Chapter 3

Water Amendment (Water for the Environment Special Account) Bill 2012

3.1 Some submitters and witnesses expressed general support for the Water Amendment (Water for the Environment Special Account) Bill 2012 (the Special Account bill). For example, the South Australian government submitted that the Special Account bill was an 'important step in restoring the health of the Murray-Darling Basin'[1] while the River Lakes and Coorong Action Group welcomed:

> …the creation of a bill that supports responsive management of the basin system and at the same time aims to provide funding for the acquisition of an additional 450 gigalitres of water.[2]

3.2 However, some issues regarding the Special Account bill were also raised during the course of the inquiry, including:

- transparency and consultation, in the absence of the final Murray-Darling Basin Plan and other key documents;
- whether and how the object of the new part 2AA might be achieved;[3] and
- the purposes for which payments can be made from the Water for the Environment Special Account (the Special Account).[4]

3.3 These issues are discussed in turn below.

Key issues regarding the bill

Transparency and consultation

3.4 In similarity with the Adjustment Mechanism bill, some submitters and witnesses argued that it was difficult to support the Special Account bill before a range of key documents relating to the legislation have been finalised. In particular, the committee heard that the Special Account bill should not be considered in isolation from the final Murray-Darling Basin Plan, the water recovery strategy, the

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1 Government of South Australia, *Submission 10*, p. 1.

2 Ms Elizabeth Tregenza, Secretary, River Lakes and Coorong Action Group, *Proof Committee Hansard*, 8 November 2012, p. 1.

3 As set out in proposed section 86AA.

4 As set out in proposed section 86AD.

environmental watering plan and any intergovernmental agreements underpinning the Basin Plan.[5]

3.5 The NSW Irrigators' Council (NSWIC) suggested that consideration of the bill be deferred 'until such time as the current Draft Basin Plan is able to be considered by the Senate, stakeholders and the public'.[6] Ms Stefanie Schulte from the NSWIC told the committee:

> In the absence of a finalised basin plan, as a legislative background for these bills it remains extremely difficult for us to evaluate in full the proposed amendments and provide detailed comments to the committee. We continue to reserve the right to endorse the bills; however, until such time as details of the final basin plan are made available along with the assumptions and features underlying the adjustment mechanism, we are unable to provide an endorsement to the committee.[7]

3.6 Similarly, the National Irrigators' Council stated that:

> While the National Irrigators Council is supportive of the principle of additional funding for on-farm works, it is impossible for the NIC to provide an endorsement of the proposed Bill until we have seen the final Basin Plan, the water recovery strategy document, the Intergovernmental Agreement, the regulatory impact statement and other key documents.[8]

3.7 In response to these concerns about considering the Special Account bill in the absence of certain key documents, the Department of Sustainability, Environment, Water, Population and Communities (SEWPAC) acknowledged that the bill:

> …is a facilitative bill. It is part of a broader suite of policy instruments including the respective basin plan, including the SDL adjustment mechanism bill and, ultimately, also including implementation agreements which are proposed between the basin jurisdictions and the Commonwealth government. So it is, if you like, one part of the jigsaw puzzle. It does not stand by itself or self-actuate by itself without all of those other mechanisms interacting in an integrated way.[9]

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5 See, for example, NSWIC, *Submission 13*, p. 1; National Irrigators' Council, *Submission 15*, p. 2; Mr Mark McKenzie, Chief Executive Officer, Murray Valley Winegrowers, *Proof Committee Hansard*, 8 November 2012, p. 24; VFF, *Submission* 6, p. 1; Mr Richard Anderson, Chair Water Council, VFF, *Proof Committee Hansard*, 8 November 2012, p. 29; Mr Matt Linnegar, Chief Executive Officer, National Farmers' Federation (NFF), *Proof Committee Hansard*, 12 November 2012, p. 9.

6 NSWIC, *Submission 13*, p. 3; see also National Irrigators' Council, *Submission 15*, p. 2;

7 Ms Stefanie Schulte, Economic Policy Analyst, NSWIC, *Proof Committee Hansard*, 12 November 2012, p. 1.

8 *Submission 15*, p. 4; see also Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Proof Committee Hansard*, 12 November 2012, p. 5.

9 *Proof Committee Hansard*, 12 November 2012, p. 31.

Object of part 2AA

3.8 Proposed subsection 86AA(3) of the Special Account bill provides that the object of the part 2AA of the Water Act would be achieved by:

(a) easing or removing constraints on the capacity to deliver environmental water to the environmental assets of the Murray-Darling Basin; and

(b) increasing the volume of the Basin water resources that is available for environmental use by up to 450 gigalitres (GL).

3.9 Many organisations raised issues relating to whether and how the object of proposed part 2AA might be achieved, and in particular:

- the list of examples in proposed subsection 86AA(2);
- the potential impacts of removing constraints as outlined in 86AA(3)(a);
- the use of the words 'up to' in paragraph 86AA(3)(b); and
- whether the bill would achieve the object of increasing the volume of Basin water resources available for environmental use by up to 450GL.

3.10 These issues are discussed in the following sections.

List of examples in proposed subsection 86AA(2)

3.11 As outlined in Chapter 1, proposed subsection 86AA(2) sets out a list of examples of how environmental water assets in the Murray-Darling Basin may be protected or restored. Several submitters queried this list;[10] some suggested these examples would be more appropriately contained in the Basin Plan rather than in the legislation.[11]

3.12 Environment Victoria supported the list of examples but noted that it appeared 'to be limited to the Murray system'. Environment Victoria suggested the clause be amended to include the northern basin.[12]

3.13 The River Lakes and Coorong Action Group welcomed recognition of the:

> …importance of the key environmental benefits of reducing levels of salinity in the Coorong, Lake Alexandrina and Lake Albert; maintaining the Murray mouth; the critical need to flush accumulated salts from the whole system; increasing barrage flows to the Coorong to support critical fish migrations; and environmental watering of flood plains throughout the whole basin.[13]

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10 See also VFF, *Submission 6*, p. 3; CSIRO, *Submission 3*, p. 2; and Murray Irrigation, *Submission 5*, pp 7-8.

11 Murray Irrigation, *Submission 5*, p. 7; Mr Richard Anderson, Chair Water Council, VFF, *Proof Committee Hansard*, 8 November 2012, p. 32.

12 Environment Victoria, *Submission 7*, p. 1; see also Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Proof Committee Hansard*, 12 November 2012, p. 3.

13 Ms Elizabeth Tregenza, Secretary, River Lakes and Coorong Action Group, *Proof Committee Hansard*, 8 November 2012, p. 1.

3.14 Similarly, The Wilderness Society (TWS) observed in relation to proposed subsection 86AA(2):

> It is no fluke to me that the area that is highlighted there is the estuary of the river. The health of the river's estuary is pretty much a sign of the health of an entire river system. If we focus on the estuary and the health of this area we can generally say that, if we have a healthy estuary, we have a relatively healthy river.[14]

Constraint removal

3.15 In relation to the removal of constraints, the explanatory memorandum states that:

> The Murray Darling Basin Authority (the Authority) has identified a suite of constraints throughout the Basin which could be addressed to maximise the environmental benefits from implementation of the Basin Plan.
>
> The Bill provides funding to allow the constraints removal to facilitate delivery of the additional environmental water recovery and achieve improved environmental outcomes from those water holdings. This could be done through a range of project including acquisition of flood easements, provision of access works (for example, bridges, culverts), changed watering regimes and increased outlet capacity on major dams and storages.[15]

3.16 However, concern was expressed during the inquiry that the removal of constraints could impact adversely on communities in the Murray-Darling Basin, for example, through flooding of infrastructure and assets.[16]

3.17 The National Irrigators' Council submitted that:

> There are concerns that the potential third party impacts caused by removing or relaxing physical and regulatory constraints are not well understood and have not been adequately addressed in the Bill. Third party impacts include but are not limited to the flooding of private property, homes and infrastructure.[17]

3.18 Mr Mark McKenzie from the Murray Valley Winegrowers told the committee that:

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14 Mr Peter Owen, South Australia Campaign Manager, TWS, *Proof Committee Hansard*, 8 November 2012, p. 11.

15 Explanatory Memorandum, Special Account bill, p. 4.

16 See for example Goulburn Valley Water Action Group, *Submission 2*, p. 1; National Irrigators' Council, *Submission 15*¸ p. 4; VFF, *Submission* 6, p. 4; NSWIC, *Submission* 13, p. 2; see also Mr Richard Anderson, Chair Water Council, VFF, *Proof Committee Hansard*, 8 November 2012, p. 32; Mr Mark McKenzie, Chief Executive Officer, Murray Valley Winegrowers, *Proof Committee Hansard*, 8 November 2012, pp 25 and 28.

17 National Irrigators' Council, *Submission 15*¸ p. 4; see also Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Proof Committee Hansard*, 12 November 2012.

> …we have communities that were built on flood plains over the last 150 years. Whether we like it or not, they are there, and the cost of mitigating collateral damage to them through generating floods down the system is going to be very significant.[18]

3.19 The National Farmers' Federation (NFF) also cautioned:

> …if relaxation of constraints can lead to a better environmental outcome without the social and economic harm, I think people would say that that is a positive way to look at it. But…they require careful examination as to the potential risks which go with relaxation of constraints as well as the potential benefits.[19]

3.20 Other witnesses, however, did not share this concern. The Australian Conservation Foundation (ACF) pointed out that:

> …when the Murray-Darling Basin Authority released their relaxed constraints model…they explicitly relaxed the constraints only to the point that kept flood levels below the minor flood warnings in all of the river reaches they tested. So the constraints that this modelling has assumed to remove would not result in any triggering of even minor flood warning levels, according the basin authority.[20]

3.21 Similarly, Ms Rachel Walmsley of ANEDO observed that:

> I do not think it would be the authority's intent that the release of environmental water would be massive flood events. It would be a controlled, periodic release at certain times.[21]

3.22 In response to this issue, the MDBA told the committee:

> The authority, in developing its proposals to increase environmental watering, will be making sure that that it works with stakeholders to look at where those potential issues are and, if needed, it will put in place restrictions so that that sort of thing does not happen.[22]

3.23 The MDBA further noted that:

> … there are rules in place to manage those events and make sure that inadvertent flooding of private property does not happen.[23]

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18 Mr Mark McKenzie, Chief Executive Officer, Murray Valley Winegrowers, *Proof Committee Hansard*, 8 November 2012, p. 28.

19 Mr Matt Linnegar, Chief Executive Officer, NFF, *Proof Committee Hansard*, 12 November 2012, p. 12.

20 Mr Jonathan La Nauze, Health Rivers Campaigner, ACF, *Proof Committee Hansard*, 8 November 2012, p. 19.

21 Ms Rachel Walmsley, Policy and Law Reform Director, ANEDO, *Proof Committee Hansard*, 12 November 2012, p. 20.

22 Mr Russell James, Executive Director, Policy and Planning Division, Murray-Darling Basin Authority, *Proof Committee Hansard*, 12 November 2012, p. 39.

23 *Proof Committee Hansard*, 12 November 2012, pp 39-40.

3.24 The committee also notes that the explanatory memorandum states:

> Constraints projects will only be implemented after community consultation, negotiation and detailed proposal design.[24]

Use of the words 'up to' in paragraph 86AA(3)(b)

3.25 Proposed paragraph 86AA(3)(b) of the Special Account bill states that the object of this part would be achieved by 'increasing the volume of the Basin water resources that is available for environmental use by *up to* 450 gigalitres'.[25]

3.26 The South Australian government submitted that the bill is:

> …important to ensure that the funding committed by the Commonwealth Government to recover the additional 450GL and address constraints to environmental water delivery is protected by legislation.[26]

3.27 The use of the words 'up to' in this paragraph caused some concern during the course of the inquiry. Several organisations felt that the use of this wording meant that the Special Account bill does not require or guarantee that an additional 450GL will be returned to the river system.[27] For this reason, it was suggested that proposed subsection 86AA(3) should be strengthened.[28] For example, ANEDO suggested that this paragraph be amended to state that the object of part 2AA is achieved by 'increasing the volume of Basin water resources that is available for environmental use by a *minimum* of 450 gigalitres'.[29]

3.28 When questioned about the use of the words 'up to', SEWPAC told the committee:

> The reason is that the bill makes a commitment to money. It provides a special appropriation and a fund to provide a framework with a given amount of money to recover water. The actual water recovery obviously depends on the vagaries of the future, including future prices and so forth. It

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24 Explanatory Memorandum, Special Account bill, p. 4. See also evidence from the Department, *Proof Committee Hansard*, 12 November 2012, p. 40.

25 Emphasis added.

26 Government of South Australia, *Submission 11*, p. 2.

27 See for example ANEDO, *Submission 9*, p. 8; CCSA and TWS, *Submission 11*, p. 9; ACF, *Submission 12*, p. 1; Mr Tim Kelly, Chief Executive Officer, CCSA, *Proof Committee Hansard*, 8 November 2012, p. 9; Mr Rob Fowler, President, CCSA, *Proof Committee Hansard*, 8 November 2012, p. 10 and p. 12; Mr Jonathan La Nauze, Healthy Rivers Campaigner, ACF, *Proof Committee Hansard*, 8 November 2012, pp 18 and 20; Mr Peter Cosier, Convenor, Wentworth Group of Concerned Scientists, 12 November 2012, p. 29.

28 See for example Environment Victoria, *Submission 7*, p. 1; ANEDO, *Submission 8*, p. 6; ACF, *Submission 12*, p. 2; CCSA and TWS, *Submission 11*, p. 9; Mr Rob Fowler, President, CCSA, *Proof Committee Hansard*, 8 November 2012, pp 10 and 13.

29 ANEDO, *Submission 8*, p. 6.

> is a commitment to money which we expect to progressively translate to water over time as the projects are committed and come into actuality.[30]

Increasing the volume of water for environmental use

3.29 During the course of the inquiry, there was some debate about whether the Special Account bill would actually achieve an increase in the volume of Basin water available for environmental use by up to 450GL, as set out in proposed paragraph 86AA(3)(b).

3.30 For example, the ACF was sceptical as to whether an extra 450GL could be recovered through water-saving infrastructure.[31] In contrast, the Victorian Farmers' Federation (VFF) thought it was possible to find 450GL through environmental works and measures.[32]

3.31 In terms of finding the extra water, the department informed the committee about feasibility studies examining ways to find water from efficiency works and measures (that is, achieving equivalent environmental outcomes by using less water). The department explained:

> There are feasibility studies underway that the Commonwealth is funding, in each of the jurisdictions, looking at candidate prospective projects of all different sorts around the basin that have the potential to be offset projects, essentially, to reduce the need for environmental water. But there is quite a substantial process being developed for how the full suite of proposals of that sort would come forward and go through an assessment process and the ones which meet the terms of the adjustment mechanism to see this through to reality.[33]

3.32 In this context, there was also conjecture as to whether an extra 450GL was enough and whether a total reduction in extractions of 3200GL was sufficient.[34] The South Australian government submitted that:

> Science analysis based on modelling by the Murray-Darling Basin Authority shows that the return of 3200GL is required to achieve a healthy river system.[35]

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30 Mr David Parker, Deputy Secretary, Water Group, SEWPaC, *Proof Committee Hansard*, 12 November 2012, p. 33.

31 Mr Jonathan La Nauze, Healthy Rivers Campaigner, ACF, *Proof Committee Hansard*, 8 November 2012, p. 18.

32 Mr Richard Anderson, Chair Water Council, VFF, *Proof Committee Hansard*, 8 November 2012, p. 33.

33 Ms Mary Hardwood, First Assistant Secretary, Water Efficiency Division, SEWPaC, *Proof Committee Hansard*, 12 November 2012, p. 39.

34 See for example, CCSA and TWS, *Submission 11*, pp 3-4; River Lakes and Coorong Action Group, *Submission 14*, pp 2-3; Ms Elizabeth Tregenza, Secretary, River Lakes and Coorong Action Group, *Proof Committee Hansard*, 8 November 2012, p. 2 and p. 5; ANEDO, *Submission 8*, pp 2 and 5.

35 Government of South Australia, *Submission 10*, p. 1.

3.33 It was acknowledged that the Special Account bill and a recovery target of 3200GL was an improvement on the original plan of 2750GL.[36] For example, the River Lakes and Coorong Action Group opined:

> The extra 450 gigalitres offers some small comfort, and maybe the plan will be a basis on which we can move forward…every incremental amount of water that can be returned to the river—when we have a pretty clear indication from the best available science that we are not going to get enough water—is going to be a positive.[37]

3.34 However, several organisations argued that 3200GL was still not sufficient.[38] At the same time, the committee heard evidence that there was a great deal of scientific uncertainty around the exact volume of water required for a healthy river system.[39] In light of these scientific uncertainties, several organisations argued there was a need for an ongoing system of review and monitoring, including public consultation.[40]

3.35 Others cautioned about focussing on the volume of water and suggested that the emphasis should be on the actual outcomes. The River Lakes and Coorong Action Group claimed:

> …it should be more about measuring the health of the river system as a whole and less about focusing on numbers which may in fact not mean anything in reality.[41]

3.36 The VFF held a similar view:

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36 See for example Ms Elizabeth Tregenza, Secretary, River Lakes and Coorong Action Group, *Proof Committee Hansard*, 8 November 2012, p. 3; Mr Tim Kelly, Chief Executive Officer, CCSA, *Proof Committee Hansard*, 8 November 2012, p. 15; Mr Jonathan La Nauze, Healthy Rivers Campaigner, ACF, *Proof Committee Hansard*, 8 November 2012, p. 20.

37 Ms Elizabeth Tregenza, Secretary, River Lakes and Coorong Action Group, *Proof Committee Hansard*, 8 November 2012, p. 7; see also p. 2.

38 See for example, Mr Peter Cosier, Convenor, Wentworth Group of Concerned Scientists, *Proof Committee Hansard*, 12 November 2012, pp 23-24; Mr Tim Kelly, Chief Executive Officer, CCSA, *Proof Committee Hansard*, 8 November 2012, p. 9; Mr Peter Owen, South Australian Campaign Manager, TWS, *Proof Committee Hansard*, 8 November 2012, p. 10; Ms Rachel Walmsley, Policy and Law Reform Director, ANEDO, *Proof Committee Hansard*, 12 November 2012, p. 16

39 See for example Professor Diane Bell, Representative, CCSA, *Proof Committee Hansard*, 8 November 2012, pp 13 and 14; Mr Mark McKenzie, Chief Executive Officer, Murray Valley Winegrowers, *Proof Committee Hansard*, 8 November 2012, p. 25; Mr Peter Owen, South Australia Campaign Manager, TWS, *Proof Committee Hansard*, 8 November 2012, p. 13.

40 River Lakes and Coorong Action Group, *Submission 14*, p. 4; see also Ms Elizabeth Tregenza, *Proof Committee Hansard*, 8 November 2012, pp 3 and 6; Mr Peter Owen, South Australian Campaign Manager, TWS, *Proof Committee Hansard*, 8 November 2012, p. 15; Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Proof Committee Hansard*, 12 November 2012, p. 4.

41 Ms Elizabeth Tregenza, Secretary, River Lakes and Coorong Action Group, *Proof Committee Hansard*, 8 November 2012, p. 3.

> Everyone talks about a volume—2,750 or 3,200. I do not think that this is about a volume. It has never been about a volume. This should be about environmental outcomes. It is not about the volume of water; it is about getting the environmental outcomes.[42]

3.37 In this regard, the committee notes that in his second reading speech the minister listed various outcomes intended to result from the Special Account bill:

- salinity in the Coorong and Lower Lakes being further reduced so that it does not exceed levels which are lethal to insects, fish and plants that form important parts of the food chain;
- water levels in the Lower Lakes being kept above 0.4 metres for 95 per cent of the time, helping to maintain flows to the Coorong, to prevent acidification, and to prevent acid drainage and riverbank collapse below Lock 1;
- the maximum average daily salinity in the Coorong south lagoon being less than 100 grams per litre for 98 per cent of years and less than 120 grams per litre at all times in the model period;
- the maximum average daily salinity in the Coorong north lagoon being less than 50 grams per litre for 98 per cent of years;
- maintaining the Murray Mouth at greater depths, reducing the risk of dredging being needed to keep the mouth open;
- two million tonnes of salt being exported from the basin each year as a long-term average;
- barrage flows to the Coorong being increased, supporting more years where critical fish migrations can occur for estuarine fish,
- opportunities to actively water an additional 35,000 hectares of flood plain in South Australia, New South Wales and Victoria, improving the health of forests and fish and bird habitat, improving the connection to the river, and replenishing groundwater; and
- enhanced in-stream outcomes and improved connections with low-level flood plain and habitats adjacent to rivers in the Southern Basin, which can be achieved.[43]

3.38 The committee also notes that some witnesses called for these outcomes to be specified in the Special Account bill itself.[44]

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42 Mr Richard Anderson, Chair Water Council, VFF, *Proof Committee Hansard*, 8 November 2012, p. 29; see also Mr Matt Linnegar, Chief Executive Officer, NFF, *Proof Committee Hansard*, 12 November 2012, pp 10 and 15; Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Proof Committee Hansard*, 12 November 2012, p. 7.

43 The Hon. Mr Tony Burke, Minister for Sustainability, Environment, Water, Population and Communities, Second Reading Speech, Water Amendment (Water for the Environment Special Account) Bill 2012, *House of Representatives Hansard*, 31 October 2012, p. 9.

Purpose of the Water for the Environment Special Account

3.39 In relation to the purpose of the Special Account, as set out in proposed section 86AD, the key issues raised during the course of the inquiry related to the use of funds from the Special Account to:

- increase the capacity of dams and storage; [45]
- purchase water access rights ("buybacks");[46] and
- address social and economic impacts.[47]

3.40 These are discussed below.

Increasing the capacity of dams and storage

3.41 Proposed paragraph 86AD(2)(a)(iv) of the Special Account bill would enable payments to be made for projects which further the objects of the part by:

> …increasing the capacity of dams and storages to deliver environmental water to the environmental assets of the Murray-Darling Basin.

3.42 Several organisations opposed this clause.[48] For example, the ACF submitted that:

> This provision should be restricted to projects which increase the outlet capacity of existing dams and storages where this is required in order to effectively water environmental assets.[49]

3.43 However, the committee notes that proposed subsection 86AD(4) provides a limit on paragraph 86(2)(a) and that any such payments must be in relation to a project whose aim is to further the objects of part 2AA as set out in 86AA(1); that is:

> …to enhance the environmental outcomes that can be achieved by the Basin Plan, as in force from time to time, by:
>
> (a) protecting and restoring the environmental assets of the Murray-Darling Basin; and
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> (b) protecting biodiversity dependent on the Basin water resources;
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> so as to give effect to relevant international agreements.

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44 See for example Mr Peter Owen, South Australia Campaign Manager, TWS, *Proof Committee Hansard*, 8 November 2012, p. 11 and Mr Rob Fowler, President, CCSA, *Proof Committee Hansard*, 8 November 2012, p. 14.

45 See proposed paragraph 86AD(2)(b).

46 See proposed paragraph 86AD(2)(a)(iv).

47 See proposed paragraph 86AD(2)(c)(ii).

48 See ACF, *Submission 12*, p. 3; ANEDO, *Submission 8*, pp 7-8; Environment Victoria, *Submission 7*, p. 1; Ms Rachel Walmsley, Policy and Law Reform Director, ANEDO, *Proof Committee Hansard*, 12 November 2012, p. 21.

49 ACF, *Submission 12*, p. 3.

Buybacks under proposed paragraph 86AD(2)(b)

3.44 Proposed paragraph 86AD(2)(b) of the Special Account bill would provide that funds from the Special Account may be used to purchase water access rights in relation to Basin water resources ("buybacks").

3.45 Several organisations opposed the idea of further buybacks.[50] Many of these suggested that this clause be removed or deleted, or at the very least, limited in some way. For example, the National Irrigators' Council argued that buybacks should be a "last resort". Mr Tom Chesson, Chief Executive Officer of the National Irrigators' Council, told the committee that the bill should be amended to 'limit the amount of buybacks' and in particular to:

> …stipulate how much water could be purchased out through large-scale tenders and buyback.[51]

3.46 Similarly, Murray Irrigation felt that paragraph 86AD(2)(b) should be removed, stating:

> Murray Irrigation does not support further Commonwealth buyback of water entitlements believing that any transfer of entitlement must be directly related to an efficiency, infrastructure or reconfiguration project.[52]

3.47 Mr Matt Linnegar, Chief Executive Officer of the NFF, told the committee that a limit should be placed on any future buybacks 'in light of the social and economic consequences that would follow'.[53]

3.48 These organisations expressed a preference for funds in the Special Account to be spent on upgrading infrastructure and other efficiency measures.[54] For example, the Murray Valley Winegrowers told the committee there needed to be more strategic thinking :

> …we would much prefer to have a look at investing the money in capital works, environmental works and measures, that can save money without

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50 See for example, NFF, *Submission* 9, p. 1; NSWIC, *Submission 13*, pp 2-3; National Irrigators' Council, *Submission 15*, pp 2-3; ADIC, *Submission 4*, p. 2; VFF, *Submission 6*, p. 3.

51 Mr Thomas Chesson, Chief Executive Officer, National Irrigators Council, *Proof Committee Hansard*, 12 November 2012, p. 3.

52 Murray Irrigation, *Submission 5*, p. 8.

53 Mr Matt Linnegar, Chief Executive Officer, National Farmers' Federation, *Proof Committee Hansard*, 12 November 2012, p. 11.

54 See for example, NSWIC, *Submission 13*, pp 2-3; National Irrigators' Council, *Submission 15*, p. 2; Mr Mark McKenzie, Chief Executive Officer, Murray Valley Winegrowers, *Proof Committee Hansard*, 8 November 2012, p. 23; Mr Matt Linnegar, Chief Executive Officer, NFF, *Proof Committee Hansard*, 12 November 2012, p. 12; Mr Richard Stott, Chairman, NSWIC, *Proof Committee Hansard*, 12 November 2012, p. 5.

> eroding that economic base for our industries—and that is why the focus is on infrastructure, not buyback.[55]

3.49 The NFF was of:

> …the very strong view that such water recovery cannot and should not come from increasing water acquisition. This can only be to the detriment to the social and economic outcomes in the Basin.[56]

3.50 As a result, the NFF argued that the clause should be amended to:

> …link the acquisition of any water entitlements to delivering an outcome only against the recovery of water entitlements from off river water infrastructure and efficiency projects.[57]

3.51 In contrast, others felt buybacks to be the most efficient and cost-effective way of recovering water.[58] For example, ANEDO claimed:

> …research indicates that buying water access rights is the most cost-effective means of returning water to the environment.[59]

3.52 In response to questions about buybacks, the department stated:

> Essentially this clause is there because there is a consensus among basin jurisdictions…that in addition to the actual infrastructure investment on-farm, which traditionally has involved the spending of the cost of the infrastructure in return for half of the water recovery, these projects under this program would do that; there would be an investment in infrastructure in return for half of the water saving but it would have an associated linked purchase at the farm level for the remainder of the water saving. So it is not just an infrastructure program; it is a linked purchase program that is effectively tied at the farm gate...This would mean that the farmer would get the return on the infrastructure and additional water saving, which would then be sold at market price. That has the effect of bringing the average recovery cost below the numbers that you talked about before…It is not imagined in that particular provision of the bill that there would be a standard water buyback associated with that 450 gigalitres.[60]

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55 Mr Mark McKenzie, Chief Executive Officer, Murray Valley Winegrowers, *Proof Committee Hansard*, 8 November 2012, p. 24 and see also p. 26; see also Mr Richard Anderson, Chair Water Council, VFF, *Proof Committee Hansard*, 8 November 2012, p. 30.

56 NFF, *Submission 9*, p. 1.

57 NFF, *Submission 9*, p. 2.

58 See for example, ACF, *Submission 12*, p. 1; Mr Alistair Wood, *Submission 16*, p. 1; River Lakes And Coorong Action Group, *Submission 14*, p. 3; Mr Jonathan La Nauze, Healthy Rivers Campaigner, ACF, *Proof Committee Hansard*, 8 November 2012, p. 20.

59 ANEDO, *Submission 8*, p. 6; see also Ms Rachel Walmsley, Policy and Law Reform Director, ANEDO, *Proof Committee Hansard*, 12 November 2012, p. 20.

60 Mr David Parker, Deputy Secretary, Water Group, SEWPaC, *Proof Committee Hansard*, 12 November 2012, p. 34.

3.53 In response to questioning as to whether 450GL could be found through buybacks, the department advised the committee that subsection 86AD(4) limited paragraph 86AD(2)(b) in that:

> The project or purchase has to be related to an adjustment. That adjustment has to take place under the SDL adjustment mechanism and that only permits water to be recovered in a socioeconomically neutral way.[61]

Social and economic impacts

3.54 The issue of balancing environmental with social and economic impacts was raised in relation to the Special Account bill, both in the context of buybacks and constraints removal.[62]

3.55 Several suggestions were made as to how social and economic issues should be dealt with. For example, ADIC recommended that the Special Account bill be amended to include a provision requiring all programs to be subjected to a socio-economic impact assessment as part of the approvals process.[63]

3.56 The National Irrigators' Council recommended that proposed subsection 86AD(4) be amended to provide that the over-riding objective should be to recover water in a way which does not have adverse social and economic impacts for local communities.[64]

3.57 Ms Stefanie Schulte, Economic Policy Analyst for the NSWIC, told the committee that:

> If the intention of the bills is to achieve greater environmental outcomes subject to social and economic neutrality, as is suggested in both of the explanatory memorandums, then the bill should in our opinion reflect this explicitly.[65]

3.58 With respect to addressing adverse social or economic impacts, the committee notes that paragraph 86AD(2)(c)(ii) of the Special Account bill would enable funds from the Special Account to be spent to make payments:

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61 Mr David Parker, Deputy Secretary, Water Group, SEWPaC, *Proof Committee Hansard*, 12 November 2012, p. 36 and see also p. 38.

62 See for example NSWIC, *Submission 13*, pp 1-2; also Mr Mark McKenzie, Chief Executive Officer, Murray Valley Winegrowers, *Proof Committee Hansard*, 8 November 2012, p. 25; ANEDO, *Submission 8*, pp 6-7; ADIC, *Submission 4*, p. 2; Murray Irrigation, *Submission 5*, p. 6; VFF, *Submission 6*, p. 2; Mr Matt Linnegar, Chief Executive Officer, NFF, *Proof Committee Hansard*, 12 November 2012, pp 9 and 13; Ms Rachel Walmsley, Policy and Law Reform Director, ANEDO, *Proof Committee Hansard*, 12 November 2012, p. 17.

63 ADIC, *Submission 4*, p. 3.

64 National Irrigators' Council, *Submission 15*, p. 4; see also Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Proof Committee Hansard*, 12 November 2012, p. 2.

65 Ms Stefanie Schulte, Economic Policy Analyst, NSWIC, *Proof Committee Hansard*, 8 November 2012, p. 2.

> …to address any detrimental social or economic impact on the wellbeing of any community in the Murray-Darling Basin that is associated with a project or purchase referred to in paragraph (a) or (b) or subparagraph (c)(i) so as to offset any such impact…

3.59 However, some organisations felt that proposed paragraph 86AD(2)(c)(ii) was too broad, and were concerned that the minister might use most or all of the money in the Special Account bill to address social and economic issues.[66]

3.60 For example, Environment Victoria submitted that paragraph 86AD(2)(c)(ii) was:

> ...open ended and could result in the majority of the funds in the Special Account being used for a range of purposes other than the acquisition of water for the environment.[67]

3.61 Indeed, ANEDO claimed that this paragraph:

> …does not further these objects insofar as it is entirely concerned with socio-economic, as opposed to environmental, outcomes. Rather, it is likely to undermine the Objects of Part 2AA by directing funding away from projects or purchases that would otherwise increase delivery of environmental water to Basin assets.[68]

3.62 In response to concerns about social and economic impacts, and the extent to which funds from the Special Account might be used to address these, the department informed the committee that:

> Paragraph 86AD(2)(c)...is the paragraph which references these payments to furthering the objectives of the part, and the part in turn references the adjustment mechanism provisions of the plan. There is an interconnection such that the special account funds can only be expended if it is to achieve the outcomes of the adjustment provisions of the plan. The adjustment mechanism bill is the bill that requires the plan to set out the criteria for those adjustments.[69]

3.63 The committee also notes that the explanatory memorandum states:

> The Government is committed to building on the Basin Plan to achieve environmental outcomes beyond those delivered by a 2,750GL reduction while maintaining or improving economic and social outcomes.[70]

3.64 And:

> The Bill establishes the Account to set aside these funds to enable water to be recovered and constraints to be removed without negatively impacting

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66 CCSA and TWS, *Submission 11*, p. 9-10; ANEDO, *Submission 9*, p. 8; ACF, *Submission 12*, p. 2; Mr Rob Fowler, President, CCSA, *Proof Committee Hansard*, 8 November 2012, p. 10.

67 Environment Victoria, *Submission 7*, p. 3.

68 ANEDO, *Submission 8*, p. 7; see also ACF, *Submission 12*, p. 1.

69 *Proof Committee Hansard*, 12 November 2012, p. 35.

70 Explanatory Memorandum, Special Account bill, p. 2.

> on the wellbeing of communities in the Basin. That water will be recovered in a way that meets the requirements of the Basin Plan that there are no negative social or economic impacts on Basin communities.[71]

3.65 Further, the committee notes that the minister, in his second reading speech, drew attention to the proposed Basin plan which stipulates that additional water would only be acquired in ways that did not have 'negative social and economic consequences such as infrastructure'.[72]

Committee comment

3.66 The committee welcomes the government's commitment, and the associated funding, to achieve environmental benefits in the Murray-Darling Basin: the Special Account bill would provide the Commonwealth with a secure funding stream to be used to recover up to an additional 450GL of water for environmental use in the Basin.

3.67 The committee recognises, however, that the Murray-Darling Basin Plan and other related documents are yet to be finalised and made publically available: it is therefore difficult for stakeholders to fully consider the implications of the Special Account bill. The committee looks forward to finalisation of the Basin Plan by the end of 2012 and the certainty its release will bring to stakeholders.

3.68 With regard to recovering an additional 450GL of water, the committee shares the concerns of submitters who suggested that the words 'up to' should be removed from paragraph 86AA(3)(b) of the Special Account bill. The committee therefore recommends that 'up to' is removed from the bill.

Recommendation 2

3.69 The committee recommends that the words 'up to' are removed from paragraph 86AA(3)(b) of the Special Account bill.

3.70 The committee also acknowledges the mistrust on behalf of some stakeholders that the intended outcomes of the Special Account bill, as outlined by the minister in his second reading speech (see paragraph 3.37), will come to fruition. To address the issue, the committee recommends that the Special Account bill is amended to include the intended outcomes outlined by the minister.

Recommendation 3

3.71 The committee recommends that the Special Account bill is amended to include the intended outcomes listed by the minister in his second reading speech.

3.72 Irrespective, the committee believes the Special Account bill provides an important platform from which to work towards restoring the health of the Murray-Darling Basin. The committee therefore recommends that the Special Account bill be passed.

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71 Explanatory Memorandum, Special Account bill, p. 2.

72 The Hon Tony Burke MP, Minister for Sustainability, Environment, Water, Population and Communities, *House of Representatives Hansard*, 31 October 2012, p. 12740.

Recommendation 4

3.73 Subject to the preceding recommendations, the committee recommends that the Special Account bill be passed.

Senator Doug Cameron
Chair