

Chapter 5

Use and oversight of Commonwealth water

5.1 As part of its inquiry, the committee undertook to examine the operation, expenditure and oversight of the Water for the Environment Special Account (WESA).

5.2 This chapter examines the funding and expenditure of the WESA, and also looks at the expenditure of government funds more broadly through the purchase of water entitlements, known as buybacks.

5.3 The committee notes that the purchase of water for environmental purposes is the remit of DAWR, and not the CEWH. The CEWH is instead tasked with management of the water purchased by DAWR, and with making determinations on its best use.

5.4 The committee further notes that the House of Representatives Standing Committee on the Environment and Energy is currently undertaking an inquiry into the management and use of Commonwealth environmental water, with particular focus on the role of the CEWH.¹

Environmental water

5.5 The MDBA states that the key to improving the health of the Basin's environment is 'using water recovered for the environment to deliver more natural and variable flows'. The MDBA further states that water holders and managers—including the Australian Government and Basin states—coordinate the delivery of environmental water with irrigation demands and rainfall, with water recovered through improvements to irrigation infrastructure, or through water buybacks.²

5.6 The NSW Government noted that environmental water includes planned environmental water allowances accrued through the regulated river WSPs, and 'environmental water licences arising from the purchase of entitlements by governments and the recovery of water savings from infrastructure projects'. In its submission, the NSW Government observed that the Matthews interim report had drawn 'attention to the complexity surrounding the management of environmental water and the need for a cooperative approach to solutions'.³

5.7 The CEWH manages the government's environmental water holdings and is governed by the Water Act. The CEWH must perform its functions and exercise its

1 House of Representatives Standing Committee on the Environment and Energy, https://www.aph.gov.au/Parliamentary_Business/Committees/House/Environment_and_Energy/EnvironmentalWater (accessed 5 November 2018). A tabling date for the final report is yet to be specified.

2 Murray-Darling Basin Authority, *Water for the environment*, <https://www.mdba.gov.au/managing-water/water-for-environment> (accessed 5 November 2018).

3 NSW Government, *Submission 13*, p. 3.

powers in a manner consistent with the Basin-wide environmental watering strategy and with regard to the Basin annual environmental watering priorities.⁴

5.8 The CEWH submitted that there were 'some state government policies in place which limit the protection and use of environmental water', despite the commitments made by Basin states to maximise the utility of environmental water. The CEWH continued that:

If environmental water is allowed to be extracted by consumptive users it would represent a significant third-party gain at the expense of the Australian tax payer. While a major focus of NSW government water resource management is the mitigation of third-party impacts from environmental watering, facilitating a third-party benefit for some irrigators at the expense of the environment and other water users is not appropriate.⁵

5.9 The EDOs of Australia (EDOA) likewise expressed concern over whether the money expended to date on buybacks had occurred 'without a detailed analysis of the medium to longer-term environmental and social value of this expenditure', or whether the expenditure met the requirements of the Basin Plan or Water Act.⁶

5.10 The Wentworth Group suggested that environmental water held by the Commonwealth and Basin states was not well protected by the existing water management rules, and noted that environmental water could be vulnerable to both illegal extraction, and lawful extraction with adverse consequences. The Group identified the Barwon-Darling system as being one area where environmental water was vulnerable to extraction.⁷

5.11 The NSW Irrigators Council (NSWIC) put forward a different perspective on the same issue, arguing that irrigators had to be assured that their legitimate rights to take water were not impacted 'due to the simplistic approach to a very complex issue of determining what water is environmental water and what water is able to be taken by irrigators, industry and urban utilities' under WSPs.⁸

5.12 The interim report of the Matthews review noted the public perception that water purchased with taxpayer's money, to be used for the environment, was not being appropriately managed. Further, protection of environmental flows was a 'major and complex issue'. The interim report argued that it was 'critical' that the new WRPs being developed for 2019 be assessed by the MDBA 'against the criterion of adequacy of their arrangements for protecting environmental flows'.⁹

4 Commonwealth Environmental Water Holder, *Submission 9*, [p. 1].

5 Commonwealth Environmental Water Holder, *Submission 9*, [p. 2].

6 EDOs of Australia, *Submission 18*, p. 7.

7 Wentworth Group of Concerned Scientists, *Submission 33*, p. 5.

8 NSW Irrigators Council, *Submission 48*, [p. 5].

9 Mr Ken Matthews AO, *Independent investigation into NSW water management and compliance*, interim report, 8 September 2017, pp. 43-44.

5.13 The Matthews review found that environmental flows would further be protected by more short-term solutions, including implementation of individual daily extraction limits, and more flexible commence-to-pump rules during low flow periods and other event-based mechanisms.¹⁰

Water for the Environment Special Account

5.14 The WESA was established in 2013, with the aim of enhancing the environmental outcomes of the Basin Plan via protection of environmental assets and biodiversity. Section 86AA of the Water Act details the ways in which the WESA can enhance environmental outcomes, such as reducing salinity in the Coorong and Lower Lakes, and increasing the water resources available for environmental use.¹¹

5.15 DAWR submitted that specifically, the WESA:

provides funds to ease or remove constraints on the capacity to deliver environmental water and to recover 450 GL of water for the environment with neutral or beneficial social and economic impacts.¹²

5.16 DAWR advised the committee that \$1.775 billion had been allocated for use by the WESA over a ten-year period, commencing in 2014-15. Of this, \$1.575 billion had been allocated for efficiency measure projects, aimed at delivering the additional 450GL of environmental water, by 2024, with a further \$200 million for constraints projects. Supply measures are not funded by the WESA.¹³

5.17 According to DAWR, efficiency projects funded by the WESA could include infrastructure projects to support more efficient use of irrigation water. The WESA could provide payments to address 'adverse social or economic impacts associated with such a project on the wellbeing of a community'.¹⁴

5.18 Total water recovery under the WESA will depend on a range of factors, such as the market value of water, water location, and the security classification type of the water recovered. DAWR advised the committee that:

the Water Act provides for progress in water recovery under WESA to be independently reviewed in 2019 and 2021. These reviews will assess progress that has been made towards recovering environmental water and whether funding in the account is sufficient to meet its objectives.¹⁵

5.19 DAWR provided information regarding its involvement in the oversight and finalisation of projects funded by the WESA, stating that:

10 Mr Ken Matthews AO, *Independent investigation into NSW water management and compliance*, interim report, 8 September 2017, p. 44.

11 *Water Act 2007*, s. 86AA. The WESA was incorporated into the Water Act by the *Water Amendment (Water for the Environment Special Account) Act 2013*.

12 Department of Agriculture and Water Resources, *Submission 47*, p. 5.

13 Department of Agriculture and Water Resources, *Submission 47*, p. 5.

14 Department of Agriculture and Water Resources, *Submission 47*, p. 5.

15 Department of Agriculture and Water Resources, *Submission 47*, p. 5.

In some cases we go down to the individual project level. In some cases we have delivery partners. In the case of the pilot program in South Australia, the South Australian government are a delivery partner there. They assess individual projects and then we do our own assessments on top of that. It's a combination of us and relevant delivery partners who undertake that.¹⁶

5.20 The DAWR 2016-17 annual report stated that a delivery partner had been secured (in September 2016) for the Commonwealth On-Farm Further Irrigation Efficiency (COFFIE) program. This program aims to implement the efficiency measures component of the SDL adjustment mechanism in the Basin Plan, by assisting irrigators to improve their water use efficiency. The annual report maintains that COFFIE will 'assist irrigators to improve the water use efficiency and productivity of their irrigation activities, with water savings being made available to the environment'.¹⁷

5.21 As of September 2017, up to \$15 million of the WESA had been set aside for the COFFIE pilot projects, with 29 projects approved at a cost of \$5.7 million.¹⁸

Reporting and oversight

5.22 Pursuant to the Water Act, the Secretary of DAWR is required to prepare an annual report to the Minister (as soon as practicable after 30 June each year), detailing the operation of the WESA (this annual report is incorporated into DAWR's annual report). The Water Act also provides what details must be included in the annual report, including:

- the objectives and priorities for amounts debited from the WESA during the report year;
- achievements against those objectives and priorities, including the increase to Commonwealth environmental water holdings due to amounts debited from the WESA, a description of the kinds of water rights acquired by the Commonwealth, and the WRP areas in which those water rights were acquired;
- for each project for which an amount was debited from the WESA, a description of the project, the aim of the project and the WRP area in which the project is (or will) be taking place; and
- any significant developments during the report year on projects funded in a previous year.¹⁹

16 Mr Paul Morris, Department of Agriculture and Water Resources, *Estimates Hansard*, 27 October 2017, p. 75.

17 Department of Agriculture and Water Resources, *2016-17 Annual Report*, p. 151, http://www.agriculture.gov.au/SiteCollectionDocuments/about/annualreport/2016-17/annual-report_16-17.pdf (accessed 19 January 2018); Department of Agriculture and Water Resources, *Submission 47*, p. 6. The delivery partner is the SA Murray-Darling Basin Natural Resources Management Board.

18 Department of Agriculture and Water Resources, *Submission 47*, p. 6.

5.23 The amount to be appropriated to the WESA each financial year, from 2014-15 to 2023-2024, is stipulated by section 86AG of the Water Act. The largest allocation of funds took place—as scheduled—in 2017-18, with a total appropriated amount of \$430 million. In 2018-19, \$320 million was to be credited to the WESA pursuant to the Water Act.

5.24 In its 2017-18 annual report, DAWR presented a summary of expenditure from the WESA since its commencement, provided at Table 5.1 below.

Table 5.1: Water for the Environment Special Account, 2015-16 to 2017-18²⁰

Item	2015-16	2016-17	2017-18
Appropriated amount	\$40,000,000	\$110,000,000	\$430,000,000
Movement of funds	Nil	\$64,857,000 ¹	\$43,352,000
Funds expended	\$3,985,145.00	\$1,790,598.34	\$6,958,866

¹ The figure for the 2016-17 movement of funds was incorrectly reported at \$70,000,000 in the 2016-17 annual report.

Expenditure in 2015-16

5.25 In 2015-16, payments totalling \$3.985 million were made from the WESA, from an appropriated amount of \$40 million. This expenditure supported business case development on the movement of environmental water in NSW, South Australia and Victoria. Further payments (of \$6145) were made for specialist advice on development of the COFFIE program.²¹

5.26 In its submission, the NSW Government advised that up to \$2.4 million of funds from the WESA had been made available to it through a December 2015 funding agreement, which provided for NSW to develop constraints management strategy business cases. In March 2016, NSW received a first milestone payment of \$2 million, which included \$1.1 million to engage the MDBA to 'provide hydraulic mapping and monitoring, input into costings and assistance with stakeholder consultation'.²²

Expenditure in 2016-17

5.27 In 2016-17, a number of payments were made from the WESA, totalling \$1.790 million. The payments were made from an appropriated amount of \$110 million. The DAWR annual report provided further information on the 2016-17 expenditure, stating that:

19 *Water Act 2007*, s. 86AI(2).

20 Department of Agriculture and Water Resources, *2017-18 Annual Report*, p. 149.

21 Department of Agriculture and Water Resources, *2015-16 Annual Report*, p. 148.

22 NSW Government, *Submission 13*, p. 3.

Thirteen on-farm projects [under COFFIE] have been approved with a total value of \$4,228,264.80 and contracted water recovery of 814 megalitres. Payments of \$1,749,523.95 have been made. No water contracted has yet been returned to the Commonwealth Environmental Water Holder. All water contracted to date under the COFFIE program has involved works within the South Australian River Murray water resource plan area (SS11).

Payments totalling \$41,074.39 were made for specialist advice in the development and promotion of the COFFIE program.²³

Expenditure in 2017-18

5.28 The payment of \$6.959 million in 2017-18 was for a number of projects and initiatives, including:

- \$100,000 to Victoria for it to complete its constraints projects business cases;
- \$5.792 million in payments to on-farm projects under the COFFIE program;
- \$956,853 to Ernst and Young, engaged by the Ministerial Council in March 2017 to complete an independent review of efficiency measures; and
- other minor expenses on promotional activities for COFFIE, an assurance review of the COFFIE pilot process, and legal advice.²⁴

Reviews of WESA

5.29 Pursuant to section 86AJ of the Water Act, two independent reviews of the WESA must be completed into:

whether the amount standing to the credit of, and to be credited to, the Water for the Environment Special Account is sufficient to increase, by 30 June 2024, the volume of the Basin water resources that is available for environmental use by 450 gegalitres, and to ease or remove constraints identified by the Authority on the capacity to deliver environmental water to the environmental assets of the Murray-Darling Basin.²⁵

5.30 The report of the first review must be provided to the Minister by 30 September 2019, with the report of the second review to be provided to the Minister by 30 September 2021.²⁶

Concerns raised in evidence

5.31 A number of submitters expressed concerns over the management, expenditure and transparency of the WESA.

5.32 WWF-Australia questioned whether expenditure of WESA funds on business cases for constraints measures, underpinning the SDL adjustment mechanism, complied with the objectives of the WESA and the provisions of the Water Act.

23 Department of Agriculture and Water Resources, *2016-17 Annual Report*, p. 151.

24 Department of Agriculture and Water Resources, *2017-18 Annual Report*, p. 148.

25 *Water Act 2007*, s. 86AJ(1).

26 *Water Act 2007*, s. 86AJ(5) and (6).

WWF-Australia raised further concerns about the management of the WESA, including:

- a lack of transparency about how the WESA is managed;
- an inability for the public to engage in the management of the WESA, and
- poor public reporting on how the WESA is managed.²⁷

5.33 Professor Richard Kingsford also questioned the level of transparency around the expenditure of the WESA, stating that 'currently there are relatively few accessible reports in the public arena, apart from high level distribution regarding the total budget'. Professor Kingsford called for auditing and monitoring to better understand the environmental gains or losses associated with efficiency upgrades.²⁸

5.34 The EDOA noted that a number of its clients had expressed concerns that:
in the absence of the necessary checks and balances, public money may be misused at the expense of the environment and other users in the Basin. This is a serious issue that must be urgently addressed.²⁹

5.35 The AFA echoed the sentiments of other submitters, observing that government reporting on the WESA expenditure revealed little about how the money was spent and who it was allocated to, and did not explain 'the accrued benefits...for the Australian taxpayer'.³⁰

5.36 The IRN reiterated these views, noting that there appeared to be 'little or no reporting on how this money has been used'. Further, the IRN observed that there did not appear to be any business cases in the public domain. IRN called for more transparency around the expenditure of the WESA.³¹

5.37 The NIC spoke strongly against the COFFIE program, arguing that the program was 'completely inadequate...untargeted and fails completely to assess impact on communities or irrigation scheme viability.' For these reasons, the NIC objected to the use of WESA funds on the COFFIE program, suggesting that to do so would cause 'significant harm to irrigation communities'.³²

5.38 Environment Victoria also expressed concern about the expenditure on the COFFIE program:

The COFFIE program is the only program to be rolled out so far to meet the objectives of the Special Account and recover the additional 450GL. If \$5,000/ML is the benchmark for water recovery using funds from the Special Account, the \$1.55 billion set aside for efficiency projects will recover only 310GL, well short of the legislated 450GL, and the enhanced

27 WWF-Australia, *Submission 15*, p. 4.

28 Professor Richard Kingsford, *Submission 27*, p. 5.

29 EDOs of Australia, *Submission 18*, p. 8.

30 Australian Floodplain Association, *Submission 44*, p. 13.

31 Inland Rivers Network, *Submission 54*, p. 8.

32 National Irrigators' Council, *Submission 31*, p. 19.

environmental outcomes set out in the Water Act will not be achieved. This would be a very unfortunate outcome.³³

5.39 The NSWIC suggested that the transparency around the projects and programs funded by the WESA was 'sufficient at this stage, as the activities related to water recovery under the Account provision are preliminary and are yet to fully commence'. However, the NSWIC did not support the WESA contributing to any of the 450GL environmental water recovery planned as part of the Basin Plan.³⁴

Government water buybacks

5.40 It has become apparent over recent years that one of the more contentious issues around the management of the MDB and allocation of its water resources is the purchase of water (buybacks) by DAWR, on behalf of the government.

5.41 In limited circumstances, DAWR can consider proposals to sell water directly to the government. DAWR advised that it commissions independent consultants to compile quarterly market price reports, in order to assist the public in understanding the prices being paid for water entitlements across the MDB. In a monthly report, DAWR reports on all water purchased, with pricing information:

usually published at the conclusion of an open water purchase tender to help provide greater transparency and to assist water entitlement holders who may be considering placing an offer to sell water in the future.³⁵

5.42 Under the Sustainable Rural Water Use and Infrastructure Program, \$3.1 billion has been allocated to purchase water to 'assist with bridging the gap to the sustainable diversion limits' in the Basin Plan. The purchase of surface water has been limited to 1500GL, in order to 'provide certainty to Basin communities that the government is prioritising infrastructure investment over water purchasing'.³⁶

Case study - purchase of water entitlements from Tandou

5.43 The concerns around government buybacks have been well demonstrated in a number of recent high-profile examples, including the purchase of water entitlements from Tandou.

5.44 On 22 June 2017, it was reported that the cotton farm Tandou in far west NSW, owned by Webster Limited, was decommissioning its irrigation system. Media reports suggested Webster made an unsolicited approach to the Commonwealth and subsequently entered an agreement to sell its water entitlements, totalling nearly

33 Environment Victoria, *Submission 55*, [p. 6].

34 NSW Irrigators Council, *Submission 48*, [pp. 5-6].

35 Department of Agriculture and Water Resources, *Commonwealth water purchasing in Murray-Darling Basin*, 19 April 2018, <http://www.agriculture.gov.au/water/markets/commonwealth-water-mdb> (accessed 1 November 2018).

36 Department of Agriculture and Water Resources, *Commonwealth water purchasing in Murray-Darling Basin*, 19 April 2018.

22 000MLs. Webster stated that it would receive \$78 million for the sale, and was preparing its final cotton crop for harvest in autumn of 2018.³⁷

5.45 It was later reported that the water entitlements had been independently valued by the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) at nearly half the \$78 million claimed by Webster, but this valuation was not utilised by DAWR. DAWR instead relied on a valuation completed by a private valuer, Herron Todd White, which was prepared for the NSW Government. The purchase proceeded on the basis that the property received 100 per cent of its water entitlement.³⁸

5.46 The media reporting on this issue indicated that ABARES argued that the Herron Todd White valuation, which put the price of water at \$3500 per megalitre for lower Darling high security water, and \$1500 per megalitre for general security water, was 'greatly inflated relative to current prices in the Lower Darling'. It was further reported that the water purchase was not generally advertised, did not proceed through the cabinet process, and was not subject to comment from other relevant government agencies, such as the CEWH.³⁹

Explanations from DAWR

5.47 During Senate Estimates in October 2017, DAWR provided explanations as to the price paid for the Tandou water. Mr Malcolm Thompson, Deputy Secretary, advised that ABARES had valued the water at between \$24 and \$52 million, with the Commonwealth making a payment within that range. The ABARES valuation did not consider the value of the property.⁴⁰

5.48 DAWR considered that the 'most comprehensive assessment' of the value of the property was that completed by Herron Todd White. That valuation valued the water on the property at \$38 million, the midpoint of the ABARES valuation of the water. The further \$40 million reflected compensation for the loss of value of property and for the cessation of future irrigation activity on the property. In summarising the purchase, Mr Paul Morris of DAWR stated that DAWR had bought the water from the property but also:

37 Declan Gooch and Nikolai Beilharz, 'Cotton grower Tandou to sell water entitlements, convert NSW farm to lamb business', *ABC News*, 22 June 2017, <http://www.abc.net.au/news/2017-06-21/cotton-grower-tandou-to-sell-water-entitlements-convert-farm/8639968> (accessed 22 January 2018).

38 Anne Davies, '\$78m government spending on Darling water buyback nearly double its valuation', *The Guardian*, 26 October 2017, <https://www.theguardian.com/australia-news/2017/oct/26/78m-spent-on-darling-water-buyback-nearly-double-its-valuation> (accessed 22 January 2018).

39 Anne Davies, '\$78m government spending on Darling water buyback nearly double its valuation', *The Guardian*, 26 October 2017.

40 Mr Malcolm Thompson, Department of Agriculture and Water Resources, *Estimates Hansard*, 27 October 2017, p. 53; Mr Paul Morris, Department of Agriculture and Water Resources, *Estimates Hansard*, 27 October 2017, p. 54.

bought the rights for them to not irrigate in the future. So, this was removing the servicing of irrigation water—removing some infrastructure that services that property—and also purchasing what they call works rights, which are their entitlements, I suppose, from the New South Wales government to undertake irrigation works on their properties. So we bought out those works rights, we bought out the water and effectively we removed infrastructure that would have serviced water into that property. So there will now be a dry-land property going forward.⁴¹

5.49 It was the position of DAWR that it does not usually release its water evaluation advice, 'due to its commercially sensitive content'. DAWR further argued that the release of such advice could impact on the Commonwealth's future negotiating position and ability to ensure best value for money in expenditure of government funds.⁴²

5.50 DAWR also responded to claims that the property was not receiving 100 per cent of its annual water entitlement, and thus that the amount paid for the water was too much. Mr Morris noted that:

in terms of Lower Darling high security and Lower Darling general security, which are the two types of water we purchased [from Tandou], over the last 40 years, in most years those two types of entitlement received 100 per cent of their allocations, and in a fairly limited number of years they received less than 100 per cent of their allocations.⁴³

5.51 DAWR confirmed that in the previous 12 years for Lower Darling high security water, there was only one year where the water allocation was less than 100 per cent, at 80 per cent. There were therefore no 'ghost years' where no water was available for allocation.⁴⁴

5.52 Mr Morris of DAWR argued that from the department's perspective, 'the Tandou purchase was an important part of delivering the Basin Plan'. Mr Morris stated that the purchase had a broad range of benefits, such as delivering on a Menindee Lakes project as part of the SDL adjustment mechanism.⁴⁵

5.53 The CEWH at the time, Mr David Papps, advised that the Commonwealth Environmental Water Office would provide 'generic acquisition advice' to DAWR on what it believes would be valuable water but that DAWR was responsible for the acquisition of water. In clarifying the roles of DAWR and the CEWH, Mr Papps

41 Mr Paul Morris, Department of Agriculture and Water Resources, *Estimates Hansard*, 27 October 2017, pp. 53, 55.

42 Department of Agriculture and Water Resources, answers to questions on notice, 27 October 2017 (received 20 December 2017).

43 Mr Paul Morris, Department of Agriculture and Water Resources, *Estimates Hansard*, 27 October 2017, p. 54.

44 Mr John Robertson, Department of Agriculture and Water Resources, *Estimates Hansard*, 27 October 2017, p. 54.

45 Mr Paul Morris, Department of Agriculture and Water Resources, *Estimates Hansard*, 27 October 2017, p. 53.

reiterated that the CEWH is principally concerned with the management of Commonwealth water holdings, while the acquisition of those holdings was the responsibility of DAWR. DAWR confirmed that the CEWH did not provide specific advice on the Tandou purchase.⁴⁶

Views raised in evidence

5.54 Strong views were put forward by submitters as to the efficacy or otherwise of government water buybacks and the allocation of environmental water, with a number of submitters giving their views on the Tandou purchase and others commenting on the role of the CEWH in buybacks.

Tandou purchase and other buybacks

5.55 The AFA submitted to the committee that the Tandou purchase equated to approximately \$3500 per megalitre of water. However, other property owners would struggle to receive \$800 to \$1100 per megalitre. The AFA was of the view that from its position, '\$78 million worth of public money has disappeared' with the Tandou purchase.⁴⁷

5.56 Mr Mark Zanker also contended that the purchase price per megalitre at Tandou was greatly inflated. Mr Zanker spoke strongly about the Tandou purchase as highlighting the issues with government buybacks:

This transaction highlighted a significant deficiency with the water market, and one that caused Commonwealth funds in all probability to be wasted. The water market does not appear to recognise the real possibility that the so-called water entitlements associated with a class A water licence or any other class of licence for that matter, may be illusory - stranded assets that have no real value, because in truth, there is no water associated with them, and there is no person or group willing to pay the price, other than a Commonwealth agency doing so for political reasons, rather than reasons of sensible policy and administration. The entitlement may have a notional market value, but no value in reality.⁴⁸

5.57 SAMI contended that the large water purchases by both state and federal governments had influenced the water market, 'by artificially increasing the permanent water price and creating unnecessary volatility in the temporary trade market'.⁴⁹

5.58 The EDOA raised a number of concerns regarding the buyback process more broadly, particularly with regard to closed-tender purchases. The EDOA's reasons for concern included:

46 Mr David Papps, Commonwealth Environmental Water Holder, *Estimates Hansard*, 27 October 2017, pp. 52-53; Mr Paul Morris, Department of Agriculture and Water Resources, *Estimates Hansard*, 27 October 2017, p. 54.

47 Mr Stuart LeLievre, Australian Floodplain Association, *Committee Hansard*, 1 November 2017, p. 24. See also Australian Floodplain Association, *Submission 44*, p. 16.

48 Mr Mark Zanker, *Submission 5*, [p. 2].

49 South Australian Murray Irrigators, *Submission 35*, [p. 2]. See also Murray Irrigation, *Submission 41*, pp. 11-12.

- a lack of public consultation (noting that such consultation is not required by law);
- that DAWR does not—and is not legally required to—explain how the purchases will further the objectives of the Basin Plan and the Water Act; and
- the security level of the water entitlements purchased is not readily available, making it difficult to assess environmental and social value.⁵⁰

5.59 However, the Goulburn Valley Environment Group was of the view that 'the buyback of water rights from willing sellers is by far the most effective use of taxpayer funds to release water to alternative uses'.⁵¹ This view was supported by the ACF, which also argued that the cap on buybacks and the prioritisation of investment in infrastructure was an inefficient mechanism by which to acquire water entitlements.⁵²

5.60 Similarly, Mr Rob Foster argued that selling water entitlements when prices were high could be sensible, and that trading water up and down a river was not 'intrinsically bad'. However, he argued that this should not mean that additional water was being taken from the river, and that compliance should continue to be properly monitored and allocations suitably managed.⁵³

Environmental water

5.61 The NIC remarked that it 'will never be possible to completely prevent some cross over of environmental and commercial use of water'. The NIC suggested that environmental flows could create secondary benefits for landowners, 'just as commercial watering on some private properties often creates environmental benefits'. The NIC concluded that:

When it comes to substantive allegations of use of environmental water by irrigators, those allegations need to be split up into actual allegations of illegal activity and impacts on environmental flow that arise from entirely legal pumping.⁵⁴

5.62 The Mungindi Water Users' and Cotton Growers Association Inc. argued that Commonwealth-owned environmental water was not being used for irrigation. The Association noted that some releases of Commonwealth-owned water could legally be extracted by irrigators, if there were appropriate flows and heights. The Association was of the view that 'misrepresenting the complexities of the relationship between environmental flows and the legal extraction of water has pointed the blame for water shortages at irrigators'.⁵⁵

50 EDOs of Australia, *Submission 18*, p. 7.

51 Goulburn Valley Environment Group, *Submission 21*, [p. 2].

52 Australian Conservation Foundation, *Submission 37*, [p. 9].

53 Mr Rob Foster, *Submission 3*, p. 3.

54 National Irrigators' Council, *Submission 31*, p. 13.

55 Mungindi Water Users' and Cotton Growers Association, *Submission 53*, [p. 10].

5.63 Mr Drew Martin submitted that the CEWH should adopt clear policies for the leasing of water to irrigators, particularly during drought. Mr Martin stated that such policies would assist the irrigation industry by reducing the damage done to it during the next dry period of low allocations. This would in turn enhance both the environment and irrigation communities.⁵⁶

Role of the CEWH

5.64 A number of submitters raised concerns with the actions of DAWR during buybacks, and suggested that the CEWH should be given a greater role and perhaps decision-making abilities in water buybacks, rather than leaving buybacks solely in the remit of the department.

5.65 WWF-Australia argued that the water buybacks that have occurred to date lacked any strategic focus, with the payment of high prices leading to distortions in the water market. The organisation further contended that there had been negligible environmental impacts provided by buybacks in some cases, with an overall lack of transparency regarding DAWR's decision-making process for purchasing environmental water. WWF-Australia called for the CEWH to be given the decision-making responsibility for purchasing environmental water.⁵⁷

5.66 Ms Sarah Moles echoed the sentiments expressed by WWF-Australia, in stating that it was a 'fundamental problem' that the CEWH could manage environmental water, but was not empowered to purchase water from willing sellers directly. Ms Moles suggested that there was 'therefore no opportunity for the CEWH to make strategic purchases with specific environmental needs or desired outcomes in mind'. To this end, Ms Moles expressed concerns over a lack of transparency regarding DAWR's water purchases, arguing it was difficult to determine value for money and environmental outcomes.⁵⁸

5.67 The ACF also supported a legislative framework for the CEWH to be consulted on the security of all water acquired through either purchase or infrastructure, and on the appropriateness of WRP mechanisms of safeguarding environmental water.⁵⁹

5.68 DAWR, however, submitted that it worked closely with the CEWH 'to ensure that strategic acquisitions of water are selected where possible to prioritise environmental outcomes'. DAWR stated that these outcomes could be diverse, including the protection of local natural assets, or 'enhancing major environmental indicators through increased bird or fish breeding events'. As an example, DAWR stated that it had consulted with the CEWH on purchases in the Condamine Balonne, as it 'represented a unique opportunity to secure a significant volume of water in a

56 Mr Drew Martin, *Submission 49*.

57 WWF-Australia, *Submission 15*, p. 5. See also EDOs of Australia, *Submission 18*, p. 9.

58 Ms Sarah Moles, *Submission 19*, [p. 2].

59 Australian Conservation Foundation, *Submission 37*, [p. 8].

catchment of particular strategic importance to achieving the outcomes of the Basin Plan'.⁶⁰

60 Department of Agriculture and Water Resources, *Submission 47*, pp. 4-5.