I would have to get you the date, but the government made a decision to move that \$40 million water entitlement program to the National Indigenous Australians Agency. A decision was not made about how it was to be used.

Senator DAVID POCOCK: Did the department recommend to the government how it could or should be used?

Ms O'Connell: There were a number of recommendations at the time and a number of different advices.

Senator McAllister: It's been a long-running process. Ms O'Connell, in the evidence that you are providing now, it may not be entirely clear to Senator Pocock which period you're referring to, because of the length of time since the initial commitment was made.

Ms O'Connell: Only relatively recently, the Aboriginal Water Entitlements Program has transferred back to this portfolio, under the government. The announcement made last month was significant about how consultation will be progressed, and by First Nations people, by setting up that First Nations committee on what will be implemented with that \$40 million. That's a change.

Senator DAVEY: That committee was already in existence. This funding has extended the remit of a committee that was established under the former government.

Ms O'Connell: The remit and the duration.

Senator DAVID POCOCK: Just so that I am hearing you correctly: there was advice provided but it was a decision of the previous government not to spend that \$40 million?

Ms O'Connell: I would characterise it as, rather than a decision not to spend it, no decision on how to spend it.

Senator DAVID POCOCK: It wasn't spent.

Ms O'Connell: It wasn't spent. It was transferred to the National Indigenous Australians Agency, under the previous government. It has now been returned and an announcement has been made about how to progress consultations on the form and nature to use that \$40 million.

Senator DAVEY: It's fair to say that there might not have been agreement from stakeholders on which recommendation was acceptable either.

Senator DAVID POCOCK: Thanks, Senator Davey; that's helpful.

Senator McAllister: The short story is that we have heard very clearly from First Nations stakeholders that it is time to get on with it. The commitments in the budget enable us not only to retain the capacity to expend the \$40 million but also to establish the appropriate governance arrangements that will allow First Nations water to be held and managed in a way that's acceptable to the First Nations stakeholders that we're working with. The

officials can talk you through the immediate next steps. I think you heard the evidence provided before about establishing the means by which the benefits can be maintained in perpetuity for the beneficiaries.

Senator DAVID POCOCK: We're surely not seeing a situation where \$9.2 million is spent to decide how to spend \$40 million? That's almost 25 per cent.

Ms O'Connell: No, Senator. The \$9.2 million is about—

Senator DAVID POCOCK: So there will be more than 40?

Ms O'Connell: The 9.2 includes how the \$40 million is spent, but it is to set up more enduring arrangements as well, beyond the \$40 million.

Senator DAVID POCOCK: Be that as it may, will the \$40 million be added to? After five or six years, will the government be adding to the \$40 million? It's not a lot of water.

Senator McAllister: I can only speak to what's in the budget. There is \$40 million in place. It is available for expenditure in the term of the budget. We are fully committed to delivering that program. In addition, there are the resources that the officials have been speaking about.

Ms O'Connell: The \$40 million is focused on the Murray-Darling Basin. It is specific to that. The consultations and arrangements that are being set up are intended to be long term, national and enduring so that there is an opportunity for additional funding into whatever arrangement is set up through these consultations. That's absolutely the intention, and for it to be national, not just the Murray-Darling.

Senator DAVID POCOCK: Is it split 20-20 between the upper and lower basin or is it just 40 across the whole basin?

Ms O'Connell: It's 40 across the whole basin. That was the original commitment.

Mr Dadswell: The original commitment was \$20 million for northern and \$20 million for southern. We've had conversations with First Nations about whether that is a logical way to do it and approach it. That is part of what the consultation we are doing in the next month or so will be about.

Senator DAVID POCOCK: Has the department done any work on looking at how much would be a decent amount for cultural water, to start achieving some of the goals that First Nations people across the basin have for their cultural heritage?

Mr Dadswell: That relates to the work that's going on with Closing the Gap, where there has been a target of three per cent of inland water holders within First Nations ownership. At the moment, it is much lower than that. It is very much lower in the Murray-Darling Basin. That's the target that both the Commonwealth and the states are discussing, although I note that the target has not yet been agreed. That's the target that has been talked about.

Senator DAVID POCOCK: What is the value, in dollar terms, to get to that three per cent from where we currently are?

Mr Dadswell: What will contribute to that will be a number of measures. It won't be just water purchasing. In some cases there are unallocated water systems, and state governments may choose to allocate water to First Nations from those unallocated systems and other arrangements. It's not necessarily a purchase question. It's only in the Murray-Darling Basin, where water is fully allocated, that we have that question.

Senator DAVID POCOCK: Has the department done any modelling around the delivery of cultural water and what the costs or potential pathways may be, using unallocated or buying water?

Ms O'Connell: As my colleague mentioned, in terms of the Closing the Gap target there was extensive modelling done of First Nations water holdings, including where there are other holders of water on behalf of First Nations and what it means in terms of how to close that gap. It is a considerable gap, in terms of where we are now versus a target, should that target be agreed and accepted. To monetise it—

Senator DAVID POCOCK: You don't have a rough figure of what you think that would actually equate to?

Ms O'Connell: We do in terms of water percentages, if you would like, broken down and where the holdings are.

Senator DAVID POCOCK: I understand that. But what is the value?

Ms O'Connell: The trouble is that not all water is purchased, allocated water.

Senator DAVID POCOCK: I understand that, but you're the department tasked with helping to deliver this.

Ms O'Connell: We can certainly give you the information. Perhaps we'll take on notice what is required to close the gap.

Senator DAVID POCOCK: That would be very helpful. Thank you. Could I ask another?

CHAIR: We are going to take a break.

Senator DAVEY: Could I ask some Indigenous questions while we're on topic?

CHAIR: Given that we're all coming back, I'm going to stick to the break times.

Proceedings suspended from 11:14 to 11:32

CHAIR: We would like to welcome back our witnesses, and we will continue our inquiry. Senator Pocock?

Senator DAVID POCOCK: I want to finish off on the topic of cultural water. You mentioned that there is a target of three per cent of inland water in Closing the Gap. I was interested in where we currently sit.

Mr Dadswell: This is a responsibility of the National Indigenous Australians Agency. We understand that a baseline study has been done to determine and assess that target. The Coalition of Peaks—peak Indigenous groups—have looked at that and they have asked that the methodology on which the baseline was established to determine and test that be looked at. That work is currently happening. It is then up to the Coalition of Peaks to put that target to the Prime Minister for approval.

Ms O'Connell: It's a proposed three per cent target, with the Coalition of Peaks assessing it. They've asked us for the information we did on establishing the baseline. Some of that depends on what you count, in terms of what the baseline is. There is actually Indigenous-held water; then there is water held by other institutions on behalf of Indigenous people. It depends on whether you count those reserves or not. It's jurisdiction-dependent, too. Each jurisdiction has a different baseline percentage. What we could do, on notice, is to provide you with the information on what the baseline is, acknowledging that there will be a couple of, 'If you included this, it will be that number,' and 'If you include reserves, it will be a different number.' We are happy to take it on notice and provide you with that information on the baselines across all jurisdictions, all states and territories, against that proposed three per cent target, while acknowledging that it's proposed and it's up to the Coalition of Peaks to decide on that.

Senator DAVID POCOCK: When was the Closing the Gap three per cent committed to or developed?

Ms O'Connell: It has been proposed for quite some time in terms of establishing it as a target. Many jurisdictions agreed to that target a few years ago. In the middle of last year—in August 2022—the Joint Council on Closing the Gap agreed to recommend the inland waters target of three per cent. That was to recommend; then the Coalition of Peaks is considering it.

Senator DAVID POCOCK: Within the Murray-Darling, what percentage are we at?

Mr Dadswell: I'll take that on notice. I don't have that figure with me.

Ms O'Connell: We don't have that figure on the basin as a whole. In the earlier figures that I was referring to, because it was by jurisdiction, it would include that jurisdiction's components of the Murray-Darling Basin. We can also get a figure for you, and take on notice to provide, for the basin itself. Again, it will reflect that there is \$40 million as a reserve, as part of that as well.

Senator DAVID POCOCK: This does seem like a really complex issue to tackle. Did you say that there were 40 First Nations groups within the basin?

Mr Dadswell: Over 40.

Senator DAVID POCOCK: It seems that if you have a bucket of money that is \$40 million for over 40 groups, that's very fraught. I am interested, Minister, in whether you see that \$40 million being expanded over time, in recognition of the importance of water to First Nations groups and of not wanting to set this up for failure. If it's less than \$1 million per group, potentially, it's not going to work.

Senator McAllister: I have indicated to you that I can tell you about the government's position. I am not really inclined to speculate about future decisions. You can see, from some of the commitments in this budget and some of the work that is going on through the Closing the Gap framework, that we are keen to move on this. We do hear from First Nations representatives that this is important to these groups. It's important in the basin but it's important nationally as well. You were asking earlier about the budget allocation this time to establish what I would describe as a governance framework for First Nations water holdings. I might clarify that is intended to provide a national architecture for First Nations water, not merely one for the basin. It is a big piece of work against which very little progress has been made until quite recently. We are very determined to get on with it. Ministers Plibersek and Burney are both engaged on these issues.

Ms O'Connell: That announcement that we were referring to earlier, in April, is about establishing water holding arrangements.

Senator DAVID POCOCK: I understand that.

Ms O'Connell: It will be for national. The idea, clearly, is that there is an opportunity for additional funding to come in, once we've set up those institutional arrangements.

Senator DAVID POCOCK: Finally on this issue, with the \$40 million for cultural water within the basin, is that the only federal government money that has been allocated to cultural water? You mentioned that across the country you are developing a plan. Currently, is that the only money on the books?

Mr Dadswell: There are a number of ways that water finds itself with respect to First Nations. So \$40 million was a commitment made in 2018. Certainly—others could talk about this—the Commonwealth Environmental Water Holder works closely with First Nations to provide water when they deliver it, in a way that meets First Nations holding arrangements. Individual states and territories will make their own decisions around providing water more broadly.

Ms O'Connell: In this budget there is a \$3.5 million commitment for the Commonwealth Environmental Water Holder to partner with First Nations people. We are happy to talk about that because we have the Environmental Water Holder here.

Senator DAVID POCOCK: What I have been hearing from First Nations groups is that this conversation has been going on for a long time; they are getting tired of being lumped in with environmental water rather than actually having some say and sovereignty over their own cultural water, which may or may not match up with what the CEWH is tasked with doing. It is a comment, rather than a question.

Ms O'Connell: We understand that. The important thing, in terms of the announcement, is that it is around a First Nations committee with First Nations people to guide and run that consultation.

Senator DAVID POCOCK: Can I move on to a different issue on which I'm trying to seek some clarity? I refer to the newly issued floodplain licences in New South Wales. I was recently in the upper Darling and there was concern amongst the community. I understand that there were a number of disallowances and non-disallowances in parliament. Are you aware of those new licences? Have they been issued? What is the status of them?

Mr Goodes: We are aware that there are four valleys in which floodplain licences have either been issued or are in the process of being issued. They have been finding their way into arrangements as part of the water resource plans for those regions. The intersecting streams, the border rivers, the Gwydir and the Barwon-Darling are covered there. There is a fifth region, the Namoi, a surface water area which will require floodplain licensing. That has not yet been issued. In terms of the regulations, there are three relevant regulations in New South Wales that have been made a number of times. The one that relates to the actual issuing of the floodplain licences has been made and disallowed several times. It is still subject to further consideration by the New South Wales parliament. There are two other related sets of regulations. One is around rainfall runoff harvesting exemption and the other relates to regs around the requirements for metering and measuring take that's licensed. Those two were not subject to disallowance consideration last time, so they stand. They impact the licences in the regions that have been issued.

Senator DAVID POCOCK: Do you know what the volume of water is across the four valleys and the Namoi?

Mr Goodes: No. That is subject to consideration in the water resource plans for those regions when they are assessed.

Senator DAVID POCOCK: The authority has no visibility over the volume of licences being created?

Mr Goodes: We have the sustainable diversion limit for all forms of take in the area, and it's up to New South Wales to set their allocation policy rules as to how allocation decisions will be made between those various elements of the consumptive pool, if you like.

Senator DAVID POCOCK: You are not involved in that process at all?

Mr Goodes: Only as it pertains to whether they have met the requirements of the Basin Plan in their water resource plans when they submit them for assessment.

Senator DAVEY: It is also worth pointing out that there is a history of practice here. Under different New South Wales acts, the Water Management Act and their water act, there is already floodplain take, and the licensing is just coming in to put a volumetric cap on it. Yes, there are divergent opinions on whether the cap reflects the historic practice. But it is proper to recognise that there has always been a level of floodplain take in historic practice.

Senator DAVID POCOCK: When are New South Wales plans due?

Mr Goodes: The plans were originally due to be lodged by the beginning of 2019, with the intent that all water resource plans would be in place by 1 July 2019. Earlier this year, New South Wales had submitted all water resource plans for assessment. However, seven of those plans, which includes the five relating to floodplain harvesting, have been withdrawn by New South Wales following conversations between us and them about the content of those plans.

Senator DAVEY: When did that withdrawal happen?

Mr Goodes: Yesterday.

Senator DAVID POCOCK: Are you concerned about the impact of these new licences on the overall health of the basin, which I assume is under your remit?

Mr Goodes: As Senator Davey pointed out, the practice of floodplain harvesting is not new. It's a matter of quantifying and bringing it into the regulated framework. There were no licences, so we're very supportive of New South Wales and the work that's been done in the relevant program that leads to the end point of issuing licences around floodplain harvest intake.

Senator DAVID POCOCK: On floodplain harvesting, I understand that New South Wales are still investigating the loss of 200 gigalitres from 26 separate incidents in 2020 and 2021. Is there any involvement from you or the federal department in these investigations?

Mr Goodes: When you say 'loss', Senator, you are talking about loss of water, I assume?

Senator DAVID POCOCK: Yes, a loss of water—200 gigalitres.

Mr Goodes: I am not familiar with that. I will take it on notice.

Senator DAVID POCOCK: It is my understanding that the New South Wales authorities are still investigating the loss of 200 gigalitres in New South Wales across 26 separate incidents in 2020 and 2021. Is there any involvement from the department in those investigations?

Ms O'Connell: No. That is a question, possibly, for the Inspector-General of Water Compliance or for New South Wales.

CHAIR: He did touch on that this morning, Senator Pocock.

Mr Goodes: I suspect it is a matter of investigation of NRAR, which is the New South Wales compliance. The responsibility for compliance of behaviour by individual water holders rests with the state that issues the licence. New South Wales has the Natural Resources Access Regulator, NRAR. That entity conducts investigations and, if necessary, prosecutions.

Senator DAVID POCOCK: Finally, can I ask the department about Werai State Forest? I was down there with Senator Davey earlier this year. My understanding is that the New South Wales government is handing the forest back to First Nations groups. Because it was a logging forest there are regulators who stop water flooding it. Those regulators are not working. Is the department doing anything to ensure that the forest is handed back to First Nations groups in a way that they can manage it?

Dr Banks: I probably have the same understanding as you. There was a plan for the Werai forest to be handed back. To date, I don't believe it has. That is a question for the New South Wales government, to understand where that is at. In terms of the regulator, we are well aware that the infrastructure down there is not in the best condition. That inhibits our ability to manage environmental water into the forest. I think it is an asset that is owned by WaterNSW. Again, questions around plans for maintenance or improvement of that asset should be directed to New South Wales.

Senator DAVID POCOCK: What jurisdiction does the CEWH have if you are unable to deliver environmental water, potentially to a Ramsar site, if the regulators haven't been upgraded by another jurisdiction?

Dr Banks: We work through those sorts of circumstances with WaterNSW and other state partners. Ultimately, whether WaterNSW decides to make funding available to repair those structures is a matter for them. We emphasise the importance and need for those sorts of structures to be functional so we can manage water through that system—as you say, it is a Ramsar site—to improve its condition.

Senator DAVID POCOCK: Have you made that recommendation to WaterNSW?

Dr Banks: I don't know that we have formally made a recommendation; I would have to take that on notice. We have officers who are regularly engaging through environmental water groups and other forums down there, which WaterNSW are a part of. I am sure they would be well aware of the concerns about it.

Senator DAVID POCOCK: Is the department aware of the Werai regulator situation?

Ms O'Connell: The Commonwealth Environmental Water Holder is a part of the department, so we are aware, from the evidence Dr Banks gave.

Senator DAVID POCOCK: This is a big issue; it is a Ramsar site. We are handing it back. We are hearing a lot of talk about trying to take cultural water more seriously. We have a First Nations group really keen to manage this forest, yet we don't seem to see the same support for them.

Dr Banks: A lot of support is being provided, recognising the challenges with that infrastructure. I don't know off the top of my head whether we have made formal representations on it. Officers from my office would have been—it has been a discussion for many years—around the condition. At the end of the day, it is up to WaterNSW to prioritise their funding. They know the importance from our perspective of improving delivery of environmental water into that system.

Senator DAVID POCOCK: This question is for the authority. Were the New South Wales plans that were withdrawn yesterday withdrawn because they weren't accreditable?

Mr McConville: New South Wales has written, and committed to resubmit plans that are able to be accredited. We have been working with New South Wales providing feedback. Obviously it is a decision for New South Wales to withdraw and resubmit. Their commitment is that they will resubmit those plans, with confidence in them being accreditable. We will go through the process that we are required to do with every water resource plan, which is the same process against 55 criteria, once they are resubmitted. We have another nine with us at the moment that we are working through. We will continue to work through those. The authority will then review those plans and, if appropriate, make a recommendation to the minister.

Senator DAVID POCOCK: Given that they are so long overdue, is there a time line for resubmission?

Mr McConville: There is not a time line. They are a significant piece of work. Each plan takes around 14 to 16 weeks to assess. With the resources we have we can probably run about three at a time. The best case scenario in terms of accreditation—it is ultimately a decision for the minister to accredit—for us to get through those plans will be well towards the end of the year. We don't have a time line yet from New South Wales in terms of when they will resubmit those seven. We do have the commitment that they will resubmit, with confidence in them being accreditable.

Senator DAVEY: This is breaking news; they withdrew seven yesterday. Did they withdraw because you provided advice that they would not be accredited as they stood?

Mr Goodes: Yes; that's right. We gave them some feedback. We went through all 16 plans that were submitted. We met with New South Wales to discuss a number of them. That has resulted in them withdrawing.

Senator DAVEY: Which seven were withdrawn?

Mr Goodes: The O'Loughlin Surface Water, the Gwydir Surface Water, the New South Wales Border Rivers, the Barwon-Darling Water Course, the Namoi Surface Water, the Macquarie-Castlereagh Surface Water and the New South Wales Murray and Lower Darling.

Senator DAVEY: The Murray as well?

Mr Goodes: Yes.

Senator DAVEY: Where there is no issue with floodplain harvest?

Mr Goodes: Correct.

Senator DAVEY: We heard from Mr McConville that it takes up to 12 weeks to assess each individual water resource plan. This was not the first time these 16 have been submitted. Are we up to the third iteration of New South Wales plans?

Mr Goodes: We will be for these seven.

Senator DAVEY: What were the issues this time?

Mr Goodes: I won't go blow-by-blow, plan-by-plan, but in terms of general themes. There were plans that had the wrong version of water sharing plans attached; plans where there were mistakes in water sharing plans—

Senator DAVEY: When you say 'mistakes', are you talking about typos, or are you talking about formulaic mistakes?

Mr Goodes: There were issues in the water sharing plans, the New South Wales plans, that meant that what was happening in the water resource plan was inconsistent. There were issues with some of the models. Cross-referencing between legislation and policy issues also meant the plans were inconsistent.

Senator DAVEY: You had the first go and then this was the second go. How can we still be having issues like cross-referencing? Was the feedback you gave them the first time not comprehensible enough for them to be able to address the issues?

Mr Goodes: The feedback was pretty clear. I cannot comment as to the rationale for why some of that feedback perhaps wasn't manifest in the versions of the plans that were submitted in February.

Senator DAVEY: Stakeholders that I talk to, water users—including towns, mayors, irrigators, people from environmental sides—had been led to believe, in their consultations with the state department, that there were high levels of confidence that this time around they would land these water resource plans. But now they have been withdrawn. They take 12 weeks to assess when you get them back. I am assuming that, with the nine you still have, work is ongoing to assess and accredit them. Is there a chance they might be advised to be withdrawn as well? My understanding is that you can only assess a certain number at a time. It takes 12 weeks. You assessed these seven. Effectively, even though New South Wales has withdrawn them, you rejected them. Now you are commencing work on the remaining nine. Is there a chance they will need to be withdrawn as well?

Mr Goodes: We provide advice to the authority, which decides. We have gone through all the plans. We have provided feedback. The response from New South Wales has been to withdraw that seven.

Senator DAVEY: The other nine are not accredited and not fully assessed, but you and New South Wales are comfortable that they are ready to progress.

Mr Goodes: We are proceeding with the assessment.

Senator DAVEY: When you get these seven back, will it be a matter of going through them and determining, 'Yes, they have addressed that concern'? Or will you have to treat it like it is a brand new blank page and take the 12 weeks?

Senator McAllister: There may be some limitations to how predictive officials may be about these processes. It is a process that involves inputs from the New South Wales government as well as a response from the authority. Only some parts of this process are in the control of the Murray-Darling Basin Authority—I just provide that caveat. Officials are trying to be helpful. Ultimately, they need to undertake their work consistent with their legislated mandate.

Senator DAVEY: I am trying to get a picture of the time line.

Mr Goodes: My response would be much closer to the former than the second, because we do have to undertake the full assessment. Additionally, every plan is required to receive advice from the relevant Indigenous organisations about the extent to which they see that particular element of the plan being reflected. Because of the issues we have identified, we have not sent out the draft that has been withdrawn for that consultation. That won't start until after we have received the plans back from New South Wales. The 12 to 14 weeks is predicated on an accreditable product being submitted, that being the most efficient process able to be followed.

Senator DAVEY: Most of the plans, bar the Lachlan-Murray, are in the north, which have quite a different water accounting process than in the south. I am very interested to understand, out of all of them, the Murray-lower Darling. It is the most regulated river in the whole Murray-Darling Basin, and part of the southern connected system. It was one of the first stretches of the river to ever have a water sharing plan. That has gone back. Can you indicate why that is?

Mr Goodes: New South Wales need to update their water sharing plan. They have said, 'We will include the new version of the water sharing plan in the water resource plan.'

Senator DAVEY: I thought that water sharing plan was updated in 2016 for a 10-year period.

Mr Goodes: I'd go with your recollection of that, rather than mine, Senator. That is the advice I have.

Senator DAVEY: Interesting. I will take it up with New South Wales. I want to turn to the Barmah Choke. The Barmah Choke is a long-term issue. It's a natural constraint in the river system, but it's also one of the biggest areas where the constraints management strategy has implications. It's also got significant implications for the management of the river system. Funding was provided for a study to be done to look at options for managing that section of the river system. There was a piece of work released by Alluvium, the feasibility study. That's the result of that funding that was provided; is that correct?

Mr Reynolds: Yes, that's correct, Senator.

Senator DAVEY: That report didn't quite say, 'To do nothing is not an option,' but it did say that at the Barmah Choke there would be both cost and river operations implications of doing nothing. Can you talk us through that?

Mr Reynolds: Yes, Senator. Regarding the management of the Barmah Choke, whatever we do there has implications for river management and river operations. It's the most significant constriction in the river system. It limits the volume of water that can be passed downstream from the major headwater storages, the Hume and Dartmouth dams. We are seeing a progressive decline in capacity through that reach as a result of the deposit of sand in the river channel. As that happens, it means that we need to run the river at or close to capacity for longer periods of time to meet all of the demands and to deliver all of the entitlements that are held downstream of the choke. As we see ongoing reduction in that capacity then that challenge becomes more significant for us.

Senator DAVEY: There are implications as well to running the river at a constant high capacity. That has other environmental implications, let alone management implications.

Mr Reynolds: Yes, certainly. When we talk about river management, we are factoring in both the delivery of water for consumption and managing the environmental impacts of that river regulation. We work very closely with environmental water holders, for instance, to make sure that we can manage those impacts as effectively as possible. Running the river close to capacity, and particularly at a constant level, can lead to things like notching of banks and erosion and the like. Riparian vegetation benefits from fluctuating water levels, periods of drying and wetting as well. Those things become more difficult to manage if we have to run the river at high levels.

Senator DAVEY: The Alluvium report showed that one of the causes of the declining capacity is a sand slug that is getting stuck at the choke. The Alluvium report shows that within 10 years the build-up of sand will see a reduction of flow capacity such that we will struggle to deliver water downstream to meet the needs of downstream communities at current levels. Am I interpreting the report correctly?

Mr Reynolds: That's right. There is a risk in any year that we may have a shortfall and not be able to deliver water to meet all of the demands downstream. As capacity through the choke declines, that risk increases.

Senator DAVEY: The Alluvium report was done pre the recent floods.

Mr Reynolds: Correct.

Senator DAVEY: Have the recent floods resulted in changes at the choke? Has there been further sand deposited, speeding up the decline of capacity?

Mr Reynolds: There certainly is evidence of sand moving into and depositing in areas within the choke as a result of the flooding. Some quite significant sandbars and beaches have formed. The initial indication is that probably has decreased the capacity of the choke more, but we are currently in the process of taking a series of gaugings along the river, through that reach, to assess just what that change in capacity might be. We are also planning a detailed bathymetric survey, which is where we go through and map the bed of the river to see where sand has moved. It's likely that additional sand has come into the choke, but sand that was already there has moved around. Exactly what the constriction on flow is through that reach is something that we are working to determine. That work will carry on over the next few months.

Senator DAVEY: The Alluvium report produced a series of costings and different scenarios, starting with maintaining the current capacity, which they've estimated to cost \$141 million. That is to maintain current capacity, which still requires work to be done over and above the 'do nothing' option. It also had a 'do everything' option, which would mildly increase the flow capacity and would cost about \$1.3 billion. Have you reviewed their costings? Do you have a sense of how accurate those models are?

Mr Reynolds: We were a part of that and worked with Alluvium as they did that work. We had a range of state agencies participate in that as well. We haven't got any new information beyond that study yet to refine those estimates. They're the best estimates that we have. They are feasibility study estimates. There is very limited engineering detail as to what those works would include. They're estimates that are a guide to what those projects might cost. They'll be further refined as we do further work. We haven't done any additional work to refine them, as yet.

Senator DAVEY: We have the feasibility study. Is there any further funding for the MDBA to progress to the next stage, to look at further engineering work and business cases, and to actually refine a preferred option of work to proceed?

Mr Reynolds: Yes. We took that feasibility study to the ministerial council. Whilst the first feasibility study was funded by the Commonwealth, through the national water grid, the management of the choke is part of our joint venture operations, which are funded by Victoria, New South Wales, South Australia and the Commonwealth under a funding agreement set out in the Murray-Darling Basin agreement. That feasibility study was considered by the ministerial council at their last meeting, in February. They endorsed the feasibility study at the next stage and committed another \$2.35 million to progress the development of those options further. That

won't complete the detailed design. It will certainly refine those options. There is quite a bit of work to do with local communities to understand the local impacts of those options.

The feasibility study demonstrated from a technical engineering perspective that those works would help to manage the capacity through the choke. Of course, implementing any of those options will have a range of environmental, cultural and social impacts that we need to work through in more detail. That could lead to some of those options being found to be not viable for other reasons. It is likely to also see the cost estimates be refined, as we understand what it would take to manage some of those impacts.

Senator DAVEY: And \$2.35 million will effectively enable you to refine a preferred option to then ask for further funding to progress to the next stage.

Mr Reynolds: That's correct. We'll work through a series of gateways; progressively working through options, developing them in more detail, assessing them against a range of criteria and then seek agreement through the joint venture arrangements for additional funding to go to the next stage.

Senator DAVEY: Are the capacity and flow constrictions at the choke being incorporated into the work, the preparation and the modelling for future delivery and implementation of the Basin Plan? I imagine that constraint and constriction, in the absence of any constraint management plan progress, has to have implications for how we deliver water to the end of the system.

Mr Reynolds: It's very much factored into our planning for our river operations, both in a daily and an annual cycle. We work through that. As we move into the Basin Plan review, all of the information that we have will be considered as part of that. The Basin Plan review is based on the most up-to-date science and the best available information. If we have new information about limitations on being able to move water through the system then that will be factored into that. In the interim, though, while the existing Basin Plan is in place, we work within the constraints we have for river management.

Senator McLACHLAN: I'd like to take us to the previous conversation that we had on the Goolwa River research hub. The last time we spoke on this, we hoped there would be more information available at this estimates. Mr Dadswell, you have this in hand. Last time we gathered, the minister had announced, to some excitement in Goolwa, a new research hub. There was \$8 million in funding. When we last spoke about it, it was early days. The department was still coming to grips with how it was going to be funded and how it was going to look. Could you enlighten me?

Mr Dadswell: The department has been engaging with the Goyder Institute for Water Research. This is the funding for that institute to look at the future implications of climate change for the lower Murray, the lower lakes, the Coorong and the Murray mouth areas. We've been working also through the Commonwealth grants hub to deliver this grant to the institute. The Goyder Institute submitted a business proposal on 2 May to the business grants hub. We assisted the hub to assess that proposal and we are now negotiating contractual arrangements with the Goyder Institute, with the intention that they will be able to start phase 1 of the research hub program before the end of this financial year.

Senator McLACHLAN: How many stages are there going to be?

Mr MacGregor: The Goyder research hub proposes, effectively, a single stage over the four-year program. We have ensured that we've built a mid-program review into the proposed grant agreement so that we can manage the program adaptively with South Australia.

Senator McLACHLAN: The reason I asked is that I knew it was four years but I was a little bit confused with stages. Is my understanding correct—I don't ask from any negative perspective—that you're using the research institute to run the hub and effectively administer this grant? Is that correct?

Mr MacGregor: That's correct: the existing Goyder Institute for Water Research.

Senator McLACHLAN: So you're leveraging existing infrastructure in Goolwa? That's positive; thank you. Have we settled on what the key performance indicators are for the grant?

Mr MacGregor: Yes. Further to your line of questioning in February, the proposal that was put forward by the institute proposed a benefits realisation approach to performance—a quadruple-bottom-line cultural, social, environmental and economic—that would be tracked and measured through an interim and annual reporting mechanism. That would include a description of performance during the reporting period, an update on the research program itself, a summary of meetings, key guidance and research decisions by governance groups, a report on expenditure, and details around the communications and engagement activities. The KPIs would be framed in that way.

Senator McLACHLAN: I have some minor queries that come from constituents. Is any of the funding going to rental premises? It's a small town; they are interested in whether new premises will be taken up.

Mr MacGregor: There is a clear expectation that there will be a research hub with a presence in Goolwa.

Senator McLACHLAN: A physical presence?

Mr MacGregor: A physical presence in Goolwa. While that is largely a matter for Goyder, we do understand that they are under active consideration around locations.

Senator McLACHLAN: If I wanted to ask questions about more practical aspects, I should go to the institute?

Mr MacGregor: Yes.

Mr Dadswell: One of the conditions would be that, where possible, they draw on local services in terms of providing support for projects and so forth.

Senator McLACHLAN: There's great interest on the ground, from both the point of view of the research and the practical implications, given that it's a small village. The minister mentioned that there will be a boost to the local economy. Do we have any visibility on how that will realise itself?

Mr Dadswell: That's the point we were going to, with the physical presence and the preference to, where possible, use local service providers; also, utilising the services of First Nations and the community to help deliver some of the projects.

Senator McLACHLAN: I was thinking more broadly, including our local Indigenous communities. When you say 'local services', you do not mean researchers? Is it part of the economic boost that researchers are being attracted to the region? I am trying to distinguish between the standard services which would come from a small town providing sustenance—I mean that in the broader sense—to a research hub versus an influx of researchers staying there for a period. Is it too early to say?

Mr MacGregor: Certainly, the former; with a focus on the former in terms of local service providers wherever possible, including that physical presence. How far that extends in terms of research staff is something that Goyder will have to work through. We do have a requirement built into the hub to require transparency from Goyder around the research staff recruited for the program.

Ms O'Connell: Some of this reflects the fact that there is a direct benefit and then there is indirect benefit as well. It is challenging for us to get a good handle on the indirect benefit until after the funding has been invested—but a substantial figure.

Senator McLACHLAN: In the early days, to be fair, it wasn't clear whether or not there was going to be an influx of researchers. That depends on the research project. It is starting to firm up; I appreciate that. I do get asked about it a lot when I'm in that area. There is some excitement, which is good. When are we looking to get things going? In the next couple of months?

Mr MacGregor: Certainly, before the end of the financial year we are looking to finalise the agreement with Goyder and have payments flow. The funding profile will be over the four financial years, with that mid-program review.

Senator McLACHLAN: I look forward to hearing from you at the next estimates and see how we are going.

Mr Dadswell: I might add that the next step is to develop that research program, and that will be the focus for the next six months, with the First Nations representatives, community members and so forth.

Senator CADELL: There have been lots of news stories about the government's relationship with PricewaterhouseCoopers and standing down staff around at the moment. How many contracts have been awarded to PwC since the financial year by the department, MDBA and/or others?

Mr McConville: From MDBA's perspective, we currently have two contracts with PwC. We have an internal audit contract, and that was first awarded at the end of June 2020 and runs through to June this year. The second contract we have with PwC is as a strategic implementation partner for what we call our integrated river modelling uplift program. That contract was awarded on 25 July last year and runs through to 7 March 2026.

Senator CADELL: For that one, the uplift program, was there a tender process for that?

Mr McConville: Yes, there was. PwC were appointed as an implementation partner following an open, competitive process. That accorded with all the government's AusTender and procurement guidelines. There were three proposals received, and PwC was awarded that contract. It was signed, as I said, on 25 July last year.

Senator CADELL: Are you able to disclose the unsuccessful tenders?

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

Senator CADELL: What expertise of PricewaterhouseCoopers was included in their bid to win the tender?

Mr McConville: I might ask Mr Kremor to come forward. He can talk in more detail on the contract itself.

Senator CADELL: What was the expertise that they put in for the uplift program?

Mr Kremor: To implement this program, given it was a very complex program involving uplifting 24 river models onto a single platform and involving all the states, there was both a resourcing need and an expertise need. The areas of expertise we needed were around the ICT infrastructure. We're going to an ICT cloud-based platform, which we don't have the expertise within the organisation on. Then, in integrating those models, we similarly don't have that expertise inside the organisation. Being a fairly major program, it also needed program management expertise as well.

Senator CADELL: My understanding is that the tender and the contracts were a bit over \$27 million. Is that right?

Mr Kremor: Yes.

Senator CADELL: So what's the scope of the work for that? You've told me about the expertise for that, but what is the scope? What is the finished product?

Mr Kremor: That's a very important question. It's probably worth me giving a quick overview if that's okay. It's a four-year program implemented. There are three basic stages to the program. Those stages are: to build the ICT cloud-based platform; to build the spokes out to the states; to lift the 24 river models onto that platform; to integrate those models; and then to get the models to basically be consistent. So there's a lot of work in that space. We're getting towards the end of the first phase of that—of building the platform. The second phase will be on working with the states to build those spokes and uplift those models onto the integrated platform.

Senator CADELL: Is there a time line for when that phase is to be completed?

Mr Kremor: We're aiming to have that completed by September 2024, bearing in mind that that will be the first step and there will be improvements after that. The final stage of the program is about making information about the models and the assumptions in the models transparent to the other states, to jurisdictions and to the public as well. So that's the scope of it. It's also probably worth saying that it's a one-off strategic opportunity to build a coherent basin-wide model that then will provide a very clear evidence base for the Basin Plan review.

Senator CADELL: Understanding that it's young—it's not one year into its four-year term—are we on time and on budget so far?

Mr Kremor: PwC have helped us go through the first phase, which was mobilisation. That was about setting up all the artefacts like risk management plans, stakeholder engagement plans et cetera. That was completed on time and below budget. We're at the end of the first phase of the program. That's also on time and below budget; we're about 20 per cent below budget to date.

Senator CADELL: Obviously, there are concerns around PwC and the broader aspects of confidentiality. Are there clauses in this contract, or is there any sensitive data with which we're concerned about confidentiality leaking into market, or anything like that?

Mr Kremor: The contract includes confidentiality clauses. Also, through the MDBA onboarding process, there are additional confidentiality requirements that participants in the project have signed, as well as other assurances to do with sensitive market information. Within the project itself, that's protected by those confidentiality clauses.

Mr McConville: Participants are subject to all of our normal conflict-of-interest disclosures and requirements. All of those have been completed. It's important to note, also, that we've recently reached out again to PwC, seeking assurances, and they've been provided to us in terms of the controls and practices that they have in place to ensure that our services have been affected, and that our confidential information is not and has not been involved or compromised. We've received those assurances from PwC and we're currently considering that with our internal audit committee.

Senator CADELL: I imagine they've got more than one inquiry about that issue.

Mr McConville: I imagine so.

Senator CADELL: As part of this process, have any of your stakeholders raised any confidentiality concerns with you in relation to this specific tender?

Mr Kremor: No concerns have been raised with me to date. I'm not aware of any others.

Mr McConville: None have been raised with me either.

Senator CADELL: Is the Australian National Audit Office looking at this procurement? Is that right?

Mr Kremor: I'm not aware of that.

Mr McConville: I might ask our Chief Operating Officer to comment in the broader context of the ANAO.

Ms Blyton: There is a draft plan for the audit office for next year which does include an audit of this procurement, but that's not finalised yet. They need to halve the audits that they've got on that plan, so it may or may not proceed.

Senator CADELL: Nothing you are aware of with the MDBA has triggered this?

Mr McConville: No, it's just business as usual.

Ms Blyton: It's because it's a large procurement and a small agency, I would suggest.

Senator CADELL: Understood. I've got here that there was a PwC contract, a small one of \$167,700, titled Microsoft Azure proof of concept for Integrated River Modelling Uplift program. Was that an add-on? Why is there separate thing for the same program for \$167,000? Is that: 'Would you like fries with that?' What was that?

Mr Kremor: As part of the process to select the platform to build the ICT cloud-based collaboration platform, we had to have assurance that the concept that we were intending to put in place was viable, so we conducted a separate assessment of the viability of that third-party system.

Senator CADELL: With the same company doing it?

Mr Kremor: No. We asked PwC to do that work for us as part of that process. That wasn't included in the original scope.

Senator CADELL: It was a comprehension problem, not an answer problem. PwC are doing a \$27 million contract, but we asked PwC to do a third-party audit of the system that they were selecting?

Mr Kremor: It wasn't an audit. It was an assessment of whether it was going to be fit for purpose.

Senator DAVID POCOCK: Oh dear.

Senator CADELL: I don't understand. We selected a tender for \$27.4 million using a system that they recommended, then they were paid another \$167,000 to third-party assess that it worked.

Mr Kremor: They weren't recommending the system. We were going to go into a tender process to a select party other than PwC. PwC were excluded from that tender process. They were advising us, through that tender process, on how to go about it and what was required for the model uplift. We needed to ensure that the concept that we were putting in place was going to fit with our systems.

Senator DAVID POCOCK: I'm confused.

Senator CADELL: There's consensus on this side of the table: it's a little bit confusing. Chair, I might hand back and think about that for a moment, if I may.

CHAIR: Thank you kindly.

Senator McLACHLAN: Chair, I have a couple of questions for some clarification on that.

CHAIR: We might go there and then go to Senator Pocock who was lined up, and then we'll go to Senator Thorpe.

Senator McLACHLAN: My question is around the assurance that PwC has given. Mr McConville, what's the form of that? Is it in a letter format or as a result of a meeting?

Mr McConville: We wrote to PwC, and they provided that assurance back to us. As I say, we are currently discussing that with our internal audit committee, as to whether they are satisfied or whether we would need to seek further assurances.

Senator McLACHLAN: Was that a comprehensive response, as in a sizeable response, which is why it's able to be considered—more than a one-page letter is what I'm asking.

Mr McConville: Correct. It was a reasonable response, but, that said, I think it's very important that we take the advice of our internal audit committee.

Senator McLACHLAN: I wasn't challenging that.

Mr McConville: Understood.

Senator McLACHLAN: I'll call for those two documents; can you just consider whether you can release them?

Mr McConville: I'll take that on notice, as to whether I can.

Senator McLACHLAN: I don't want to pin you on the time but, as a CEO, when do you anticipate—

Mr McConville: We're proceeding with every urgency, given the size of the contract and, obviously, the level of scrutiny around this issue. So as quickly as we can.

Senator McLACHLAN: Has PwC come to you and offered to step away from the contract at all?

Mr McConville: Not that I'm aware of.

Senator McLACHLAN: Who's the lead partner on that project in PwC?

Mr Kremor: The lead partner is Anitra Gollings.

Senator McLACHLAN: So the process now is that your internal audit is totally appropriate, he reviews that, it's going to come back to you and then there'll be a decision?

Mr McConville: Correct. We have sought assurance that neither information nor people have been involved in the issues of compromise. We've received that assurance. We're referring that to our internal audit committee. We'll consider that and continue to engage with PwC through that process.

Senator McLACHLAN: Thank you.

CHAIR: Senator Pocock.

Senator DAVID POCOCK: Just to finish off on PwC: have you sought assurances that there are not staff at PwC working on your contracts who are also working on state water department contracts that may be—

Mr McConville: In the process of onboarding, all of the PwC staff that have been involved in relation to the IRMU contract would have to have signed, and have signed, conflict-of-interest declarations which would cover those issues. So we have assured ourselves, through that COI process, that there's no conflict.

Senator DAVID POCOCK: So there's no-one working on, say, a New South Wales water issue?

Mr McConville: Not that I'm aware of. As I say, they would have to comply with our own internal conflict-of-interest requirements. They would have to disclose if there were any conflicts. We have not had any conflicts disclosed.

Senator DAVID POCOCK: I understand that. Have you sought additional assurances, given what we've seen with PwC, who just seem to trash any—

Mr McConville: At the initial level, obviously, we have sought assurances from PwC that none of the staff who are engaged with us have been involved in the areas of compromise, and we've received that assurance from PwC.

Senator DAVID POCOCK: Areas of compromise. What about working on state issues which may have a crossover with you as the authority?

Mr McConville: I'll have to take that on notice. I'm not sure; I can't answer your question.

Senator DAVID POCOCK: If you could, that would be great. I have some questions on Ramsar. I'm looking at Australia's obligations under the Ramsar convention and wondering how many wetlands are currently suitable for listing that haven't been included on the list as yet? Has that work been done?

Dr Banks: No. Generally, Ramsar nominations come from state governments, or at least with the support of state governments. Then they'll be assessed against the nine criteria to determine whether they meet one or more of those criteria from an international importance perspective. There are hundreds of thousands of wetlands around Australia. My team will talk with state governments about any areas that they might be considering, but at the end of the day it'll be up to them to bring it forward. Again, there are working groups that support discussions around wetlands of national and international importance, to see which sites may be of value.

Senator DAVID POCOCK: How many nominations have you received in the last, say, 10 years?

Dr Banks: I'd have to take that on notice. In the time I've been in the role we haven't received any, which is only since October last year.

Senator DAVID POCOCK: Can you take on notice how many have been listed in the last 10 years and how many nominations you've received?

Dr Banks: The most recent listing was Caryapundy swamp, up in north-west New South Wales. That was recognised in December 2021—so this was actually the listing—and the gazettal of that was in September last year. It became part of the Ramsar list at that time, which now has about 67 sites around Australia.

Senator DAVID POCOCK: My understanding of the convention is that there's an obligation to monitor the ecological character of those 67 and whether or not they're changing due to human influence. How many of those 67 have seen a change?

Dr Banks: Currently, four wetlands have what they call an article 3.2 notification, which is when there's a notification about ecological change. Those four are the Coorong, the Macquarie Marshes, the Gwydir Ramsar site and the Towra Point Ramsar site.

Senator DAVID POCOCK: Are there any others under consideration at the moment?

Dr Banks: Not to my knowledge, no.

Senator DAVID POCOCK: That gets communicated; you update those changes to the convention.

Dr Banks: It goes through the convention secretariat to update listings, and then they'll send us confirmation that it is now part, like that last one. Sorry; for an article 3.2, yes, that's all worked through the convention.

Senator DAVID POCOCK: What powers are there to actually remedy that to ensure we're not seeing adverse effects to these Ramsar listed wetlands?

Dr Banks: What it requires is the relevant property manager to develop a management plan to set up actions to try and restore the ecological character or consider it in future planning. I don't know that there are necessarily any powers. If it's an article 3.2 then we need to work together to try and improve how we manage those sites.

Senator DAVID POCOCK: Of those four, how many of them were due to local drivers, and how many of them were due to a lack of flow of water?

Dr Banks: There will be a whole range of complexities around that because it's condition of the site. I know the Towra Point one won't be associated with flow, because that's up in Botany Bay. But, for the Macquarie Marshes, Gwydir and Coorong, there's no question that flow into those wetlands is a fundamental part of the ecological character, as it supports the birds, the fish and the other vegetation that the ecological character would be based on.

Senator DAVID POCOCK: How do those local landholders and stakeholders address that if it's actually more a basin issue with water?

Dr Banks: For the Gwydir and Macquarie Marshes, we work with landholders from an environmental water perspective—so working with the state government and the landholders in those systems. To the extent that we've got water within the Macquarie or Gwydir, we work to protect and restore the Ramsar sites where we can get water to them. There are a couple of sections in the Gwydir where the delivery of water can be quite challenging for us as well. Absolutely, that's a key priority from an environmental water perspective as what we can do to improve the flow regimes and the inundation to support the condition.

Senator DAVID POCOCK: As the environmental water holder looking at these wetlands, do you believe that the current rules set up within the plan will allow for the long-term protection of these wetlands or do you see that as slow—

Dr Banks: Implementation of the Basin Plan in full is an essential part of enabling us to manage the wetlands and improve their condition. The water that we use we'll continue to use working with landholders to improve the conditions of those wetlands. Where we've got partnerships with landholders, other land management practices in those systems are also very important.

Senator DAVID POCOCK: Do any of the listed wetlands have their own water licence or allocation?

Dr Banks: I'd have to take that on notice, but I don't believe so. With New South Wales environmental water, there's planned environmental water in some of those systems which just flows into the system under certain thresholds. Then there's held environmental water like we've got, which is an entitlement that gives us a share of water. That's subject to availability of water within the catchment. We'll nominate a delivery point for that water. I just don't know if New South Wales has specific locations and whether they'd have some entitlements necessarily or whether they're the same as ours—they're available within a catchment and then we work out a watering plan for each catchment.

Ms O'Connell: The emphasis there on New South Wales planned environmental water underlies the importance of getting the water resource plans in place to be able to account for that.

Senator DAVEY: I think it's worth noting Barmah-Millewa in particular, which is a Ramsar site, was the first environmental site to have its own environmental allocation. Both Victoria and New South Wales have that under their planned environmental water.

Senator DAVID POCOCK: Thank you. Just finally, the talks about the ecological character of a wetland, and you've got to report if there are changes. Is that when it's listed or do you historically look at what this wetland would have been?

Dr Banks: It is about the time it's listed, and those ecological character descriptions can be updated through a process as well, but it is generally the time that the property was listed.

CHAIR: Senator Thorpe?

Senator THORPE: I'll just go straight into my questions, particularly around cultural flows in the Murray-Darling Basin. The last government provided \$40 million for this in 2018, which this government has committed to delivering. How much of this money has been spent on delivering water to First Nations groups and country to date?

Dr Banks: To date, the \$40 million is still to be spent on water entitlements. We're just getting to the point of starting consultation with First Nations on the criteria for that funding. We've already had a lot of consultation about what is sought from that funding and we are now engaging with them on the criteria for that funding to be delivered.

Ms O'Connell: On that, the commitment recently by this government, and announced in late April by the minister, is about providing an opportunity to design an enduring arrangement for First Nations peoples to own, access and manage water. That wouldn't necessarily be just for the Basin, it would be the ability to have water holdings nationally that are enduring and long-term.

Senator THORPE: I have a question about that one next but thank you for providing that additional information. I want to go back to the \$40 million from 2018. That's five years ago, and the Labor government have now had it since they've been in power. I've been speaking to people along the Murray-Darling, and they've been waiting since 2018. They've been consulted to death. They have plans and they have priorities. Now, \$40 million in 2018 would be about \$50 million to \$60 million today. I mean, I'm no mathematician, but would you estimate it now to be around \$50 million to \$60 million, given it's five years later?

Ms O'Connell: Yes, certainly. It's worth more than the \$40 million, in the sense that \$40 million in 2018 dollars is different to what it would be today.

Senator THORPE: So, these First Nations people, communities, for the \$40 million since 2018—five years—is there going to be any additional money, given they've waited this long and the system is worse than it was then? Is your consultation waiting until after the referendum as well?

Senator McAllister: Perhaps to respond to the tenor of your question, we don't think that it is right that First Nations communities have waited as long as they have. As you said, it was committed in 2018, and, for reasons that others should explain, no decision was taken to expend that money in the intervening years. Minister Plibersek and Minister Burney have indicated that they wish to see progress on this as a matter of priority. The one matter that we really need to address—and I think you were going to ask us about it—is, who holds the water and how is it managed?

Senator THORPE: Yes.

Senator McAllister: The budget initiative that is contained in the most recent budget seeks to respond to that question. Whilst I don't believe it should have taken five years to obtain this feedback, nonetheless, the feedback received through the period of consultation was that the governance arrangements really mattered and there needed to be a way and a place to hold water so it would deliver an enduring benefit to First Nations communities over time. That is what the most recent budget initiative seeks to address, in addition to the \$40 million, which we would hope to get moving on quickly, once these governance arrangements have been established.

Senator THORPE: Okay. There are communities watching. They've given me these questions directly. When can we tell these communities to expect something?

Senator McAllister: I wonder whether officials could talk through the next steps.

Mr Dadswell: The funding for this, the \$40 million, is set out in the 2024-25 financial year, so, that is from July this year. As I mentioned, on the basis of that announcement on 26 April—having that enduring arrangement in place and being able to consult on the design of that is critical to being able to then deliver the \$40 million and make sure that when that water is purchased it is able to be then held for long-term benefit for First Nations people. So, we'll be working with First Nations groups throughout the Murray-Darling Basin in a number of workshops in late July and early August on where that water needs to be and what sorts of entitlements are needed to support that water. Then, on the basis of that information, we'll then know where to cover that water.

Senator THORPE: So, you haven't been given that information by anybody—by MLDRIN? It's been around for quite a long time working on this. Have you never received any of that information? Do you need to go back and consult on things that people have already told you? Or are there gaps?

Mr Dadswell: There are a number of things here. Firstly, there are over 40 First Nations in the Murray-Darling Basin, and not all of them have had an opportunity to be consulted to date. We haven't been able to have a proper conversation with that many groups. We've also, as part of that \$9.2 million, expanded the remit of the Committee on Aboriginal Water Interests, which is 12 Aboriginal and Torres Strait Islanders with water knowledge across Australia, and their advice will be critical in establishing these new, enduring governance arrangements and critical for their rollout nationally and in the basin.

Senator THORPE: I understand the government wants to get this money finally spent, but all consultations—throughout all of these estimates, I must say that the only answer I'm getting is 'consultation, consultation' and 'after the referendum, after the referendum'. If you're wanting to have consultations before delivering water rights, are you aware of all the consultations that occurred during the previous government that surrounded this commitment? Are you picking up any intelligence from any of the consultations that the previous government had with Aboriginal and Torres Strait Islander leaders in this space?

Ms O'Connell: Absolutely. I'll get my colleague to walk you through that. Importantly, we have put out a sort of 'what we heard' document that does go through what we heard during all those other consultations. I also mentioned that, in terms of going forward, part of this commitment is that the Committee on Aboriginal Water Interests will be undertaking that consultation and decision-making. My colleague might just outline what we have heard and what we have published about what we've heard from the previous consultations.

Senator THORPE: Could I have that on notice?

Ms O'Connell: Certainly. It's publicly available on our website as well.

Senator THORPE: Thank you. It's just in the interest of time. Are you aware of the Northern Basin Aboriginal Nations trust proposal?

Mr Dadswell: Me specifically? No.

Senator THORPE: Is anybody? This was provided to the department of agriculture in the previous government.

Ms O'Connell: We're certainly aware that there were trust proposals put forward under the previous government.

Mr Dadswell: We did consult with the Northern Basin Aboriginal Nations group. Again, that's the consultation that has gone on for a number of years, as has already been raised.

Senator THORPE: This was a cultural grassroots model for the delivery of water rights based on nations' perspectives. They had wide input from leaders and experts. Why is the government rejecting this model and going back over old tracks?

Mr Dadswell: I think what we've heard over the last number of years is a number of different models and approaches. The \$9.2 million—and this is the consult and design element—will bring those together on a single opportunity. We appreciate that groups like NBAN and MLDRIN have had various proposals, but we're really looking at a proposal that will work both in the basin and nationally, so it needs to take account of that and find what model is best that provides for that enduring arrangement and self-determination.

Ms O'Connell: That proposal is informing the further consultations. It's not been rejected. It wasn't acted on under the previous government, but it hasn't been rejected.

Senator THORPE: It just seems like the whole consultation process—people's time is poor in black communities. I think we're the most over-consulted people on the planet. I just keep hearing 'consultation, consultation, consultation', but then I hear from people on the ground saying, 'We've done all this, Lidia. We've got the plans. We went out on country. We sat together. But the government is just kicking the can down the road and wanting to re-consult, re-consult.' It's really not fair, and people are sick of waiting. We talked about time lines, and maybe something will start happening on 1 July. There are consultations and money gets spent, but it's heading towards the end of the year, which is after the referendum—so the timing is in line with every other answer I'm getting during estimates, which is unfortunate. How many outstanding First Nations water allocations are there where water has not yet been received by country or First Nations groups?

Ms O'Connell: Are you talking across the entire nation outside of the basin?

Senator THORPE: Yes, the water allocations for First Nations people across the country.

Senator McAllister: I don't know it would be quantified in terms of a number of outstanding allocations. Perhaps the relevant process is the work going on within the Closing the Gap framework to establish a national target.

Ms O'Connell: There are held water reserves across a number of states and territories and other entities. We did some baseline work on Indigenous water holdings to inform a prospective inland rivers target for closing the gap. We're happy to provide on notice the information we have on what water entitlements are held in reserve for First Nations people as well as what water is held by First Nations people, because both were put and clearly identified—currently held versus held on reserve—when we did the work to inform the establishing of the baseline. It's very jurisdiction dependent; it varies across the jurisdictions. Happy to take it on notice.

Senator THORPE: It'd be great to have that on notice; fantastic. I want to talk about First Nations water reforms and the \$9.2 million allocated over four years to establish First Nations peoples' water ownership. What will the negotiations for this look like?

Mr Dadswell: As mentioned, that's for the purposes of consulting, designing and establishing an enduring arrangement for First Nations people. The first step is those workshops that I spoke about, and working with the Committee on Aboriginal Water Interests on broader engagement across Australia. There has already been quite a lot of work done on this previously. There have been previous proposals, and we'll be drawing from that work in establishing this and trying to move as quick as we can on establishing this. That's really with the Committee on Aboriginal Water Interests, in terms of how quickly we can move on that.

Ms O'Connell: The intent is to look at what can be an enduring arrangement for First Nations people to own, access and manage water in Australia. A significant part of it is setting up what that water holding arrangement would look like. Also significant is the use of the Committee on Aboriginal Water Interests, CAWI, who are all First Nations people, to do the consultation. The terms of reference have been extended, the length of time has been increased and the membership has been increased and funded to do this work and advise and manage the consultation.

Senator THORPE: Will the government be approaching First Nations as sovereign rights holders or just doing more consultation?

Mr Dadswell: I think we'll be guided by the Committee on Aboriginal Water Interests in that regard.

Senator THORPE: Bearing in mind that First Nations groups are custodians of country and not owners of resources, what kinds of arrangements are being considered for First Nations people to own, access and manage water?

Mr Dadswell: I think that goes to an excellent point about the nature of what these governance arrangements will be able to establish. It doesn't necessarily mean that the First Nations entity would have any land to which that water would be attached; they'd be responsible for a parcel of water within a catchment and could work with the trust holder, depending on their level of capability, to then work out when and where to deliver that water for a range of benefits cultural, social and economic.

Ms O'Connell: In terms of what we've committed to send you in the *What we heard* document; it outlines a number of potential models, so that'll be available to you as part of that. We refer to it as 'appropriate water holding arrangements', whatever one of those number of models could be.

Senator THORPE: Thank you very much. I'll put the rest of my questions on notice.

Senator McAllister: Just before Senator Thorpe finishes up: I need to make a technical correction to my evidence. I said the \$9 million was in this budget. In fact, it was a decision taken in the budget delivered in October 2022 and announced between then and the most recent budget. Apologies.

CHAIR: Thanks for that point of clarity.

Proceedings suspended from 13:00 to 14:01

CHAIR: Welcome back, everybody. We will continue. We'll go straight to Senator Davey.

Senator DAVEY: This is a bit of a change of topic for a moment. I've got questions for the Water Grid Authority. In the latest budget there were several announcements about cutting funding for water infrastructure projects, deferred funding for water infrastructure projects and other changes, so I have some questions. Under the previous government there was funding committed for the restoration of Paradise Dam in Queensland. It was supported by the Queensland state Labor government. The announcement was made originally on 8 February 2022. Where is that funding at?

Mr Simpson: The funding is confirmed in the budget.

Senator DAVEY: When will the project commence?

Mr Simpson: The business case is underway. Some of the early works on the outlet have started and there will be further preconstruction works over the course of this year, with main construction to commence next year.

Senator DAVEY: That's very good news. Next calendar year or next financial year?

Mr Simpson: Next calendar year—2024.

Senator DAVEY: So from 1 January 2024—not on 1 January, but after 1 January 2024.

Mr Simpson: Yes, somewhere in 2024.

Senator DAVEY: That's good news. Is there an indication of how long the project will take?

Mr Simpson: I think previous advice had been around four years, with that to be confirmed through the detailed business case.

Senator DAVEY: Thank you. Moving on, I understand that there were proposals looking at the need to raise the walls of Warragamba Dam in New South Wales for safety reasons and flood mitigation. I understand this is now not going to proceed. Is that correct?

Mr Simpson: No. We never received a proposal from the New South Wales government seeking funding.

Senator DAVEY: Okay. So New South Wales didn't provide it.

Ms O'Connell: I think it's under assessment with some of the infrastructure agencies in New South Wales, NSW or Infrastructure Australia. It hasn't come to us yet, as my colleague said.

Senator DAVEY: And, until it comes to you, you can't say yes or no?

Ms O'Connell: That's correct.

Senator DAVEY: That is fair enough. The other one, however, is Dungowan Dam. Under the previous government there was a commitment for funding—in a co-funding arrangement with the state—for Dungowan Dam. It think it was \$595 million over seven years from 2026, but it was announced in the budget that this would be cut.

Mr Simpson: It was \$675 million, and \$80 million has been retained. Some of that has been to support the delivery of the business case, and the remainder is to support stage 1 of the pipeline. Then \$595 million has been cancelled.

Senator DAVEY: Why was the decision made to go towards the pipeline instead of proceeding with the dam project?

Mr Simpson: The pipeline was a no-regrets piece of activity, as advised by New South Wales. Funding for stage 1 was approved and is being carried out. That's upgrading about 25 kilometres, I think—that's about half the pipeline.

Ms O'Connell: The reason for the Dungowan Dam project being discontinued is that the business case did not provide sufficient support for the construction of the project. Other solutions are being looked at by New South Wales, and we'll obviously consider those once they've provided them to us.

Senator DAVEY: Were any conversations had at a ministerial level—minister, you may be aware—between the New South Wales minister and the federal minister about the business case and what more may have needed to have been done to make it a more robust business case?

Senator McAllister: I don't have information with me in relation to specific ministerial-level conversations. I think the challenge is that the benefit-cost ratio was 0.09, which is very low, and the capital cost was \$1.2 billion. In that context, it's very difficult to justify an investment of that kind. I think that, from a Commonwealth perspective, the government is open to other options, including alternative sources of water, but the particular project that had been brought forward for Dungowan Dam just didn't stack up when the numbers were analysed. I suppose it goes to a broader approach that the government is taking in relation to infrastructural projects. We consider that there should be robust planning and business case assessment before committing the funding.

Senator DAVEY: I do note that the minister has made public commentary about the need to also secure inland urban water supply and has expanded the remit of the National Water Grid Authority to enable them to consider that, and I think that is commendable. When it comes to this particular project and the low benefit-to-cost ratio that was considered, there have been concerns raised with me that the current formulas to work out benefit to cost don't actually give consideration to the benefits of ongoing water security and reliability, particularly for regional urban growth. When it comes to Tamworth, which has a projected growth to reach a population 100,000 in the next 30-odd years, there is thought that that weighting wasn't put into the pure infrastructure cost-benefit review.

Mr Simpson: I can answer part of that. The business case was developed by New South Wales. It then went to IA for evaluation. IA's evaluation doesn't only focus on the BCR; they look at the business case more holistically, adopting what I think they call a 'beyond BCR' approach to the evaluation of projects. That's one part of it. I think

some of the advice we provided to New South Wales did centre around making sure that the BCR for future projects was properly developed, so that's not the first time that we've heard aspects of that comment that the business cases don't adequately consider some of the broader costs of water security.

Senator DAVEY: My understanding is that the pipeline that is proceeding will only really guarantee water supply for Tamworth as is, and that it won't really be enough to secure reliable and guaranteed water in a growth scenario?

Mr Simpson: The pipeline that has been upgraded is not being extended. It will still carry the same amount. It was just at end of life, and it's been partially upgraded. The second part was part of the broader Dungowan Dam project. As Ms O'Connell said, we would welcome a proposal from New South Wales that looks at alternative solutions for Tamworth.

Ms O'Connell: I think this is the point. There are prospective alternative solutions that would potentially cost a lot less, have a better BCR—one would hope—and maybe take even less time for it to be delivered. That assessment work is being done by New South Wales, and as soon as there's a proposal to come forward, it'll be considered.

Senator DAVEY: Just on the extended remit to consider urban water supply, have you currently got any projects that have been put forward to help underpin urban water in regional areas that you're considering, or have you provided information to the states about the expanded remit to invite applications?

Ms O'Connell: This is changing the investment framework. The water grid has an investment framework mandate and that was changed to consider regional water security. I'll ask my colleagues to outline the proposals.

Ms Wall: The minister has written to her state counterparts twice—in October and also again at the most recent budget. Also, we meet up with our state counterparts on a regular basis and have explained to them, on a number of occasions, the broader remit.

Senator DAVEY: If anyone else has questions for the Water Grid Authority, I'm happy to share the call around. Otherwise I'll be moving on.

Senator CADELL: We mentioned Dungowan and Warragamba dams. With Dungowan, we're pulling the 590 and not going forward. Is there extra work now to look at safety concerns? I know some of the work was to address safety concerns in the original concept. We're not going ahead with the full redevelopment. Are New South Wales or yourselves looking at that?

Mr Simpson: That would be a question for the New South Wales government. Through the National Water Grid Fund, funding isn't available for maintenance which I think safety would classify as.

Senator CADELL: It's good enough to know. That was just part of it. Would it be the same with Warragamba? There was concern there.

Ms O'Connell: We haven't had a proposal yet for Warragamba.

Senator CADELL: You haven't?

Ms O'Connell: No, we haven't from New South Wales.

Senator CADELL: That's all I need to know on those things. Thank you.

Senator McLACHLAN: I have a query which I think is relevant to the National Water Grid Authority. It's in relation to the implementation of the Project Coorong under the Healthy Coorong, Healthy Basin initiative. Is that appropriate at this time?

Ms O'Connell: It's not in the grid, but we've got people here to take it and who will come to the table now.

Senator McLACHLAN: The response came from the Acting Assistant Secretary Leah Bass Becking. It refers to her title. That's the only reason why I'm asking that.

Ms Wall: We're right to take the question, if you'd like to ask it.

Senator McLACHLAN: Has the \$70 million funding provided to the state government for the project been fully expended at this point in time?

Dr Derham: I'll just bring my notes up.

Senator McLACHLAN: As a matter of courtesy, the member for Barker in South Australia wrote regarding the implementation of this project on 28 February. I'm not going to draw particularly on this letter. I'm going to ask some general questions, but I mention the letter for the purposes of your records. There was a response from Leah Bass Becking on 24 March 2023. I can table the letters for the benefit of members, but I'm not cross-

examining in relation to those. I'm just interested in what comes out of it. Has that spending been done now? Has that program been completed? Where are we at with that?

Dr Derham: Of the \$70 million Commonwealth contribution towards that, almost \$36 million—that's \$35,941,000—still remains uncommitted.

Senator McLACHLAN: When we say 'uncommitted', does that mean it's yet to be decided what we're going to use it for?

Dr Derham: That's correct. We've been doing some work with the South Australian government on various stages of the program, and the last stage of funding really relates to some infrastructure options. Those infrastructure options have been under investigation, and our proposals have been in development and under consideration, but we haven't yet fully committed towards all of that funding.

Senator McLACHLAN: Can you give me some guidance on time frames about the final stage of implementation?

Dr Derham: The South Australian government did provide some options that they were looking at for their infrastructure solutions last year. At this time South Australia are reconsidering which way to move forward. They were looking at quite significant infrastructure options to improve the circulation of water in the lagoons of the Coorong. So, yes, it's still being progressed.

Senator McLACHLAN: In terms of the money that has been spent, do you have a breakdown of what was given for research as opposed to practical rehabilitation?

Dr Derham: I can take that on notice, but we have all of that information. We can provide you a very succinct breakdown between all the components.

Senator McLACHLAN: The constituent was very interested in practical rehabilitation, which is why they were asking.

Dr Derham: Absolutely. There has been a fair amount of rehabilitation, including for the waterbird habitats, but we can give you a more detailed breakdown of all of that.

Senator McLACHLAN: You'll access that correspondence anyway, and you'll see the queries, I'm just seeking some clarification. In terms of the money that has been spent, has that all been around the Coorong or does it involve any other projects closer to the Kingston SE, Lake Hawdon and Lake George projects? Is it targeted under that or is it stretching out further?

Dr Derham: It's a good question. There have been some proposals for some extension of the funding, particularly in relation to the waterbird habitat work. Lake Hawdon has been brought forward as a proposal. I'd have to check whether or not that has been successfully funded, but Lake Hawdon is within the migratory pathway of a lot of the critical waterbirds that utilise the Coorong and very similar habitat extent. So that is a consideration based on those biological factors.

Senator McLACHLAN: So, to bring that within the grant, the consideration is the habits of the birds? I don't ask that in a negative way. I'm just trying to gauge—

Dr Derham: It's a really good question to ask because I think people think the funding is for the lagoons themselves, but it was also about habitat, as you mentioned. The migratory birds do use an expanded habitat; they don't just use the lagoons.

Senator McLACHLAN: The response to the member for Barker referred to a due diligence and assessment process in relation to the grant. Can you update me as to where that is at? Do you do that as part of each stage or will it be only at the conclusion, to see whether the money has been well spent from an ecological perspective?

Dr Derham: It's actually important that we do that assessment before we commit the funds. It's part of our assessment that the project request is actually going to meet the objectives of the grant and the program itself, so we work really closely with the South Australian government to ensure that the proposal is actually going to meet the objectives of the program and what it was set up for. A cost-benefit analysis is undertaken as well, to ensure it's good use of public expenditure. We do that before we commit to any capital works elements. We might provide feasibility funding to help support the development of those proposals, but they go through that gateway check to make sure that the due diligence is appropriately signed off for expenditure.

Senator McLACHLAN: And are there post-implementation reviews, from your perspective?

Dr Derham: That's right. We always do a close-out of each of the projects. The Commonwealth always pays in arrears, so the final milestone reports include all the financial verifications of appropriate expenditure, that the

works were completed as intended, that they meet the specific regulation requirements for works and, of course, that the works which we funded were completed as expected to achieve those outcomes.

Senator McLACHLAN: So, with the money spent to date, are we happy as a Commonwealth that it has had a positive effect on the environment?

Dr Derham: I believe that, with the works that have been undertaken to date, we are seeing some really positive responses. We continue to work with the South Australian government, as those projects are being finalised and constructed, and we work really regularly with not just the team who are doing the construction work but also the environmental teams and the Goyder institute, who are working really closely with us on that work.

Senator McLACHLAN: You just pre-empted my next question. How do we measure success scientifically? It's going to be over a long period of time. I imagine these projects don't realise environmental benefits immediately. What sort of time period would we be looking at, scientifically? Are we looking at another couple of years? How do we define success from an environmental perspective? Is it three, five or 10 years?

Dr Derham: It is a longer term time frame. Some of the challenges we're facing in the Coorong, in particular, are overloaded nutrient levels and filamentous algae which has smothered the seabed—the habitat and the grazing and foraging. As we work to improve that, that's a slow repair and rebuild. So we are talking decades; it's not one or two years. Hopefully, you'll see some more immediate responses with migratory birds but, again, they're migratory birds. They're travelling internationally to come and roost down in those wetland complexes as well.

Senator McLACHLAN: Thank you for that. I appreciate it.

CHAIR: Senator Roberts.

Senator ROBERTS: Thank you for being here again. This question is to the Murray-Darling Basin Authority and, I think, Ms O'Connell. In the last Senate estimates, I asked the following question of the department: 'How much water has been purchased recently since the Albanese government came in?' Ms O'Connell, you replied: 'We have not been purchasing entitlements. There isn't a purchase program out and underway.' Ms O'Connell, you then doubled down on that statement a few minutes later. You said: 'We just said there is no current purchase program open.' That was on Friday 17 February 2023. Five days later, on Wednesday 22 February, the Minister for the Environment and Water, Minister Plibersek, announced that a strategic water buyback program would start. In addition, the Murray-Darling Basin Authority held nine information sessions on water buybacks over the following five weeks. When and where was the first of the information sessions held?

Ms O'Connell: First of all, I'm with the department; I'm not with the Murray-Darling Basin Authority. I just make that clear in relation to different roles and responsibilities. It is the department's responsibility to do water recovery under the Basin Plan, so I'm happy to go through with you in terms of the time lines about when we open for purchase. You're right: we have opened a tender for water recovery in the remaining catchments for Bridging the Gap. That's the last just over two per cent of water recovery to deliver on Bridging the Gap. That tender has now closed, but your question specifically went to consultation sessions, and my colleague can give you the dates of the consultation sessions.

Ms Wall: The first session was held on 8 March at Deniliquin between 11 am and 1 pm. A second session was also held on 8 March in Deniliquin between 2.30 and 4.30 pm. Then there was a session at Forbes on 9 March. On 13 March, there was a session at St George. Then there was a session on 14 March at Goondiwindi; Toowoomba, 15 March; Narrabri, 20 March; Walgett, 21 March; and Bourke, 22 March. In addition, all of the materials that were held at these information sessions were released and are available on the department's website, including a webinar video.

Senator ROBERTS: So, on 17 February, Ms O'Connell, you told me that there is no current purchase program open.

Ms O'Connell: Correct, and that was correct.

Senator ROBERTS: Less than three weeks later, there was an active session, on 8 March, at Deniliquin—two, in fact.

Ms O'Connell: Yes, that's correct.

Senator ROBERTS: Ms O'Connell, I then asked you:

Why do people in the regions think that Tanya Plibersek has a magic chequebook right now?

And your response was:

I can't explain why people might or might not think there's a magic chequebook.

Is it your testimony, Ms O'Connell, that you had no knowledge of the water buyback program about to start five days later, that you had no knowledge of those public information sessions being organised to promote the buyback, that you had no knowledge of the literature being printed and that you had no knowledge of local media buys to promote the events at the time of your response to me just 19 days earlier?

Mr Fredericks: I'll take that question. Ms O'Connell's obligation is to answer questions truthfully when you ask them, and when you asked those questions on that Friday Ms O'Connell answered those questions truthfully, full stop.

Senator ROBERTS: To the letter, it was truth, but surely she knew what I was getting at. Did you have knowledge, Ms O'Connell, that 19 days later these programs would be starting and that five days later Tanya Plibersek would announce them?

Mr Fredericks: I respectfully say to you that I think that's an unfair line of inquiry.

Senator ROBERTS: Why do you say that?

Mr Fredericks: Because Ms O'Connell answered your questions truthfully at the time you asked them, and you've not been able to assert otherwise.

Senator ROBERTS: Did she know at the time I asked questions and she gave me her answer about the water buybacks?

Mr Fredericks: I'll take that question. Of course there was knowledge, including in myself, about policy development that was underway; of course that is the case. That is a matter of overwhelming logic. That is not the same as saying that Ms O'Connell did anything but answer your question truthfully.

Senator ROBERTS: To the letter she did, but did she have knowledge of the imminent release five days later?

CHAIR: That question has been answered by the secretary. I would ask you to be mindful in your questioning of casting accusations when the officials have answered your questions, in my opinion, honestly—I would need to review the transcript but, in my opinion, honestly. I would caution you about making accusations in this environment.

Senator ROBERTS: Mr Fredericks, Ms O'Connell may claim use of the word 'open' lets her off the hook, but that's putting public service speaking too far.

Mr Fredericks: I reject that assertion, Senator. With the greatest of respect to you, and you deserve respect, I disagree with you. I disagree with you because the fact of the matter is, at that time, there was no program open, full stop.

Senator ROBERTS: I think the farmers in the whole of the Murray-Darling Basin deserve more respect. We've seen the lack of respect for farmers for the last decade.

Mr Fredericks: What I'll tell you is that I, Ms O'Connell and this department have the greatest respect for our obligations when we appear in estimates. We have the greatest respect for this committee. And we have the greatest respect for you, and we satisfied that respect.

Senator ROBERTS: I won't say any more about that. The report card published by the Murray-Darling Basin Authority in December 2022 on page eight shows acquisitions have already exceeded the legislated targets in some catchments. Others have still not taken water off farmers to the limit that the plan envisaged and stated. Minister, will you return the water that has been acquired in excess of targets back to farmers?

Senator McAllister: I'll ask the Murray-Darling Basin Authority to talk through where we are up to in terms of plan implementation and the acquisition of the relevant water.

Mr McConville: In terms of the basin plan, there is still a recovery requirement to be pursued. Each catchment has in place sustainable diversion limits, and it is a question of policy for the government in terms of if there has been over-recovery. The MDBA is required to report on progress against achieving those SDLs. I might get Mr Goodes to comment more.

Mr Goodes: It's correct that the total recovered exceeds the total across the basin, but the sustainable diversion limit has to be met at each and every individual catchment, and so your question in terms of what happens at catchments where currently the recovery exceeds the target is a matter for our colleagues in the department to determine.

Senator ROBERTS: Minister, will Minister Tanya Plibersek return the water that has been acquired in excess of targets back to farmers in individual catchments?

Senator McAllister: I'll take the specific question on notice, but in terms of the overall program for the basin, the government obviously has inherited circumstances where the basin plan was subject to really significant obstruction by the previous government. The minister is working through implementation of the plan with her colleagues in the basin states.

Senator ROBERTS: I'll wait for your answer, Minister.

Mr McConville: If I may add, in the context of New South Wales, until all of the water resource plans are finalised, we can't actually finally determine the actual levels of water recovery. We need to see those water resource plans accredited before the recovery levels are settled.

Senator ROBERTS: Minister, perhaps another alternative to giving the water back to farmers would be for the water in excess from catchments to count towards South Australia's 450 gigalitre SDL.

Senator McAllister: I took your earlier question on notice. I'm not really in a position to speculate about decisions the government might take, but I note your interest in that proposition.

Senator ROBERTS: Could you take that on notice?

Senator McAllister: I don't understand what the question is.

Senator ROBERTS: If the excess that's been taken from some catchments is not handed back to the farmers, could it count towards South Australia's 450 gigalitre SDL?

Senator McAllister: You're asking whether it is the government's intention to do that?

Senator ROBERTS: Yes.

Senator McAllister: I'll take it on notice.

Senator ROBERTS: Which of the three alternatives is your intent right now: keep the water, hand it back to farmers or treat it as part of South Australia's 450?

Senator McAllister: You've heard evidence from the officials that, in the case of New South Wales, until the water resource plans are accredited, it's not actually possible to undertake a reconciliation of the recovery efforts against the overall planned targets. You've also heard me take on notice the very specific question you asked about what might happen in the event that there was over-recovery. I'm not sure that I can assist any further by speculating about decisions of government that are yet to be taken.

Senator ROBERTS: Thank you. Next question: there is only 271.6 gigalitres of surface acquisition remaining from the 1,500 gigalitre cap, and you're about to buy up another 49.2 gigalitres, so that leaves 222 gigalitres available. Minister, can we agree that is absolutely the most that this Labor government will buy off farmers and the community?

Senator McAllister: I don't have the numbers in front of me to verify the particular calculations you just ran through, so I'll take that on notice and reconcile it against the information that we hold.

Senator ROBERTS: Against the 1,500, yes. We don't want to see anyone going above the 1,500 gigalitres cap. The 450 gigalitres of water for South Australia's river flow is currently short by how much? What's the quantity it's short by?

Mr Dadswell: There are currently 12 gigalitres that are registered to the Commonwealth Environmental Water Holder and a further 14 gigalitres that are under contract, so at this stage 424 gigalitres is the amount remaining to be recovered.

Senator ROBERTS: What was the over-the-border flow into South Australia in calendar 2022, or, if you have a later 12-month period, say from March 2022 to March 2023, what was the over-the-border flow to South Australia?

Mr McConville: I might ask Mr Reynolds to take your questions.

Mr Reynolds: Could I get you to repeat that period please?

Senator ROBERTS: Sure. What was the over-the-border flow into South Australia in calendar 2022—or, if you have a later period, March 2022 to February 2023?

Mr Reynolds: I'll have to take on notice the specific number, but during that period, of course, we had some very significant flooding. It was in excess of 20,000 gigalitres. It was a very large volume—much larger than any other year in recent times.

Senator ROBERTS: Thank you. Minister, the point of the question is simple: the 450 gigalitres of additional river flows designed to ensure water flows along the river to the mouth are at sustainable levels. The river has

been full for 2½ years and in flood for much of that time. Is it time to reconvene the water ministers to decide whether that 450 litres is still needed now that nature has given you all the water you can use?

Senator McAllister: The government is committed to implementing the Murray-Darling Basin Plan in full. Whether or not we are experiencing a very dry period or a very wet period isn't relevant to that commitment. It's a highly variable river system.

Senator ROBERTS: It is. That's one of the things. It's complex. It's been made even more so. It's enormously variable, and we've discussed that in the past in Senate estimates. There are also huge differences between the north and the south of the basin.

Senator McAllister: All of these things are true.

Senator ROBERTS: But the Murray-Darling Basin Plan, as I understand it, was based on drought years and a worst-case scenario.

Senator McAllister: I'll ask the officials to talk through some of the modelling that underpins the plan, but I'm not quite certain that we have the same understanding about the basis of the plan.

Senator ROBERTS: I'm happy to be corrected.

Mr McConville: I'll ask Dr McLeod to come forward as well and add to this, but the Murray-Darling Basin Plan set a recovery target of 3,200 gegalitres, of which approximately 2,100 have been recovered, but that's on the basis of modelling over a 114-year period. That was the establishment of that outcome.

Dr McLeod: In relation to Senator Roberts's question, that is correct. The plan that we have—the 2012 Basin Plan—was based on modelling looking at the climate that was experienced in the Murray-Darling basin between 1895 and 2009. There was no great magic behind those numbers; 1895 was as far back as we could go and have reliable records across the entire basin, and 2009 was where we were up to at the time the Basin Plan was being made. That covered periods of very large flood and also quite extreme drought. There were famous droughts around the time of Federation and World War II, and what's known as a millennium drought. It looked at all of those things. It wasn't just about drought; it looked at the entire climate sequence that had then been observed in the basin in terms of hydrologic records. So I would challenge the characterisation that it was only done for drought. It was looking at the entire spectrum of flows that had been experienced up to that time.

Senator ROBERTS: Thank you very much. That answers the questions.

Senator DAVEY: I've got a lot of questions stemming from that, but, while you're sitting here, Dr McLeod, I may as well take advantage of your knowledge and understanding of the modelling. I understand the MDBA was granted in the budget extra money to continue the work of preparing to renew the modelling and to prepare for the end of this Basin Plan and the start of the next one. In that process, a couple of things have been raised with me. Is there any consideration going into the next round of modelling to allow for an increase in urban water usage? Concerns have been raised that the Basin Plan does not account for any potential increases in town water usage.

Dr McLeod: Urban water usage in the basin is a relatively small volume compared to other types of use in the basin. I'm not aware of any specific work going on in our modelling to actually look at increases in that, but, again, it's relatively small. We would look at that, but, as per questions answered earlier today, the SDL has to be maintained in any catchment in the basin based on where it is, so unless there is a major redesign of the Basin Plan that will continue to be the basic premise on which the Basin Plan is designed and implemented. If a state was keen to increase its water supply to a particular town, that is totally within their right, but, as per any other increase in water use, it would have to come under the overall SDL that's specified for that particular valley.

Senator DAVEY: The original modelling also included assumptions about how constraints would be managed, and then the original recommendations were made acknowledging current river operating rules, which are within certain constraints. There was a further piece of modelling work, the relaxed-constraints model, which showed that additional outcomes could be achieved with extra water if those constraints were relaxed but also showed that if the constraints weren't relaxed, even with the additional water, you wouldn't actually achieve any significant extra outcomes. Given that we have not got far at all with the constraints management projects and that both New South Wales and Victoria have asked for an extension of time which has not yet been granted, in the next round of modelling work will you actually scale back those assumptions that were put in so that the model is run on current river operating rules and not what could be achieved if you had relaxed constraints?

Dr McLeod: I think in the future modelling we will do for the Basin Plan review over the next couple of years we will look at both things. We will look at the existing rules that are in place across the entire basin but also look at what are the potential changes to those rules or the limitations on the way the rivers are operated to see what the utility of those changes might be. I think part of what we will try and bring together in the review documents in

2026 would be to look at the appropriate balance between things that could be changed in terms of river rules or in terms of the way the water is managed. Your question went to an either/or. I don't think that would be the case. I think we would look at these things. It's important to remember models are just models. They're not actual policies, and we should actually explore, through models, changes to things, and then what really matters is what positions are taken forward by the authority and ultimately to the minister about how changes should occur.

Senator DAVEY: I understand there will be models, and I completely agree that models are just models and the real world is quite different. The work that has been undertaken for constraints management, even though no projects are progressed there's certainly been work done in consultation with communities about what level of flows communities might be willing to address constraints to. Would you adjust the models that you do down to the levels that communities have said they'll accept rather than what was, back in 2010 in the early days of modelling, almost a utopia—if we could have everything we wanted and there were no communities to worry about, we'd run flows at this level—and feedback from communities has outright ruled it out?

Mr McConville: I might start. From the authority and looking at the SDLs, I think it's important to acknowledge using the best available evidence, best available science, and then what outcomes are possible under current SDLs. Then, if change is needed, examining what the options are and testing the impact of those. I think, related to that, the authority has been quite clear in setting out its basic framework for the review—how do we get the best outcomes across social, cultural, environmental and economic—so that will be part of the consideration when we're looking at how we build the review.

Senator DAVEY: There has been such a high level of feedback from communities, Mr McConville, that they will not accept relaxing constraints to the level that the original relaxed constraints models were derived at. Given that there has been such a high level of feedback from communities, Mr McConville, that they will not accept the relaxing of constraints to the level of the original relaxed-constraints models, what discussions may have been had about how to adjust expectations of government of others to see what can be achieved within what the communities have said they're willing to accept? And, then, is there any consideration that there may be a change to water recovery targets—because there might be a portion that is beyond what can effectively be used to deliver outcomes, as opposed to what could be recovered but just sat in the dam and trickled down the river channel for no measurable environmental impact.

Mr McConville: I think it's an important question you raise. I think there are going to be a range of questions exactly like that that we'll have to explore through the review. Actually, the question in many parts goes to the level of consultation and engagement required with the community through the process of the review. Certainly, part of my role is to be out in the community a fair bit, and that's been very strong feedback to me just in the most recent weeks. So I think a very significant part of the review process is how we engage, and then exactly those questions that you've posited here need to be explored in full as part of that engagement process. Sir Angus Houston, in his speech at River Reflections last year, was very clear that the review would be transparent and not conducted behind closed doors, and I think that's got to be part of that consultation process.

Senator DAVEY: Another round of consultation will be good. On the overrecovery that Senator Roberts was asking about, I've received some correspondence from the Mayor of Warren Shire Council, a Mr Milton Quigley, specifically about the overrecovery. I acknowledge what you said, Mr McConville, about the lack of accredited water resource plans, but there has long been recognition that there is overrecovery in the Macquarie valley, which is a terminal river system. And I acknowledge what Mr Goodes said before—that, overall, there has been overrecovery across the basin, but there are individual valleys that are underrecovered, and so each individual valley needs to reach their target. But how do you deal with a terminal valley that's overrecovered that doesn't feed into any of the other valleys? That overrecovery is not like the shared recovery targets in the south or the north.

Mr McConville: Again, I think it's important to stress that, until we have the water resource plan, we're dealing largely with the hypothetical because we don't actually know. We would obviously explore that once we got to that point. The question of what to do with overrecovery is more of a policy question for government in terms of how it wants to address that against the Basin Plan. Once we have the water resource plan, we can advise as to whether there is underrecovery or overrecovery. It may indeed be underrecovery; we don't know. But the decision as to what is then done with that is a question of policy for the Commonwealth, not for the MDBA.

Senator DAVEY: Many would say, given there is that grey area—you're waiting for water resource plans, you're waiting to accredit, and I acknowledge that that has long been identified as an issue, and yet water recovery continues apace, where you may be overrecovered in more valleys than you are aware of. You're overrecovered in some valleys; that's the estimation. And the minister is looking at me, going—

Senator McAllister: No, it's okay, Senator Davey. I don't wish to quibble with your preamble, but I'm not sure 'water recovery continues apace' is how we would characterise it at the moment. But there's a targeted purchase program, the tender for which has just concluded, and it's targeted in areas where it's underrecovered.

Senator DAVEY: I'm glad you raised the tender program. I acknowledge it only closed last week. It's very early days, and I acknowledge that the department has, according to the guidelines, a three-month window to assess tenders and make offers. I also noticed in the guidelines that there's also a 12-month period where the department can come back to people, and I'm very interested to understand what that is. If people have put in an expression of interest and it's not taken up in the first three-month assessment, but at a later stage you decide to go further, are those people held to that original EOI, regardless of what happens in the water market? What if I've put in an EOI and I don't hear from you in three months, so I go and sell my water elsewhere, and then later you come back and say, 'We want it now'? What happens then?

Ms O'Connell: I'll get my colleague to run through the process and, importantly, explain why we've got that additional period and how that is a practice in terms of this being an open tender arrangement and the assessment process.

Ms Wall: Yes, you are right: it does include that clause, but it's for the purpose of allowing us to go back to tenderers if additional water is required. If water sales don't eventuate from the initial negotiations with preferences, we will have the opportunity to go back to them. As you know, the conveyancing process can take quite a long time and there are quite a few hurdles that we have to go through. My understanding is that it can take up to six months, so we do need that 12-month period to go back to others if there are problems raised during the conveyancing process.

In regard to your comments about whether they will be obliged to sell it if they've sold it on: no. We will approach them. If they've done something else with the water, we will not be holding them to the documents that they submitted, so they won't have to find the water or sell us extra. If they say, 'Sorry, no, we no longer want to do that,' that will be okay.

Senator DAVEY: If the market has moved considerably in terms of value in that 12 months, and you come back to me and say, 'Three meg of has fallen through over there, and you put up three meg of water; we're interested in buying it,' am I obliged to sell it at the original price I proposed, or do I get a chance to say, 'Righto, now it's up 50 bucks'?

Ms Wall: I can understand the point you're raising. I would like just to check with my probity officers before giving that answer if that's okay.

Senator DAVEY: That's fine.

Ms Wall: So I'll just take that one on notice.

Ms O'Connell: We talked earlier this morning with the inspector-general about water-market-sensitive information,

Senator DAVEY: Yes.

Ms O'Connell: Chair, I'm just concerned we might be about to stray into that. We're talking about an active tender process, so I'd just want to be extremely cautious about where we go on that.

Senator DAVEY: That was my last question. I'm just interested in the 12-month waiver, and I'm satisfied with the answers I've got. I do want to know—and I completely accept if you say, 'We're not there yet'—how many offers you have.

Ms O'Connell: I'm sorry, Senator. We can't go there. This is an active tender process. The Commonwealth procurement guidelines are pretty clear on that, and it would mean that we would be talking about water-market-sensitive information inappropriately.

Senator DAVEY: I understand you've got the process. Can you just tell us when there will be a public report about the tender process?

Ms O'Connell: We have an expectation set, and I think it's set out in the plans.

Ms Wall: Senator, we are required to register all procurements through AusTender anyway, so you will see the information as things progress.

Senator DAVEY: Great.

Ms Wall: In regard to our full report and evaluation, it's probably 12 months off.

Ms O'Connell: But the purchasing will be made public when it's done.

Senator DAVEY: As it goes. Okay, thank you. I do appreciate the sensitive nature of it. Thank you very much.

CHAIR: Senator Roberts.

Senator ROBERTS: My questions go to the Commonwealth Environmental Water Holder. Have the policies followed by the Commonwealth Environmental Water Holder caused blackwater build-up in any part of the Murray-Darling Basin in a situation where that outcome could reasonably have been anticipated and avoided?

Dr Banks: I'd suggest it's probably the reverse. Commonwealth environmental water has played a really important role in creating refuges for fish. For example, with the floods down in the Edward/Kolety-Wakool system we used diverted freshwater, so water with high dissolved oxygen levels, through the infrastructure down there to create refuges for fish. We don't contribute to the hypoxic blackwater. There is a certain level where blackwater itself is actually quite good for the system; it's part of the natural processes of the system. When it becomes hypoxic, that's when it becomes problematic for native fish.

Senator ROBERTS: I take it then that you have a monitoring system?

Dr Banks: Yes. I can get Mr Johnson to talk more about our monitoring.

Senator ROBERTS: Let's come back to that in a minute. Irrespective of considerations around whose decision it was, does the Commonwealth Environmental Water Holder accept that the most recent Menindee fish kill was caused by releasing blackwater into the Darling from Menindee Lakes? This fish kill was different. It was just downstream from Menindee Lakes.

Dr Banks: I'm well aware of the fish kill up in Menindee. Blackwater is a consequence of the floods. That's what has led, or likely led, to the circumstances up there, combined with higher temperatures during that time. I won't comment on the operations of the system, because we don't operate the system, but what we did was use Commonwealth environmental water, along with other environmental water holders, to try and raise the dissolved oxygen levels within that reach that was affected. In fact, we're still—

Senator ROBERTS: One of the side lakes? One of the lakes connected?

Dr Banks: I will get Mr Johnson to talk more about where the releases were from. We audit to a point, which is Weir 32, but it's up to others. I'll get Mr Johnson to talk through that.

Mr Johnson: We've had around 150 gigalitres come off environmental water accounts as part of the response to the fish deaths at Menindee. That's a combination of both Commonwealth environmental water and water from the Living Murray Program. As Dr Banks mentioned, there is an order that is placed for that water at Weir 32, but it's being released from both Lake Pamamaroo and Lake Menindee, so one of the lakes upstream of Menindee township and one of the lakes downstream of the Menindee township. With those releases there has been water quality monitoring happening, so both spot monitoring and transect, so we've been able to understand how water quality is changing along the whole length of that river section.

Senator ROBERTS: In view of that, you should be able to testify how long that blackwater was there before being released. Can you give me that information? Blackwater in the Menindee Lakes.

Dr Banks: As a consequence of the flood, that's what generated the blackwater. I think that was—

Senator ROBERTS: So it was there all along?

Dr Banks: It was initially within Lake Wetherell, and then temperature—there are a whole lot of factors that go to the extent to which that blackwater became hypoxic within the system.

Senator ROBERTS: Are you saying it was unavoidable? That may be a good reason. I don't know.

Dr Banks: The New South Wales government is going to be doing two inquiries. One is by the Chief Scientist, who will look into the operations of the system, and there is a terms of reference that has been released about that. The New South Wales EPA is also going to undertake an investigation associated with water pollution. What we did was work with New South Wales and support New South Wales in their operation of the system by making Commonwealth environmental water available using our entitlements to try improve the dissolved oxygen levels within the reach that was hypoxic, with a view to trying to make sure the conditions didn't get worse, and in fact trying to improve it.

Senator ROBERTS: Will you be working with the New South Wales inquiry?

Dr Banks: I expect we will absolutely make a submission to that because we played a role in making Commonwealth environmental water available to improve the conditions for the native fish.

Senator ROBERTS: Subject to the extent of the flood, I guess the Menindee Lakes have always taken water from floods on the Darling River?

Dr Banks: That's part of it. They would have naturally filled and things, but they are now within a regulated system as well.

Senator ROBERTS: The Murray-Darling Basin Authority are reaching their recovery targets in part by pursuing a strategy to increase the velocity of river flows, returning more water to the Murray, which increases the flow to the sea. That's mentioned in here, the index status assessment. Examples include making bridges more friendly to water flow, removing old weirs and other obstructions from tributaries and closing off access to minor tributaries to keep the water flowing in the main waterway, amongst others. This seems at odds with good environmental practice in Australia. The principle of regenerative agriculture is that we slow down the water flow, allowing the water to seep into the water table to give deep-rooted native trees and grasses longer banks to water. Repairing the environment needs that water to support the large and varied native wildlife population. In addition, that healthy band of vegetation holds the bank in place. The faster the water flows, the less water table replenishment and the more riparian damage. Does the Commonwealth Environmental Water Holder support these measures to increase the velocity of water?

Dr Banks: I'm not sure that there's an intention to increase the velocity of water. The MDBA, Mr Reynolds, is probably best placed to answer that. What I can say is we use environmental water to improve the riparian vegetation to create stability of the riverbanks. For example, in the Goulburn, by use of our water, we've been able to ensure that there's vegetation, that grasses and other things are restored on the banks of the river to reduce the risk of bank collapse.

Senator ROBERTS: Are you familiar with the work of Peter Andrews on regenerative agriculture?

Dr Banks: I'm vaguely familiar but not in detail.

Senator ROBERTS: Would you like to meet him?

Dr Banks: I'm happy to meet anyone that would like to discuss environmental watering and the outcomes that we've achieved with it.

Senator ROBERTS: Is Mr Reynolds going to add anything?

Mr Reynolds: The MDBA does not have a strategy to increase the velocity of flow in rivers. We work very closely with environmental water holders, ecologists and a range of experts on how we deliver our river operations to try and make them as sympathetic to the environment as we can. We fluctuate flows and we time pulses of water through the river system in a way that more mimics natural flows. The comment you made about us having a policy or strategy to increase the velocity of flows is not correct.

Senator ROBERTS: Are you familiar with Mr Andrews's work?

Mr Reynolds: Broadly, yes.

Senator ROBERTS: The Murray-Darling Basin Authority is also using plastic to line channels to eliminate seepage, where seepage is actually replenishing the water table, then claiming the reduced seepage as a recovery. During the drought, the strip of vegetation along irrigation channels watered by seepage provided significant refuge for native wildlife, flora and fauna. Now we're apparently eliminating that refuge environment in the name of saving water for the river's environment. Does the Commonwealth Environmental Water Holder support this program?

Dr Banks: My role is to manage the Commonwealth environmental water holdings. We're using our water to achieve outcomes both in supporting the riparian vegetation but also in ensuring that we connect up the system, so ensuring different parts of different rivers connect up to different parts of the system. I suppose my focus is really on what I do with the water that we hold and making sure that we maximise the environmental outcomes from use of that water to protect and restore the Murray-Darling.

Senator ROBERTS: Can I take it from that that you've got a broader overview rather than knowing what is happening to the environment in detail in some areas? Is it someone else's responsibility to remove seepage?

Dr Banks: I haven't had a particular focus on seepage and things like that. Like I say, my role is to focus on the use of environmental water and make sure that we maximise the environment outcomes, which we've been able to do in both wet times over the last couple of years but also during extreme droughts. With the share of water we've had we've been able to connect up waterholes, replenish waterholes to support native fish and connect up the system.

Senator DAVEY: Senator Roberts, I think you'll find that any plastic channel lining projects were actually done on private infrastructure as part of an infrastructure water savings project, as opposed to anything the MDBA or the CEWH does.

Senator ROBERTS: That may be the case, but I want to know if the Commonwealth Environmental Water Holder supports the program of lining channels. Lining channels removes water from the riparian environment.

Mr Reynolds: The lining of irrigation channels has been undertaken under a range of efficiency programs. Those channels are typically through irrigated agricultural land. There is no riparian vegetation in channels. In fact, the irrigation authority spends quite some time ensuring those channels don't have weeds in them, because it reduces the efficiency of water flow through them. They're constructed, manmade channels, not a riparian vegetation zone as you describe it.

Senator ROBERTS: Isn't your mission to improve the environment overall, not simply take from one area and give to another area with no net improvement?

Dr Banks: My role is to manage the Commonwealth environmental water to protect and restore the rivers and wetlands of the Murray-Darling Basin. Through our monitoring programs we've demonstrated that we've achieved really good outcomes: connecting up the system, which is important; exporting of salt; ensuring the flows continue over the Coorong; and ensuring that the lower lakes remain above critical thresholds. Up in the north we've supported the waterbird breeding to ensure it's completed. There are a vast array of outcomes that we've achieved, and we've got monitoring results that clearly show that.

Senator ROBERTS: There are some people who would challenge you on some of those things, but we'll leave that for another day.

CHAIR: I'll just note it is our intention to try to finish up this outcome by 3.30, before the tea break, due to the level of interest of senators in the items after the tea break.

Senator DAVEY: Dr Banks, I want to talk further about blackwater events and the operations of the CEWH during these events. As well as the horrific fish-kills we saw in the Darling, we saw incidents along the mid-Murray stretches of beautiful Murray crays crawling out of the river. I want to put on the record my gratitude to Charles Sturt University's Albury campus and their water lab, because they took in some of these stray crayfish and looked after them for a while until they could be returned to the river. What steps did you take to try to alleviate what could have been really devastating outcomes of that blackwater event? What was causing the blackwater, and what did you do to try to alleviate it?

Dr Banks: This was about blackwater and blackwater turning hypoxic as a consequence of water moving across the floodplain. Once the breakdown of organic matter starts to happen, the blackwater, which initially might be quite good and productive in terms of supporting the system, can become hypoxic. Low-dissolved oxygen levels means it can reach critical thresholds at two milligrams per litre, and that can become lethal to fish. When the floods were passing through, we worked closely with Murray Irrigation Ltd and a number of landholders in the mid-Murray area to utilise the infrastructure that Murray Irrigation has. We were able to divert about 200 gegalitres of water through that system so it wasn't adding to the floods—it was actually creating refuges. We had about 10 escapes—areas where Murray Irrigation can drop well-oxygenated water out of that system to create refuges of healthier, well-oxygenated water that the fish could survive in.

Senator DAVEY: You mentioned there that it didn't add to the floods. How did you coordinate to ensure that not only were you not exacerbating any of the flooding but also that the community was reassured that your actions weren't adding to it? At the time, particularly around Deniliquin and Moulamein, there was a lot of angst. There were a lot of sandbags going down, as there were in other parts of the Murray. But they were in that area in particular.

Dr Banks: I'll pass to Mr Johnson in a moment, but the important thing was working with the landholders. We weren't adding water to the system. It was already existing water which, instead of going through the forest, was being diverted around the forest and through the Murray irrigation system. I'll get Mr Johnson to talk about the work we did with landholders down there.

Mr Johnson: Our primary mechanism was through our Edward/Kolety-Wakool stakeholder reference panel, which is made up of a range of different community members throughout the Edward/Kolety-Wakool region, including landholders, recreational fishing groups and people in town—the whole range. That was one key network through which we were getting information out. We worked with a local organisation to do some on-ground communication in addition to having our local engagement officer out on the ground and meeting with people regularly. We also communicated information through the local paper and we had some of our scientists doing sessions on the radio as well. We tried to use as many different communication channels as we could to inform the community about our actions, to have them understand what we were doing and why. Generally, there has been strong support for that; all the feedback we've had is that there was strong support for the actions taken.

Senator DAVEY: We didn't escape fish kills. There were incidents of fish kills along that mid-Murray stretch. Have you done any work to survey the fish populations post that to try to evaluate whether that program of providing refuges was successful or otherwise?

Mr Johnson: Yes, we have monitoring that's still being finalised—we don't necessarily have all the results to hand at the moment. There was a range of different techniques that were being used, both to monitor the water quality—to be able to understand what that actually meant for developed oxygen levels—as well as to monitor the fish using the refuges. Sonar was actually being used from boats to identify which fish were using those refuge habitats. We also used satellite imagery; there's some new technology which allows us to use satellite imagery to understand the water quality. Then we had follow-up fish sampling occur just recently. We're still waiting for the results from that, but some of the initial reports are that while numbers may not be as high as we've seen in previous years they're definitely nowhere near as bad as they were following the 2016 floods. That was the last time we had a major hypoxic event in the region.

Senator DAVEY: Thank you very much. While we're on water quality: it's my understanding that it's the MDBA's responsibility to monitor water quality throughout the basin.

Mr McConville: Yes. The requirements are set out in the Basin Plan in relation to elements of water quality.

Senator DAVEY: How do you monitor water quality across the basin? Do you utilise other groups or agencies to undertake that work?

Mr Reynolds: Most of the on-ground water monitoring is done by state agencies. Some of that work is funded through the joint venture that the MDBA administers—funding that we provide to state agencies. Much of it is done as part of state programs, but that information, at a whole-of-basin level, is then collated by the MDBA. We coordinate that and make sure that information is shared and available for others to use as well.

Senator DAVEY: Do you use Indigenous river rangers to do any water quality monitoring, or is that done through state arrangements?

Mr Reynolds: We don't use them directly. I think some state agencies have got some parts of their programs aided or delivered by river rangers, but I'm not really familiar with that.

Senator DAVEY: It's my understanding that the MDBA has provided some funding and sponsorship to the Barkindji rangers based out of Menindee, specifically some sponsorship for a boat to be purchased, and that the Barkindji rangers also have an agreement to undertake some water monitoring programs.

Mr McConville: Correct, Senator. I was out with the Barkindji rangers just recently in Menindee. That's correct—there was a boat purchased. We provided some simple training to them. Our regional engagement officer out there has provided the rangers with the requisite skills to do some water testing. There's some more work that needs to be done around ensuring that some of them have boat licences so they can get out on the river, so I gave a commitment when I was out there some three or four weeks ago that we would support them in ensuring that they are able to use the boat and have the licences that are required. So, yes, we've made some offers of support in that regard.

Senator DAVEY: So the boat's there and it's operational. There are some licensed operators?

Mr McConville: Correct. What they've said is that they need more than one or two of the rangers to have a boat licence, and I've given my commitment that we will support them in that regard.

Senator DAVEY: And the Barkindji rangers group are still operational?

Mr McConville: Yes, they are. I think the issue, Senator, is that they're actually looking to do more. As I say, Richard Unsworth, our regional engagement officer out there, has assisted them in terms of water quality testing. We're going to help them with their boat licences. They've requested some other materials—local area maps and the like—which we'll also work with them on.

Senator DAVEY: There are two Barkindji groups that, through the NIAA, have been given nearly \$8 million between them over seven years. Does the MDBA provide them any extra funding, over and above the sponsorship of the boat?

Mr McConville: I'm not sure. I'd have to take that on notice and revert to you.

Senator DAVEY: That would be appreciated. Will the socioeconomic work that you are doing as part of looking at the next stages of the Basin Plan build on the work that was done in, I think, 2014 by Mr Phil Townsend when he was employed at the MDBA? Will it be using that as a benchmark or will it be starting from scratch?

Mr McConville: I might ask Dr McLeod to answer in terms of the approach to the research that underpins the Basin Plan review.

Dr McLeod: The work done by Mr Phil Townsend in 2014 and thereabouts is an example of some of the work we will do going forward. We've looked at that work since and think there are ways of improving the methodology used. It was very useful work and it showed great connection and deep understanding of the socioeconomic drivers in particular towns and communities across the basin, but we also think it needs to be complemented by more general socioeconomic analysis looking at a wider range of factors as well. We see both streams as being important as we go forward.

Senator DAVEY: Will that work form the baseline? That work is actually widely accepted and appreciated as a very good indicator of where the basin was at at the time. There has long been conjecture that there was never a sound or robust enough socioeconomic baseline done prior to the Basin Plan in 2012, and people have thought that Phil Townsend's work would be the baseline, and so that's the indicator to prevent us going backwards socioeconomically.

Dr McLeod: I wouldn't describe it as being the baseline or us adopting it as a baseline going forward, but it is very useful information that we will complement with the other types of analysis I just mentioned, and we'll also seek to extend that work going into the future.

Senator DAVEY: So when we talk about—and it is written into the Basin Plan—socioeconomic neutrality, how do we judge that neutrality if we don't have a baseline?

Dr McLeod: That socioeconomic neutrality is associated with the efficiency water; it's not a general thing across the basin. There are a range of criteria that the ministerial council agreed, and they are the criteria that will be used for that purpose.

Senator DAVEY: I met with the central western New South Wales joint organisation of councils yesterday, and they had just met with the minister, who'd indicated that, as it stands, to finalise the Basin Plan there could be up to 750 gigalitres of water recovery. They are very interested to know if you have done any work as to what social and economic impact that level of water recovery would have, compared to what impact just the 450, or the 46 gig, may have on these regional communities?

Dr McLeod: When the Basin Plan was negotiated and settled in 2012, there was a lot of socioeconomic work—the work we talked about by Mr Townsend, for one example; there were other things. There were judgements made about the appropriate level or an understanding of the impact of the sustainable diversion limits on communities. There has been some work to update it, but we haven't done a comprehensive re-evaluation of that based on the marginal remaining amount of water that needs to be recovered.

Senator DAVEY: As to the final reconciliation for 2024, that will commence December—is that right?

Mr McConville: That's correct, at this stage. The requirement would be: December 2023, for the reconciliation to be completed, and any adjustments to SDLs by 30 June 2024.

Senator DAVEY: The reconciliation has to be completed by December; so when will you commence?

Mr McConville: No, that's, I suppose, the point at which the reconciliation would be made, and then we would have to deliver that reconciliation by 30 June 2024—as in, its assessment; that's the endpoint for the assessment. The actual reconciliation and any adjustment to the SDLs would be required by 30 June 2024, as it stands at the moment, under the Basin Plan.

Senator DAVEY: Any adjustment to the SDLs and/or any water recovery?

Mr McConville: Water recovery is a question for the Commonwealth. We would make a recommendation—well, we would be identifying what we believe the shortfall to be, from record, as at 22 November last year, when I highlighted, at this stage, between 190 and 315 gigalitres of shortfall, estimated.

CHAIR: Senator McLachlan does have further questions.

Senator McLACHLAN: My questions follow on from last estimates in relation to the impacts of flooding on South Australia. On the last occasion, Mr McConville, it was too early for you to give me a proper update on the impact of the floods. We discussed the aeration facility of Rufus River. You outlined that there was a review of the systems operations and you expected to have outcomes for this estimates. We enjoyed the company of Dr Banks, who enlighten me on the evaluation reports, so I'm interested in those and possible impacts on marine communities. So those things we touched upon. Could you update me, for the benefit of South Australia?

Mr Reynolds: We've done an evaluation of impacts on infrastructure. Of course, the impacts are widespread, and many of those are around roads and things like that. We, as the MDBA, have not quantified that; it's not our infrastructure, within the River Murray infrastructure that we're responsible for. The quantum of damage is in the

order of \$12 million to \$13 million, which, in the overall scheme of things, is pretty modest, given the size of the floods. We've been progressively remediating that. The system is back, so that we can operate and regulate the system as we need to. There are still some outstanding works to effect repairs, but we are able to release water and deliver water as we need from that respect.

As to the flood review that I spoke about, the ministerial council asked us to conduct that review. We have been working through, settling terms of reference with the states. As has been mentioned a couple of times today, there are other reviews, commissioned by others, also happening, and we want to make sure that the scope of what we do doesn't duplicate or overlap those. So, at this stage, we are preparing information to support that review. We haven't commenced any public dialogue around that, at this point. That's likely to progress over the remainder of this calendar year.

Senator McLACHLAN: The evaluation report on the areas of the system is not the review, is it? There was reference to an evaluation report on the seven areas.

Dr Banks: I suspect you are referring to the Commonwealth Environmental Water Holder monitoring programs where we monitor seven areas.

Senator McLACHLAN: Yes, and you were hoping to be able to finish it later this year. I am interested in your progress on that. Mr Reynolds, 'system operation reviews' were your words. What were you referring to?

Mr Reynolds: At the end of any significant flooding event, we prepare an internal review of our flood operations. That document is substantially complete but not quite finalised. That will then be considered by what is called our Independent Review of River Operations Group. They assess our performance in delivering our river operations function every year, but after a flood there is a specific piece of work they do. That review will commence in late July and be finalised by the end of September.

Senator McLACHLAN: Will it be a public document when it has been received?

Mr Reynolds: The summary of the river operations review group's work is published on our website once it is completed.

Senator McLACHLAN: Just quickly and without going into great length, Dr Banks, because we are short on time, can you give me an overview of what has come out of the evaluation and any significant impacts that you are aware of at this point in time on the Murray mouth marine life.

Dr Banks: We are not focusing on the marine life so much because that is outside our remit, but in terms of the Coorong there has been monitoring undertaken. The anecdotal observations that have been provided to us indicate that there are wide and ongoing positive ecosystem responses, particularly with the *Ruppia* and other seagrasses in that area.

CHAIR: I want to give the department an opportunity. I believe you have further information on an issue Senator Pocock raised.

Ms O'Connell: That's correct. It's in relation to Werai forest. He was asking about the involvement of the Commonwealth Environmental Water Holder. I'll get Dr Banks to speak to it.

CHAIR: The speedy version would be delightful!

Dr Banks: Senator Pocock asked how many nominations there have been for Ramsar in the last 10 years. I can confirm there have been three: Piccaninnie Ponds, Glenelg Estuary and Discovery Bay, and Caryapundy. That is the one I mentioned before. In terms of Werai forest, it's an internationally important Ramsar site. We haven't been able to deliver water there due to the condition of the regulators. What I've been able to confirm is that our officers have been working very hard and have spoken to a number of New South Wales agencies around the importance of repairing or replacing those regulators, because the forest has significant international value.

We have also been working with the Wamba Wamba and Perrepa Perrepa traditional owners. We funded some scientific work in the Werai forest. That was to understand more about things like the hydrology to better understand how we can deliver water. But it ultimately does require those regulators to be repaired or ideally replaced and getting the traditional owners down there to use the drones to monitor vegetation to, again, broaden our understanding of the value of it. I'll just reassure you that, because it is important, we have been really pushing New South Wales agencies to make this a priority.

CHAIR: Thank you very much, Dr Banks.

Mr McConville: Senator Roberts had a question about flows in South Australia.

Mr Reynolds: Yes, I was asked about the volume across the board. In the 12 months to the end of March 2023 the volume was about 23,700 gigalitres.

Senator ROBERTS: Thank you.

CHAIR: Excellent. Thank you very much. At this point in time I would like to finish up on this outcome and release the agencies that aren't associated with the final two outcomes this afternoon on the North Queensland Water Infrastructure Authority and the Threatened Species Scientific Committee. Thank you very much for your attendance today. It is most appreciated.

Proceedings suspended from 15:29 to 15:44

North Queensland Water Infrastructure Authority

CHAIR: Welcome back. I would now like to welcome the North Queensland Water Infrastructure Authority. Would you care to introduce yourself and make whatever opening statement you may have?

Mr Squire: We have no introductory remarks. We are happy to answer questions.

CHAIR: Fantastic. Senator Davey?

Senator DAVEY: Thank you, Mr Squire, for appearing at what I assume will be your last estimates as acting chief of the North Queensland Water Infrastructure Authority, given they are being disbanded.

Mr Squire: Thank you for the notification. Yes.

Senator DAVEY: Was the authority consulted about being disbanded prior to the announcement being made?

Mr Squire: Since the October 2022 budget, we have had regular conversations with our host department, the Department of Climate Change, Energy, the Environment and Water, about the authority's future. The CEO, Mr Jim Pruss, has also had regular conversations with Mr Fredericks and Ms O'Connell about the authority's future, so we certainly were aware that the authority's future was under consideration as part of the budget.

Senator DAVEY: Are you aware of whether any consultation was undertaken with local councils or stakeholders or landholders in North Queensland before the decision was made to disband the authority?

Mr Squire: I am not aware of any specific consultations. Ms O'Connell may wish to add some details around any consultations that may have occurred with the Queensland government, but I am not aware of any specific consultations with community groups.

Senator McAllister: I'll take that on notice, but I think the broader point is that, from the government's perspective, we are very focused on delivering reliable water to northern Queensland, but it is the government's view that the North Queensland Water Infrastructure Authority is not the best way to deliver that water. There is an existing water infrastructure capability sitting within the department. Under the NQWIA, there were, as I understand it, six people working in a range of locations—three in North Queensland and three in Canberra—and I think the view is that we will continue to bring focus to these projects but we have strengthened capability by integrating them together.

Senator DAVEY: Are all of those six people being absorbed by the department and/or the Water Grid Authority?

Ms O'Connell: Yes. I can confirm that we have made offers to all of the people to come across and join us. We're very comfortable that they do so.

Senator DAVEY: What does the future hold for those projects that were being progressed by the NQWIA—Big Rocks Weir, Hughenden Irrigation Scheme and Hells Gates Dam

Ms O'Connell: I'll ask Ms Wall to address that issue.

Ms Wall: Senator, it is the intention of the government and the department to deliver those projects utilising, in particular, our existing relationships with the Queensland government and also the relationships the department has with those proponents. I'm not sure whether you're aware that, whilst NQWIA is the face of those projects with the proponents, the department actually is the keeper of the administrated funding, and they are funded through the National Water Grid Fund. As a result of that relationship, we do have good relationships with proponents, and also with the states, in relation to these projects, and we'll continue to build upon them as these projects progress.

Senator DAVEY: Ms Wall or Mr Squire, are either of you in a position to answer some questions about the detail of those projects?

Ms O'Connell: Yes. Ask away. I've also got an acting AS here who can assist with those questions.

Senator DAVEY: Great. In terms of the Hughenden Irrigation Scheme, I believe \$10 million was provided for a detailed business case by the Australian government through the national water grid?

Ms O'Connell: That's correct.

Senator DAVEY: How much has so far been invested in developing that business case?

Mr Simpson: The full \$10 million has been paid. The business case has been completed.

Senator DAVEY: Oh, exciting! Is now consideration of the business case going forward to look at actually progressing with the irrigation scheme in full?

Mr Simpson: Yes, the business case was completed last year. It's been provided. It's been lodged with IA for their evaluation. So that's one of the next steps in the development of the project. The project is going through a water sales process within the Queensland government, and that's expected to be finalised later this year.

Senator DAVEY: So the project has not been abandoned; it's being assessed—is that how you would put it?

Mr Simpson: The original commitment by government was \$180 million. The \$10 million has been paid for the business case, and \$170 million for construction has been deferred, pending a final investment decision from government.

Senator DAVEY: Have we got any idea of a time line for when that consideration will be given?

Mr Simpson: The funding has been deferred beyond the forward estimates. I think we're working quite closely with the Queensland government to try and understand what needs to be done to progress to a point where government can make a decision. A decision is more likely sooner than beyond the forward estimates, but I wouldn't want to put a time frame on it.

Senator DAVEY: My understanding is that there were 1,900 ongoing agricultural jobs and also almost 2½ thousand construction jobs ready to proceed that are now in limbo due to the deferment. Are there any other employment opportunities that are available for those jobs?

Ms O'Connell: Perhaps the acting CEO could answer that.

Mr Squire: The business case did highlight a number of other potential job opportunities, both up and down the supply chain. The business case highlighted the potential for traditional owner, First Nations, businesses, if they could get access to the Indigenous reserve out of the Flinders River. I can't put my finger on a specific jobs number, but it did highlight those opportunities for Indigenous businesses and First Nations people, such as the Yirandali, to utilise some of that water for irrigation purposes. The business case also highlighted the opportunity, as I said, up and down the supply chain. As you can imagine, Hughenden is a fairly remote part of Australia, and so to get the products from Hughenden to ports either in Cairns or Townsville would possibly involve the storage, logistics and transport of said products, so there were further opportunities there in the supply chain.

Ms O'Connell: To finish, in terms of the overall status, it's not a final investment decision at this point.

Ms Wall: Just with regard to the comments you just made on construction workers ready to start work, I think it's important to note that there is a significant funding gap still with this project. The project has been estimated to be around \$800 million. That funding gap needs to be resolved as well. I'm not really sure where those statistics on employees are coming from.

Senator DAVEY: There was \$170 million Commonwealth funding which has been deferred beyond the forwards.

Ms Wall: Yes.

Senator DAVEY: And there would need to be a significant contribution by the state government and/or other private proponents.

Ms Wall: That's correct.

Senator DAVEY: On the Hells Gates Dam, a business case has been provided to the government; it was provided in September '22. That business case has been considered, and the project will not proceed—is that correct?

Ms Wall: That is correct. That decision was made at the October budget.

Senator DAVEY: Was the entire \$24 million for the business case expended, or was there any remaining budget?

Ms Wall: I might ask NQWIA to answer that.

Mr Squire: Yes, it was.

Senator DAVEY: It was all expended, was it?

Mr Squire: Yes.

Senator DAVEY: Was a reason given as to why the project was abandoned?

Senator McAllister: I think we talked about it at the last estimates. In fact, my recollection is that it was after the October budget.

Ms O'Connell: Correct. It was an October budget measure, so we did discuss it then.

Senator McAllister: I think there were a number of challenges raised in the detailed business case, including the availability of water in the Burdekin water plan and some of the cultural heritage and environmental impacts arising from the project.

Ms Wall: I'll also add that the Queensland government weren't supportive of the project.

Senator DAVEY: Is the same true for Big Rocks Weir? Are they part and parcel of the same—

Ms Wall: No, Big Rocks Weir is still continuing. We have a business case ongoing there. I might pass over to NQWIA as well to talk about that project.

Mr Squire: The Big Rocks Weir business case was completed in early 2021. The Big Rocks Weir project is now in a preconstruction phase, with a view to completion later in this calendar year.

Senator DAVEY: This calendar year?

Mr Squire: All being well.

Senator DAVEY: All being well—yes. Snowy Hydro have said completion—

Mr Squire: One of the aspects that needs to be considered is the environmental assessment that needs to be undertaken and also the cultural heritage assessment. That can take as long as it takes in terms of—

Senator DAVEY: But are they underway?

Mr Squire: They are underway, yes.

Senator DAVEY: Finally, has there been any consultation with either the North Queensland Water Infrastructure Authority or the Water Grid Authority regarding the Queensland government's proposal for a pumped hydro at—I'm going to pronounce it wrong—Eungella in Queensland?

Ms Wall: I haven't seen a proposal on it. Has anyone else?

Mr Simpson: Not that I'm aware of.

Mr Squire: Not that I'm aware of.

Senator DAVEY: That's very interesting.

Senator ROBERTS: Thank you all for being here today. To clarify, the Hells Gates Dam and the Hughenden Irrigation Project, including the Saego Dam, have been terminated by the current government. Is that correct?

Mr Simpson: No, that's not correct. Funding for Hughenden has been deferred, and Hells Gates Dam was cancelled through the October budget.

Senator ROBERTS: So I got 50 per cent right. Hells Gates Dam has been cancelled.

CHAIR: Yes, you can have a point for that!

Mr Simpson: Sorry, yes.

Senator ROBERTS: In answer to a question from Senator Davey, someone said that there's a funding gap. Is that with the Hughenden project?

Mr Simpson: That's with the Hughenden Irrigation Scheme, yes.

Senator ROBERTS: Didn't the business case for both of these projects show that the projects were justified on a cost-benefit basis?

Mr Simpson: I don't know that the BCR—I might go to Matt.

Mr Squire: The detailed business case for the Hughenden scheme did show a BCR above one. The business case for the Hells Gates Dam Scheme also had a BCR above one.

Senator ROBERTS: How did you find working with HIPCo on the Hughenden project and working with the Townsville enterprise centre? Did these groups provide you with the support you needed to advance these projects? Did they have the data, the information and, especially, the enthusiasm?

Mr Squire: The answer to both is yes. With regard to the Hughenden Irrigation Scheme, it's been our privilege to work with the people of HIPCo. Not only are they knowledgeable and passionate about their project; they clearly have a vision for the future for their project in relation to addressing issues with the Hughenden region, including depopulation. In regard to the Hells Gates Dam project, equally, Townsville Enterprise were

highly energetic and highly motivated in providing us with the information that we needed to help guide that project.

Senator ROBERTS: Passion and enthusiasm without a solid basis don't mean much, but to me they both seem to have a very solid foundation in what they're advocating for.

Mr Squire: We found that as well.

Senator ROBERTS: How much additional gross domestic product and employment were these projects expected to create for North Queensland?

Mr Squire: I'd have to take that one on notice. We did have the business case, but it has been a little while since I last reviewed it.

Senator ROBERTS: Thank you. What projects now remain in North Queensland to provide water to meet the growing need for water in mining, tertiary processing and residential demand? Could you please list the remaining projects?

Mr Squire: I might ask my colleagues from the water group to do so.

Mr Simpson: I can run through all of the projects in North Queensland if you'd like.

Senator ROBERTS: Water projects?

Mr Simpson: Yes. Rookwood Weir has a funding contribution from government of \$183.6 million; Big Rocks Weir, \$38 million; Hughenden Irrigation scheme, which we talked about, \$170 million; Cairns Water Security program stage 1, \$107.5 million; groundwater improvements in the lower Burdekin, \$12.5 million; Mount Morgan Water Supply project, \$3.5 million; Urannah Dam business case and approvals, \$22.7 million; Lakeland Irrigation Area business case, \$10 million as a Queensland Connections package that includes one project, which is \$4.8 million; Burdekin Regional Water assessment, \$5.5 million; Bowen pipeline detailed business case, \$5 million; Paranui Weir preliminary business case, \$2 million; Burdekin Haughton water supply scheme detailed business case, \$1.9 million; Bedford Weir raising business case, \$1.7 million.

Senator ROBERTS: It's projected there will be a big increase in mining in North Queensland, especially in the line between, say, Townsville and Mount Isa. That is one of the advantages of the electricity scheme. What is the name of the pipeline that comes across? Copper String 2.0. That is expected to extend the life of current mines because it will make it cheaper to mine and also to develop quite a lot of new mines, especially rare earth mines, so there is a lot of need for water up there for not only processing but also mining. North Queensland's population is projected to grow by two per cent per year over six years, and the economy is growing by three per cent, with expected population reaching 300,000 in 10 years time. Where is their water going to come from?

Ms O'Connell: The department is working with the state government to look at water planning for that area to answer those questions but, importantly, also to invest in the right projects for the future. You mentioned things like critical minerals et cetera that are there and that do require some water to exploit those critical minerals.

Ms Wall: Minister Plibersek was in Townsville just last week. She met with a number of stakeholders to discuss and to listen in regard to the Burdekin catchment. She announced in conjunction with the Queensland minister, Minister Butcher, the Burdekin regional water assessment, which will help to answer some of those questions you have raised for that area.

Senator ROBERTS: Minister, final question: I have seen some of the projects listed in the budget. Why is the government wasting taxpayer dollars on bikeways and electric vehicle recharging points and calling it infrastructure?

Senator McAllister: I wouldn't characterise it as wasting in any way at all, so I reject the foundation of your question. It's also not a question, really, to be asked in a discussion about the North Queensland Water Infrastructure Authority. But, to assist, and to traverse ground which you and I have traversed on many occasions: our government understands that we will, between now and 2050, need to take substantial steps to reduce our carbon emissions. That includes changes to the nature of our passenger fleet. We also know that the global trends are towards more and more electric vehicles being produced and sold, and we want to give Australians more opportunities and more choices in relation to the vehicles they can purchase. I do not have carriage in my portfolio responsibilities for bicycle infrastructure, and I really might need to ask you to direct those questions, if you have specific questions about any other forms of infrastructure, to the infrastructure estimates.

Senator ROBERTS: On that, there's no major infrastructure in North Queensland, transportwise. The government—

CHAIR: Senator Roberts, I am going to pull you up and say that this is the North Queensland Water Infrastructure Authority that we are inquiring into, not a broader infrastructure piece for Queensland.

Senator ROBERTS: Minister, will the government allow the continuation of the exporting of coal?

CHAIR: Again, that is not a matter that is related to the North Queensland Water Infrastructure Authority.

Senator ROBERTS: I beg to differ, because the coalmines that are projected will need water. Thank you.

CHAIR: Mr Squire, thank you very much for coming along. We do appreciate it. That is all the questions we have, so you are released.

Department of Climate Change, Energy, the Environment and Water

[16:06]

CHAIR: I now welcome Professor Helene Marsh from the Threatened Species Scientific Committee. Professor Marsh, would you like to make an opening statement?

Prof. Marsh: I do have an opening statement. I'm just wondering whether it's timely to deliver it, given the quite small number of senators who are left.

CHAIR: The number of senators in the room is irrelevant. There are six of us in the room—well, one on the screen. But feel free to table the statement.

Prof. Marsh: Okay. Thank you very much. I'd like to thank you for inviting me today. I'd like to acknowledge the traditional owners of the land from which I'm joining this meeting, the Wulgurukaba-Bindal people of Townsville. I've not met some of you before, so I'd like to begin with a brief opening statement explaining the work of the Threatened Species Scientific Committee, or the TSSC. The TSSC is a statutory committee of scientists established by the EPBC Act, and our job is to provide independent scientific advice to the Minister for the Environment, particularly in relation to the listing of threatened species and ecological communities, conservation planning and threat abatement. The committee currently comprises 12 biologists of international repute, including one Indigenous member and one member with expertise in agriculture and forestry. We work part time. The recent appointments followed an open call for expressions of interest and a formal evaluation process.

I'd like to illustrate our work by explaining our role in the Commonwealth's response to the unprecedented impacts on biodiversity resulting from the 2019-20 bushfires. This challenge required a highly collaborative approach to help maximise the recovery of species and ecosystems. Our role has been to make recommendations to the Minister for the Environment about the species and ecological communities that require legal protection under the EPBC Act, appropriate conservation planning responses for species and ecological communities listed as threatened as a result of the fires or uplisted to a higher threat category, and the case for listing fire as a key threatening process. We worked very closely with an expert panel chaired by the then Threatened Species Commissioner, Dr Sally Box, to identify species likely to be eligible for new or increased legal protection under the act. The knowledge of species experts external to the government was also harnessed through eight teams of experts contracted by the department. This enabled the best possible data and information to be available to the TSSC.

To date, 107 ministerial listing decisions have been made for fire affected species and ecological communities. The committee has provided advice about listing for another 50 fire affected species and ecological communities. Close to 100 bushfire impacted species and ecological communities are currently being assessed. More are in the pipeline. I estimate that when this work is finished it will have catalysed the new or updated listing of more than 10 per cent of the species and ecological communities listed as threatened under Commonwealth law in Australia, and it will represent more than 20 per cent of the amendments to the list since the EPBC Act came into effect. One of the expert groups that helped us described this response as the single greatest opportunity to list threatened Australian species. While these fires provided the impetus, many species warranted listing prior to this disturbance.

The committee also worked with departmental staff to develop the assessment required to list fire regimes that cause declines in biodiversity as a key threatening process, and Minister Plibersek has indicated her intention to develop collaborative and coordinated approaches to reducing the risk of fire to Australia's biodiversity, including stronger action on climate change.

Last November, the Ecological Society of Australia awarded its 2022 Ecological Impact Award in recognition of the achievements of what they described as 'the most extensive network of ecologists and conservation scientists ever engaged in an emergency response in Australia'. The TSSC and the department were formally acknowledged as key components of this achievement.

Finally, the work has been recorded in a book, which has already been published by CSIRO. I thank you, because I think that gives an outline of the sort of work that we do.

CHAIR: Thank you. We'll go directly to Senator Davey.

Senator DAVEY: Thank you. How many times have you met directly with the minister? This was asked at the last estimates, and the answer to the question on notice showed that there hadn't been any physical meeting. Have you had a meeting with the minister since March?

Prof. Marsh: I met with Minister Plibersek, for quite a long meeting, actually, in July last year, and there was a second meeting, which was attended by my deputy chair because I was overseas, on I think it was 25 November last year.

Senator DAVEY: Has the minister met with the Threatened Species Scientific Committee?

Prof. Marsh: Not yet.

Senator DAVEY: Not yet.

Prof. Marsh: I understand that such a meeting is being planned, but it hasn't happened yet.

Senator DAVEY: Thank you very much.

CHAIR: Senator Pocock.

Senator DAVID POCOCK: Thank you for your time, everyone. It's been a big week. I was interested in what the involvement of the committee was in developing the Threatened Species Action Plan.

Prof. Marsh: We were consulted on a number of occasions as part of broad stakeholder consultation in regard to the plan.

Senator DAVID POCOCK: Were you asked to provide a submission or was it fairly broad-stroke consultation?

Prof. Marsh: No, there were specific meetings with the Threatened Species Commissioner on a number of occasions. I also meet with her privately every time I come to Canberra for meetings, and she always attends committee meetings. We also attended a number focus groups that were a bit more generic that were held as part of the expert elicitation. I don't know how many times that we met with the commissioner over the plan, but it was quite a few.

Senator DAVID POCOCK: Thank you. You mentioned the great work you did after the bushfires and that you think once all the work is done there will be some sort of effect on the listing of 10 per cent of species. I'm wondering in the context of the fires and the amount of forest lost if you have made recommendations around native forest logging.

Prof. Marsh: No. We haven't made representations as a committee. We have done work—for example, to the Samuel review—expressing concern about habitat loss as a very significant key threatening process. We're actually currently working on typology for biodiversity threats in Australia. I guess stopping logging is a political decision. We do document the threat posed by logging to specific species or ecological communities as part of the assessment that we do in relation to our work.

Senator DAVID POCOCK: And what does that assessment say when it comes to the kind of logging we're seeing? Is that putting species at risk?

Prof. Marsh: Yes.

Senator DAVID POCOCK: Thank you. You also mentioned the threat that climate change poses to species. Does the committee have a view on the warming target that we need to achieve in order to preserve Australia's incredible species?

Prof. Marsh: The committee consider, as best we can, the impacts of climate change when we recommend to the minister about listing and conservation planning for specific entities, species and ecological communities. I think everybody on the committee—and I'm going to speak for individuals rather than totally for the committee—would argue that Australia needs to reach net zero as soon as possible.

Senator DAVID POCOCK: Have you looked at limiting global warming for some of our more heat sensitive species and is it 1.5 degrees or two degrees? At what point is it catastrophic for them?

Prof. Marsh: I think there are others who have done more comprehensive evaluations on that than the committee itself. The committee's job is to evaluate impacts more at a species and ecosystem level, so I just wish to reiterate that it is extremely important that Australia—and the world—reaches net zero as soon as possible.

Senator DAVID POCOCK: Thank you. You mentioned that you are involved in updating the lists of threatened species and threatened ecological communities. Are you also involved in deciding when species are officially extinct? Is that part of the process?

Prof. Marsh: It is part of the process. There is quite an elaborate process involved in deciding whether a species is officially extinct. Yes, we have made some recommendations to the minister based on our assessments to that effect.

Senator DAVID POCOCK: Are there any species currently under assessment to be listed as extinct?

Prof. Marsh: No, not that I'm aware of. There are many species on what's called the Finalised Priority Assessment List. From memory—I can take that question on notice—none of them are there at the moment because we consider that they have a high likelihood of being declared extinct now.

Ms Kennedy: Just to confirm, there are no species under assessment for listing as extinct at the moment.

Senator DAVID POCOCK: Could I ask a few questions about the Threatened Species Action Plan?

Prof. Marsh: Certainly. I hope I can answer them. Obviously the Threatened Species Commissioner is more on top of the action plan than I am.

Senator DAVID POCOCK: Looking at target 1: 'All 110 priority species are on track for improved trajectory.' As it currently stands, are we on track for that?

Prof. Marsh: Well, the action plan is quite new. In the previous action plan there was a strict evaluation of a smaller number of species and it was found that some of them were on track for an improved trajectory, and with others an improved trajectory couldn't be established. I want to say, as a scientist, that when a species is rare and threatened, particularly for long lived species, establishing an improved trajectory is actually very hard and it's very hard to do it in a short time frame. For other species which have shorter lifespans it's much easier to establish that. Having said that, it's really, really important that we monitor threatened species as comprehensively as possible. The committee has made numerous submissions to things like the Samuel review, suggesting that we are concerned that the monitoring effort is inadequate. I note that the Nature Positive Plan certainly has an intent for improved monitoring and I would totally support the need for that.

Senator DAVID POCOCK: Given how difficult this work is, particularly when you're dealing with species that are just so that threatened, in your view is there enough funding available for threatened species to improve their trajectory?

Prof. Marsh: Actual funding for threatened species recovery is a matter for government. I can tell you that the funding support that the committee has received, particularly since the fires, in terms of the work that's in our mandate has been very good. I really am very impressed by the support and the way that the department has reached out to experts across Australia to help support the work. But is it enough and is at the right proportion of the budget? I think that's beyond my role as chair of the Threatened Species Committee to say. It's a matter for government.

Senator DAVID POCOCK: I'll read between the lines there.

CHAIR: Senator Whish-Wilson?

Senator WHISH-WILSON: Just to clarify something you said in your opening statement, did you say that all the committee members are part-time?

Prof. Marsh: Most of the committee members, but not all, are academics. We have day jobs as academics and we attend meetings. Since the fires we've attended a lot of meetings, and this year we've attended a lot of meetings giving advice to government about the reforms of the act, but it's definitely a part-time job.

Senator WHISH-WILSON: This is a follow-up question to something Senator Pocock asked: Has native forest logging ever been considered as a threatening process under EPBC law?

Prof. Marsh: Land clearing, and I've forgotten the exact title, is certainly registered as a key threatening process under the EPBC Act. It's a very difficult issue, of course, for the Commonwealth government because most of the responsibility for clearing land and logging is held by the state governments.

Senator WHISH-WILSON: Indeed, and there are RFAs in place, I suppose, which provide exemptions.

Prof. Marsh: Yes.

Senator WHISH-WILSON: I have some very specific follow-up questions on the Maugean skate in Macquarie Harbour after answers given to questions by the department and the Threatened Species Commissioner, Dr Fiona Fraser, the other night. Dr Fraser said that she understands the very dire situation for the skate, especially following the interim report put out by IMAS a couple of weeks ago. Has the committee noted that report, Professor Marsh?

Prof. Marsh: Yes, the committee was also briefed in person by the chief investigator in March. As a result, I wrote to the minister as part of a letter that I wrote about highly imperilled species in the context of her stated

objective of no new extinctions. At the head of the list of species that I wrote to her about was the Maugean skate. I received a reply from her thanking me for the letter and stating that detailed discussions had been held with the department, including the Threatened Species Commissioner. I've since been briefed on a series of actions that are being taken, both research actions and conservation actions. Indeed, I spoke this morning with the director of the marine and coastal national environmental science hub about this matter.

The committee is extremely concerned about the matter, and we are very pleased, I guess, that all the science is catalysing action, which we definitely think should happen. I suggest the department are probably better placed to speak on the action than I am, because I've been briefed on it. But the committee really regards this as important. In two weeks time we will be reconsidering, in light of all the scientific information, the case for listing the Maugean skate as critically endangered and recommending that it be put on the Finalised Priority Assessment List. We haven't done that, but that's on our agenda for the next meeting, which is the week after next. So, yes, we are deeply concerned about the situation.

Senator WHISH-WILSON: Thank you, Professor Marsh, that was my next question, whether you were uplifting the advice on whether it would be on the final priority assessment list. If it does go on the final priority assessment list, what increased legal protections would we typically see around the skate? Or for any, if you'd prefer to talk generically.

Prof. Marsh: The legal protection for an endangered versus critically endangered species isn't very different. I expect it would really draw attention to the dire situation and, I hope, stimulate continuing conversations between the Commonwealth and the Tasmanian government on this issue.

Senator WHISH-WILSON: Thank you, Professor Marsh. Dr Fraser said she'd written to the minister and was writing to the Tasmanian state government urging an extreme intervention. Are you able to comment on the kinds of conservation actions that would be necessary now to prevent this ancient skate from becoming the 'thylacine of the sea', as many top scientists down here have dubbed it?

Prof. Marsh: I understand that there are several actions being proposed. The most serious threat to the skate is water quality in Macquarie Harbour, because that's the only place that we know now has a substantive population of the skates. As you know, the scientists concerned think that a combination of the present situation and an extreme weather event could be exceptionally serious. So there's that. I also think that there needs to be investigations, and this probably requires some more research about what would need to be done to have ex situ conservation, if you like, of an emergency population. There also needs to be some work to understand what's happened in Bathurst Harbour, because that's pristine. It may be that there was only ever a remnant population there, but to me, it is very puzzling that, given the pristine nature of Bathurst Harbour, the population isn't doing better there.

Senator WHISH-WILSON: The other night, the department acknowledged that industrial salmon farming is one of the factors affecting water quality. Do you agree with that?

Prof. Marsh: The evidence that has been provided to us would suggest that is part of the problem. I don't pretend to be an expert on Maugean skate, but it does look like water quality in Macquarie Harbour is a very serious part of the problem.

Senator WHISH-WILSON: There's no point in me being political about this or crying over spilt milk, but I did write to the Threatened Species Scientific Committee back in 2017 urging exactly the kind of action that's now underway. What's been the history? How often has the skate been assessed by the committee? I appreciate that you work part time; you've had bushfires; you've had a lot of things to focus on. So I'm definitely not having a go at you, but has this taken you by surprise?

Prof. Marsh: I listened to the discussion with the Threatened Species Commissioner on Tuesday night. Your letter that was sent all those years ago was sent to me, and I was chair of the committee at that time. I was very surprised. I thought I had never seen this letter, and I immediately rang Colin Simpfendorfer, who's a professor and an expert on skates and sharks, and I said, 'Colin, have you seen this letter?' He said no. I then went and checked all the committee correspondence files that are on the web, and I can say that there is no record of the committee ever seeing that letter.

We were long aware, I guess, of the scientific work that had been done with regard to the skate. We were first formally involved with the skate in 2021. There was a public nomination for it to be uplisted to critically endangered. It was listed as endangered—you know that—from 2004. We then recommended to the then minister that it be included on the final priority assessment list. A decision was made not to do that. We looked at it again in 2022. By then, and I think partly catalysed by the concerns of the committee, we'd had discussions with the Threatened Species Commissioner about this, and the work on the eDNA for Bathurst Harbour was underway. So

the committee looked at it in 2022. We thought the data just wasn't there yet to recommend that it go on the final priority assessment list, because we knew that new data was coming. Now we're looking at it again.

CHAIR: Senator Whish-Wilson, I'm going to rotate the call if that's the end of that particular issue.

Senator WHISH-WILSON: I do have some other questions, but I'm happy for you to rotate the call and come back to me, if you can.

CHAIR: Yes, of course.

Senator DAVID POCOCK: Thank you, Professor Marsh. I'm keen to pick up on the Threatened Species Action Plan target 8:

Feral cats and foxes are managed across all important habitats for susceptible priority species using best practice methods.

I'm interested in your assessment of where we're at currently with that, and how much work is needed in that area.

Prof. Marsh: There is a new feral cat threatened species action plan being considered at our next meeting, in two weeks time. That will be an update on how much work needs to be done. I would regard control of feral cats and foxes as extremely critical to the management of Australia's biodiversity.

Senator DAVID POCOCK: You said additional funding was given to the committee after the bushfires to complete that work. How much additional funding did you receive?

Prof. Marsh: The money was given to the department to help support the committee and also to recruit an army of experts to help with the evaluation required. The committee doesn't have a separate budget. I don't know how much money was involved. That would be a question for the department.

Senator DAVID POCOCK: I'll ask the department.

Ms Kennedy: We can certainly provide that information on notice.

Senator DAVID POCOCK: If you could provide the last 10 years of funding to the committee, and what that's looked like each year, that would be good.

Ms Kennedy: Possibly the most helpful thing we can do is also provide some more information about—I think Professor Marsh is also talking about the work that feeds into the committee, to allow them to do their work. It is that significantly increased number of listings that has come through since the bushfires but has certainly been maintained. The work of the committee and the department supporting them at the moment is at quite a phenomenal rate at the moment.

Senator DAVID POCOCK: The funding we saw from the bushfires has been maintained since then; we haven't seen a drop-off?

Ms Kennedy: I'll take on notice the exact numbers, but the resourcing is at a really high level.

Senator DAVID POCOCK: Thank you. Professor Marsh, just on resourcing: you mentioned earlier it's a part-time committee, which I find surprising. I'm interested in your view: for a mega-diverse country grappling with an extinction crisis, does a part-time committee cut it?

Prof. Marsh: I think it does cut it. I don't think we need to be full-time. I think having a part-time committee enables a whole bunch of experts to maintain the currency of their expertise, because they're also working as research scientists. We have upped the amount of meetings. It used to be that we met four times a year; we usually meet for four days at a time three times a year, and for two days for the fourth meeting. In the aftermath of the fires last year, we were meeting every month—so we didn't feel very part-time! As a matter of principle, I think having the currency of scientific expertise of a part-time committee is appropriate.

Senator McAllister: May I add: there is an authority that comes with having a distinguished committee of the kind that is assembled here. They are also supported by the Threatened Species Commissioner and the work of the department, which does the preparatory work to support the matters that are then examined by the committee.

Senator DAVID POCOCK: Are you compensated for those four days when you meet, or are you just taking leave? How does that work?

Prof. Marsh: No, we are compensated, and we have to work many days in preparation for the meeting as well. Usually, the papers for a meeting—they're not actual papers but virtual papers—are, like, 2,500 pages of reading, so it's like *War and Peace* twice before every meeting. The way we work is that a committee lead or two leads are assigned for every topic so we make sure that there is in-depth coverage of every single paper. Most people read everything, but you read what has been assigned to you in great depth.

Senator DAVID POCOCK: Thank you. I will just move on to threat abatement plans. It looks like there haven't been any threat abatement plans approved since 2018. I'm just wondering if there's a reason for that.

Prof. Marsh: We are considering some at the next meeting. I think that the system of biodiversity threat abatement in this country needs reform. It is being looked at in a great deal of depth as part of the reforms to the act, and I very much look forward to that. The committee itself is doing quite a lot of work to try to work out the level of threat that a threat abatement plan can most appropriately tackle. I'll give you an example. We sometimes get public nominations—and I'm going to use this because it rhymes, but you'll get the idea—that range from climate change to wombat mange. Now, that's just ridiculous, and it has to be rationalised so that the planning is at the right level. That work is happening as part of the reform process, and the committee is very actively involved in advising the department about that.

Senator DAVID POCOCK: That makes sense, and I agree that there's a lot of work to do. I'm interested in the last five or six years. Is it because none were put to you or because you didn't have the resources? I'm just looking at things like feral horses and deer. There are still no threat abatement plans.

CHAIR: I'm just going to jump in here very quickly. The committee has previously locked in a hard five o'clock finish. Just to be really clear, the committee has already made that decision, because people have planes to catch. Senator Pocock, you've probably got about four or five minutes, and then we'll go back to Senator Whish-Wilson. If I can, I will ask you to put things on notice where possible.

Senator DAVID POCOCK: Maybe next time we can get the important stuff done earlier with Professor Marsh. I'm just joking.

CHAIR: It is a decision that's made and voted on by the committee, Senator Pocock.

Senator DAVID POCOCK: Sorry, Professor Marsh. I'm in your hands for the answer.

Prof. Marsh: I can give that answer. In 2014 or 2012—sometime like that; I've forgotten the exact date—there was a key threatening process called novel biota. The idea was that this would be an umbrella for invasive species. Subsequent legal advice has said that you have to have a specific key threatening process before you can have a threat abatement plan. There is something called a threat abatement advice, which is in advanced development for deer. For feral horses, we have been advised that, in order to have a threat abatement plan, as opposed to an advice, there would have to be this really complicated process of having a separate key threatening process for feral horses. All that takes years. It's a very clunky process, and that's what we're working with the department to reform as part of the legislative reform that is happening now. The bill is being designed now.

Senator DAVID POCOCK: Great. Thank you, Professor Marsh. I really appreciate all the work you do.

Prof. Marsh: Thank you.

CHAIR: Senator Whish-Wilson?

Senator WHISH-WILSON: I'll be very quick. This is the last question from me on the skate. If the advice is upgraded, I understand that, with advice or recovery plans, these things happen in a spirit of collaboration with other parties such as the state government, but does that advice have the power to compel action from the Tasmanian government, legally?

Prof. Marsh: My understanding is that the legal requirements invoked by a recovery plan apply to the Commonwealth minister. Whenever possible, a Commonwealth minister would endeavour to make a plan jointly with the state government so that the state government would also be committed to the response, but actually it's a Commonwealth statutory instrument—a Commonwealth made recovery plan.

Senator WHISH-WILSON: Okay. Perhaps you could take this one on notice: does the scientific committee also make recommendations on declarations of critical habitat in Australia?

Prof. Marsh: This is another area where we are looking for act reform. At the moment, declarations of what's called critical habitat under the act can only apply in Commonwealth land and waters. In conservation planning documents on which we do the quality control and in which we make recommendations to the minister, we do make recommendations on what's called 'habitat critical to survival', and that's an important and a routine part of the approval process for a conservation advice or a recovery plan. There is a lot of work going on at the moment to try and make this whole process about critical habitat, habitat critical, key habitat et cetera much clearer in the new legislation.

Senator WHISH-WILSON: Great. Thank you. Out of interest, I did find a South Australian example in a bird breeding and migration area. That seemed to be in the state territory; I didn't know if it was on a terrestrial declaration. But I'll perhaps put that on notice to you.

Prof. Marsh: Okay.

Senator WHISH-WILSON: I'm sure we all agree we don't want to see the maugean skate become the next extinct animal in Australia and we'll pull out all stops.

You may also have to take my last two questions on notice. You may be aware that the South East Trawl Fishery has had spatial closures that were just declared this month because of serious concerns about the decline and lack of recruitment in the jackass morwong. I am just interested in whether there were any discussions between the scientific committee and the Fisheries Management Authority or DAFF in the last, say, two or three years on that species.

Prof. Marsh: Yes. The Threatened Species Scientific Committee and the Australian Fisheries Management Authority have regular meetings about both the status of fisheries under the aegis of AFMA and the listing status of commercial fish. We actually have quite a lot to do on these matters on a very regular basis. They can be quite complicated to assess, but we are very actively involved in it.

Senator WHISH-WILSON: Thank you. I just thought it was an interesting comparison that the federal government's now spent \$25 million to try and do what it can to arrest the decline of that particular fish species. It's an interesting comparison to the skate in some ways. I will put some other question to you on notice on orange roughly. Thank you for your time today and thank you for your care and consideration for the maugean skate; it's greatly appreciated down here in Tasmania, as it is, I'm sure, elsewhere.

Prof. Marsh: It's of great concern to the committee. I know we will be discussing it again in depth at our next meeting.

Mr Fredericks: Could I raise one matter to assist Senator Whish-Wilson. Just on the issue you raised with Professor Marsh about the difference in the legal protections and processes for species as between critically endangered listing and endangered listing, if it would assist, I'd be happy for the department to take on notice to come back to you with a bit of an explanation of that.

Senator WHISH-WILSON: That would be great, or even a private briefing, if that were possible. I would be very interested in that.

Mr Fredericks: Okay, thank you. We will do that.

Senator DAVID POCOCK: Professor Marsh, while we have you, I am interested if you are doing any work on the King Island brown thornbill as a committee. Has that been raised recently?

Prof. Marsh: We have been doing some work on King Island. Is that the one you mean?

Senator DAVID POCOCK: Yes, the little thornbill.

Prof. Marsh: Yes, we're very concerned about King Island birds in general. I'd like to take the thornbill on notice. I certainly know that in general we are very concerned about a number of bird species on King Island and what can be done. We are actually thinking that it may be appropriate for there to be a regional recovery plan for these birds. The whole King Island situation is quite troubling.

Senator WHISH-WILSON: Including the scrubtit.

Prof. Marsh: I can take on notice exactly where that's at. I am sorry that I don't have it at my fingertips. I can probably look it up for you.

Senator DAVID POCOCK: No, that's fine. Maybe on notice, and if you could add the scrubtit for Senator Whish-Wilson as well.

Mr Maldon: I know I have it here in my notes, but I can't remember it offhand.

Ms Kennedy: We can probably help with that too. I know they are both priority species under the action plan, and we are very worried about it as well. We can work together with Professor Marsh to get you information on those.

Senator DAVID POCOCK: Thanks, Professor Marsh.

CHAIR: That concludes today's hearing. Thank you very much to everyone who has appeared today. Thank you to Hansard, Broadcasting and our secretariat for all of your hard work. I will remind senators that the date for written questions on notice to be lodged with the secretariat is 2 June. The committee now stands adjourned.

Committee adjourned at 16:52