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Proof Committee Hansard

SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE

Estimates

(Public)

FRIDAY, 23 OCTOBER 2020

CANBERRA

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SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE

Friday, 23 October 2020

Members in attendance: Senators Antic, Davey, McAllister, McDonald, McKenzie, McLachlan, O'Neill, Patrick, Rennick.

CROSS-PORTFOLIO MURRAY-DARLING BASIN PLAN MATTERS

In Attendance

Senator Birmingham, Minister for Trade, Tourism and Investment

Executive

Mr James Larsen, Deputy Secretary, Environment and Heritage Group

Mr Dean Knudson, Deputy Secretary, Major Environment Reforms Group

Ms Cindy Briscoe, Deputy Secretary, Enabling Services Group

Ms Lyn O'Connell, Deputy Secretary, Water, Climate Adaptation, Natural Disaster and Antarctic Group

Mr David Hazlehurst, Deputy Secretary, Agricultural Trade Group

Ms Rosemary Deininger, Acting Deputy Secretary, Agriculture Policy, Research and Portfolio Strategy Group

Mr Andrew Tongue, Deputy Secretary, Biosecurity and Compliance Group

Australian Bureau of Agricultural Resource Economics and Sciences

Mr David Galeano, Acting Executive Director, Natural Resources Branch

Commonwealth Environmental Water Office

Ms Jody Swirepik, Commonwealth Environmental Water Holder/First Assistant Secretary

Mr Michael Wrathall, Assistant Secretary, Wetlands, Policy and Northern Water Use Branch

Mr Hilton Taylor, Assistant Secretary, Southern Water Use, Aquatic Science and Community Engagement Branch

Inspector-General of Murray-Darling Basin Water Resources

Mr Ramzi Jabbour, Manager, Office of the Interim Inspector-General of Water Compliance

Murray-Darling Basin Authority

Mr Phillip Glyde, Chief Executive

Mr Tim Goodes, Executive Director, Basin Plan Regulation Portfolio

Mr Andrew Reynolds, Executive Director, River Management Portfolio

Ms Vicki Woodburn, Executive Director, Basin Strategy and Knowledge Portfolio

Ms Kelly Casey, Acting Chief Operating Officer, Business Services Portfolio

Ms Megan Winter, General Management, Communications, Engagement and Strategic Policy Branch

Mr Daniel Blacker, General Management, Office of Compliance

Dr Matthew Coleman, Director, Applied Science Branch

Water Division

Ms Rachel Connell, First Assistant Secretary

Mr Matthew Dadswell, Assistant Secretary, Murray-Darling Basin Sprint

Ms Kirsty Bunfield, Assistant Secretary, National Water Policy Branch

Mr John Robertson, Assistant Secretary, Sustainable Water Branch

Mr Andrew O'Sullivan, Assistant Secretary, Water Recovery Branch

Dr Peta Derham, Assistant Secretary, Murray-Darling Basin Policy Branch

Water Efficiency and Labelling Standards Regulator

Ms Rachel Connell, First Assistant Secretary

Ms Kirsty Bunfield, Assistant Secretary, National Water Policy Branch

Ms Teresa McMaugh, Director, National Water Policy Branch

Committee met at 09:02

CHAIR (Senator McDonald): I declare open this public hearing of the Senate Rural and Regional Affairs and Transport Legislation Committee. The Senate has referred to the committee the particulars of proposed expenditure for 2020-21 and related documents for cross-portfolio Murray-Darling Basin Plan matters. The committee may also examine the annual reports of the departments and agencies appearing before it. The committee has fixed Thursday 3 December 2020 as the date for the return of answers to questions taken on notice.

Senators are reminded that any written questions on notice should be provided to the committee secretariat by close of business on Friday 6 November 2020. 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 to a committee.

The Senate, by resolution in 1999, endorsed the following test of relevance of questions at estimates hearings: any questions going to the operations or financial positions of the departments and agencies which are seeking funds in the estimates are relevant questions for the purposes of estimates hearings. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has the discretion to withhold details or explanations from the parliament or its committees, unless the parliament has expressly provided otherwise. The Senate has resolved also that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. I particularly draw the attention of witnesses to an order of the Senate from 13 May 2009, specifying the process by which a claim of public interest immunity shall be raised, which will be incorporated in *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: Witnesses are specifically reminded that a statement that information or a document is confidential or consists of advice to government is not a statement that meets the requirements of the 2009 order. Instead, witnesses are required to provide some specific indication of the harm to the public interest that could result from the disclosure of the information or the document. Senators, departments and agencies have been provided with advice on the arrangements that are in place to ensure that the budget estimates 2020-21 hearings are conducted in a safe environment. This guidance is also available from the secretariat. The committee appreciates the cooperation of all attendees in adhering to these arrangements.

**Department of Agriculture, Water and the Environment
Murray-Darling Basin Authority**

[09:05]

CHAIR: I now welcome Senator the Hon. Simon Birmingham, Minister for Trade, Tourism and Investment; Mr Andrew Metcalfe, AO, Secretary to the Department of Agriculture, Water and the Environment; and Mr Philip Glyde from the Murray-Darling Basin Authority. Minister Birmingham and representatives, do any of you wish to make an opening statement?

Senator Birmingham: Good morning, Chair. Good morning, senators. A quick day, but a thorough day, is a good one. I do not have an opening statement, but I think a couple of my colleagues at the table may.

Mr Metcalfe: Thanks, Minister. Thank you, Chair and good morning, senators. Chair, just so that you're aware, unfortunately, Mr Glyde is not well. He is unable to be here today, and I think we all know that he would be here if he could possibly could. Mr Andrew Reynolds is here, leading the Murray-Darling Basin Authority.

Chair, as you're aware, the Murray-Darling Basin Plan is a long-term and complex reform, designed to ensure a sustainable future for communities, industries and the environment. My department recognises that work to implement the Basin Plan has been going on during a time of immense stress for basin communities. The effects of the COVID pandemic, coupled with years of drought and a savage summer of bushfires, have combined to an unprecedented set of challenges. The final report from the independent assessment of social and economic conditions of the Murray-Darling Basin, led by Ms Robbie Sefton, demonstrated the extra pressures some communities experience because of water recovery, amongst other issues.

The government listened to the findings of this review and used them, along with the findings of the first statutory review of the Water for the Environment Special Account, to inform a new approach to implementing the Basin Plan. Both of those reports and the government responses are available on the department's website. It's for the reasons I've mentioned that, on 4 September, the Minister for Resources, Water and Northern Australia, the Hon. Keith Pitt, announced a \$270 million Murray-Darling Communities Investment Package. Importantly, it's designed to put communities and jobs at the heart of the Murray-Darling Basin Plan. The package is made up of practical and realistic measures over four years from 2020-21 to improve community and river health; build trust, transparency and accountability in governments; and improve implementation of the plan. The government believes that it's a demonstration of its commitment to build a culture of engagement and genuine trust with communities and between governments. In addition, the appointment of Air Chief Marshal Sir Angus Houston, AK, AFC, retired, to lead the Murray-Darling Basin Authority as chair is also a demonstration of that commitment. Sir Angus brings extensive leadership experience to the role and has lost no time in getting out and about to meet basin communities where travel restrictions have allowed that to occur.

The department is focused on delivering the package by designing and implementing water programs in partnership with communities while also supporting basin states to accelerate planning and delivery of projects. All basin governments remain committed to the plan. It's already delivering real benefit to the environment as the Commonwealth Environmental Water Holder will now outline briefly.

Ms Swirepik: Good morning, committee members, and thank you, Chair, for the opportunity to make an opening statement. This year has been difficult for communities in the Murray-Darling Basin and, while the rain has provided some relief, recovery is not immediate and we understand that dams are not full.

We all need some good news, and I can assure the committee that, even in the record-breaking drought, environmental flows have provided positive outcomes across the basin. For instance, this year marks 10 years of

continuous flows into the Coorong since the breaking of the millennium drought in 2010. This means that the Basin Plan has worked as the recent drought did not result in the same terrible impacts and the risk for the end of the river system. Today my office is attending a function at the Murray mouth, celebrating the Commonwealth environmental flows that enabled that connection to be maintained even over a severe drought.

During the last five years environmental water has supported 25,000 kilometres of rivers in the basin, 28,000 hectares of lakes, 158,000 hectares of wetlands and 26,000 hectares of flood plain. It's helped to maintain 11 of the 16 RAMSAR sites in the basin and supported over a million water birds. It's promoted vegetation biodiversity across the basin, supporting more than 640 species, and it's supported native fish spawning and migration. This is only possible with careful and considered use of the water we have because, like other water users, we've had very low allocations during the drought.

Earlier this year the Commonwealth's largest environmental watering in the northern basin saw 163 gigalitres of flow in the Lower Balonne. Following seven years, critically needed water flowed into the internationally important Narran lakes, a place of immense significance to First Nations people. As I outlined at the last estimates hearing, we undertook an innovative grant process to maximise water to this wetland. More than 30 waterbird species have been observed in the recently flooded lakes.

Environmental flows provided drought refuge over the last year for wildlife and improved water quality in many of the northern and southern catchments. Currently, in the Lower Darling, we are delivering water for the environment to help improve the condition of the river and to help native fish like Murray cod to breed this spring. This is their first chance to breed since the devastating fish deaths two summers ago.

Last year Murray flows supported native birds and fish in 5,000 kilometres of river, including breeding and feeding habitats for the endangered Australasian bitterns and Murray hardyhead fish. All of this work would not have been possible without engagement from communities, including irrigators, First Nations peoples, catchment managers, scientists and environmental groups. So, we are achieving positive outcomes right from the top of the basin to the bottom.

While there have been many achievements, we still face some challenges in the delivery of water for the environment. In the coming years, we look forward to getting better environmental benefits through actions such as alleviations of current constraints to the delivery of water in many catchments and further implementation of measures which allow for the most efficient use of our water. Thank you, Chair.

CHAIR: Thank you very much.

Mr Reynolds: Before I start, could I just tender Phillip Glyde's apologies again. Unfortunately, he's been taken ill overnight and is unable to be here today.

I'm pleased to report that storages in the basin are sitting on 56 per cent, 20 per cent ahead of where they were at the same time last year. ABARES expects the average price of water will be around \$250 to \$300 per megalitre this season, much lower than the \$550 from last year. Winter crop prospects are looking very favourable in New South Wales—welcome news for producers who have faced multiple years of drought. ABARES is forecasting the largest winter crop harvest since the record of 2016-17. Winter crop production is forecast to increase by 64 per cent in 2021 to 47.9 million tonnes—20 per cent above average. Of course increased flows this season have benefited the environment, recreation and communities in many parts of the basin, although some areas remain in drought.

The MDBA welcomed the appointment of our new chair, Sir Angus Houston. Sir Angus and Phillip travelled around the New South Wales Riverina earlier this month. The improved season was clear from the look of the country. It has also lifted spirits.

Sir Angus has also conducted a great number of virtual meetings with ministers, stakeholders and community representatives. I'd like to thank everyone in the basin who gave up their time for the meetings. I know he found it invaluable to hear firsthand people's perspectives on the water reform journey.

While people might be feeling a little more optimistic, they're also feeling the decisions that impact them are still being made for them and not with them. Communities are still stressed. This is evident from Robbie Sefton's examination of the socioeconomic conditions in the basin and from the feedback we received from our regionally located staff. We know we're on a difficult reform journey and for some it's painful.

We the MDBA, and also our colleagues in government, are adjusting as we learn from locals and as new science and information becomes available. I'd like to think the best example of this is the fact that MDBA is on track to have a third of our workforce living and working in basin communities by the middle of next year. We've attracted new people to our team, many from the regional towns where our offices are based. They have diverse skills, perspectives, networks and life experiences and are actively contributing to new ways of working, both

with communities and within our organisation. We've already made inroads to improve transparency. Every month we publish a snapshot of environmental flows in the river, as well as a monthly summary of rainfall, inflows and water quality information, known as 'Basin In Brief'. Next year, we'll launch a monthly webinar series and swing open the doors on how we run the river. We know there is more for us to do at the grassroots level, but having people in our team living and working in places like Griffith, Mildura, Murray Bridge and Goondiwindi means the connections and relationships develop more easily, whether that's a conversation at school drop-off, in the supermarket or at industry or community events. The new relationships are all making a difference, and we will keep building on that.

CHAIR: Thank you, and I'm sure the committee joins me in wishing Mr Glyde a quick recovery.

Senator McALLISTER: Chair, if possible, could we have copies of those opening statements provided?

CHAIR: Yes, of course. Can we ask for those to be made available to the secretariat for tabling this morning, please? Thank you.

Senator McALLISTER: I want to ask about the program and who will be appearing this afternoon for the Inspector-General of Murray-Darling Basin Water Resources.

Mr Metcalfe: Senator, as you would be probably aware, that position is currently vacant. The inspector-general's term ended at the end of September, and the government has announced that it will be creating a new Inspector-General of Water Compliance, but that role has not yet been filled. We were proposing—and we had communicated this to the committee, I understand—that senior officers of the department appear to try and assist the committee with any questions it may have.

Senator McALLISTER: I see. So there is no-one doing the inspector-general role at the moment?

Mr Metcalfe: There's no-one in the inspector-general role—

Senator McALLISTER: Is it still a role?

Mr Metcalfe: As you recall, it was an interim inspector-general role. It was not legislated, and Mr Keelty's term expired a few weeks ago.

Senator McALLISTER: Why was no-one appointed to replace Mr Keelty?

Mr Metcalfe: The minister has indicated that the government intends to create a new role of Inspector-General of Water Compliance, and the process of filling that role is currently under way.

Senator McALLISTER: There was a commitment to create an Inspector-General of Murray-Darling Basin Water Resources. That was never met. Is that correct? We only ever had an interim inspector.

Mr Metcalfe: We only ever had an interim. The legislation to create the role was never enacted.

Senator McALLISTER: So now we've got a new announcement, which is to have an Inspector-General of Water Compliance.

Mr Metcalfe: That's correct.

Senator McALLISTER: Will that person be appointed on a permanent or an interim basis?

Mr Metcalfe: I will check if I'm incorrect, but my understanding is that the intention is to appoint a person on an interim basis prior to the legislation creating the role passing, so a similar arrangement to what we had previously.

Senator McALLISTER: Okay. So we've had an Interim Inspector-General of Murray-Darling Basin Water Resources, and now we're going to get an Interim Inspector-General of Water Compliance, but that person is yet to be appointed.

Mr Metcalfe: That's correct.

Senator McALLISTER: When will that appointment process conclude?

Mr Metcalfe: It's currently with the minister. We can check as to when he expects it to conclude, but it is certainly under way.

Senator Birmingham: The minister anticipates an appointment this year, Senator.

Senator McALLISTER: This year. So we'll have another person acting in an interim capacity in compliance, perhaps by the end of the year.

Senator Birmingham: In that instance, that will be pending the passage of the legislation, Senator. I would anticipate that the appointment will be an individual who, subject to that passage of legislation, and the parliament approving the legislation, would then be ongoing.

Senator McALLISTER: Can I ask about the interim inspector-general of water resources? How many cases of water theft were reported to Mr Keelty when he was acting in his interim role?

Mr Metcalfe: We're happy to get the right people to the table now, Senator, or we could deal with it at 3 o'clock. It's really up to you.

Senator McALLISTER: I'd like to understand what's happening, to be honest, because it seems a bit untidy. How many cases of water theft were reported to Mr Keelty when he was acting in his interim role?

Ms Connell: I understand there were approximately 20 cases, but I would need to confirm that number for you. I do note that we have an hour session this afternoon on this topic.

Senator McALLISTER: Are you the person who is now responsible for all of these matters, given that there is no-one acting in the enforcement role?

Mr Metcalfe: Ms Connell is the first assistant secretary of the water division in the department and so is obviously very familiar with water policy issues, but, in the absence of an inspector-general, she and Ms O'Connell are the most senior officers who can generally talk to these issues. We can certainly check our records as to detail of the questions that you might have. The inspector-general's office, of course, was effectively in a separate part of the department to maintain some separation between the people who were undertaking the work and Mr Keelty, who was reviewing the work.

Ms Connell: I now have that information to hand. I can confirm on advice from the office that was supporting the interim inspector-general that there were 30 referrals—19 in relation to New South Wales matters, five in relation to Victorian matters, one in relation to a South Australian matter and five in relation to Commonwealth matters. But given the role of the interim inspector-general was to provide assurance and oversight of the water division as well, and the Commonwealth, I don't have the details of those matters that were referred.

Senator O'NEILL: So it's really a bit of a problem that Mr Keelty is not able to answer these questions, isn't it?

Mr Metcalfe: Mr Keelty is no longer in the role, so there is this interregnum period.

Senator O'NEILL: Is it not important enough that he was able to stay in it and continue to provide the scrutiny he was supposedly going to provide?

Mr Metcalfe: His term ended at the end of September. If senators do have questions, we're more than happy to see what we can do during the course of today to check the records of the inspector-general to provide you with assistance on these matters.

Senator Birmingham: As I understand, Mr Keelty indicated that he did not wish to extend his contract. So, in that case, that explains why he is not at the table. If there are particular details that we can try to get and ensure responses can be provided by the time we get to the scheduled part on the program to deal with these issues then we're happy to take those questions now. Hopefully officials can try to have responses for that scheduled time on the program.

Senator McALLISTER: I am mostly interested in the interaction between the arrangements you've put in place—the interim arrangements that were supposed to be made permanent but never were—and the outstanding case load in terms of compliance in the basin. That is a question, in my view, for the department, because it goes to the structural arrangements to manage water compliance in the basin. How many cases of water theft were then investigated by the interim inspector-general when he was still in his role?

Senator Birmingham: Officials can answer the question you've just asked. To the comment you just made before, I want to be clear on the compliance functions of the Murray-Darling Basin Authority: the minister indicated on 4 September that they will shift with the new Inspector-General of Water Compliance but, of course, those functions, legally, remain intact. So it would be wrong to suggest that there is an absence of compliance. But, in terms of the question that you've asked—

Senator O'NEILL: I'd be uncomfortable, but I don't think it's wrong.

Senator McALLISTER: Can I have the answer to my question, please?

Ms Connell: Sorry—can I get you to restate the question?

Senator McALLISTER: I originally asked about how many cases were reported to Mr Keelty when he was acting in his interim role. I'm now asking how many of those cases were investigated.

Ms Connell: My understanding is that Mr Keelty investigated approximately three matters. None of those were in relation to water theft. And I understand, but we will confirm, that all the referrals in relation to water

theft were referred back to state water regulators. State governments have responsibility in the first instance for regulating water theft under their legislative frameworks.

Senator McALLISTER: Right. So, the interim inspector general in fact, during his appointment, investigated three cases.

Ms Connell: He investigated three cases and I understand also undertook a range of inquiries.

Senator McALLISTER: How did he undertake any of that work without any statutory powers?

Ms Connell: My understanding is that the office that supported Mr Keelty made information requests of state agencies in relation to matters that were referred to him and made information requests of the Murray-Darling Basin Authority to support the inquiries he was making. The state agencies and the Murray-Darling Basin Authority complied with that information.

Ms Swirepik: Essentially through cooperation.

Senator McALLISTER: All of the 30 cases that went to water theft were referred back to other agencies?

Ms Connell: In relation to illegal water take, including in relation to works and structures, there were four referrals to the inspector-general. My understanding is that all those matters were referred back to states in the first instance, given that states have responsibility frameworks and enforcement compliance arrangements in place to deal with theft.

Senator McALLISTER: Does the office that was supporting the interim inspector general have any idea of what the states and territories did about the matters that were referred to them?

Ms Connell: Perhaps I could clarify: five allegations of water theft were referred to the New South Wales Natural Resources Access Regulator in relation to illegal take of water. In terms of the way the Natural Resources Access Regulator undertakes compliance action, obviously if the referral is in relation to a matter that results in legal action needing to be taken then they report those matters quite transparently on their website. They report progress in relation to prosecutions, progress in relation to whether penalty infringement notices have been issued and the like.

Senator McALLISTER: I'm just trying to understand what exactly was accomplished since the creation of the Interim Inspector General of Water Compliance in relation to the purpose. It sounds like the office collected a range of complaints, didn't have any powers to deal with it, referred it back to state agencies and hasn't done any work to ascertain whether any of those complaints were satisfactorily addressed from the perspective of the Commonwealth. I'm struggling to understand what the point of this exercise really was. Minister, do you consider this process to have been a success? There was a big announcement. Do you think there's actually been any outcome at all in terms of compliance and reassurance?

Senator Birmingham: The intent was to improve confidence in compliance and assurance.

Senator McALLISTER: The announced intent.

Senator Birmingham: The role was not established to replace investigative and prosecuting authorities. The role was established in its functions there, as I said, to improve compliance and assurance by having an oversight function. This is a task that will be ongoing in relation to compliance in ensuring that oversight is there, and I think it is a valuable one in terms of providing confidence across Basin communities that there is a watchdog and an oversight function in place.

Senator McALLISTER: But the watchdog never had any powers, was appointed on an interim basis and disappeared almost as soon as he came and now we've got another announcement about a new watchdog, which also doesn't yet have any powers, and the position is vacant.

Senator Birmingham: Mr Keelty was appointed for a 12-month period.

Senator McALLISTER: And undertook three investigations.

Senator Birmingham: I don't think it is fair to suggest that is the only work that he did. Officials have already told you that there was a range of other engagement with other compliance agencies as well as with basin communities.

Senator McALLISTER: How could Mr Keelty have done his job without the powers that were required to undertake the investigative work; and why should that have provided any confidence whatsoever to stakeholders in the basin?

Senator Birmingham: Mr Keelty performed his functions, as he has throughout his career I think, with both competence and distinction.

Senator McALLISTER: I'm sure that's true, but you didn't give him any powers to utilise his competence and his distinguished service record.

Mr Metcalfe: If you look at the website of the Inspector-General of Water Compliance, you'll see there that Mr Keelty undertook several reviews: the impact of lower inflows on state shares under the Murray-Darling Basin Agreement; investigate and report on the release of the Murray-Darling Basin Authority's report on monitoring 'first flush' flows in the Namoi; a first-year report, and so on. Clearly, Mr Keelty was active. He travelled extensively through the basin, met with many people and communities, and undertook and provided a number of reviews and reports to government.

Senator McALLISTER: For absolute clarity—

Ms Connell: Further to the secretary—

Senator McALLISTER: I'm not in any way—

Senator Birmingham: Sorry, Senator. It's one thing to cut across me, but please don't cut across the officials.

Senator McALLISTER: I'm sorry. Mr Metcalfe has provided me with an answer and I have a question in response to the information that he's provided.

Senator Birmingham: Senator, I'd appreciate it if you could at least let Ms Connell finish the remarks that she was making.

Senator McALLISTER: Okay. What do you have to tell me?

Ms Connell: Thank you, Senator. Further to the secretary's advice, the interim inspector-general not only dealt with matters that were referred to him; he also undertook several significant inquiries. The most recent and significant one was in relation to water sharing in the Murray-Darling, where the interim inspector-general met with over 1,000 people, conducted 80 interviews, received over 350 submissions and made some significant recommendations in his report, which the government is now acting on, in relation to transparency in providing further information to communities; and some recommendations for the Murray-Darling Basin Authority in relation to additional work that it needs to undertake to analyse the causes of reduced inflows in the northern basin. So he did undertake several significant inquiries, in addition to dealing with referrals in relation to matters along the lines of water theft. The five recommendations that were contained in that inquiry report are being progressed and implemented by the government. It was not an insignificant inquiry, and we are acting on the recommendations.

Senator McALLISTER: Mr Keelty was promised statutory powers, which never eventuated. We have another announcement now that there will be an Inspector-General of Water Compliance who, it's said, will have statutory powers. When will we finally see a bill to establish statutory powers for someone to be the tough cop on the beat in the Murray-Darling Basin?

Ms Connell: Thank you for the question. The draft legislation is currently being prepared. The department is proposing, subject to confirmation from the minister, to consult with Basin states in the next two to three weeks on the proposed draft legislation. I will just note that, even though there were previous commitments, the significant difference in relation to this proposed legislation is that it responds to one of the key recommendations of the Productivity Commission's 2019 findings in relation to the Basin Plan, which is that the compliance functions of the Murray-Darling Basin Authority be moved out of the authority. The proposal that is being progressed is to merge those compliance functions with the proposed assurance functions of the inspector-general to give the statutory office powers in relation to enforcement, being able to request information and other matters.

Senator McALLISTER: Has any consultation been undertaken yet with the states in relation to the bill?

Ms Connell: We have had initial discussions with the states, building off the discussions that took place around the original proposal for legislation. As I said earlier, our intention is, in early November, to have discussions with them on the specific elements of the draft bill.

Senator McALLISTER: When the old interim administration was announced, it was said that there would be statutory powers, including the power to refer matters to a national integrity commission. Is that power envisaged for the new Interim Inspector-General of Water Compliance?

Ms Connell: The proposal, in relation to the Inspector-General of Water Compliance, is that states would not be required to refer additional significant powers. Indeed, one of the challenges in terms of—

Senator McALLISTER: I'm sorry. I'm not asking about state powers; I'm asking about a national integrity commission.

Ms Connell: I'm not at liberty to answer that question.

Senator McALLISTER: The release for the previous position was 'Interim Inspector-General of Water Resources'. A year ago there was an announcement and the announcement was that the inspector-general will be able to refer issues to the Commonwealth integrity commission, once it is established. Is it anticipated that these same powers will be available to the new Interim Inspector-General of Water Compliance?

Ms Connell: I'll take that question on notice but note that, if it required the referral of the state powers, the intention is that the proposed legislation would not involve states needing to refer powers.

Senator McALLISTER: That has nothing to do with states referring powers.

Senator Birmingham: Senator McAllister—

Senator McALLISTER: There was the capacity to refer matters to a national integrity commission, which is another announcement that hasn't been progressed.

Senator Birmingham: Around the question of the detail of the legislation on that matter, the officials have taken it on notice.

Senator McALLISTER: Minister, do you know if there is an intention that there be—

CHAIR: Senator McAllister, could I ask you to come to sharing the call soon?

Senator McALLISTER: Yes. I just want to have a final answer to this question. Will the new Inspector-General of Water Compliance be able to refer matters to a new national integrity commission, should it ever be established?

Senator Birmingham: I've not seen the draft legislation. Officials have taken that question on notice.

Senator McALLISTER: I look forward to the next set of announcements. We'll see when the new announcements are. Will there be a press conference, a press release or maybe some new announcements about compliance? It will be great.

CHAIR: Thank you. Senator Davey, do you have a question to clarify?

Senator McALLISTER: Did the—

CHAIR: Just excuse me, please.

Senator McALLISTER: Yes.

CHAIR: Senator Davey, do you have a clarification?

Senator McALLISTER: It's a reported theft and nothing's happened. That's it in a nutshell.

Senator Birmingham: We can all go, if you'd like to talk amongst yourselves.

Senator DAVEY: I've got the call; thanks. This is just a question for clarification on this topic, so I'll stay relevant. Just on compliance and the role of the Inspector-General of Murray-Darling Basin Water Resources, can you just clarify for me the different compliance responsibilities? My understanding at the moment is that the MDBA and what will become the office of the inspector-general are in charge of state agencies and Basin water resources. It doesn't go down to individual water licence holders, because compliance of those cases is the responsibility of the states. Can we have a clarification of the structure so that we can understand why the inspector-general refers things back to state regulators?

Ms Connell: In relation to the compliance powers of the Murray-Darling Basin Authority, I'll get the Murray Darling Basin Authority to answer that question. But, yes, the senator is correct. Under the Constitution, states have principal responsibility for water resource management, for water take and, as a consequence, water theft. Their regulatory frameworks are the first port of call in relation to allegations of noncompliance with water-take and water-approval functions.

Ms O'Connell: Senator, we'll ask the Murray-Darling Basin Authority to answer in relation to their compliance roles.

Senator DAVEY: That would be good.

Mr Blacker: I'm sorry; could you repeat the question, please?

Senator DAVEY: Essentially, I want to understand what responsibilities the Commonwealth has and, currently, the MDBA Office of Compliance. My understanding is that it will then transfer to the Inspector-General of Murray-Darling Basin Water Resources. What compliance activities are you responsible for in comparison to the states, based on the evidence given by Ms Connell about the fact that the states will not be referring powers? This is just to understand the different roles so that we can understand better what the inspector-general will be responsible for and what he won't be responsible for.

Mr Blacker: You're absolutely correct in that states have front-line regulatory responsibilities. Illegal water take and illegal structures are matters that are dealt with in the front line by state regulators: for example, in New South Wales, the independent Natural Resources Access Regulator. In our role in the MDBA, we have an oversight role in relation to the activity of the states under the Basin Plan, so we certainly look at compliance in relation to things like the sustainable diversion limits and water resources plans. We also have an assurance role that we undertake, so we're often looking at the systems and the way that state regulators go about compliance to try to provide that confidence that not only are states undertaking that role but they're undertaking that in conjunction with their responsibilities under the Basin Plan, and that's all about building trust.

Senator DAVEY: You say that you have oversight over the states and, as you've said, New South Wales has the Natural Resources Access Regulator; other states have different compliance regimes. Will you be able to sort of tap the states on the shoulder and say, 'Your mechanism for evaluating compliance is substandard'?

Mr Blacker: The trigger for us to be able to undertake that sort of activity is the water resource plans under the Basin Plan, so we're certainly active in that space at the moment. One of our key compliance tools in that space is auditing. We're currently auditing a water resource plan in the Queensland Warrego-Paroo-Nebine region, and we're looking at exactly those sorts of things. They are the sorts of areas that we'll be making findings and recommendations on in relation to Queensland compliance systems.

Senator DAVEY: That's all I have on that topic. I can move on, unless other people have questions on that.

CHAIR: No. We'll go to Senator Patrick and come back to you later; thank you, Senator Davey.

Senator PATRICK: Mr Metcalfe, I just want to confirm that in your opening statement you talked about \$270 million being allocated to the Murray-Darling Communities Investment Package.

Mr Metcalfe: Yes.

Senator PATRICK: I just want to confirm that that is separate money to the \$4 billion outstanding to implement the plan. This is new money?

Mr Metcalfe: That's correct. I'm sure that it's in the PBS.

Ms O'Connell: Yes, it is.

Senator PATRICK: I just wanted to confirm that; thank you. Minister, just following up on something that you said: if I heard you correctly, you said that you're hoping to pass this legislation through the Senate by the end of the year, or is it just to be introduced?

Senator Birmingham: No. I said that the appointee was expected to be made by the end of the year. In relation to the legislation—I don't think I commented at all on the timing of it—my understanding is that the minister and the department are working towards the first session next year for introduction of the legislation.

Senator PATRICK: I might just go to an announcement made by the minister on 19 September 2019, where an Indigenous member was to be appointed to the Murray-Darling Basin Authority. My understanding is that that has not occurred; is that correct?

Ms O'Connell: Yes, that is correct.

Senator PATRICK: Minister, a year has gone by since that announcement was made. We've had a new chair appointed, but we somehow seem to have not appointed an Indigenous person to the board a year after the announcement. How does that happen?

Senator Birmingham: Unless officials have any further information, I'll have to take on notice what work or otherwise Mr Littleproud did at the time and Mr Pitt undertook more recently on that.

Ms Connell: I can advise that a recruitment process was undertaken to seek appropriate candidates.

Senator PATRICK: When did that commence?

Ms Connell: That process was managed, I understand, by a recruitment consultant and—

Senator PATRICK: The question was: when? When was that?

Ms Connell: I'll have to take that on notice. We should be able to get that advice shortly.

Senator PATRICK: This line of questioning is about something not having happened in the period of a year. I'm interested in the steps that have taken place. I'd be very disturbed if the recruitment started three weeks ago; equally, if it started a year ago, I would be very curious as to why things haven't happened.

Ms Connell: A recruitment process was undertaken, and we'll get you the information about the dates. That recruitment process also involved state officers. The approach in relation to appointing board members to the Murray-Darling Basin Authority is that the minister generally consults with his state colleagues. The process of

that consultation is still underway. One of the challenges we confront at the moment is that the ACT government was in caretaker mode and the Queensland government is still in caretaker mode.

Senator PATRICK: But this is an announcement that was made a year ago. You've managed to get Sir Angus Houston appointed. Did he have to go through the same consultation process?

Ms Connell: The process for the appointment of the chair is slightly different under the Murray-Darling Basin Agreement to that for the other members of the board.

Ms O'Connell: The announcement was made, a recruitment process was undertaken and consultation was had with the states, which is what's done in relation to that appointee, and it's—

Senator PATRICK: Have we got down to a list of names being selected?

Ms O'Connell: It is my understanding that that's the case; some names have been discussed with the states and there hasn't been full agreement on it.

Senator Birmingham: While it's a good number of years since I was last in charge of appointing somebody to the MDBA board, if it's at the 'consultation with states' stage, that means names are involved. The process between the states can be somewhat fraught in getting consensus on that.

Senator PATRICK: Respectfully, Minister, if this were important enough, the minister would take carriage of it, discussions would have been had and something would have been sorted out. Surely, it doesn't take a year to appoint someone. It's a pretty important, significant appointment to have an Indigenous member on the board of the MDBA.

Senator Birmingham: It is an important appointment; that is why a recruitment process was appropriate, to ensure that candidates of appropriate calibre were selected for consideration. The process then, as defined under the act that the minister has to comply with, does require what can be a fraught and time-consuming process with the states. I do know that from experience, in trying to get appointments through.

Senator PATRICK: I would appreciate it if you could lay out the sequence of the events: when the recruitment started; when the consultation started with each of the states; and what activities took place in respect of the minister, the states and so forth. Could you lay that out in a chronology, please?

Ms O'Connell: Certainly, we will. I also note that there have been two states in terms of caretaker, so that suspends—

Senator PATRICK: No, I'm not talking about the action; I'm just talking about the chronology.

Ms O'Connell: I will set it out; yes.

Mr Metcalfe: We understand, Senator—the historical chronology.

Senator PATRICK: Thank you. Also, in the same announcement—I was reminded of it—I'll quote from the minister's press release, 'Last year we agreed to set up a \$40 million fund for Aboriginal communities to invest in water for cultural and economic uses.' Can someone please advise me how much of that \$40 million has been spent and what it has been spent on?

Ms Connell: I would refer you to the investment package measures that were announced by the minister on 4 September—

Senator PATRICK: No, I'm talking about an announcement that was made years ago.

Ms Connell: I'm sorry; the—

Senator PATRICK: There was an announcement made of \$40 million; how much of that has been spent? I don't care about further announcements. It's a very simple question: of that \$40 million, how much has been spent and what has it been spent on? If the answer is zero, just say that.

Ms Connell: Our commitment, before any money from the \$40 million is spent, as set out in the investment package, is that we will, as we have been requested to do by Indigenous groups, work with them to confirm the framework for spending that money—

Senator PATRICK: Chair, I'd like an answer to the question: how much of that money that was announced by the minister has been spent? It's a dollar value—zero, \$1 million, \$3 million, \$7 million or \$10 million.

CHAIR: Senator Patrick, I think the officer was trying to answer.

Senator Birmingham: Yes, the officer was not very far into an answer. Some context is appropriate in an answer, too.

Ms Connell: The commitment in the package on 4 September noted that we will agree the framework for spending that \$40 million to obtain Aboriginal water entitlements by the beginning of next year and that we will do that in consultation with peak Indigenous groups, as we have been requested to do in quite strong terms.

Senator PATRICK: Ms Connell, again, I want to know how much has been spent. I don't care what you've committed to or what you've promised.

Ms Connell: None of the money has been spent.

Senator PATRICK: Zero; thank you. You've spent zero money on an announcement that took place two years ago—

Senator Birmingham: Senator Patrick, as I understand what the official just said, the consultation process was always expected to take until the beginning of next year with communities about how it was to be invested. It was not an announcement that the Commonwealth was going to spend \$40 million and say to Indigenous communities, 'Hope you're happy with the way we've spent it.' Instead it was an announcement of funds to be committed to that purpose with, appropriately, consultation with Indigenous communities across the basin up-front prior to the expenditure.

Senator PATRICK: Minister, you'd understand my frustration. There was an announcement two years ago to commit \$40 million and not a dollar has been spent—not a dollar.

Senator Birmingham: You would rather we'd just dished it out to the Indigenous communities and said, 'Go your hardest'?

Senator PATRICK: No, I'd just like you to get on with stuff, instead of announcing stuff and then sitting on it. What action took place from the point at which that money was announced to be spent? Can you run through some of the activities that have taken place in relation to that program?

Ms O'Connell: Senator, I think we should take that on notice and give you a chronology of those events. We should be able to, I expect, do that during the day and come back to you while we're still here at estimates.

Senator PATRICK: I'd appreciate that; thank you. Can I get an understanding—the MDBA might be best placed to assist me here—of the 450-gigalitre efficiency measures? In terms of the plan, if, at the end of the 2024 period, that 450 hasn't been delivered, what are the consequences?

Mr Metcalfe: Chair, perhaps I can, as I have on a number of occasions before the committee, declare an interest or the fact that, in my previous work before my appointment, I undertook a review and report for the Commonwealth in relation to that 450 gigalitres. That's a matter of historical—

Senator PATRICK: Sorry, a review of what?

Mr Metcalfe: The issue of the 450 gigalitres. I or my firm undertook a review for basin ministers of that issue.

Senator PATRICK: What firm was that?

Mr Metcalfe: Ernst & Young.

Senator PATRICK: Yes; I remember reading that. It was a couple of years ago.

Mr Metcalfe: It is just so that you're aware that, in my previous role, I did that work.

Senator PATRICK: I seem to recall that said that it was possible.

Mr Metcalfe: It did say, in a heavily caveated way, that it was possible, depending upon a series of preconditions.

Senator PATRICK: That's good. I've got a secretary who understands the preconditions and is enthusiastic about meeting the target.

Mr Metcalfe: Absolutely. I just wanted you to be aware of that earlier work.

Senator PATRICK: I appreciate that. In terms of the plan, I want to understand the consequences, if we get to the end of the execution of the plan. Obviously, there's an audit that is done to make sure that we're operating in accordance with the SDLs. As per the SDLs buyback program being initiated, what happens if the 450 is not achieved?

Mr Metcalfe: You are asking about whether it's enforceable in some way?

Senator PATRICK: Yes, basically.

Mr Metcalfe: Ms O'Connell can assist with that.

Ms O'Connell: Clearly, in terms of achieving that, as part of the 2024 commitment, everyone is committed to doing everything that can be done to make that actually happen.

Senator PATRICK: Except the New South Wales government, but we can come to that. I'm about to lose the call. I want to come back to the 450, but at this stage I want to get an understanding of whether it's enforceable at the end. I get that the government has said that it's committed to it.

Ms O'Connell: Yes. In terms of the consequence, clearly, the outcomes won't be met if it doesn't happen, in terms of the plan. It's subject to a review. There's a review period after 2024 because it needs to be properly assessed and so on. That review then needs to take place. I'd have to ask Ms Connell to explain what the enforcement measures are.

Ms Connell: The objectives to which the 450 gigalitres of water go are set out in schedule 5 of the Basin Plan. Obviously, the objective is to improve the health of the Lower Lakes system and the water down to South Australia through the Murray. The act makes it clear that the money to support the 450 is available until 2024. As the act is currently framed, if the 450 gigalitres isn't delivered by 2024, we no longer have the benefit of the money that's credited to the Water for the Environment Special Account.

Senator PATRICK: It's simply the case that the money doesn't get paid out. There's no consequence. It's not like the SDLs?

Ms Connell: I would also note that the intergovernmental agreement supporting the Basin Plan is designed to commit the basin jurisdictions to delivering on the 450, and there are financial incentives attached to that delivery.

Senator PATRICK: That's not punitive; it's coercive, in some sense. Thank you; that's very helpful. I will definitely come back to the 450.

Senator McALLISTER: I also want to follow on with this same line of questioning, and I wonder whether Ms Swirepik could return to the table. The review of the Water for the Environment Special Account has concluded that only 1.9 gigalitres, or less than one per cent of the required volume, has been recovered to date in relation to the 450 gigalitres. As you are the entity responsible for administering environmental water, I want to ask about the environmental consequences of either obtaining the 450 or not obtaining it. What is at stake from an ecological perspective, in terms of the 450 gigalitres?

Ms Swirepik: Thank you for the question. My colleague just referred to schedule 5 of the Basin Plan, and that's where the enhanced environmental outcomes that were meant to be delivered by the 450 are outlined. I do actually have some prior knowledge, having worked at the MDBA before, which I'll be drawing upon to answer this question. Schedule 5 is available to you. I've got a copy that I'm happy to table across to you. Basically it outlines a series of targets of salinity in the north and south lagoons and in the Lower Lakes, Alexandrina and Albert, and then it talks about keeping the barrages open and then being able to flood the floodplain in South Australia. So the extra 450 gigalitres in most of those indicators took you from a state of being able to reach them most of the time to having more confidence in being able to reach them all of the time. So the targets are almost the same, if you like. That would be, for instance, 100 grams per litre in the south lagoon and 50 grams per litre in the north lagoon. But the modelling at the time of the Basin Plan shows that, with the additional water, you would be much more confident about being able to reach those targets all the time.

We have done very well in the last five years, with the portfolio that we've got, in offsetting the worst impacts that occurred in the millennium drought and we've met a lot of the targets in the Lower Lakes and the Coorong. But, as people know, there are barrages and there's still dredging to keep the Murray mouth open and, while the north lagoon has recovered quite a lot, the south lagoon has not recovered completely from the millennium drought. So it's really about the condition of those assets.

I don't know if that's too obscure an answer but it's really about being able to have the water to know that we can lift the condition of those assets back up to a good, stable position.

Senator McALLISTER: When you appeared earlier in the week we discussed the report from the Wentworth group which raises concerns about the security of entitlement in the basin generally and, in particular, its impacts on the security of the water held and managed by you. In that context how confident are you about the assessments about probability and certainty about being able to obtain a certain environmental standard in those assets that you referred to? Do those issues around climate change and water availability also change the certainty that we have about how to stabilise those assets in the Lower Murray?

Ms Swirepik: Yes, they will. On Tuesday I did indicate to you that I thought they were important matters for a future Basin Plan to consider. The Basin Plan was a deal at a point in time reflecting over 100 years of the modelling of the previous hydrology of the basin; so where patterns of use have changed and water's going to different crops or if system operations have tightened up, that may have implications for the system. There isn't a whole-scale assessment of what that means yet. And it is a big job. So that would be something for Basin Plan 2 or the acquittal that's done at the end of Basin Plan 1 at least. I would expect there to be implications. There might

be implications for what environmental outcomes we can get. I would draw you back to, I think, the same thing that I might have mentioned on Tuesday. To me, the single most important thing at the moment to use our water effectively is for it to be protected through the system and to be able to be delivered at rates where we can actually inundate some of the fringing habitat on rivers. That's this idea of addressing constraints. It's actually those policy things which are much more important in the short term, to me, to be able to achieve the environmental outcomes. I think the climate signal will be, obviously, the most important thing in the long term but for this next couple of years that would be the thing that I would urge governments to do.

Senator McALLISTER: What will be required to recover the 450 gigalitres by the agreed date?

Ms Swirepik: That's really a question for the department. I might refer back to them, if you have no further questions for me. At the moment the 1.9 that has been recovered is in our portfolio. So really the acquisition sits with the water division, and the recent announcement, of course, talked about the focus of off-farm water efficiency savings. Would you like an officer from the department to come and answer your question?

Ms O'Connell: I think, to answer your question, we would be referring significantly to the budget package announcement of a \$270 million investment that was announced on 4 September.

Senator McALLISTER: So the department's evidence is that the additional investment provided in the budget, along with the existing allocation, will allow the 450 gigalitres to be obtained within the required time?

Ms O'Connell: I think, as we said earlier, the intention still holds to deliver on the 450 gigalitres in terms of doing everything possible to achieve the outcomes of the Murray-Darling Basin Plan.

Senator McALLISTER: I think it's time—I think this is where Senator Patrick was going also—for a bit of straight talking. You have a report sitting on your desk. In fact, as I understand, it was completed in March and people chose not to release it until 4 September. And it says very bluntly that the 450 gigalitres will not be recovered by 30 June 2024. The reason for that is that so far the rate of recovery is very, very slow and the projects necessary to recover the additional 450 gigalitres do not appear to be on track. In fact, the report says that, to recover the entire 450 gigalitres in the less than 4½ years remaining, the rate of recovery would need to accelerate to more than 100 gigalitres per year, starting immediately and 'the panel does not consider that this is realistic at this stage'. So the panel is sounding a warning?

Ms O'Connell: Yes, certainly.

Senator McALLISTER: Why is the government not responding or asserting that your response to this is to make best efforts? Why is there not more urgency about the warning that you have been provided?

Senator Birmingham: I think there is urgency and there is concern, and there is effort to seek to meet that target. The Commonwealth has worked over a period of years, in terms of the base recovery target associated with the plan, to achieve almost 2,030 gigalitres of the 2,075 gigalitres initially required, and that has been done. So more than 97 per cent of that base target has been accomplished. The work around the 450 gigalitres is work that we take seriously. We take the warning seriously, which is why the government made the investments that Ms O'Connell was referring to in the recent budget as well as why the government is intensifying focus on recovering water from off-farm projects that are more likely to gain community support and make progress against the types of commitments that are there.

Senator McALLISTER: Let's come back to the off-farm.

Senator Birmingham: Since the very passage in 2007 of the Water Act no step, in terms of the development and delivery of the Basin Plan, has been easy but we have, as I said, achieved some 97 per cent of water recovery against the targets associated with the SDLs initially and now we are intensifying that support to achieve the 450.

Senator McALLISTER: The water minister has said that he's committed to delivering the 450. Can you please outline how the government will reach that target, based on the existing programs and projects, how much water will be recovered each year until 2024 and which individual projects and programs will provide that water?

Senator Birmingham: I'll invite officials to speak to those that are in train and, of course, the work and effort, as I just said, in terms of intensifying effort on opportunities from off-farm projects that are more likely to build that community support as well.

Ms O'Connell: The government has responded to that review. I can table this, if you don't have a ready copy.

Senator McALLISTER: I don't have one in front of me. That would be terrific; thank you. While we're doing this, can I ask how much water the Commonwealth expects to recover from the sustaining Riverland environments program that you've just referenced?

Ms Connell: Was that question about water recovery in relation to the sustaining Riverland environments program?

Senator McALLISTER: Yes, \$38 million to prop up this program that so far has achieved less than one per cent of its target. How much do we expect, in gigalitres, to obtain from the \$38 million recently announced?

Ms Connell: That program of projects is not part of the program to deliver the 450 gigalitres of what is referred to as up water. But the focus of that program is to invest money. So it's a program in recognition of the delays and the challenges that were identified in the first review of the WESA—the government's response, which we are just getting to—and the focus of that investment, as the response sets out clearly, is on mitigating the delays in the progress towards the achievement of the 450 gigalitres of additional environmental water. Several significant projects are being explored to improve riverine health in the Lower Murray area.

Senator McALLISTER: We don't expect to obtain any additional environmental water from the \$38 million, for clarity?

Ms Connell: The focus of that program is on environmental river health issues.

Ms Swirepik: It's for the health of the rivers; so it will contribute to environmental outcomes.

Senator McALLISTER: That's an answer to a different question. I accept that there may be some outcomes that arise from this new announcement but I'm trying to understand how it responds to the principal problem identified in the WESA report, which is that the government will not deliver 450 gigalitres by 2024.

Ms Connell: That program doesn't go to the direct issue of water recovery but what it does do is seek to mitigate some of the consequences of the delay in delivering the 450 that were identified in the WESA report. And the critical thing is the objectives of delivering the 450 of environmental water are set out in the Basin Plan, and these projects are consistent with those objectives—a different pathway to the same outcome.

Senator McALLISTER: The same outcome?

Ms Connell: Part of the same outcome. It's a different pathway to part of the overarching outcome.

Senator Birmingham: The outcome in that case being optimising the health. In terms of water recovery and questions about funding for water recovery under the 450 gigalitres, the WESA act legislates for and provides for \$1.5 billion to assist in relation to the 450 gigalitres recovery targets.

Senator McALLISTER: Minister, I asked earlier how the government anticipates obtaining the 450 gigalitres, which projects they anticipate will deliver it and in which year. In response, a document has just been tabled that provides other information. Can I return to that question, which is: what projects do you think will deliver the 450 gigalitres, given that the minister has said that he's confident that this will happen?

Ms O'Connell: If I refer you to the government response to the WESA review—and I'm halfway down the second page—there's a paragraph in particular that says we will 'work with basin states and partner with the National Water Grid Authority to accelerate planning and delivery of constraints projects at risk of not being delivered by 30 June'—so accelerating those projects—'focus on recovering water for the environment by modernising off-farm water delivery infrastructure and work with the basin states and irrigation networks to identify projects to generate water savings through off-farm infrastructure modernisation programs', and 'if the states and communities identify and propose other on-farm water efficiency projects then the Australian government and the basin states will consider those'—and the investment of \$37.6 million into the sustainability of Riverland environments projects, that you were asking about before—to implement new downstream river health projects and remove those delays and deliver \$34 million for economic assistance to communities struggling with the effects of water recovery by extending the successful competitive grants of the Murray-Darling Basin Economic Development Program.

Senator McALLISTER: Minister, can you explain what appears to me to be an inconsistency? Your minister says in *The Courier Mail* that he is committed to delivering the 450 gigalitres, which is important, as you would understand, for South Australian assets.

Senator Birmingham: It's important for river health.

Senator McALLISTER: Your minister has also released a statement saying that he is investing additional funding to help mitigate the delays in progress towards achieving the 450 gigalitres. How are those two things consistent? This second statement acknowledges that there will be a delay in achieving the 450 gigalitres.

Senator Birmingham: It acknowledges that there has not been as much progress as we would have wished for. The target itself is still a 2024 target for achieving that, and that means that efforts to intensify cooperation by basin states and cooperation by basin communities are important to achieve that outcome ahead of 30 June, 2024.

Senator McALLISTER: Will you provide a guarantee today that you will meet the legal requirements of the Water Act and deliver the plan in full?

Senator Birmingham: Our government is doing everything it can to meet the legal obligations and expectations of the Water Act and, indeed, also the intent and ambitions of the Water Act.

Senator McALLISTER: Ms O'Connell, your officers have just said that the response to the WESA report, which you have had since March, is to redouble efforts to identify projects that can deliver the 450. When will you be clear about the means by which you will obtain the additional 450 gigalitres to comply with the plan?

Ms O'Connell: We're in discussion with the states in terms of those projects. I can't put an immediate time frame on that, but clearly we're accelerating and having regular and frequent discussions with the states about delivering.

Senator McALLISTER: Minister, does this give you any confidence? You have said that you're making best efforts. You have a legal obligation to deliver the plan. People all up and down the river depend on you delivering the plan. Will you guarantee that the plan will be delivered in full? If not, which elements do you plan not to deliver?

Senator Birmingham: The government has worked to deliver the plan in full and on time through every step of the process. As I acknowledged earlier, from the very passage of the Water Act in 2007 it has never been an easy process in terms of maintaining cooperation across the basin states and maintaining cooperation across basin communities towards the targets and expectations in the plan. But we have delivered approximately 2,030 gigalitres against the 2,075-gigalitre recovery target to meet the sustainable diversion limits in the core aspects of the Basin Plan; that represents some 97 per cent of the target there. In relation to the additional 450 gigalitres, we are intensifying efforts to seek to have that delivered in accordance with the timeline of 30 June, 2024, which is still nearly four years away, so there is time to do so. It will require states, communities, authorities and government to work cooperatively to achieve that, and we will do everything we can to try to achieve those outcomes.

Senator McALLISTER: But you don't yet know, on the evidence today, how you're going to achieve those outcomes, because you have not yet identified the projects that will deliver those outcomes and you have ruled out water buyback.

Senator Birmingham: I refer you to the answers that Ms O'Connell has given—

Senator McALLISTER: You have not identified the projects; that was the evidence. Are you satisfied with this state of affairs?

Ms O'Connell: I'm sorry, Senator; that wasn't the evidence I gave, if you are referring to my evidence. We're currently doing a stocktake with states—I can ask my colleague to explain further about that—and further projects.

Senator McALLISTER: Rather than running through a list of projects, which probably is not feasible in the time available, could you just table the list of projects that will make up the 450 gigalitres agreed with states?

Ms Connell: We can provide you with information about the stocktake process we're undertaking with states to identify off-farm modernisation proposals across the basin. Currently, there are very intense and active discussions going on with states to identify proposals; they are submitting proposals to the Commonwealth. We're also actively working with infrastructure networks to identify possible projects—which have feasibility studies already attached to them which require additional work to identify the amount of water recovery that is likely from those projects. We're also going through looking at what additional support the Commonwealth, including through the National Water Grid Authority, can apply to assist these projects being progressed as soon as possible, on the basis that many of them will also have the dual effect of providing regional economic stimulus during a challenging period.

CHAIR: Senator McAllister, is now a logical time for us to pass the call?

Senator McALLISTER: Yes; except that I have now received quite different advice from Ms Connell and Ms O'Connell. Ms Connell says that this has all been worked through, but we do not have a list of projects that add up to 450 that are going to be implemented; and Ms O'Connell says that we do know how we're going to get to the 450. If Ms O'Connell is correct in that we know exactly how we are going to get to the 450, can you table the list of projects that are going to deliver that?

Senator Birmingham: I wish the process were as simplistic as you are trying to make it sound.

Senator McALLISTER: You have been in government for seven years, and this has been a target for all that time. I am trying to understand how, with four years to go, you are going to get there.

Senator Birmingham: So was 2,075 gigalitres—

Senator McALLISTER: Most of which was achieved through water buybacks, which you have now taken off the table. You are now relying on a process of infrastructure projects. You have asserted that that is the path you were going to use to get to your target to protect the assets in your state. I am yet to see a coherent list of projects that could possibly deliver this outcome. I am asking for the officials to table one, if such a list exists.

Senator Birmingham: Senator McAllister, firstly, this is about protecting the entire health of the river system—

Senator McALLISTER: It is about assets in your state.

CHAIR: Senator McAllister, please let the minister answer.

Senator Birmingham: It is critically important to my state, but it is important to your state and to other states. The health of the river communities is also important in your state, my state and other states. These have always been sensitive and difficult issues. We have achieved a lot in terms of delivery of the Basin Plan, and some 97 per cent of that 2,075 gigalitres has been achieved.

Senator McALLISTER: Through water buybacks.

Senator Birmingham: The officials were talking through the process in relation to engagement with the states and territories around the projects that can be delivered to get to the 450 gigalitres. I do not accept that there is inconsistency in what Ms O'Connell and Ms Connell have said. I am happy for them to explain that further to you if need be.

Senator McALLISTER: Can we have a list tabled, or does no such list exist?

Senator Birmingham: Ms Connell has undertaken to provide information to you about the work with the states and territories, including the projects that are part of that work, to achieve the 450 gigalitres.

Senator McALLISTER: Let's have that tabled and we can have a look at it in future questioning.

Senator McLACHLAN: My questions relate to the minister's release about the focus on off-farm water. He has mentioned that up to 150 gigalitres of projects are identified already and significant progress has been made on 70 gigalitres. My interest is around what accountability mechanisms there are to ensure that those identified projects, the ones up to 150 gigalitres, are approved and delivered in a timely manner; and will that be transparent?

Ms Connell: Further to what I was setting out to Senator McAllister, the Commonwealth is currently going through a process with basin jurisdictions and infrastructure operators to identify possible and feasible off-farm modernisation projects. Our expectation in the very early stages of that stocktake process is that those projects may be able to be delivered in the order of 70 gigalitres of water towards the 450 gigalitres. The announcement on 4 September confirmed the government's commitment to delivering the 450 through off-farm projects. We are currently working to develop program arrangements to get that program in place. In the framework under which decisions will be made in terms of committing Commonwealth funds, obviously there needs to be a key focus on value for money. We have undertaken to consult with basin state jurisdictions on those program guidelines and that framework in the first instance, but our intention is to publish that information and make it available transparently. In terms of other assurance mechanisms, depending on the nature of the project, funding may be through state governments or directly with irrigation-network operators and under the terms of contracts put in place under the Commonwealth Procurement Framework and Rules.

Senator McLACHLAN: So eventually, if I understand what you have said, southern communities will get some visibility when projects are approved and progressing.

Ms Connell: That's correct. Indeed, the Murray-Darling Basin Authority maintains a register of projects that have been undertaken towards delivering 450 gigalitres.

Senator McLACHLAN: So, with the greater focus on off-farm, what is happening with the existing on-farm projects that have been lodged and new on-farm projects?

Ms Connell: A small number of on-farm projects are being considered under the current arrangements; they are quite small in nature, and I think there are about 22 of them. They are being processed under the current guidelines that are on the department's website.

Senator McLACHLAN: There can still be new on-farm projects; you are not ruling them out?

Ms Connell: Our commitment going forward is to work with states. It will be the responsibility of states to work with communities and ensure that on-farm projects are community-led, community-supported and community-driven. That's in response to the findings, particularly in the Sefton report, around community concern in relation to on-farm projects.

Ms O'Connell: It's also reasonable to say that the focus is on off-farm infrastructure.

Senator McLACHLAN: I'm interested in the multiplier of 1.75, the market value of the water. As I understand it from my reading, that doesn't necessarily take into account the cost of a delivery partner. Is there going to be any review of the 1.75 in the sense of creating sufficient incentive for purchasers?

Ms Connell: We're conscious of the findings in the WESA report around those issues, so it's something that we are looking at exploring.

Senator McLACHLAN: So ongoing reflection?

Ms Connell: Yes.

Senator McLACHLAN: I have just one slightly different question: has there been any analysis or work on the potential impact, if any, of the new Snowy scheme, when it's completed, on river flows or any parts of the river?

Ms Connell: That is a question that I will direct to the Murray-Darling Basin Authority to deal with.

Mr Reynolds: We've had some limited engagement with the project around the Snowy scheme. I'm not aware of specific analysis of how flows into the system will change, but fundamentally the Snowy scheme is about reusing water within the system. Regarding the obligation to release water from the Snowy into the Murray, and the Murrumbidgee as well, those obligations exist under the existing Snowy licences, and I'm not aware of any proposal that they would be changed. Generally, the volumes of water that would come from the Snowy to the Murray system would remain the same. There could be a slight impact on potential for spill from the Snowy scheme in very large events, but I'm not aware of any specific assessment of that at this point in time.

Ms Connell: We'll have ongoing discussions, obviously, as their projects and proposals proceed. It's early days, it's fair to say.

Senator McLACHLAN: I appreciate it's early days.

Senator Birmingham: To add to those responses, though, Senator McLachlan, Senator Davey asked the Snowy Hydro executives on Tuesday night—if my memory of this long week is correct—essentially the same question and they provided assurance that there is no change to the obligations that they have, nor do they expect to the way in which their water management operations will impact on flows into the system.

Senator McLACHLAN: Thank you, Minister. I don't have any other questions.

Senator Birmingham: I should also add, of course, that they are and have been subject to thorough environmental assessment processes as part of Snowy 2.0 as well.

Senator DAVEY: I want to come back to this conversation about the 450. I want to get my head around the actual legal requirements of the Water Act and the Basin Plan because my understanding is that the core compliance issue to meet the objectives of the Water Act and of the Basin Plan is about extractions and not exceeding sustainable diversion limits and that the 2,750 and the 450 are targets to enable us to meet the core principle of the SDLs. Is that correct?

Mr Reynolds: The obligation under the Basin Plan is to work within the SDLs, and that's what water resource plans are intended to do. The recovery of the 2,750 adjusted by the SDL adjustment mechanism to 605 down would see SDLs adjusted and working within that; Basin Plan requirements would be achieved. The 450 is about achieving additional beneficial outcomes as listed in schedule 5 of the Basin Plan. Ms Swirepek went through those a bit earlier today.

Mr Metcalfe: There's also a requirement under the 450 that it be undertaken with a neutral or positive socioeconomic benefit so that it's not just extracting water but actually there is a test associated with it.

Senator DAVEY: You stole my thunder, Mr Metcalfe; I was going to go there. I've got the Basin Plan here in front of me and it does say that efficiency contributions, which is Basin Plan speak for—450 up water, must achieve neutral or improve socioeconomic outcomes. One of the tests in the Basin Plan is voluntary participation. I understand that through ministerial council the states have actually developed quite a comprehensive list of indicators for socioeconomic neutrality to test against it. My layman's reading of that is that the 450 number is not set in stone. It is what you can get through efficiency contributions while not having a negative impact on the social and economic standing of a community. Would that be the correct interpretation?

Mr Metcalfe: Yes.

Senator DAVEY: Right. So, really, the key deliverable to ensure we're legal under the Basin Plan is to ensure that extractions do not exceed the sustainable diversion limits.

Mr Reynolds: That's a key component of the Basin Plan, yes.

Senator DAVEY: Mr Reynolds, the MDBA has done some modelling on where we currently are at with tracking towards SDL compliance. My understanding is that in the southern connected system at least we are already operating below the SDLs; is that correct?

Mr Reynolds: I'll probably get one of my colleagues, Mr Goodes, to add to this, but I understand that we are tracking well within the sustainable diversion limit. There's been some degree of recovery already, of course, with the cap already in place that limited diversions in the Southern Basin well on the path to that.

Senator DAVEY: What I'd really like to say is: job done then. We're not exceeding sustainable diversion limits, so we are actually operating within the parameters of the Basin Plan as it is now, despite the fact that we have not completed the job.

Mr Reynolds: The Basin Plan also sets out a range of additional objectives associated with recovery of the 450 that are targets of the plan, and implementation of the plan would include achieving those.

Senator DAVEY: While I have you at the table, Mr Reynolds, we have this core issue in my area of the Barmah Choke, which I know that you are well aware of. You have actually been highlighting the risks at the Barmah Choke for a number of years. The operating plan over the MDBA—certainly when I moved to the region in 2010—had capacity of the Barmah Choke identified at around eight and a half thousand gigalitres per day. My understanding is that is now looking closer to seven and a half thousand.

Mr Reynolds: Yes. We typically talk about the capacity of the Barmah Choke as a flow downstream of Yarrowonga, which is slightly further upstream, at 9,000 megalitres a day. I think a comparable number, if you're talking specifically through the choke region, is just over 7,000 megalitres a day at the moment.

Senator DAVEY: So the capacity of the choke has decreased just in the last 10 years. Can you explain to us why we're seeing that degradation of that very key area of the Murray River?

Mr Reynolds: We've been doing quite a lot of work on this in recent times. What we understand the mechanism to be is a large slug of quite coarse sand, which we believe was probably mobilised in days when there was sluicing for gold mining in upper regions and which is progressively making its way down through the river. Over the last 20 years the front of that sand slug has arrived at the choke and is progressively depositing in the bed of the river.

We're pretty sure that it's not local erosion. The material is quite different to what you see in the banks of the river. It's not local erosion of the river banks; it's actually material moving from upstream. We're doing quite a bit of work to try and understand the trajectory of that, to understand whether we can expect to continue to see a decrease in capacity in the choke or whether it might reach an equilibrium or even that sand might move through and we might recover some capacity. That's current work that's underway.

Senator DAVEY: My next question is: what does that decreasing capacity mean for not only the river operations but also the local environment? I have had constituents bring me examples and photographs of significant bank cutting and the risk of bank slumping. I understand that in the last 12 months the MDBA actually took remedial action in some areas of the Barmah region to stabilise or to prevent water losses into the forest in areas where it wasn't ephemeral to keep water within the channel.

Mr Reynolds: As a result of having a reduced capacity through the choke, to get the same volume of water downstream as we have in the past we need to run the choke at close to capacity for extended periods of time. So the period that the channel is at full capacity is extending. That higher constant water level does increase some erosion and some notching. We did some very minor works in that area last year, basically a very localised breakout of the natural levee—so there's a natural levee on the edges of the river bank that's higher than the surrounding landscape—in some areas where that had started to erode. We did some minor raising of a track, actually, to retain the water in the river. It was quite minor work. We're working through a process of a business case to understand what other investments might be prudent to manage through that area.

Senator DAVEY: Ms Swirepik said before that more important—I am putting words into her mouth—than the 450 at the moment is addressing issues like constraints, and the Barmah Choke is a significant natural constraint. If we don't resolve issues of constraints and if we continue to run the river at capacity, with the unintended consequences of doing so, what is the greatest risk? I've certainly heard landholders who have concerns about significant bank blowout, as they call it, and what that would mean. What are the implications for efficient river operations if we have a significant bank blowout in the choke?

Mr Reynolds: Water entering the forest mostly is a good thing for the forest. It's there because that's an area that would have naturally flooded very regularly, nearly every year. In moving water through the system for consumptive use and in trying to do that as efficiently as possible, we endeavour to keep that within the channel and not pass water through the forest for that purpose except when it's completely unavoidable. We certainly will

have to continue to watch closely what's happening through the choke and potentially do some stabilisation work to prevent extra water leaking into the forest.

There are a number of regulators and the like that already prevent water flowing into ephemeral creeks into the forest. We'll continue to maintain those. Potentially, there may be a need at some point in the future for additional works like that. That's not identified as of now. You'll probably also be aware that there is a feasibility study proposed to look at other alternatives for how we manage around the choke, including being able to bypass water around the choke to get it downstream for consumptive purposes, potentially using Murray Irrigation's infrastructure or possibly something on the Victorian side of the river as well.

Senator DAVEY: Given the absence of those options coming and also the absence of a constraints management strategy that would enable the Environmental Water Holder to flood the forest a bit more but also help undertake watering programs that would maybe restabilise the bank, if we continue down the path of just trying to achieve the 450 in the absence of doing this associated work, what is the benefit and/or risk at the choke of having that extra 450 that people are insisting we have to get down the river? Suddenly, even though when it was announced as 450 it was supposed to be for the good of the Basin, it's now become 450 for South Australia. So if we have to get it to South Australia—and in the last two years we've had the Darling offline—we can't get it that way. Is there a risk that we actually do further damage to bank stability through the Barmah Choke if we continue to proceed down the path of just getting a number without actually looking at the environmental outcomes or how we achieve the best environmental outcomes and do all the mitigating work that may need to be done?

Mr Reynolds: In running the river, we take quite a holistic view of delivering environmental water and environmental outcomes as well as consumptive water. If the 450 is recovered then some of that certainly would be delivered over bank through the forest up to levels that we can currently deliver to without relaxing constraints further. Certainly, relaxing constraints would be beneficial, it would give us a lot more flexibility and increase the environmental outcomes that could be achieved.

We will have to continue to adapt our river operations planning to deliver all of the requirements of environmental water holders and consumptive users. The pattern in which we transfer water downstream, whether we do that earlier, the times we put water into Lake Victoria, how we balance the risks of spill—all of those things will need to be adapted to make sure that we can deliver on all of the requirements, the very much competing requirements, of the river system.

We will continue to see impacts through the choke and other parts of the river. A natural river system does erode and modify. The question in a regulated river system is by how much you're exacerbating those impacts. Throughout the basin where we regulate rivers we will have impacts like that, and we need to manage those as best we can.

Senator DAVEY: I'll make this the last one, bearing in mind that I hope I can come back later. You may choose not to answer this: in a perfect world, would it be preferable to have all of those processes in place—allowance to be able to manage constraints, mitigating factors resolved, agreements potentially to use ephemeral creeks and streams—before we go down the path of lumping in a whole wad of extra water, the delivery of which could have many unintended consequences, including detrimental environmental consequences, consequences on delivery losses, and factors therein, that our communities are gravely concerned about? A lot of people are putting the 450 before everything else. I'd like to see everything else, to ensure that when we get the 450, we get the environmental outcomes that we are seeking to achieve.

Senator Birmingham: Senator Davey—and Mr Reynolds no doubt will add to this—there's a lot in the question that you just put; a lot of additional comments and observations, too. What Mr Reynolds was saying before was acknowledging that it's not a perfect world. The challenges around the regulated river system that we have are immense, and it is a continually adaptive process around managing effectively environmental outcomes from a regulated river system in the way that the Basin Plan and the environmental targets envisage. I don't think it's possible to neatly tick all of these boxes and say, 'Mission done on all of those objectives; now we move to securing the water.' It has to be an integrated approach and an adaptive approach that is ongoing. I'll let Mr Reynolds supplement my observations with his expertise.

Mr Reynolds: Having constraints relaxed provides a great deal of flexibility to river operations and increases the outcomes that we can achieve environmentally significantly. That will take some period of time to implement, as will recovery of the additional 450. The additional water can have a lot of good, environmental benefit even without constraints being relaxed. It's appropriate to try and progress those programs in parallel and take the best advantage we have of the water that is recovered at any particular time.

Senator PATRICK: In relation to the Clyde and Kia Ora water purchases, I want to get a feeling for how the value was selected in relation to this particular purchase.

Ms Connell: We'll have to take that on notice, Senator.

Senator PATRICK: No-one knows the process associated with this? I note Ms Colreavy is not here.

Ms Connell: That's right. We'll have to take it on notice. I wasn't with the water division at the time that the valuer you're talking about was engaged. We can probably come back to you after morning tea on that one.

Senator PATRICK: Thank you. In the valuation for the department, the valuer based comparable sales on properties outside the valley. Was there an instruction to do so?

Ms Connell: We'll have to come back to you on that question as well.

Senator PATRICK: Okay. In the unredacted document that it took me a couple of years to get hold of, even though the valuation itself stated that it only had any commercial relevance up to 90 days after the valuation had been provided, with the value range—and I've read the tender instructions or the scope of work—the scope of work asked for a point valuation and a value range. The value range is \$1,100 to \$2,300 per megalitre, with a central estimate of \$1,500 per megalitre, yet the commonwealth paid \$2,745. So they paid outside the valuation range.

In answer to a question on notice that I received prior to the release of the unredacted document, the department appears to have selectively quoted from a redacted section that says:

The valuation advice stated that the department should be prepared to pay 10 to 30 per cent above the standard market rate for properties of a high standard that have reached above-average levels of water use efficiency in the region.

I don't accept the proposition that the valuer allowed you to go outside the \$2,300, but accepting that somehow it was misconstrued—and this is, in my view, a Leppington-Triangle-kind-of affair here—I'm trying to understand on what basis the department came to the conclusion—if I accept your proposition—that the properties were of a high standard and achieved above-average water use efficiency.

Ms O'Connell: That essentially is our proposition. More significantly, the ANAO have had a review of this and they've completed a performance audit which examined water purchases completed by the department. Basically, the ANAO found that, on all occasions, the department paid at or below the independent value range for the purchase.

Senator PATRICK: I had a conversation with the Auditor-General, and they're going to look at that in light of what I've pointed out about the valuation. They took that as a task. Let's just park that to one side. I want to understand your department's perspective. We always have people saying, 'Sorry, that's another department.' I'm asking about your department; now you're saying, 'Let's go to the ANAO.'

Ms O'Connell: No.

Mr Metcalfe: Senator, we'll need to take your questions on notice. None of us here were in the department at that point or undertaking those responsibilities.

Senator PATRICK: Secretary, you know that the guidance issued by Prime Minister and Cabinet in relation to witnesses appearing before estimates requires them to prepare for the reasonable likelihood of questions. This issue has come up at every estimates for about two years. To think that this line of questioning wouldn't be looked at is implausible.

Mr Metcalfe: Because of the quite specific questions you're asking, Senator, it's reasonable for officials to be able to refer to the relevant documents. Ms O'Connell was not allocating responsibility to someone else; she was simply indicating that the ANAO had in fact looked at the matter and reported on it.

Senator PATRICK: The point of estimates is to inquire as to performance; how you've conducted your operations and how you've spent Commonwealth money. Your answer to this committee was that the valuation stated the department should be prepared to pay 10 to 30 per cent above the standard rate for properties of a high standard that achieved above-average levels of water-use efficiency. The two properties are not examples of such high standard properties. In other valuations by the same valuer, these properties were considered to be the worst performing comparable properties, with an efficiency of just 39 to 47 per cent, compared to the highest performers. Far from being the highest performers they were operating at a loss prior to the sale, with net liabilities in 2017 of \$28,570,000, up from the previous year losses of \$15,383,000. The committee was advised that the decision to pay this high price was because they were high-quality properties. That is clearly not the case.

Ms Connell: Senator, if I might respond to that assertion: the department's view was, and it remains, that the properties were of a high standard that achieved above-average levels of water efficiency.

Senator PATRICK: I'm asking for the basis of that claim.

Ms Connell: The basis of that analysis was advice from multiple state and federal agencies, including the Commonwealth Environmental Water Holder and the Queensland department. I understand that Ms Swirepik gave evidence before this committee earlier this year which confirmed that the environmental benefits of the acquisition of that water entitlement held. I would note that a key consideration for the department at the time of the acquisition was the environmental benefits that would flow from the purchase.

Senator PATRICK: I'm not talking about environmental benefits. I'm sure there's a benefit to the Commonwealth from the purchase of the Leppington Triangle; that doesn't mean it represents value for money. I'm not questioning that there may be some benefit. I'm questioning how you got to the point of paying above what the valuer stated in the value range. Even if I accept what you have put—that it was a high-value property—how did you come to that conclusion? You say you've received advice. I ask you to please table that advice from the states and the Commonwealth Environmental Water Holder so that the committee can examine the claim that you've made.

Ms Connell: I will take on notice that request. I will point out, Senator, that the department's contention, and it was the subject of the ANAO investigation, was that we did achieve value for money. I would point out that the ANAO report confirmed that the price the department paid for water entitlements was equal to or less than the maximum price determined by valuations.

Senator PATRICK: I'm happy to table the valuation. It's really clear. It has a preamble that sets out a whole range of different things that might be considered as to how to come to the range. At the end you got exactly what you paid for, which was a point price and a range. It is absolutely clear what that is. What's happened is that the department has reached into the text of the valuation, pulled out some quote in isolation and used that to justify paying 20 per cent more than what it should have and what the maximum price was. This was not a high-performing property.

Ms O'Connell: Our view was that it was a high-performing property. We saw evidence of that recently—

Senator PATRICK: Again, I've heard that.

Ms O'Connell: I do just need to note that—

Senator PATRICK: You've repeated that. Are you going to provide some evidence to ground your—

Mr Metcalfe: We'll check what has been provided and if there's anything further that we can provide that will assist in answering your question we will provide it.

Senator PATRICK: Thank you very much.

Senator O'NEILL: Can I just clarify, before we come to our questions about the definition used of good-value properties: in the ANAO report it talks about the Finance definition of 'exceptionally advantageous'. Is that the same thing that you're answering in response to Senator Patrick?

Ms O'Connell: I understand that's a component of the elements that need to be taken into account.

Senator O'NEILL: And it was made pretty clear that neither the department nor Finance defined what constituted 'exceptionally advantageous'. That was one of the findings of the ANAO, wasn't it?

Ms O'Connell: It was one of the findings, yes.

Senator O'NEILL: I think that explains it somewhat. I'd like to come back with some more questions along those lines. Thank you.

Senator McALLISTER: Can I just clarify whether they'll be tabling the document that they can provide soon—the information about the projects?

Mr Metcalfe: Can we check over morning tea as to the progress that's being made? There are obviously other people listening to what's going on here, and we'll check with them as to what progress they're making and when we expect we can provide that information. So we can come back to that straight after the break.

CHAIR: Thank you, Secretary.

Proceedings suspended from 11:02 to 11:17

CHAIR: Senator O'Neill.

Senator O'NEILL: Thank you. I haven't been on this committee very often; I think this is only my second time with you. So that I understand the context of this report, I want to talk with you about the ANAO report *Procurement of Strategic Water Entitlements*, to which Senator Patrick was just referring. My recollection is that there was great concern in the community about buyback and value for money. In the lead-up to the last federal

election, a couple of properties, Kia Ora and Clyde—again, which were referred to already this morning—were controversial. To take the heat off, the government agreed that there would be an ANAO report to look at whether we were getting value for money. Is that essentially the context in which the inquiry was undertaken, and now the report delivered?

Senator Birmingham: To take the commentary out of your question, I think the question is: where did the referral to the ANAO come from?

Ms O'Connell: My understanding is that they had had general water purchases on their program for quite a while and it was part of their schedule to look at water purchases.

Senator PATRICK: A number of senators and members also wrote to the ANAO, including Mr Burke.

Mr Metcalfe: Paragraphs 7 and 8 of the introduction to the report provide that context, including that a number of members of parliament had asked for a performance audit.

Senator O'NEILL: Yes, because we're talking about \$190 million of strategic water procurement.

Mr Metcalfe: That's correct, yes.

Senator O'NEILL: It is of great interest to Australians, who love the river and who believe that it needs to be looked after and that we should get what we are paying for when we invest \$190 million. There is a pattern developing here—there are lots of announcements, with money attached and then we try to figure out what we actually get for that. That's my line of questioning today. It must have been a pretty interesting experience when you received this report on 16 July, 2020?

Mr Metcalfe: Yes.

Senator O'NEILL: Were you shocked by the strength of the recommendations?

Senator Birmingham: Why don't we refrain from the emotional aspect, Senator, and just deal with the facts?

Senator O'NEILL: Maybe you don't care enough about what happens in politics to be emotional about it. But I care—I care on behalf of the Australian people. I want to understand: did anybody in the department care when they got this? Were they upset at the level of negative feedback for the department embedded in this report?

Senator Birmingham: Senator, if you have some questions on matters of fact, please ask.

Senator O'NEILL: That is a question.

Senator Birmingham: No, it's not.

Senator O'NEILL: How did you receive this document?

Senator Birmingham: They received it when it was published, I assume, and with the usual consultation processes with the ANAO first. Senator, do you actually have a question that goes to the content of the report?

Senator O'NEILL: Senator Birmingham, I won't have my questions critiqued by you. I am putting the view of the Australian people, who are concerned about \$190 million and making sure we get value for money. When I read this report, I was shocked by what it says. I want to know if the department was shocked, too. Are they unhappy about—

CHAIR: I think it is a matter of opinion you are inquiring about, Senator O'Neill.

Senator O'NEILL: So how did you receive it and what is your view of it?

Senator Birmingham: Why don't we invite departmental officials to respond to the content of the report and how they have acted in regard to the content of the report.

Mr Metcalfe: I obviously noted the findings of the report. We have agreed with the recommendations and we are in the process of implementing those recommendations.

Senator O'NEILL: You've agreed with the recommendations. Did you agree with the findings—because there are some pretty damning findings in here, aren't there?

Mr Metcalfe: By agreeing with the recommendations I noted the findings.

Senator O'NEILL: So you note them, or you accept them?

Mr Metcalfe: I accept them. I'm not debating the Auditor-General's finding, if that's what you're imputing. I noted what they said. It occurred some years ago. I'm committed, as are my colleagues, to responding to the recommendations.

Senator O'NEILL: You might be concerned at paragraph 16, for example: 'The department did not develop a framework designed to maximise the value for money of strategic water entitlements purchased through limited tender arrangements'. That is concerning, isn't it?

Mr Metcalfe: I think my emotional state is probably not really relevant, Senator. My role is to administer the department. We received a significant report from the Auditor-General with recommendations that we've agreed with and that we will implement.

Senator O'NEILL: Do you think it's a problem to have a report on the department that says, 'The department did not develop a framework designed to maximise the value for money of strategic water entitlements purchased through limited tender arrangements'?

Mr Metcalfe: I would prefer that the Auditor-General did not need to make that finding.

Senator O'NEILL: That's a convoluted answer. A little straight speaking might be appropriate here.

Mr Metcalfe: In other words, Senator, I note the finding. There's nothing I can do about it, apart from respond to the recommendations.

Senator O'NEILL: But you're the Secretary.

Mr Metcalfe: I can respond to the recommendations. I can't go back in time, Senator, and change what happened in the past.

Senator O'NEILL: That is true; there is no time machine for you to go back and do this.

Mr Metcalfe: No, I'm not a time traveller, Senator. I can respond to the recommendations.

Senator O'NEILL: That's right. We've been talking already this morning about a failure to meet deadlines. We're waiting for a list of projects that are supposed to enable the 450 gains to be achieved. This department does not have a very good track record in meeting its requirements on time and in a way that encourages the people of Australia to think that the department is acting in our interests as a nation.

Senator Birmingham: Mr Metcalfe no doubt will add to this—the department has sweeping and broad responsibilities across a vast array of areas. I think the type of insult that you seek to make in such generic terms is an unfortunate attempt by you and does not pay due regard to the good work and the good outcomes of officials across the department—

Senator O'NEILL: Senator Birmingham, I'm not asking you for your moral evaluation of my outrage on behalf of the Australian people. You constantly want to do this to me. Australian people care about this stuff. This bland language that covers a multitude of sins that go on for many years is not what Australians care about. They care about the job getting done. They care about getting value for money they are investing. They are seeing this government fail all too often. The nature of my questions is coming from a point of outrage on behalf of the people, who are getting sick and tired of being taken for patsies: 'Oh, we've got a big job; it's a bit hard for us to get across it all'. That is not an adequate answer.

CHAIR: Senator O'Neill, do you have a question?

Senator O'NEILL: I have asked a question.

Mr Metcalfe: Senator, I completely reject any suggestion that the work of the 6,000 staff of the department is anything other than diligent. As the minister says, we perform many functions every day for the Australian community. If you had been here earlier in the week before this and other committees you would have heard about the work we do with the environment, with national parks, in Antarctica, in relation to biosecurity, agricultural productivity—the list goes on.

The staff of the department have worked very diligently through this most extraordinary of years. Thousands of staff have worked in different ways. Our staff have been at the frontline of responding to the pandemic by supporting trade flows. Our staff at ports and airports have fronted up day after day. While, of course, I'm not happy with the fact that the Auditor-General has found that, in the past, aspects of the department's work were not up to scratch, I am committed to ensuring the department does its job as well as it can. I know that Ms O'Connell and Ms Connell, who are new in their roles, are equally committed to implementing the recommendations of this report.

Senator O'NEILL: To be clear, Mr Metcalfe, I acknowledge the great work that public servants do. But there is a story being told around this building constantly about inadequate resourcing, lack of proper direction. Maybe it's not the staff of the department who are the problem; maybe it's the leadership of the government that's the problem.

CHAIR: Senator O'Neill, I think we are in different hearings. We have certainly not heard that from any of the people giving evidence over the last four days that I have been sitting here. Please, move on to your question.

Senator O'NEILL: I ask for your response to the statement:

The department has not reviewed the water recovery strategy or its approach to procurement of strategic water entitlements. The department has not adequately planned for evaluation of its strategic water purchasing program.

That is not past tense; that's pretty current. It was delivered on 16 July this year.

Mr Metcalfe: Yes, but it was in relation to programs that had been occurring for some years. I'm sure Ms O'Connell or Ms Connell are happy to tell you about what we're doing to respond to the report, Senator, if that's what your question is.

Senator O'NEILL: So, Ms O'Connell, is it all better now?

Ms O'Connell: Senator, in terms of implementing the recommendations in the audit report—it might be better for me to table it—there were four recommendations which we all accepted and agreed. We have completed those recommendations. I have further information to go through and give more information on. If you would like, I have a status report here on the implementation of those recommendations that I can table.

Senator O'NEILL: Thank you, that would be helpful.

Ms O'Connell: The fourth recommendation has a couple of parts. We've completed one and another part of it is undergoing implementation. That's set out in this status, if that's useful.

Senator O'NEILL: Thank you, that would be very helpful.

Ms O'Connell: I can provide that to the table.

Senator O'NEILL: Ms O'Connell, before I go to a further line of questioning, at para—24 in the report the ANAO—which does a remarkable job, and which I hope will continue to do it despite the cuts to its funding—declared:

The department did not appropriately manage procurement risks. While the department identified risks associated with the broader water recovery strategy, there is limited evidence of risks being raised or managed for individual procurements.

Has that been fixed?

Ms O'Connell: That is one of the things we're making changes to. We are making a number of changes, as you would do when you get an ANAO audit report. We are making a number of changes to the way we do things in response to all the findings and the recommendations in the audit report. So, yes, we are making changes about how we manage risks for individual procurements.

Senator O'NEILL: I did ask for your dispositional response to this report when it landed. Were you already undertaking the work that you said you are now undertaking before the ANAO pointed out the failings of the management of \$190 million?

Ms O'Connell: An audit report doesn't land completely unaware. There's a process of constant dialogue, lots of backward and forward of questions, clarifications and an opportunity for us to agree or not agree and put in a department response to the audit report. So we were aware of it, obviously, before it was tabled. As a result, we had a chance to start to address and refine the way we do things and the response to the ongoing dialogue with the ANAO on the matter.

Mr Metcalfe: Appendix 1 of the report at page 59 sets out the department's comprehensive response to the report and provides you with some more detail as well.

Senator O'NEILL: In terms of this ongoing back and forth, with regard to recommendation 1—that the department review and update internal procurement guidance to ensure delegations are accurately identified in approval briefs—when did you figure that out with the assistance of the ANAO and make changes? Have any of these things been implemented that you said you were alerted to?

Ms O'Connell: Yes, Senator. I hope that document has been tabled.

Senator O'NEILL: The answers are in there?

Ms O'Connell: Yes. It says that the department has extensive procurement guidelines and templates available to support procurement processes, and they're reviewed and updated.

Senator O'NEILL: So that process has already been undertaken?

Ms O'Connell: It's been completed, that recommendation, yes. Obviously the importance is that you change your guidance but then it needs to be applied all the way through.

Senator O'NEILL: Implemented, yes.

Ms O'Connell: And there will be times when guidance needs to change again.

Senator O'NEILL: What's the status of recommendation 2, assurance mechanisms for procurement processes?

Ms O'Connell: To ensure necessary documentation is completed in a timely manner. We would say, again, that it's completed. Our quality assurance mechanisms include the Australian Government Solicitor and the department's Office of General Counsel who now review contracts prior to their execution. That gives a layer of, if you like, review and assurance before procurements are undertaken. The department is updating our administrative and other processes, including documentation, to ensure it's appropriately dated by all parties and their witnesses.

Senator O'NEILL: If I can go then to recommendation 3, which is really around managing real or perceived conflicts in particular. How are conflicts of interest related to water managed?

Ms O'Connell: In July 2020 we implemented a water acquisition and divestment declaration of interest policy, a new policy specifically focused on water acquisition and divestment declaration. It requires that any person or any entity involved in the acquisition or divestment of water entitlements or allocations makes regular declarations of real or apparent conflicts of interest, including where no known conflict exists. So you declare whether there's no conflict or there is conflict.

Senator O'NEILL: You have to make a positive statement.

Ms O'Connell: Yes, make a positive statement.

Senator O'NEILL: You said July 2020.

Ms O'Connell: Yes.

Senator O'NEILL: What date did you implement that? This report came down on the 16th. Was it before or after that?

Ms O'Connell: It's fair to say, as I said before, that we were aware of the recommendations or likely recommendations and findings well before the report was produced. Work had started on doing those things before the audit report was implemented. I would have to take on notice to get you the specific date on which we implemented that water acquisition and divestment declaration of interest policy; I'd have to get the specific date. We were aware of it before the audit was produced, so work had commenced beforehand. That's natural through the process of any audit.

Senator O'NEILL: A conflict of interest, just for the record, Ms O'Connell—what does it look like?

Ms O'Connell: I can get you a copy of it. That's probably the best way to do it.

Mr Metcalfe: We will give you a copy.

Senator O'NEILL: A statement of the way in which a conflict of interest might manifest itself.

Mr Metcalfe: In addition to that policy, of course, there are the usual policies in place, as you'd expect, about the behaviour of departmental officials and conflicts of interest registers and whatever. But that particular policy was designed around this issue. I'm sure there's no reason why we couldn't provide a copy.

Ms O'Connell: We can give you a copy, Senator.

Senator O'NEILL: Thank you. To be clear, does this recent change create a conflicts of interest register?

Ms O'Connell: I'd have to check whether it creates a specific database register, but I know that the conflicts of interest declarations are held in one place.

Senator O'NEILL: That's a management change and a process change that you've just described. I guess the question is: is there a register of such conflicts of interest that would provide transparency that other people might be able to see?

Ms O'Connell: You mean an externally facing, published—

Senator O'NEILL: Either internally or externally, is there a register?

Ms O'Connell: In a sense, if you get all of the statements that would form a register, but it's not a database, if you like. I might have to check whether there is some sort of database or something that comes out of it. Certainly, the declarations of interests are all held centrally. You could call that a register. I'm not saying that it's necessarily all encoded into a database or something like that. I'd have to check.

Senator O'NEILL: And not easily interrogated then by the general—

Ms O'Connell: I don't think it's hard to go through them. They are all reviewed. That's the important part: they are read, looked at, an assessment is made and any potential conflicts, real or perceived, are drawn to the most senior official's attention.

Senator O'NEILL: Has any minister ever declared a conflict of interest in relation to water entitlements that they might own?

Ms O'Connell: Senator, I'm framing these answers within the department; so this is people, staff, within the department. I'm not aware that it applies to anybody outside of the department. This is for our staff, but I will just check on that.

Senator Birmingham: Ministers have both obligations to their respective chambers in terms of the declarations of interest as well as the obligations to the Prime Minister under the Ministerial Code of Conduct, with declarations of interest made by that route as well.

Senator O'NEILL: Yes, I am aware of that, but I am not always satisfied that that standard is being met. I am interested in how these two things might interact. Ms O'Connell?

Ms O'Connell: Our declarations are in relation to our staff. We have the remit over our staff. You asked earlier about whether it goes onto a register. I'm advised that it's managed through the department's financial management compliance system and that system acts as an electronic database of all declarations made. So there is an electronic database. I wasn't clear that there was earlier, but I'm now advised that there is. But our policy applies to our staff.

Senator O'NEILL: Perhaps to the minister, are you able to give voice to how the register of interests that you just described interacts with the department's awareness of ownership of water assets by ministers? Do those two things talk to one another?

Senator Birmingham: The chamber declarations of interest, as you would be aware, go through processes that, when it comes to direct interests of members and senators, are published in accordance with those procedures. The ministerial standards and declaration through to the Prime Minister would mean that if, for example, you had a minister with responsibility for functions in this department that related to water assets then the Prime Minister's office and department would take steps with that minister to remove any potential for real or perceived conflict.

Senator O'NEILL: Are you confident that that has occurred on all occasions, Senator Birmingham?

Senator Birmingham: I have no reason to believe that it hasn't, Senator.

Senator O'NEILL: You have no reason to believe. But are you confident that it has happened on all occasions, that this register that you speak of interacts in a fulsome and integrated way with the management of conflicts of interest around the expenditure of \$190 million on water buyback?

Senator Birmingham: Well, a lot more than that has been spent on water buybacks over the years and other water recovery projects, Senator. But, as I say, I have no reason to believe otherwise. I'm not responsible for the management in the Prime Minister's office and across the Prime Minister's department of the ministerial code of conduct and declarations. They would be questions for the Prime Minister's department.

Senator O'NEILL: If I can go back to you, Ms O'Connell. Will the document that is being provided give me a very clear understanding of the stages you've achieved in terms of the implementation of the ANAO findings?

Ms O'Connell: Yes. It's a single page with the four recommendations and the status.

Mr Metcalfe: It says that we've done what they said we should do. As Ms O'Connell said earlier, these things need to be applied in practice whenever these matters occur. The mechanisms are now in place. It's my expectation that the senior staff responsible for the water division are constantly ensuring that these are, in fact, being given effect to by staff working for them.

Senator O'NEILL: One of the statements here around probity management was that the department relied on officials to self-declare any real or perceived conflicts of interest. The ANAO pointed out that that differs from the process set for open tender procurements where panel members assessing applications are required to complete a specific conflict of interest declaration. Is that one of the changes that you've made?

Ms O'Connell: That is correct. So that's the difference in relation to recommendation 3 of the ANAO report, where they basically say that there needs to be a positive declaration by everybody, not an absence of a declaration. That's why we specifically have the water acquisition and divestment declaration of interest policy. We're getting a copy of that policy printed for you now. I will be able to tender that to you very shortly.

Senator O'NEILL: It concerns me that conflicts of interest were really allowed to flourish in the context of this significant investment of Australian taxpayers' dollars in the Murray-Darling Basin. I worry that conflicts of interest just don't seem to be top of mind for this government or the department that is serving the government.

Senator Birmingham: Senator, there is a difference between the Audit Office finding gaps in relation to the practice of handling such issues versus finding that there actually were such live instances. It's a fairly serious accusation you make there. Now, if officials have something specific to comment on in relation to the claim you

are making they should do so. But I think it is important to draw a distinction between the administration of procedures to prevent a problem versus the identification that there actually was any alleged conflict.

Senator O'NEILL: The problem that I have with this whole matter, and matters more generally with this government, is a lack of scrutiny, constant emerging conflicts of interest discussions across a range of areas and a failure to deliver a national integrity commission to investigate conflicts of interest and other problems that I think the Australian people expect to be addressed. It's just one failure after another around probity. That's a problem.

Senator Birmingham: Senator, that's all commentary. Is there a particular allegation that you are making?

Senator O'NEILL: Isn't it time for a national integrity commission, Senator Birmingham? Isn't it time?

Senator Birmingham: This is not the time and place for that discussion, Senator.

Senator O'NEILL: Well, I beg to differ. I think this is just one of the many times and places for this discussion about the government's failure to meet Australian standards.

CHAIR: Senator O'Neill, can we move to a question of this department?

Senator O'NEILL: This is a damning report of a failure of consideration of matters of probity.

CHAIR: Senator O'Neill, can we move to a question on this department, please?

Senator O'NEILL: Concerns that have been raised could not be taken to an integrity commission despite you promising it a few years ago.

CHAIR: The opportunity to ask questions at estimates is limited.

Senator O'NEILL: It is time for a national integrity commission.

CHAIR: I'm sure that you would like to move to a question on fact, please.

Senator O'NEILL: Is there an answer? Is it time for a national integrity commission, Mr Metcalfe?

Mr Metcalfe: Chair, if I can add one further aspect of context. In addition to the new declaration of interest policy, it has been a longstanding requirement across the Australian Public Service that senior executive officers complete undertakings in relation to any assets or other issues that they have. So there's a declaration of interest, so to speak. That's been in place for many years. It's obviously my expectation that all of my senior executive officers, as indeed I, fully complete those documents.

The reality of decision-making is that any acquisition or divestment of substantial assets, such as the ones we're talking about, would be authorised at the senior executive or more senior levels of the organisation. While the ANAO pointed, as the minister indicated, to the fact that in the overall scheme there should have been a greater effort relating to managing real or perceived conflicts of interest, there always has been that declaration of interest requirement for senior executive service officers. As far as I'm aware, there's no suggestion that there has in fact been any inappropriate behaviour by departmental officers contrary to those requirements.

Senator O'NEILL: I think there are a lot of questions about valuers' actions, and that's an interaction with the department. There are some questions that remain in the public eye about certain ministers' engagement with water matters as well.

CHAIR: Senator O'Neill, we have limited time—

Senator O'NEILL: Can I ask a final question? One practical question.

CHAIR: One practical question.

Senator O'NEILL: You talked about declarations. The way that I understand declarations work in many organisations is that the task is undertaken and the paperwork is completed. But without somebody actually overseeing that, and looking at it carefully, those documents are pretty worthless. When somebody does take the time to look, whether it's the ANAO, a whistleblower or somebody that says, 'There's a conflict of interest here,' we have a gaping hole without a national integrity commission for people to advance those concerns to.

Senator Birmingham: If you were listening before, Senator O'Neill, you would have heard Ms O'Connell talk about the practical steps that have been taken around the review of declarations and the positive declarations that are now made. As usual, you choose to ignore that and just run your commentary.

Senator O'NEILL: I will ask questions that go to the probity and appropriateness of this government, because I think you're failing on many fronts in terms of the standard that Australians expect.

Senator Birmingham: Senator, you came in here before and sought to slur this entire department as incompetent. You've now sought to variously slur individuals across the department, without making a single accusation, as having conflicts of interest. You owe this department an apology.

Senator O'NEILL: You've got to be joking! The Australian people deserve an apology from your government for constantly failing them on matters of probity.

CHAIR: Senator O'Neill—

Senator Birmingham: Thousands of hardworking public servants get slurred by you because you want to make a cheap point.

Senator O'NEILL: I'm very happy to support hardworking Australians in the department and outside it, but I'm not happy to support a government that doesn't want to subject itself to scrutiny—

Senator Birmingham: That's not the way you have conducted yourself here.

Senator O'NEILL: and is two years late on delivering an independent integrity commission.

CHAIR: Senator O'Neill, you might want to reflect on some of your comments around the department and the allegations.

Senator O'NEILL: I think I have already put on the record my recognition of hardworking people in the department, and I do mean that.

CHAIR: At the same time you have raised that you have—

Senator O'NEILL: I am very concerned about the findings in this report, Chair.

CHAIR: You might like to reflect on that later. No doubt the department staff will be reflecting on it, equally. Senator Patrick has the call.

Senator PATRICK: Thank you, Chair. I will take up your invitation, Minister, to say that, in a specific instance, I do have real concerns in relation to the Clyde and Kia Ora property water purchases, specifically around the department purchasing the water at a price that was above what the valuer put. The ANAO has undertaken to go back and have a look at that. I'm just taking up your invitation.

Senator Birmingham: I acknowledge that, Senator Patrick. You are quite specific in your approach; thank you.

Mr Metcalfe: Senator, your question was a very proper question as to whether or not proper judgement was exercised relating to value for money, as opposed to a suggestion that there was some corrupt behaviour associated with—

Senator PATRICK: There is all sorts of innuendo, not directed at the department, in the public domain. You just have to look at #watergate on Twitter and you'll find that. I'm not directing that at the department.

Mr Metcalfe: Thank you, Senator.

Senator Birmingham: I don't take Twitter as a source of truth either, Senator Patrick.

Senator PATRICK: There are some things on Twitter that lead to all sorts of interesting things. Going back to the 450, can I confirm the department's view on how much has been returned through the efficiency measures to the river? Whether it's the Commonwealth Environmental Water Holder or the department that makes an assessment, of the 450 gigalitres, how much has been returned and how much has been spent?

Ms Connell: In relation to the amount of water that's been returned, that is available on the Murray-Darling Basin Authority's website, and it's 4.9 gigalitres of water.

Senator PATRICK: Sorry, say that again?

Ms Connell: Sorry, 1.9.

Ms O'Connell: Senator, should we have the Murray-Darling Basin at the table, too?

Senator PATRICK: I don't mind.

Ms O'Connell: I think the authority will be best placed to answer.

Senator PATRICK: I am guided by you. If that's the answer—1.9 gigalitres—how much of the efficiency money have we spent? Let's keep it in percentage terms, and have common metrics.

Ms Connell: To date \$26.5 million has been spent from the Water for the Environment Special Account.

Senator PATRICK: \$26.5 million?

Ms Connell: In relation to efficiency measures.

Senator PATRICK: What's the total amount, just to work out a percentage, in the account?

Ms Connell: The total amount of the account is \$1.775 billion, of which \$1.57 billion is for efficiency measures.

Senator PATRICK: \$1.775 billion.

Ms Connell: \$1.575 billion is for efficiency measures.

Senator DAVEY: Can I just clarify that? With the \$26.5 million that you said has been spent, did that come out of the total or did that just come out of the \$1.57 billion for efficiency measures?

Ms Connell: In terms of the maths, \$26.5 million has been spent from the Water for the Environment Special Account on efficiency measures to date in relation to the 450 gegalitres.

Senator DAVEY: I know that part of that \$1.77 billion was set aside for constraints.

Ms Connell: Yes.

Senator DAVEY: That \$26.5 million wasn't any of that money? There has been consultation done on constraints.

Ms Connell: Of the Water for the Environment Special Account, \$1.575 billion is for efficiency measures. Of that \$1.575 billion, \$26.5 million has been spent.

Senator PATRICK: When I take my daughters out on the weekend, they say, 'Dad, what are we doing?' I say, 'We'll just see how it goes over the weekend. Let's be spontaneous.' When I run projects, I have a very clear plan as to how to get to an objective and do so in a timely and cost-effective manner. It is in that context that I ask this question: there must be a plan with a schedule that's laid out that says, 'This is how we intend to achieve the 450 over the next four years.' I presume there is a plan laid out, a top-level plan, working back and saying, 'Here's 2024. We know what we need to achieve. Therefore by this date we need to have done that. By this date we need to have done that,' and so forth.

Senator Birmingham: Senator Patrick, you may have been out of the room earlier when Ms Connell and Ms O'Connell were responding to some questions in that regard, and the status of the consultations and work with the states and territories around trying to line them up on the commitments to deliver on the projects necessary to get to that point. But if they have further to—

Senator PATRICK: It's subtly different. You might be describing the work you're doing. I'm actually asking: is there a top-level plan? The Department of Defence has provided me with the integrated master schedule for the Future Submarine project. I can see on what dates they have key milestones. Does something like that exist within the department?

Senator Birmingham: Obviously, the Future Submarine project is to—a gross simplification—ultimately end up with a world-class submarine, and to get to that point. It's one unit, or 12 units ultimately, at the end, following its construction. The 450 gegalitres is a volumetric target, but it will be made up of a series of quite separate projects and efforts to get there.

Senator PATRICK: I understand that.

Senator Birmingham: It would depend on which of those projects can get off the ground.

Senator PATRICK: That is why I only asked for top level. I understand you're saying that, down in the details, you don't know what is exact. But you'd have some point where you would say, 'Some of these projects are going to take two years to deliver; therefore we need to have at least some of these measures contracted by a particular time.' I can't believe there wouldn't be—

Senator Birmingham: I understand what you're saying. I will get the officials to add something. In terms of your analogy there, we know that the submarines will need a propulsion system. We know that they'll need a weapons system. In terms of the 450 gegalitres, there will be some options to get to the end of that that will not be pursued and others that would be pursued. Because there's a series of different projects that might add up ultimately to the 450—

Senator PATRICK: I just caution you, Minister, that using submarines as an example puts you at a disadvantage, because of my background. They have a milestone that talks about a preliminary design review and a critical design review, and they can't tell me when, within that plan, because the design has not been complete—although the main motor is different because they recognise up-front that that is a critical path. There's a whole bunch of things that they don't know about the submarine at this point.

Mr Metcalfe: The major difference here, Senator, is that, of course, there's not simply one government in control of this issue. The Commonwealth is the major funding level of government. Eventually, it will take the work and effort of each of the basin states to assist in meeting this target. Indeed, ultimately, it comes down to decisions being taken at the community level as well.

Senator PATRICK: Sure, but if you don't have a plan, Secretary—

Senator Birmingham: Let's hear from Ms O'Connell in terms of the strategy that's being deployed and how that relates to the type of plan that you're asking about, Senator.

Ms O'Connell: I was going to mention that earlier we had undertaken to provide an overview of the projects—

Senator PATRICK: I understand that.

Ms O'Connell: That might go to that plan that you're talking about.

Senator PATRICK: That goes to some of the detail that might be within the plan. I'm really after a schedule—something that says, 'These are the things we intend to do along the way.' That's a really fundamental piece of work for any project, including a project that might seek to recover water through efficiency measures.

Senator Birmingham: There will be a series of projects; I think that is the point. Each of those projects will then have the type of—

Ms O'Connell: Subprojects.

Senator PATRICK: Every project will have a series of things that happen underneath.

Ms O'Connell: That's right. We will provide that at lunchtime, so it will be ready after lunch.

Senator PATRICK: I would like you to provide something that basically has objectives as a function of time, because that is the fundamental basis of a plan. I would also like something on notice; I don't expect this straightaway. When this program was announced there must have been a plan laid out at that point in time. I would like to—

Senator DAVEY: Now that it's the eleventh hour on the banks of the Lower Lakes.

Senator PATRICK: Sorry?

Senator DAVEY: The 450 program was announced at the eleventh hour.

Senator PATRICK: No, I understand. It was announced.

Senator DAVEY: There was no planning put into it.

Senator PATRICK: It was announced, but having been announced, the parliament will give effect to that announcement. The first thing they'll do is map out what needs to happen. That's normal practice. I'm just saying that you'll have a plan now; I'd like to see what that is—top-level. You will have had a plan when the efficiency measures were announced. I'd like to see that—what I might call the baseline, the initial plan, because I'd like to compare them. Can you take that on notice and look back in time to see what the plan was?

Mr Metcalfe: We will do what we can, Senator. As Senator Davey has indicated, effectively, the commitment to the 450 gigalitres on the basis that there would be neutral or improved socioeconomic conditions was an agreement worked out between the basin states and the Commonwealth. It will rely upon the basin states accessing the funding provided by the Water for the Environment Special Account to undertake the necessary projects. A top-down plan is difficult to construct in that circumstance. Effectively, the Commonwealth has provided a large sum of money to be provided for projects, and the states need to bring those forward as particular projects.

Senator PATRICK: Please don't let the headline tomorrow be: 'The government has no plan'. I'm asking you for just the top-level plan to deliver the 450. That's all I'm asking.

Mr Metcalfe: The headline should be, 'The governments are collectively working on the issue of the 450 gigalitres.' That's what the government—

Senator PATRICK: The way in which I would be satisfied of that is if there were a plan. You have got a department that's been unable to get someone on the board of the MDBA. You've got a department that has not been able to allocate \$40 million of funding to Indigenous people. I suspect maybe the Auditor-General needs to examine some of the planning arrangements inside the department. If you don't have plans—and I accept they change—

Senator Birmingham: Let's leave the headline writing job to the subeditors.

Senator PATRICK: I will move on.

Senator Birmingham: The officials have undertaken to come back.

Senator PATRICK: Thank you. I will move on.

Senator Birmingham: In fairness, we have a department, on these topics, that has also recovered around 2,030 billion litres of water entitlements to date towards the Murray-Darling Basin Plan. So let's not pretend somehow that nothing has happened over the years since the Water Act passed and the Basin Plan was brought

into being. Significant sums of entitlements have been recovered and, as Ms Swirepik has advanced, environmental benefits are being delivered as a result of those recoveries as well.

Senator PATRICK: Yes, but that's SDLs versus 1.9 gigalitres of efficiency measure.

Senator Birmingham: Certainly, but I would also just say on that: it has, I think, always been relatively well understood—and if you look at the profile of funding under the Water for the Environment Special Account legislation—that the immediate task of water recovery associated with meeting the SDL targets we always expected to precede the recovery of targets associated with the Water for the Environment Special Account.

CHAIR: I would just like to flag too—I appreciate there are a number of committees on—that, for those of us who are sitting here all day, we are rehashing some territory that we have already covered earlier in the day. So I am pleased you are going to move on to another question.

Senator PATRICK: We are getting disagreement from—

Senator McALLISTER: Senator Patrick very clearly is asking for a time-bound project plan but there are two different documents, both of which should be available if anybody was taking this project seriously.

CHAIR: I think there has been evidence earlier today of the involvement of other governments, of other elements that are part of the plan.

Senator McALLISTER: Why don't we let the guys answer the question.

CHAIR: I agree. But I'm listening carefully. Like you, I'm sitting here all day. We have the benefit of hearing quite a bit of evidence that not every other senator has the benefit of. So by listening carefully we are putting all the parts of the puzzle together. Senator Patrick, last question.

Senator PATRICK: Minister Pavey, the New South Wales water minister, appeared before the multi-jurisdictional select committee of the Senate. I just want to read a paragraph of what she said. This was on 23 September. She said:

New South Wales is involved in 22 of the Basin Plan's 36 sustainable diversion limit adjustment mechanisms, SDLAM, projects, and we've delivered more than half. Thirteen projects are in place or nearing completion. Key projects though, such as Menindee Lakes and Yanco, must change and cannot be delivered in their current state. Similarly, the Constraints Management Strategy cannot be delivered by 2024, and that's just the honest truth. Similarly, we welcome the Commonwealth government's commitment to stop any more water purchases or recovery, particularly around the additional 450 gigalitres. The drought has highlighted that we have no more to give in New South Wales.

She then goes on to say:

The plan must change. The Water Act must change.

I say that, noting the secretary's fantastic work in his former role at Ernst & Young. In this particular document it's laid out where we might get efficiency measures from: New South Wales, Murray between 10 and 25 gigalitres; Murrumbidgee, less than 10—a whole range, lists of where the recovery may take place. What's the Commonwealth's response? Maybe I should direct this to the minister. What's the Commonwealth's response to New South Wales effectively saying, 'No more. We're not going to deliver on the 450'? What have you done? What's the response from the minister? What is the minister doing to push back to make sure that New South Wales meets its obligations under the plan?

Senator Birmingham: The obligations under the plan, as legally laid out—and we had evidence earlier today around compliance against the water and I'm just having a blank in terms of the specific titles of the individual basin plans—

Senator PATRICK: Water-sharing plans.

Senator Birmingham: Thank you. The officials have outlined the obligations and requirements there and the progress there. I think that has been outlined already today but it can be restated, if need be. In terms of then the 450 gigalitres and additional recovery, it is clearly an expectation and requirement that to recover that water there will need to be recovery across jurisdictions, including New South Wales.

The government's response and Minister Pitt's response has been, as we discussed earlier, to elevate work around potential off-farm projects that could help to achieve that delivery and help to secure the support of the New South Wales government and basin communities against that target.

Senator PATRICK: But fundamentally, when New South Wales said, 'Right, we are not going to submit our water-sharing plans, water resource plans,' Minister Littleproud stood up and said, 'Well, no more money, New South Wales. You're not going to get any more.' Lo and behold, suddenly New South Wales recommits. I admit Mr Barilaro was involved somewhere, so it could have been anything going on in the mind of the minister. But that was a good response from Mr Littleproud to a recalcitrant New South Wales. New South Wales has stood up

again and Minister Pavey's words are very clear, 'We have no more water to give.' That is of great concern for all basin states. Potentially that means Victoria has to give more, Queensland has to give more, South Australia has to get less. How are you resolving that?

Senator Birmingham: We don't accept that assessment by Minister Pavey. The question of how it is accomplished is what we are working on and what Minister Pitt has particularly identified work on to try and ensure that New South Wales understands it needs to and that it does, and that it does it in a way that achieves what was set out in the original special account legislation as well around it being achieved against the requirements of not coming at community or socioeconomic disadvantage as well.

Ms O'Connell: Just in terms of New South Wales, we're in discussions with the officials about a couple of those projects that were highlighted about some possible changes to those projects. As Secretary Metcalfe said, the states need to be the proponents of the projects and to be able to put forward the projects and how they're best delivered to be funded by the Commonwealth.

I think just in terms of Minister Pavey's comments, I'll just ask Ms Connell to speak about the differences there in terms of the 450 versus SDL distinctions.

Senator PATRICK: I'm comfortable with the SDLs. I didn't want to confuse the SDLs, because she agrees there's work occurring there. I am just trying to narrow it down to the 450. She's basically saying, 'I'm not going to do that.' I don't know if the minister has written and said, 'Dear Minister Pavey. Wrong. Rethink.' Signed minister. Has there been any conversation back to the New South Wales minister to say, 'Sorry, you need to rethink this'?

Senator Birmingham: I will take on notice what conversations might have been had between Mr Pitt and Ms Pavey.

Senator PATRICK: That's very helpful.

Ms Connell: I can add that we are continuing to work closely with New South Wales at an officer level in relation to delivering the 450. So in terms of the stocktake process I referred to earlier in relation to off-farm projects, we're working very closely with New South Wales in that regard and have been working closely with them in relation to some urban proposals under the efficiency scheme towards the 450 as well.

Senator PATRICK: That's very helpful. I guess you're not responsible for the mistruths that take place at the

Senator McALLISTER: I appreciate that the department is searching for any documentation that might set out where the 450 gigalitres will be found. In the review of the Water for the Environment Special Account the reviewers indicate that the department did provide information on the volume potentially recoverable from its pipeline of prospective efficiency projects, and as at February this year it estimated that the volume was 92.3 gigalitres of entitlements. I assume that the material in the report is correct, that in February you had only identified 92.3 gigalitres of entitlements as part of the 450 project.

Ms O'Connell: Yes. There's no reason to believe that's not correct.

Senator McALLISTER: The report goes on to say that 60.5 gigalitres of that was to be found in urban industrial projects, 8.8 gigalitres of entitlement was to be found on on-farm projects and 24.5 gigalitres was to be found on off-farm projects. Has the total pipeline for the department increased since February 2020?

Ms Connell: The government committed as part of the investment package to focus, in terms of the recovery of the 450, on off-farm projects of modernisation of irrigation infrastructure. And as I referred to earlier, in respect of that commitment we've been working with states and irrigation network operators to identify potential projects. And in terms of the projects that have currently been identified, we are reviewing those projects to assess what the pipeline may provide. Our preliminary assessment is it's in the order of approximately 70 gigalitres of water in relation to off-farm. But I do note that we are at the initial stages of that process. There is further work to be done in terms of identifying where projects are at, what they can contribute and ultimately we will need to also determine whether proceeding with those projects will be value for money.

Senator McALLISTER: The first review indicates that only 60 gigalitres is potentially recoverable, given the combined effect of key limiting factors. You are now saying that in one category alone 70 gigalitres may be possible in off-farm projects. Why is there such a divergence between the conclusions reached by the first review and the information you're providing now to this committee?

Ms Connell: I wasn't privy to the evidence that was provided to the review but I would note that the review findings were presented in March this year and since that time we have commenced the stocktake. As I've said, we've commenced the discussions with the states. We've commenced the discussions with irrigation network operators. We've been provided with information about potential projects. We're going through a process of

reviewing that information, assessing how far feasibility studies have progressed, whether additional feasibility studies will also be required, essentially for us to proceed to provide funding for those projects to progress.

Senator McALLISTER: I'm not really sure what that means to be honest. That is not a group of words—

Ms Connell: Sorry, I'll restate. The department is undertaking a stocktake of potential off-farm modernisation projects. We are doing that with states, and we are also doing it in discussion with irrigation network operators. To date that process has identified 50 potential projects. Some of those projects have had feasibility studies conducted already, so they're at a point where our ability to consider funding them soon, and for them to be up and running soon, is significant. Other projects are in the early stages and are initial proposals, so we're going to have to work with states and network providers to work out what feasibility work will need to be undertaken.

Senator McALLISTER: I am waiting for the list to be tabled. Hopefully, given all the work that is going on, it is in a spreadsheet somewhere in the department and it can just be printed out and put on the table after lunch.

Senator PATRICK: In your discussion just then you talked about a stocktake. I imagine that is laid down in the plan and that it says, 'It starts here and it finishes here and then on completion we are going to do something else'. That is the sort of information I am after as a top-level plan.

Senator McALLISTER: I move on to the Sustainable Diversion Limit Adjustment Mechanism projects. Senator Patrick has already touched on this. New South Wales is responsible for 22 of those 36 projects; is that correct?

Ms Connell: New South Wales is responsible for, I understand, 16 projects.

Senator PATRICK: That differs to the New South Wales minister's evidence.

Senator DAVEY: Some of them are direct projects with Victoria.

Senator PATRICK: Thank you.

Ms Connell: That does include the projects we have jointly with Victoria. The Murray-Darling Basin Authority has a register on its website of SDLAM projects.

Senator McALLISTER: Yes, I have the register open. I am trying to understand the status of the New South Wales projects. The register does not appear to be organised by state, although if I went through and identified all of the places I could organise it myself. The New South Wales government has already indicated that they are not going to deliver on the Menindee Lakes project or the Yanco project. You have said that you are in discussions and that they may change their mind. Are there any other projects on the New South Wales list that are now either not going to be delivered or going to be delivered in such a way that they will deliver less water than expected?

Ms Connell: My recollection is that Minister Pavey noted that, as currently notified, the Menindee project would be challenging to deliver. The Commonwealth has provided funding in the order of \$97 million to New South Wales to progress the Sustainable Diversion Limit Adjustment Mechanism projects. As part of that funding, New South Wales is going through a process of undertaking strategic business cases. I understand that, involved in that strategic business case development, they will be considering different options to progress the projects. One of the things they are required to do under their assurance process is to look at the project that was put forward and notified and compare that to other feasible alternative projects to look at how the outcomes can best be delivered. So built into the process that we are funding them to deliver is the ability for New South Wales to consider alternative ways of developing and delivering the Menindee Lakes project. My understanding is they are examining a number of different options as part of that strategic business case process.

Senator McALLISTER: Is the New South Wales government reviewing each and every one of its commitments under the Sustainable Diversion Limit Adjustment Mechanism?

Ms Connell: I can't speak to what the New South Wales government is doing. All I can do is speak to what we've funded them to do, and the discussions that we're having directly with them as part of working groups about how individual projects are being progressed.

Senator McALLISTER: You are funding them to do a series of projects. Are they going to do the projects or not? They have already indicated two projects where they do not intend to proceed in the way they originally indicated. Are there any other projects on this list that we ought to be concerned about from a New South Wales perspective?

Ms Connell: At an officer level, the department is progressing business cases for all of the projects. So in terms of what we're seeing, they have people on the ground working on these projects undertaking assessments. They have commenced engagement with stakeholders. I think the view of stakeholders is that some of that engagement has been too late and they are engaging contractors to undertake work. So they're in the first stage of the SDLAM process in terms of doing the design-and-delivery testing. They attend meetings to report on that

progress. So in terms of what the Commonwealth is seeing at officer level on the ground, New South Wales is working away to deliver those projects. We await the final strategic and final business cases that need to be assessed through New South Wales processes.

Senator McALLISTER: When do you expect to receive that?

Ms Connell: There are a range of strategic business cases being undertaken, and it varies from project to project, but we can take that on notice.

Senator McALLISTER: Yes. This is another very large piece of work. The plan requires 605 gigalitres to be obtained through this component of work. I am trying to find out whether it is on track. I am not so interested in all the detail about who is attending meetings and whether there are consultants or contractors. I want to know the confidence level about this process. Does the Commonwealth believe that the 605 gigalitres is going to be met?

Ms Connell: There are several elements to that question. In the first instance quite a few projects have already been delivered to progress towards the 605.

Senator McALLISTER: You must have done a list. You must have them. I can download the list. You must have the same spreadsheet that I have in front of me with another column that says 'red', 'orange' and 'green'.

Ms Connell: That's right; that is reported on the MDBA's website.

Senator McALLISTER: On the basis of that assessment, are you going to achieve the 605 gigalitre target?

Ms Connell: We have the benefit of several reviews and reports, as you would be aware, including the Sefton review and the Productivity Commission review, which noted some challenges, not insignificant, in terms of delivering the projects. The government's response to those review findings was set out in the investment package on 4 September. So we've identified a number of new approaches that the Commonwealth can take to support the states in terms of delivering. But I reiterate what Secretary Metcalfe said earlier: these are obligations on the part of the states. We intend working closely with them to support them on delivery but ultimately, at the end of the day, it is the responsibility of the states. We're funding them to do it, and they are reporting against milestones and agreements and are progressing the projects accordingly.

Senator PATRICK: Is there a green traffic light descriptor against those projects that are on the website? I have the projects here as well.

Senator McALLISTER: I can't see one.

Senator PATRICK: There is a list of projects—

Mr Metcalfe: A colleague in the MDBA might be able to assist us in this regard.

Ms Connell: Is there a page you could refer us to?

Mr Blacker: In terms of SDLAM annual assurance reporting, we undertake a task each year to look at the 36 SDLAM projects, including both supply and constraints projects. We do produce a traffic light report; that is published on the MDBA website. I think the most recent version of that was in May this year.

Senator McALLISTER: Does the MDBA believe that the 605-gigalitre target will be met?

Mr Blacker: That assurance process is about tracking at-risk delivery. That looks at time frames; it doesn't look specifically at volumes. But we also have a regulatory responsibility under the Basin Plan in terms of SDLAM reconciliation. Should we believe in 2023 that the full 605 amount won't be delivered, we would undertake a reconciliation of SDLs at that point and provide that as a recommendation to the minister.

Senator McALLISTER: The sustainable diversion limits would then have to be adjusted consistent with what had been delivered under the projects at that point, to compensate for any shortfalls.

Mr Blacker: We would look at any shortfall and we would determine if it is material and we would provide that recommendation and advice to the minister, and the minister, under the act, would make the decision.

Senator McALLISTER: I see. Has the Commonwealth department been in discussions with the South Australian government about the risks to the 605 gigalitres?

Ms O'Connell: In terms of awareness, a ministerial council meets in relation to the plan. There's also a committee that I chair, the Basin Officials Committee. In terms of progress with projects that are, for example, on the MDBA website, there is awareness of the progress of all of those matters across—

Senator McALLISTER: Sure. I am not asking about that. I am asking about bilateral discussion between the Commonwealth and South Australia, given that the environment minister, in South Australia, Mr Speirs, had indicated a preparedness to go to the High Court should the 450 gigalitres not be secured. I am asking what discussions have taken place between the Commonwealth and South Australia in relation to this question.

Ms O'Connell: I have not had conversations with the South Australian officials in relation to any matter about a court challenge.

Senator McALLISTER: When Mr Speirs made those public comments, there has been no follow-up between officials about the concerns that the South Australian government is publicly raising about the 450 gigalitres?

Ms O'Connell: I answered specifically for myself. I would have to check whether anybody else has had discussions.

Senator McALLISTER: I think you should.

Ms O'Connell: Okay.

Senator McALLISTER: Could I have that information today, please?

Ms O'Connell: Okay.

Senator McALLISTER: The NSW government has regularly talked about pulling out of the Basin Plan. What powers are there under the Water Act if the New South Wales government does that?

Senator O'NEILL: Is there any way we can get a reference to the page with the traffic lights? You've got it, Senator. Could you send it to the secretary?

Senator DAVEY: I think I've got the right page.

Ms O'Connell: While we're just waiting, I've got a table in here of the earlier asked for departmental policy on water acquisition and divestment declarations of interests. I'll table that for the committee.

CHAIR: Thank you, Ms O'Connell.

Senator McALLISTER: I asked a question about the powers under the act and the Basin Plan in the event that the state withdraws.

Ms Connell: I'm not aware that there are any powers under the act in relation to the state withdrawing from the Basin Plan, but I will refer to the MDBA in terms of powers that they have in relation to compliance with water resource plans. As you would be aware, that submission and accreditation of water resource plans are a key element and instrument of the legislative framework.

Mr Reynolds: I might also ask my colleagues to add to this, but my understanding is that the water resource plans are Commonwealth legislation and would still stand. I'm not sure exactly what is meant by New South Wales pulling out of the Basin Plan in that context. They've referred powers. From a legal perspective, I'd have to ask others whether or not that would change.

Senator McALLISTER: It does go to my question, actually, because the New South Wales government—or New South Wales government representatives: it's unclear whether it's the position of the government, whether the Premier agrees, or if it's just the National Party freelancing—talk about it all the time. I'm trying to understand what preparations the department might be making for such an eventuality. Has the Commonwealth done any work on examining the legal framework of the Murray-Darling Basin to understand what options might be available to the Commonwealth should New South Wales pull out of the plan, as they so regularly canvass?

Ms O'Connell: I'd have to take on notice whether we've done any legal consultation on it, but I am advised that the Premier has committed to the Murray-Darling Basin Plan as part of COAG arrangements.

Senator McALLISTER: Well, she may have; it's just that her ministers routinely say that they're not committed. I am trying to understand how the Commonwealth is responding to this confusing situation.

Senator Birmingham: To an extent, what it is that New South Wales means or certain ministers in New South Wales mean when they say 'withdraw'—

Senator McALLISTER: It's very confusing, isn't it?

Senator Birmingham: is a question for them.

Senator McALLISTER: Yes, but the Commonwealth must be concerned about it, and I would be very surprised if you were doing no work whatsoever.

Senator Birmingham: Our work is focused on the delivery of the Basin Plan and on ensuring, through the authority's proper work, that adherence to the sustainable diversion limits is achieved, consistent with the plan. It really is a question for those people in New South Wales who speculate on this topic sometimes as to whether they simply mean a lack of cooperation with future measures or whether they mean something more profound than that in terms of not complying with those water resource plans. Officials have taken on notice what nature of assessment may have been undertaken. I think we can all, given the history of these topics, assume that were something relatively dramatic to occur—and indeed you referenced the South Australian minister's comments

before as well—then ultimately these matters would end up in the High Court. Officials can come back in relation to whether they've done preparatory work, but clearly you're asking questions that lead to potential legal understanding and it would probably be important that the Commonwealth not risk or prejudice its position were that to ever eventuate, which of course we all hope doesn't occur.

Senator McALLISTER: Yes. I'm not asking you to table legal advice. I'm just asking whether or not any contingency planning or preparation has taken place.

Mr Metcalfe: What I can say is that Minister Pitt regularly constructively engages with all of his ministerial colleagues through the Basin ministerial meeting, and he is strongly committed to meeting all aspects of the plan. We can't talk about what other people say, but our focus is on working in a constructive way.

Senator McALLISTER: Can you please take on notice—and I'm surprised that the secretary and the deputy secretary can't answer this question—whether or not any work has been undertaken by the department to prepare for the possibility that New South Wales may seek to extract themselves from the Murray-Darling Basin—

Mr Metcalfe: We'll take that on notice.

Senator McALLISTER: Thank you. I might leave it there, Chair, for the moment because I suspect I'm getting to the end of my time, and I may be over it, and I have another—

CHAIR: We are very flexible in RRAT, Senator McAllister, but thank you.

Senator McALLISTER: It's very unfamiliar to me.

Senator DAVEY: I will take advantage of the opening that Senator McAllister has given before I come back to other topics. On the issue of whether or not New South Wales pulls out of the plan, Mr Reynolds, you said that the water resource plans are Commonwealth legislation. If I'm right, the water resource plans set the framework to ensure that states don't exceed the sustainable diversion limits. So it comes back to the extraction limits; is that correct?

Mr Reynolds: That's certainly part of it, yes.

Senator DAVEY: So, provided the states are not exceeding those extraction limits, they would still be in compliance with the plan regardless of whether or not they had undertaken any of the further work.

Mr Reynolds: That would be part of the compliance. There are certainly other elements about how the Basin Plan deals with a range of things, including environmental outcomes to be achieved through the use of environmental water and some policy issues around how that water is moved through the system, protected, re-used and the like. There are a range of other things that the states would also need to be doing to be compliant with the Basin Plan.

Senator DAVEY: But it is not about these end numbers, is it? It's actually about the sustainable diversion limits and the effective and efficient use of environmental water. I get concerned that over the years since the Basin Plan's implementation the focus has gone away from sustainable diversion limits and away from effective use of environmental water and managing the whole Basin to just being about 2,750 and 450. We've actually lost the bigger picture of what we're trying to achieve with this Basin Plan. I'm just trying to understand because New South Wales have said that they would contemplate pulling out. We've also had South Australia now say that they will go to the High Court if they don't get the 450. But my reading of the Basin Plan is that (a) 450 was never set in stone, because it's linked to socioeconomic factors, and (b) there's nothing in the Basin Plan to say that 450 has to get to South Australia. I'm worried that everyone is focusing on numbers and not outcomes.

Mr Metcalfe: Before others answer: we did hear evidence earlier this morning from the Commonwealth Environmental Water Holder that, effectively, water has now flowed to the Coorong for the last 10 years, including through a very significant period of drought. I know that Ms Swirepik has released a media statement today about a particular fish species that has now been able to recover and effectively travel the length of the river as a result. As the minister indicated earlier, there's no doubt that the plan is working, that very substantial amounts of water have been recovered for the environment and that significant environmental outcomes have been achieved. Australians should be celebrating the work on the plan. While, of course, there's still work to do to complete the plan and to keep it working, there is very strong evidence to show that what is being done is working and there are very substantial benefits flowing to the environment as a result.

We are also very conscious though, as I indicated, and as my colleagues from the MDBA indicated in their opening statements, that there has been a very significant impact on many communities through the Basin, and Ms Sefton's report does point to that. So getting this balance right is something that everyone is committed to, and that's very much associated with the work the government has been doing in this area.

Senator Birmingham: Senator Davey, to your question: ultimately it's always the outcomes that matter. At a very macro level, the plan envisages, yes, the setting of sustainable diversion limits that achieve, in accordance with their name, limits on extractions and, of course, the necessity then for jurisdictions to meet those in their water resource plans. The plan also envisages a pool of proactively managed environmental water entitlements. That is, of course, what the Commonwealth Environmental Water Holder has. In essence, the target figures that you reference are germane to that aspect of the overall ambitions of the plan as well and the role of the Environmental Water Holder in being able to proactively manage those assets to achieve the type of environmental outcomes targeted in the plan and that Mr Metcalfe was referencing before. Ms O'Connell, you looked poised to add.

Ms O'Connell: It was only to return to the initial part of the question about water resource plans. Really, the objective of the water resource plans is about transparency for water management arrangements. The idea of them is to basically ensure that water use occurs on a sustainable basis and that water is shared amongst community in a transparent and accountable way.

Senator DAVEY: Are we waiting for any more water resource plans, or have we now got them all in and they're being assessed?

Mr Reynolds: They're now all submitted and are being assessed. We're working through that process, but there's a large number we still continue to work through.

Ms O'Connell: They need to be accredited.

Mr Reynolds: Yes.

Ms O'Connell: As you've said, they've been received. A number of them have been accredited and others are in the process of being assessed for that accreditation.

Senator DAVEY: Great. On the back of Mr Metcalfe, quite rightly—and earlier today we heard from the Commonwealth Environmental Water Holder—we have managed to keep the river connected throughout an extremely dry time. I think I read in the 'River Murray Weekly Report' earlier this year that 2019 was the driest year on record. Is that correct, Mr Reynolds?

Mr Reynolds: Across the whole of the Basin.

Senator DAVEY: Across the whole of the Basin. That's right; I've got it here in front of me. South Australia has an entitlement regime that's outlined in that Murray-Darling agreement, and that identifies how much water South Australia is to get each month. It varies throughout the year. During droughts, during periods of really low flows, we go into what is called 'special accounting' which adjusts those figures based on a formula agreed through the ministerial council; is that correct?

Mr Reynolds: The Murray-Darling Basin Agreement sets out arrangements to share water between Victoria, New South Wales and South Australia. Part of that sets South Australia's maximum annual entitlement at 1,850. That's specified for delivery as a monthly volume each month. It varies over the season, effectively reflecting the demand patterns they might experience. In dry times, South Australia will receive less than 1,850, and South Australia then needs to make adjustments to the pattern in which it receives its water. It cannot take more than those maximum volumes in each month, but it can elect to take less in an earlier month to protect against a low allocation later in the year.

Special accounting is a way of ensuring that the tributary inflows that come into New South Wales and Victoria are protected for those states. It helps to make water available to the upstream states earlier in the season. It tracks the amount of usage of each of the states so that if one state is using a bit more or a bit less than the overall allocation they might receive during the year, the other states are not impacted by that. We track an imbalance, and that imbalance of usage is deducted or added to a state's entitlement as we work through the year. Special accounting is important in dry times. It adjusts how much water each of the states gets, but it's about tracking usage through the year.

Ms O'Connell: It's fair to reflect that 2019 wasn't just dry times; it was extreme. What it faced was extreme lack of inflows.

Mr Reynolds: Yes. Special accounting is only a provision on the Murray system, of course.

Senator DAVEY: That is true. It was an exceptionally dry year. Certainly, my valley had a second year of zero allocations. We are still only 28 per cent in recovery. Victoria had low allocations, and right across the board, which brings me to my point: even though we were in special accounting, so that South Australia was adjusted downwards, I have gone through the 2018-19 River Murray weekly reports, which provide really good information. I encourage everyone to read them weekly. It should be weekly reading. It would appear to me that,

despite being in special accounting, the water flowing over the border to South Australia each month, except for two months, was still over what would have flowed under normal accounting to give them their full entitlement flow. I acknowledge that that flow includes Commonwealth environmental water and trade.

I'm trying to make the point that this is the Basin Plan working, because we are now seeing South Australia continue to get over and above their normal entitlement, even in the driest year on record, to the point that, unlike during the millennium drought, when the wonderful Milang Goolwa Freshwater Classic was cancelled, it was not cancelled at all during the last few years. Indeed the Lower Lakes did not receive below 0.6. So this is the Basin Plan at work.

Mr Reynolds: You are correct; South Australia received the entitlement flow—the adjusted entitlement, given the conditions. Added to that is either environmental water and/or trade to consumptive users each month. With that environmental water, while it did flow through South Australia into the Lower Lakes, equally it was released from upstream storages and it did a whole lot of good environmental outcomes for the length of the river, ultimately flowing across the border and providing outcomes in the Lower Lakes.

It is the Basin Plan at work. Ms Swirepik has previously put before the committee that, without environmental water this year, or in fact for periods in those really dry times, the only water flowing over the barrages and sustaining the health of the Coorong was environmental water held by the Commonwealth Environmental Water Holder and recovered under the Basin Plan. Yes, it is the Basin Plan working as intended.

Ms O'Connell: And facing the most extreme drought year.

Senator DAVEY: I make the point again that we're operating within our sustainable diversion limit caps as well. I'm seeing all good news from this at this stage, as far as getting outcomes are concerned.

I want to come back to something that you said, Ms O'Connell, about the sustainable diversion limit adjustment mechanisms. You indicated that there may be some possible changes—that the Commonwealth is open to considering changes from states if the states bring them forward.

Mr Reynolds: Under the adjustment mechanism it was always recognised that the projects that have been notified would be modified and adapted as more information was developed, those projects were consulted on with communities and the benefits and challenges of delivering them were explored. There is an expectation that those projects will be modified as they are worked through. Clearly, for some of the most challenging ones, like Menindee, those modifications could be quite substantial.

Senator DAVEY: Concerns have come in to my office about the Yanco Creek weir. I know there has been extensive community consultation and there has been an alternative identified that isn't specifically at Yanco Creek but further downstream on the Murrumbidgee. It could have potentially significant benefits around the Lowbidgee wetlands. Would that be the sort of modification that we are open to as the Commonwealth?

Mr Reynolds: Without knowing the specific details of this alternative option, the legislation allows for projects as notified to be modified. We would have to look at what was proposed and how that lined up with the original project that has been proposed. There are suggestions about bringing forward completely alternative projects. The legislation does not allow for that, as it stands.

Senator McKENZIE: Mr Reynolds, can you repeat that? The legislation as it stands right now doesn't allow you to bring through a new project; it allows you to modify a project?

Mr Reynolds: To modify projects—the existing projects that were notified and modelled in that package.

Ms O'Connell: Senator, with that project at Yanco Creek, Sir Angus Houston, the new Chair of the Murray-Darling Basin Authority, and I recently went to the lower basin as part of familiarisation for Sir Angus. We met with the proponents of the new project, as well as the mayor in the area and a number of different irrigators, farmers, communities et cetera. We had a look at Yanco Creek—not all of it—and had an opportunity to listen to what was being proposed there.

It's fair to say that, obviously, there's some consideration also to be given by the New South Wales government and further consultation. As Mr Reynolds said, it would depend a bit on the end, final nature of what the proposal is. It would depend on that. It would need to be assessed. My understanding is that it also requires ministerial council agreement in terms of the changes. There are a few steps to go.

Mr Reynolds: A number of steps. There is the potential for works at Balranald that could align with existing projects and could be considered as modifications to existing projects.

Senator DAVEY: If I were to ask whether projects were able to be changed or withdrawn to account for community concerns, they can be modified under the existing project or in alignment with an existing project. Can they be withdrawn in entirety?

Mr Reynolds: That's a matter for the state, but a state can withdraw a project if they see that it is not going to be delivered or not going to achieve what was originally envisaged. There's a process for that; that is available.

Senator DAVEY: What is the flipside of that, when it comes to evaluating the adjustment mechanism? My understanding is that these projects, as individual projects, don't have a volumetric equivalent; all of the projects in their entirety are the 605. For example, if the Menindee Lakes project is withdrawn in its entirety, how do we then work out what that means for irrigation communities and for the Basin Plan?

Mr Reynolds: As Mr Blacker said earlier, MDBA has a role to undertake a reconciliation of the projects as they have been delivered. We'll make that assessment in 2023 as to whether or not we think there are material changes to the outcomes. If a project has been withdrawn then the modelling of that reconciliation process would reflect that the project has been withdrawn and not delivered, and we would then assess the impact on the overall adjustment and provide that advice to the minister.

CHAIR: Senator O'Neill, we will go to you, to finish off before the lunch break.

Senator O'NEILL: Thank you very much for the provision of the documents with regard to the ANAO report, firstly, and the other document about departmental policy on water acquisition and divestment declaration interests. I notice on the version history that the publication date was the 16th, the same date as the tabling of the ANAO document. Could you give me an indication of when you received this ANAO report in the department?

Mr Metcalfe: We would have received a draft—I think it is called the section 19 version, from memory—to comment on.

Ms O'Connell: That is correct. In the ANAO report there is the department's response to each of the recommendations. It is normal practice that the ANAO sends the department the report in a formal final version. That's after we've had opportunities to review and comment earlier. It sends the report to the department under, if you like, strict embargo—strict non-disclosure terms. What gets incorporated is the department's response to each of the recommendations—whether we agree or disagree. Also, appendix 1 or attachment 1 contains the department's statement. That gets incorporated as well. Clearly, before it's tabled, all of that process happens, so we're well aware of what the recommendations are, and have provided our response to the recommendations well before the tabling.

Mr Metcalfe: Obviously, there is interaction between the ANAO and the department as they go about their inquiries. I'm speculating here, but with this issue about a register of interests, I presume it would have been something that they asked to see, and we said, 'We don't have one; we just have one for the senior executives.' They would have said, 'We really think you should have one for all staff of water division or anyone involved in purchases or disbursements.' You can see that effectively what was said was, 'Clearly, this is an issue. We'd better do something about it.'

Senator O'NEILL: Could you take on notice, if you can't provide it now, a time line as to when you received sufficient information to commence your changes? I notice there is a letter here dated 18 June.

Mr Metcalfe: We are happy to—

Senator O'NEILL: I am trying to get a sense of the time line over which we said, 'Oh, wow; okay,' then we started implementing—

Mr Metcalfe: Yes, we are happy to do that. As I said we're given a draft report to comment on. Quite often there are clarifications of issues and a formal response, which is contained in the report at page 58 or 59. I suspect that, rather than waiting for years or months to get around to doing what they've said, we said, 'Let's do it now.'

Senator O'NEILL: Okay; I think that that absolutely needed to happen. I have a couple of questions because this document gives some definitions. Were there any definitions of what an apparent conflict of interest is, contractors and consultants, and divestment? Were there any definitions prior to this document being put up?

Ms O'Connell: Most of these terms, as the secretary said, are part of the broader conflict of interest requirements for the department. There are a couple of distinctions here. One is the need, for anybody involved in water purchases, divestments or whatever, to have that positive declaration saying, 'Yes, I have no conflicts.'

Senator O'NEILL: We discussed, yes.

Ms O'Connell: Most of these terms are general terms but not the specific water one. These are specific water ones because this is focusing on water. Where it talks about 'apparent conflict of interest', that's a general term that's used in all of our declarations of interest. It is the same with 'contractors and consultants'. 'Divestment' is a specific water term, so it has a definition here that isn't in the general conflicts of interest register.

Senator O'NEILL: This didn't exist in the department before this policy arrived on 16 July?

Ms O'Connell: A general departmental policy on conflicts of interest did exist.

Senator O'NEILL: But not specific to water until this date.

Ms O'Connell: Not specific to water, and it did not talk specifically about these things.

Senator O'NEILL: I have two more things, just to finish this line of questioning. With the statement regarding contractors and consultants, you note that this note in your definitional section includes water valuation services, about which so much public interest exists—who's valuing, what they know, who they know, and why people were approaching the department seeking money. There are all of those sorts of questions. The policy that is now implemented states that, in relation to acquisition and divestment of water entitlements or allocations, contractors and consultants must declare any real or apparent conflict of interest. Is that entirely self-determined? Who checks that? Is that by self-declaration and self-assessment?

Ms O'Connell: I can get someone to talk through the process. The first step is that contractors and consultants are required to declare. That's quite a serious obligation on them to declare and sign off.

Senator O'NEILL: In terms of ethical behaviour, you and I are going to agree, but we do know that people are incentivised by money in the most perverse ways.

Ms O'Connell: Yes. There is a process, in terms of assessing these declarations of interest, and there is checking that goes on as part of it. That does happen.

Senator O'NEILL: But the primary way in which this whole process is going to be established is by self-assessment of conflict of interest?

Ms O'Connell: A self-declaration is an important part of a process of checking for conflicts of interest. It is a very important part to have people self-declare.

Senator O'NEILL: Yes, I agree.

Ms O'Connell: But it's not the only part.

Senator O'NEILL: If I determine that I'm not going to comply with that because there's a monetary gain for me, how are you going to catch me?

Mr Metcalfe: The question that you are asking, Senator, is that if a person is determined to not declare—

Senator O'NEILL: A conflict of interest.

Mr Metcalfe: and therefore does not comply with that requirement, do we check anyone independently of that self-assessment? We can come back to you about the processes we have in place, should we go into those arrangements, as to what checking we would normally do.

Senator O'NEILL: I am mindful of the time, Chair. My last question—perhaps we can get to this later—is with regard to the exclusion. If somebody could help me to understand why that carve-out happened when we come back, that would be great.

Mr Metcalfe: Chair, to add to my response to Senator O'Neill before, I see from my letter to the Auditor-General—

Senator O'NEILL: On the 20th.

Mr Metcalfe: that they emailed the draft report on 25 May. I responded with my comments on 18 June. That was obviously well before the departmental policy was released.

Senator O'NEILL: So this date here is the day you actually received the initial report?

Mr Metcalfe: We will take on notice whether there were earlier indications about the need for such a document.

Senator O'NEILL: But that's the date; the 25th is the date?

Mr Metcalfe: We had this out pretty quickly, yes.

Ms O'Connell: Chair, can I make one correction before we break for lunch? I didn't read down the line correctly earlier, when I was providing Senator Patrick with the amount of money that had been spent on efficiency measures out of the Water for the Environment Special Account. I'd like to clarify that it has been \$6.4 million on efficiency measures and \$10.1 million on constraints projects. I apologise for that.

CHAIR: Thank you for that clarification. We will take a break and return on the same topic.

Proceedings suspended from 13:04 to 14:06

Ms O'Connell: I undertook to table four different pieces of information, each of which I have and I will table now. One of them was the time line in relation to the ANAO audit of the strategic water purchases. That went to

when we had drafts and the whole process. I have that time line and I table that one. The second one was in relation to the appointment of an Indigenous member of the Murray-Darling Basin Authority and the process that had been undertaken and the time lines for that process. I table that as a second document. The third document went to the Aboriginal water entitlements program and the chronology of events around the Aboriginal water entitlements program, specifically around the consultations that had taken place since May 2018. I table that.

The fourth was information on the stocktake of off-farm infrastructure projects. That was specifically around the projects that go to the 70 gigalitres of off-farm water infrastructure projects. We've identified there that there's a total of 59 proposals. Only one of those proposals has been made public. So I have identified that one specifically by name, but for the others I have listed the jurisdiction that the proposals have come from, because we would require the approval of whoever put forward the proposal to disclose it at this stage. Of course there may still be further proposals that come through the process. I've tabled that as well.

Senator PATRICK: Minister, during Senator Davey's last line of questioning she said, 'My reading of the Basin Plan is that the 450 gigalitres was never set in stone because it was linked to socioeconomic factors.' I understand that she is an independent senator. But she is a member of the coalition, and I note that you did not pull her up on that. Is it the government's commitment to deliver on the 450 as per the plan?

Senator Birmingham: Yes, as Mr Pitt, Mr Littleproud and other ministers before have said.

Senator PATRICK: Sure. It's just that you did not pull her up on that. It is set in stone; it is—

Senator Birmingham: I didn't hear the precise words used at the time. Senator Davey rightly points out that in the water for the environment special account legislation there are criteria to be met around the expenditure on that. That was the legislation passed under the Labor government.

Senator PATRICK: There are conditions but the 450 gigalitres will still be delivered?

Senator McKENZIE: The 450 gigalitres won't be coming from irrigators. That's my understanding.

Senator Birmingham: Statements have been made about buybacks. That's different. And prioritisation has been made around off-farm recovery. That translates—

Senator PATRICK: Thank you for your commitment, Minister. That's as I expected and as I understood.

Senator McKENZIE: Following on from Senator Patrick's question, the minister has announced no more buybacks. How is the department making that happen? How are you fulfilling the minister's announcement that there will be no more water buybacks?

Ms O'Connell: The approach is not to be pursuing water buybacks.

Senator McKENZIE: So there is no work going on within the department looking at securing water from irrigators through any mechanism? There's not a group of public servants in a cupboard somewhere down the back with a cheeky side account, if we needed it, of water buybacks?

Ms O'Connell: We wouldn't be pursuing something that isn't part of the government's programs.

Senator Birmingham: The department's work is not on what the government will not do; the department's work is on what the government will do—

Senator McKENZIE: That's good to hear, Minister.

Senator Birmingham: and on Minister Pitt's commitments around the pursuit of water improvement through off-farm infrastructure and the other means necessary to be able to deliver on the targets and commitments made.

Senator McKENZIE: I want to understand the strategic purchase process.

Ms O'Connell: We've closed the register where people put offers in. That's all part of not pursuing buybacks. We've also made it clear on our website that that's the case: we're not pursuing buybacks.

Senator McKENZIE: Did the department pay more than valuations indicated was an appropriate sum of money when making strategic purchases?

Ms O'Connell: My understanding is that we didn't; it was within the constraints of the valuations. We might have a view of how we saw that process but it has also been the subject of an ANAO report. They did have a number of recommendations of things that could be improved, and that's absolutely the case, but they also found that we operated within the valuation parameters: the purchases were within the valuation scope. I read the phrase out earlier. It was within the valuation parameters; that is essentially what the ANAO stated.

Senator PATRICK: Senator, just to let you know, we're revisiting that now.

Senator McKENZIE: Thank you. I won't interrupt you.

Senator PATRICK: I'm just saying—

Senator McKENZIE: You're always so helpful. There have been a lot of statements about strategic purchases of water in the northern basin not being 'real water'. Can you describe to the committee how these licences contributed to the flows in the Narran Lake at the start of the year?

Ms O'Connell: I will need assistance here from our chief environmental officer.

Ms Swirepik: The two licences that we were speaking about this morning were the Clyde and Kia Ora licences. They have a long-term yield of about 13.5 gigalitres each. I can confirm that in the last lot of rains and flows that came through the northern basin a total of 79.8 gigalitres came against those entitlements. So that's about three times the long-term yield. That was 49.6 gigalitres from the Kia Ora property and 30.2 gigalitres from the Clyde property. That is the type of expectation that you'd have when these flood flows come through the system. That's when you get the yield against those licences. It's the first time in three years we've had the licences yield for us, but they've yielded three times the annual average.

Senator McKENZIE: That's fantastic. It's neat maths.

Ms O'Connell: Senator, I will just answer your earlier question about the ANAO findings. Basically when they did the review of the purchases they found that on all occasions the department paid at or below the independent valuation range for each purchase.

Senator McKENZIE: Thank you. Announcements made by Minister Pitt included that there would be no water purchases and that the 450 gigalitres will be delivered by off-farm water efficiencies. How much of the 450 gigalitres do you think can be recovered by off-farm efficiency measures?

Ms O'Connell: The target used for off farm was 70 gigalitres. One of the documents that I just tabled outlines the proposals to recover 70 gigalitres of off-farm water that have been identified in the stocktake of off-farm water infrastructure projects by the department. They are proposals. Clearly we've got work to do to verify the exact gigalitres that will be yielded from those projects. It's also fair to say that there are opportunities still for further projects to come forward as well. We've outlined there the jurisdictions, the states in particular, for those projects. They cover a range of different water losses in a variety of ways, from modernising irrigation work to channel lining; channel resizing and rehabilitation; replacing pumps, regulators and offtakes; replacing channels with stock and domestic water supply pipelines or extending existing pipelines; installing compliant meters—

Senator McKENZIE: There's a lot of heavy lifting from New South Wales.

Ms O'Connell: Yes.

Senator McKENZIE: Are you confident they're up to that?

Ms O'Connell: They are proposals that are put forward by proponent states. So it is our expectation that that is the case.

Senator McKENZIE: Water trade has changed the traditional irrigation patterns across the southern basin, creating third-party and environmental impacts. I'm sure you've covered a lot of that this morning. The expansion below the Barmah Choke in the Mallee—and I am talking about the development of a lot of horticulture—has seen an increased demand for water in that area over summer months, causing increased peak daily water demand. Running water delivery so high is causing those third-party impacts on the environment itself, eroding the banks of Barmah Choke specifically and the Goulburn River. Can you effectively deliver the environmental water holdings that have already been recovered without causing further environmental damage?

Senator McKENZIE: I will ask my colleague from the MDBA. The CHEW might come in as well if necessary.

Senator Birmingham: I will flag that officials might want to refer to some of the evidence given earlier in response to Senator Davey on similar matters.

Mr Reynolds: Planning our river operations to be able to meet all of the demands in the system is quite challenging. There is certainly development in the Mallee area.

Senator McKENZIE: On both sides of the river.

Mr Reynolds: That's right.

Senator McKENZIE: And Victoria has put the moratorium in, but South Australia and New South Wales are still planting like there's no tomorrow.

Senator DAVEY: Victoria has far exceeded the other states.

Senator McKENZIE: I reiterate my request to both the New South Wales and the South Australian governments to follow Victoria's lead. Despite it being a state Labor government that hasn't got much right lately,

one thing they did get right is putting a moratorium on those developments until we get deliverability of existing entitlements without environmental damage. I'm commentating, sorry, Mr Reynolds.

Mr Reynolds: As I was saying, planning for delivery of environmental water as well as consumptive water is a challenge in the river system. Certainly having earlier insights into environmental water holders' plans for the season enables us to manage more effectively than we have over the last couple of years. We've continued to learn and adapt how we deliver environmental water, as well as other entitlements. A few years ago we did have some significant difficulties getting all of the environmental water delivered that people were seeking. I think we've improved our practices and processes and our collaboration, and particularly our early-season planning has made significant improvements to that. Every year is different. We need to adapt to the emerging circumstances. If we get spring and early summer rainfall, which is likely this year, then tributaries will run and there will be more water in the system. All of that helps in some circumstances and makes it more difficult in others.

Senator McKENZIE: Is there a peak? What's the max. when you're doing the cost-benefit of environmental damage whilst delivering environmental water?

Mr Reynolds: We try to deliver environmental water in a pattern that is beneficial to the environment. We certainly work very closely with environmental water holders, land managers and catchment management authorities in planning that. Certainly in the lower Goulburn we've got limitations on the rate at which we take water from there this season. We need to carefully balance that and think about consumptive demands to avoid a shortfall. As I said, this season, where tributaries have run pretty consistently through spring and summer, we've got Lake Victoria at quite a high level and it's likely to refill again in coming weeks. That means meeting peak demands in the Mallee and Sunraysia region is a bit easier. So in this season we'll probably be able to manage through quite well with the limitations that we've got on us around the lower Goulburn. Other seasons will be different.

Senator McKENZIE: Does the CHEW have anything to add?

Ms Swirepik: As the Commonwealth Environmental Water Holder, I'm subject to exactly the same fees, charges and delivery rules as everybody else. There's an above-choke and below-choke distinction in water in the Murray, and our entitlements are subject to the same thing, so we can't deliver above-choke entitlements to below choke unless there is capacity in the system, just the same way as other users are limited. A recent publicly available report that was commissioned by the MDBA found that the volume and timing of the below-choke environmental demands were pretty well the same as what the consumptive demands were before that, which would indicate that the environment is not adding pressure to water delivery through the choke, because that water would have actually been delivered through the choke for irrigation purposes.

Senator McKENZIE: But are we saying that how we're managing the delivery of both consumptive and environmental water is not causing environmental damage on the way through?

Ms Swirepik: No, that does not amount to the same thing. There is pressure on the choke. The point I was making is that the environmental demands in that section of the river aren't adding to that, because in fact that water would have been delivered for consumptive purposes to those regions of the river anyway. In some respects the environmental water is in fact taking the pressure off a bit, because we often have a slightly different window of delivery—through late winter and earlier spring, whereas the peak consumptive demands are late spring and through summer into early autumn. So our window is a bit offset. I go back to something that I mentioned to the committee earlier in the day: the idea of addressing the operational limitations, or what people call constraints, would actually, I think, ease the pressure on the Barmah Choke, because we would be able to deliver some of the water through the choke at the higher levels where it goes into the forest or on the creek systems in spring when the plants and animals need it to breed—

Senator McKENZIE: And not when they don't.

Ms Swirepik: That's right. So I think there is capacity if we follow through with the projects that are in train under the Basin Plan to offset some of that damage. Andrew Reynolds is the best person to talk about the pressure on the choke. Yes, there is a lot of pressure. My point is that environmental demands aren't actually adding to that; in fact they could help defuse things over time if we run the river better.

Senator McKENZIE: Mr Reynolds, can you inform the committee of the potential for further environmental damage to the Barmah Choke and the Goulburn River if more water is recovered from the Basin Plan? Do you have a view?

Mr Reynolds: In a regulated river system there will be impacts of operating a river in a pattern that is not its natural pattern. Erosion and changes in river formation will happen and happen naturally—

Senator McKENZIE: But surely you should be minimising that.

Mr Reynolds: Yes, and we do manage the system in a way that's as sympathetic as we can, but there are a range of competing demands that people would like to see from the river system. It underpins a lot of prosperity along the length of the system through irrigation and other things. As we operate the system—I did mention earlier today that early planning is really important. There is also a proposal to undertake a feasibility study around how we might more effectively manage the choke in terms of either works within the choke itself to provide environmental protection potentially, or alternatives to bypass water around the choke to take some of the pressure off the choke. I did speak quite a bit this morning about—

Senator McKENZIE: I'll check the *Hansard*, then. It's been two years since the release of the Productivity Commission's report. The SDL projects and the 605 won't be achieved by 2024. Victoria and New South Wales wanted these time frames amended at the June MINCO but consensus was not reached. Is it your view that the 2024 date to deliver the SDL offset projects is an achievable time frame?

Mr Reynolds: It's certainly challenging. We issued a report—

Senator McKENZIE: Mr Reynolds, everything in water is challenging. Here we are. Everything's challenging. But my actual question was: is it achievable that in four years those projects will be completed? It's a yes or no; it's not a 'challenging'.

Mr Reynolds: The states have plans in place to work on those projects. Four years is a considerable amount of time. Whether they make all the progress that is needed—

Senator McKENZIE: What's your assessment? You're a smart guy. You do this for a living.

Mr Reynolds: The MDBA has issued an annual report on the SDLAM program. It did highlight that a number of projects are at risk or are slow in progress. There is still a significant amount of time for progress to be made. So whether they ultimately are not delivered by 2024 is difficult to say at this point in time.

Senator McKENZIE: If they're not achieved—it sounds like it's going to be challenging for many of them—what actions will the MDBA and the Commonwealth department take to ensure delivery?

Mr Reynolds: The obligation of the MDBA is to make an assessment in 2023 as to whether we believe that those projects will deliver on the outcomes and the adjustment that was initially anticipated when they were notified. If we believe there's a material difference to what will be achieved, then we will undertake a reconciliation. We will recalculate the adjustment that would result from the projects at the state we expect them to be in in 2024 and we will advise the minister of that.

Senator McKENZIE: The New South Wales minister for water, Minister Pavey, told the Commonwealth Senate inquiry that New South Wales could not deliver the plan as it currently stands. She foreshadowed bold new plans to deliver the basin's triple bottom line. She said key projects such as the Menindee Lakes project can't be delivered in their current state. So you're not breaking any confidences by standing with the New South Wales water minister in saying these won't be achieved. Thirteen out of the 22 New South Wales SDL offset projects are not being delivered. Do you agree with New South Wales's assessment?

Mr Reynolds: A number of the projects are likely to change form. It was recognised when the program was designed and put forward that, as projects were developed, further information came to light and community stakeholder consultation was undertaken, the projects were likely to change. The Menindee project which you've mentioned is absolutely in that situation. The New South Wales officials are working on that project. They've developed number of options. They are working to consult with the local community on that around how that project may be reshaped to still achieve significant water savings but also deal with some of the local issues. That's typical of a number of the SDL projects.

Senator McKENZIE: So, once that consultation is done by New South Wales, the MDBA will be considering those new projects?

Mr Reynolds: The MDBA's role is the reconciliation in 2024. The department will—

Ms O'Connell: Senator, the department will be assessing those projects. When they have finished all of their consultation and worked out what the proposal is—

Mr Reynolds: They'll bring forward a business case.

Ms O'Connell: they'll bring it forward and we'll make an assessment.

Senator McKENZIE: So then we amend the Basin Plan to consider the new offset projects, all going well?

Mr Reynolds: No. The Basin Plan does not get amended at that point. The projects get brought forward. The business cases for those will be presented to the department. The department assesses those and says that the

projects will proceed. They'll be delivered. Come 2024 the MDBA has to make an assessment of what those projects have delivered at that point and undertake the reconciliation.

Senator McKENZIE: But I think your point is, and we did touch on this earlier, that there is room within the plan to be able to vary the projects.

Ms O'Connell: Yes.

Senator McKENZIE: Vary existing projects?

Ms O'Connell: Yes, that's what I mean—vary the scope of existing projects.

Senator McKENZIE: I just wanted to just quickly go to floodplain harvesting. What are we doing at a Commonwealth level to encourage New South Wales to improve their managing of floodplain harvesting?

Mr Reynolds: I might ask Mr Goodes to respond to this as well. The MDBA is working with the New South Wales government. They've committed to rolling out their floodplain harvesting management framework by the middle of next year. They're continuing to do that and we're working with them to support them on that. But I might ask Mr Goodes to elaborate on that.

Mr Goodes: The floodplain harvesting reforms within New South Wales are a New South Wales initiative. It's the initiative that will help them deliver the SDL requirements within the water resource plans. So it's an initiative that's being entirely driven by the New South Wales government.

Senator McKENZIE: Yes. So we just wait for them to complete it and tick it off mid-next year?

Mr Goodes: Their intention is to issue licences for the take of floodplain harvesting from 1 July 2021 as part of the floodplain harvesting action plan that they have.

Senator McKENZIE: Does this affect the implementation of the Basin Plan? What sort of impact will it have—them licensing this water and regulating it?

Mr Goodes: It has a positive impact in that it enables New South Wales to regulate, monitor and measure the take under the sustainable diversion limits as agreed in the plan.

Senator McKENZIE: How much water do you think is in there? We had our massive once in a three year event that seems to have done some good work.

Mr Goodes: We are assessing the New South Wales draft water resource plans. The 20 plans have been submitted for assessment and we are working on those assessments now. Those plans contain—or those draft plans contain the latest and best science that leads to revised estimates by the state, as a result of their modelling, of what the baseline diversion limit and therefore the sustainable diversion limit from floodplain harvesting will be in the catchments.

The five priority catchments for New South Wales are in the northern Basin. So they'll propose the volumes of water, which are an interpretation—so the baseline diversion limit in the Basin Plan identifies the categories of water, if you like, and then it's up to the states when developing their plans to turn those into volumes. So that's what's—when you take water from a watercourse like the Murray River through a pump and a pipe, it's easy to metre. When you're harvesting across a floodplain when it's raining hard—I was going to say something else—then that's a significantly greater challenge and historically our water managers have not been good at that. But, with advanced technologies, remote sensing, satellite imagery, bathymetry and so on, that sort of technical science is evolving all the time.

Senator McKENZIE: That's good to hear.

Senator DAVEY: Can I just ask one question—it's also directly relevant to floodplain harvesting—just on the back of that, if you don't mind, Senator McKenzie?

Senator McKENZIE: Not at all.

Senator DAVEY: Just for the record, I know that in New South Wales floodplain harvesting has been a topic of interest recently, but a lot of it has been based on northern Basin harvesting. I just note that this week, in an article in the *Weekly Times* by Peter Hunt—'Southern Murray-Darling Basin irrigators are floodplain harvesting' is the headline. It seems to be there's a contention by one person quoted in the article that it all comes down to the definition of 'floodplain harvesting'. It seems simple, but can you define it? I know in the southern Basin there are drainage works across some irrigation networks. There are levee banks that have been installed around creeks. Would that be floodplain harvesting and how does that all fit into the modelling and the plan?

Mr Goodes: Yes, I have seen a straightforward definition, but I might ask Mr Blacker to answer that.

Mr Blacker: 'Floodplain harvesting' is defined in New South Wales in the New South Wales floodplain harvesting policy, which was published in 2013. But, in general terms, it's essentially the capture and storage of

floodwater. So that's usually in one of two ways. It's either overbank flows or it's heavy rainfall on the floodplain which is making its way towards the river or a creek.

Senator DAVEY: So, when people talk about floodplain harvesting—in your mind, rainfall rejection or rainfall run-off over a piece of flat land would be—if that was to be captured and then reused, that would fall into the definition of 'floodplain harvesting'?

Mr Blacker: The New South Wales floodplain harvesting policy is a statewide policy. They're implementing that in the five northern Basin valleys as a priority, because that's where the risk is. So it's a risk based rollout. If you look at the work that they've undertaken, it's taken close to a decade to get to this point where they're on the verge of having enough information, data and modelling to be able to undertake a licensing process. So it's a pretty significant investment. In terms of what that would mean for the rest of the state, I note that just this morning New South Wales published some frequently asked questions on floodplain harvesting on the department's website. That certainly goes to some of these questions about is floodplain harvesting occurring statewide, and they acknowledge that, yes, it is, but it's really also recognising that this is a risk based approach to regulating that activity.

Senator DAVEY: But they are—after 10 years of work, admittedly, they are well on their way to developing a licensing program and a system? I believe they had some first-stage legislation or regulations before their parliament that were recently disallowed and which may have pushed the whole process back a bit. But they are going on to measure the floodplain harvesting in the north of the Basin that will assist with ensuring that the state remains compliant with SDLs?

Mr Blacker: Correct. So they continue to implement that floodplain harvesting policy. There's a two-year action plan in New South Wales and they're about halfway through that two-year action plan. The completion of that action plan is on 1 July 2021, so mid-next year. Our understanding from talking to New South Wales officials is that they are still on track to deliver to that time frame, although it's an incredibly challenging space.

Senator McKENZIE: There's that word.

Mr Blacker: There it is. I will even throw in 'complex' in relation to floodplain harvesting just to complete the set.

Senator McKENZIE: Just following on from that, you mentioned disallowance of the New South Wales floodplain harvesting regulations. What effect will that have on the implementation of the Basin Plan?

Mr Blacker: We're quite strongly supportive of the activity that's going on in New South Wales to regulate floodplain harvesting, because it's bringing it into sustainable diversion limits. It's allowing for the measurement of that for the first time—not a small undertaking. The New South Wales government has recently published its floodplain harvesting measurement policy. So there's an implementation phase now, in the lead-up to licensing, for that measurement to be rolled out. The benefit that that has to the flood—to the Basin Plan is that, if there is an exceedance of the SDLs, that allows that to come back and be reduced. So it sees more water retained in rivers and creeks than would be the case should that reform not go ahead.

Senator McKENZIE: This is my final question. In early September the federal water minister, Keith Pitt, announced the separation of the MDBA's compliance office into a separate institution. The proposal includes the establishment of an inspector general of water compliance by merging the MDBA's compliance functions with existing interim Inspector-General of Murray-Darling Basin Water Resources, thus consolidating the regulatory responsibilities of the Commonwealth. How advanced is the separation of the compliance section from the MDBA and what progress has been made thus far?

Ms O'Connell: Senator, I can answer that. Legislation to effect those powers is being drafted and underway and we are about to start consultation on that.

Senator McKENZIE: How long will consultation take?

Ms O'Connell: For us, not very long. Then it needs to be introduced before the end of the calendar—well, before the end of the calendar year and then introduced in first sittings next calendar year.

Senator McKENZIE: Yes—that's good.

Ms O'Connell: That's the proposed timeline. But in order to prepare for that we have already formed, if you like, a transition group that includes the MDBA and its compliance lead and compliance function, along with the area within the department that will take responsibility. So they're starting to look at that transition and doing everything that can be done beforehand and working cooperatively together in the meantime. So we've got a transition group that are helping to give effect to that transition.

Senator McKENZIE: You would expect—Basin communities could expect the compliance changes to be up and running by this time next year, all going well?

Ms O'Connell: All going well, although it really—the legislation is the sort of—

Senator McKENZIE: Correct.

Ms O'Connell: a key component of it, so it's dependent on the passage of the legislation.

Senator McKENZIE: On challenge in the Senate.

Mr Metcalfe: It's dependent on the will of the parliament.

Senator McKENZIE: It is. The will of the parliament—the will of the Senate.

Ms O'Connell: We're making sure that we're working cooperatively and preparing—

Senator McKENZIE: Yes, and the changes make sense. The Senate is always very sensible.

Ms O'Connell: Yes, and the group from the MDBA—I have to give credit to the MDBA. They're working extremely well with us, and cooperatively, to make it a seamless transition. We're working, as I said, with a sort of a task force in the meantime so that, as soon as it happens legislatively, we'll be able to deliver on it.

Senator McKENZIE: Thank you.

Senator O'NEILL: I note, like all Australians, how happy we are that there's a bit of water in the river after the devastation that we've seen. At the peak of the terrible imagery of the fish deaths in the Menindee Lakes, an absence of support for farmers and real concern about what was happening out there, it was a very important announcement from the government—and we have quite a few of those. That was that Water for Fodder announcement. I want to find out what's actually happened with that because—

Senator DAVEY: There were some very good crops that came about thanks to that program.

Senator McKENZIE: Those crops—absolutely.

Senator O'NEILL: I note the senators' comments, but the gap between nice—the pretty pictures and the announcements and the actual follow-through—

Senator McKENZIE: It's Friday, Senator O'Neill. Put away the talking points.

Senator O'NEILL: No, the service of the Australian public and the Senate continues 24 hours a day every day we're here. So my first question is: on 7 November 2019 the Prime Minister announced the Water for Fodder program. Is that correct?

Ms O'Connell: I believe so, Senator.

Senator O'NEILL: And everybody was very glad to hear that there was going to be the delivery of 100 gegalitres of water for farmers to grow feed for animals. Is that correct? That was its purpose?

Ms O'Connell: That is correct.

Senator O'NEILL: Yes. So everybody got the message. This government is looking after people on the land. We're going to give them 100 gegalitres of water. So how many—of the 100 gegalitres that was announced, how many gegalitres actually did this program produce?

Ms O'Connell: Senator, I can tell you that round 1 of the Water for Fodder program provided heavily discounted water to 800 farmers in the southern connected Murray-Darling Basin to grow fodder and pasture. Now that's—

Senator O'NEILL: My question is about gegalitres. It was 100 gegalitres.

Senator Birmingham: I'm sorry, Senator O'Neill—Ms O'Connell is responding to your question.

Senator O'NEILL: She is responding to another question, Senator Birmingham, not the one I asked.

Senator Birmingham: Senator O'Neill, we've got hours to go still. There's plenty of time for Ms O'Connell to give some context to the answer to your question.

Senator O'NEILL: I don't think we've actually got that much time. I think we're only going to 5 o'clock. I've got five lines of questioning that I want to prosecute. My question was about gegalitres. I do want answers to the questions that I ask—

Senator Birmingham: Senator O'Neill, if you're going to keep interrupting the officials then I will keep debating—

Senator O'NEILL: and not the ones that Senator Birmingham thinks I should be asking.

Senator Birmingham: We can spend all day like this if you like or we can just let Ms O'Connell answer the question without your interrupting or commentary.

Senator O'NEILL: We can, indeed. We've done it before and we'll do it again if you continue to try to cover up. My question, to be clear, is: government said they would deliver 100 gigalitres for farmers. How many gigalitres did this program produce?

Senator Birmingham: As you were going, Ms O'Connell, please.

Ms O'Connell: Yes. There are two rounds. There were to be two rounds in the Water for Fodder—round 1 and round 2.

Senator O'NEILL: I'm happy to take further information, but I want an answer to my question first.

Senator McKENZIE: Context is important, Senator.

Senator O'NEILL: It might be for you, Senator—

Senator McKENZIE: Context is actually important.

Senator O'NEILL: Chair, a point of order. I have a right to have an answer to the questions that I ask, not the ones the minister decides he thinks he wants to hear.

Senator Birmingham: And, Chair, on the point of order—

Senator McKENZIE: Seriously—

CHAIR: Please, Senator McKenzie, stop. Senator O'Neill, the department official has commenced answering. We'll give her a suitable amount of time to provide the answer with some context. If at the end of that you're not satisfied, please do ask the question again. Are you happy with that?

Senator O'NEILL: I do want to be respectful to the knowledge that the department head has—sorry, the deputy secretary has. However, I do know that we have limited time and I want some straight answers, because I'm sick and tired of the obfuscation.

Senator Birmingham: Sure, Senator O'Neill, but you interrupted before the official had even finished her first sentence.

Senator O'NEILL: Well, it's not a hard question to answer.

Senator McKENZIE: That's right. It's—

Senator O'NEILL: How many gigalitres?

Senator McKENZIE: It's not question time.

Senator O'NEILL: Clearly. It's everybody else gets to speak time. I'm asking about—

Senator Birmingham: No, you like to grandstand, Senator O'Neill. We're all tired of your grandstanding.

Senator O'NEILL: Is that what you call it. I want the truth. How many gigalitres did this 100 gigalitre—

Senator Birmingham: People like Senator Patrick—he likes to go after a headline, but at least he comes in and asks thoughtful questions. You just rant and rave and grandstand endlessly.

Senator O'NEILL: Well, there you go. Thank you for that moral evaluation, again, standing up there on your high—

Mr Metcalfe: Chair, I can assist with an answer.

Senator O'NEILL: Thank you.

Senator Birmingham: Nobody breathes air quite as high as you do, Senator O'Neill.

Mr Metcalfe: Senator, the information is on the department's website. It makes it clear that, under round 1, 40 gigalitres was provided.

Senator O'NEILL: Forty of the 100?

Mr Metcalfe: And round 2 was not required or regarded as necessary following discussions between the Commonwealth and South Australia and, of course, much better seasonal conditions that have occurred across much of the Basin this year.

Senator O'NEILL: So we've had this gap between the announcement and what actually got delivered. One hundred was promised and then we've had the suspension of the program. What date was the program suspended?

Ms Connell: On 4 September I think, Senator.

Ms O'Connell: This year—August September just gone past—last month.

Senator O'NEILL: Will the 100 gigalitres ever arrive?

Mr Metcalfe: It's not needed, Senator, so it would be wasting water.

Senator O'NEILL: Sorry?

Mr Metcalfe: It would be wasting water. It's not needed. The 40 gigalitres was provided. It provided substantial benefits, as is clear from the department's website. But, following discussions between the Commonwealth and South Australia and the fact that much of southern or eastern Australia has had much better seasonal conditions this year, with much more rainfall—a La Nina event, in fact; 40 millimetres is due to cover much of the Basin tomorrow—round 2 is not needed. To proceed would be a waste of money.

Senator O'NEILL: So, if I can go to a review of the first round, state and Commonwealth decided ultimately to abandon it. But Minister Pitt is on the record as saying, 'My very strong view is we'll deliver exactly what we said we would and that's 100 gigalitres in the Water for Fodder program'.

Mr Metcalfe: I think the website makes it clear what's happened, Senator. As I've said, to continue a program that is no longer needed would appear to be a waste of taxpayers' funds. I'm sure there are many better ways to spend the money. At the time the program was conceived, the outlook was that it would be required, so the 100 gigalitres was identified and 40 were delivered. Crops were produced as a result. The impact on the outcomes was delivered. But it has rained a lot this year across much of the Basin.

Senator O'NEILL: So can we just go to some of the facts of how much fodder was produced?

Ms O'Connell: With that, more than 25,000 hectares of fodder and pasture was planted, with over 31,000 tons harvested.

Senator O'NEILL: Thank you. And how much did the review of the program cost?

Ms O'Connell: I'm not sure I've got that, but somebody will get it. The program—

Senator O'NEILL: Did the department receive any complaints about discontinuing the program? It was very popular, with over 4,000 applications for 800 parcels of water in round 1.

Mr Metcalfe: We can check on that, Senator.

Ms Connell: Senator, the review of the program cost \$37,675.

Senator O'NEILL: Thank you. What rainfall levels or measurements or standards were actually used to determine if the program should discontinue? What were the metrics?

Ms Connell: I can't speak precisely to the metrics, but my understanding is that seasonal conditions—the seasonal outlook was examined and the current circumstances of the time as well. The conditions in the Basin—in particular, in the southern Basin—have been improving significantly since February or March this year.

Senator O'NEILL: But the southern Basin isn't the entire Basin.

Ms Connell: This program is focused on—

Senator O'NEILL: Is only dedicated to the southern?

Ms Connell: That's right.

Senator O'NEILL: Were there any parts of the southern Basin where the program did have coverage that didn't receive rain?

Ms Connell: I'd have to take that question on notice.

Senator O'NEILL: If you could do that, that would be very helpful. I'm sure that might then give us an indication of where there might have been some complaints by people who couldn't get the money.

Senator DAVEY: We could potentially maybe ask the question a different way. The parts of the Basin that could access this program—i.e. South Australia, Victorian Murray, Goulburn and New South Wales Murray and Murrumbidgee—were all on low or zero allocations when the program was announced. What are their allocations now? That would answer the question as to whether they've have rain.

Senator O'NEILL: That would be your question.

Senator McKENZIE: Well, it might actually help you, Senator.

Senator DAVEY: It will answer your question.

Ms O'Connell: Senator, you also asked if there had been any complaints to us as a result of round 2 of the program ceasing. I'm advised that we have not received any complaints about round 2 ceasing.

Senator O'NEILL: Thank you for that. Can I go to a couple of questions on the National Water Grid Authority.

Ms O'Connell: Certainly.

Senator O'NEILL: Just so I'm clear, this authority was established on 1 October 2019. Is that correct?

Mr McRandle: That's correct.

Senator O'NEILL: And as of the March estimates it was indicated that there were 21 projects underway. Is that correct?

Mr McRandle: I believe that would be correct. I think we have 22 projects on our books at the moment.

Senator O'NEILL: Okay. At that stage there was one complete. Could you just fill me in on the nature of its status—the statutory water authority element?

Mr McRandle: The status of the National Water Grid Authority?

Senator O'NEILL: Yes, in terms of its statutory capacity.

Mr McRandle: It's establishment? It was established as a secondary government body within the department of infrastructure. I covered those aspects with senators in the department of infrastructure estimates earlier this week. As I explained then, the government decided, in implementing its announcement, to do it as a statutory—sorry, as a secondary government body in the department.

Senator O'NEILL: So, in terms of independence, how would you characterise that, Mr McRandle?

Mr McRandle: We are part of the Public Service in the department of infrastructure.

Senator O'NEILL: How does that actually sit in relation to a statutory authority?

Mr McRandle: It's set up in a different structure. There are around about 36 agencies in government that are set up as secondary government bodies and the National Water Grid Authority was modelled on that style of structure.

Senator O'NEILL: So if I'm just average Joe Citizen heading off to watch the football this weekend, what's the difference between the way this structure is established now and what it would be if it was actually an independent statutory body?

Mr McRandle: If it was set up as a statutory body it would require legislation to be developed to establish the body. There'd be an appointments process. That would take a fairly lengthy period of time to implement. As a secondary government body we operate within the department of infrastructure and we operate with their administrative support mechanisms and measures—the corporate divisions and so on. We have our separate branding, so we are identified as a separate—

Senator O'NEILL: So the branding is different, but essentially you're still part of the department?

Mr McRandle: Part of the department. That's correct.

Senator O'NEILL: And an independent body is genuinely independent and has its own authority and its own capacity that sits outside of government control?

Mr McRandle: It's a separate entity with its own corporate overheads that would go with it.

Senator O'NEILL: Okay. It seems that there's a bit of a problem with independence for your body as it's currently constructed.

Mr McRandle: I'm not sure how you might characterise a problem with independence.

Senator O'NEILL: It was going to be a statutory authority and it isn't. That was the promise, wasn't it, but it's not the delivery.

Mr McRandle: Senator, the announcement by the government was that they would establish a National Water Grid Authority. I recall that the announcement at the time was that it was indicated it would be a statutory authority. In implementing their own decision when the government was returned in 2019 they chose instead to set it up as a secondary government body.

Senator O'NEILL: So there's a gap between the announcement, when the government was telling everybody about what they were going to do, but then when they got back in they changed their mind. Now we have a body that is neither independent and it's not statutory in the way that it was described.

Mr McRandle: It's not statutory body, no.

Senator O'NEILL: Right. How many projects—

Senator Birmingham: Senator O'Neill, there is an independent advisory board to provide independent advice.

Senator O'NEILL: It's still not what was promised. How many projects are currently underway? Did you say 22?

Mr McRandle: We have 22 projects on our books—

Senator O'NEILL: One more than you reported at last estimates?

Mr McRandle: I believe. I'll just check with my colleagues that I've got those numbers absolutely correct for you. We had—you're right. When we came to estimates in March this year we had one project completed. We've got four more projects that have completed since then. We have an additional seven construction projects that have been contracted through bilateral schedules. That will permit money to flow to the states and territories for those projects. We're expecting to have—of the 10 construction projects underway at the moment we're expecting three of those projects to complete by the end of next year.

Senator O'NEILL: Would you be able to provide on notice just an outline of what those projects are that you've been referring to there?

Mr McRandle: Yes, Senator. Those projects are on our website as well.

Senator O'NEILL: Great—thank you. How many feasibility studies or case studies are underway?

Mr McRandle: There were—well, perhaps I can answer that by saying that we had more than 50 feasibility studies overall and 41 of those are now complete. So there are nine feasibility studies that are still working through and 41 of the 50 have now completed. We're feeding that advice into state and territory governments to assist them with their long-term planning for water as well. We use that as a basis for engaging with states to come up with a better partnership for the way that we can work together on developing infrastructure for water.

Senator O'NEILL: Could you explain to me what was—how that work accords with what was going on with the National Water Commission? Why was that abolished, that entity?

Mr McRandle: I don't have any background on the National Water Commission. I think the decisions around that were some years ago and the National Water Grid Authority was established about one year ago now. I've taken on the role permanently as of January this year.

Senator O'NEILL: Perhaps Senator Birmingham might be able to help out there. What was the rationale for the abolition of the National Water Commission?

Senator Birmingham: You're testing my memory, Senator O'Neill, but my recollection is that the core functions attributed to the commission at the time were assessed as being able to be performed without a standalone agency but instead by the Productivity Commission, who now have I think some of the regular review roles that that standalone agency previously held.

Senator O'NEILL: Again, instead of the independence, it's been all brought in closer to the department with less independence.

Mr McRandle: I couldn't give you any comment, Senator, on how the National Water Commission operated previously.

Senator O'NEILL: Can anybody explain to me the central difference between the National Water Commission and the National Water Grid Authority? What's changed?

Mr McRandle: I'd need to take that on notice.

Senator Birmingham: It's probably best to take it on notice to compare the mandates, if you like, of an entity that did cease a number of years ago. I don't think the National Water Commission had the type of mandate that the grid authority does in terms of the proactive identification of future infrastructure projects and investments to expand the sustainable utilisation of water resources in Australia. I do think there is a distinct difference there—that the grid authority has more of a development mandate of sorts than the commission did. But we'll take that on notice and check for a more detailed description than I can give off the top of my head.

Senator O'NEILL: My concern comes from the capacity to have proper oversight and with a degree of independence from the department and the entities that are managing what's going on. If you're caught up with the people who are managing it, it doesn't give that kind of distance and perspective. I note that the leader of the National Party—the Deputy Prime Minister—said in relation to establishing the NWGA as an independent statutory body, this is what he said: 'It's time to take petty politics out of water. Establishing an independent statutory authority will ensure the future of Australia's water supply will be based on data, not on self-interest.' We know that from previous estimates the authority, with due respect to the hard work that I'm sure you do every day, is neither independent and certainly not statutory—we've established that. So it's hard to see how the petty politics got taken out of water. Why did it take until 14 September, nearly a year after the authority was established, to appoint the National Water Grid Advisory Board on 14 September?

Mr McRandle: There was an appointments process that the government would normally go through for these sorts of appointments. There would have been a process of identifying a range of people with different types of expertise and experience. The decisions about the appointment are a matter for government. I can't give you any

insight or comment on the particulars of that process. The National Water Grid Authority as an organisation within the department has been established for a year and we've been getting on with the projects that the government has given us.

Senator Birmingham: And, in terms of that advisory body and its contribution to independent advice to government, that includes the Chief Scientist of the CSIRO on that body as well as Dr Stuart Khan from the University of New South Wales and representatives of farming and irrigation interests—a range of different skill sets there across economic and other fields that I think do provide a high quality of expert advice.

Senator O'NEILL: I really want to believe you, Senator Birmingham. I do want to have the sense that the proper scrutiny is going to be applied. But I go back to my earlier questioning with the concerns about matters of probity and the report of the ANAO about failings of management of probity and value for money. I think Australians, after the sports rorts issues, after airports rorts and the Leppington Triangle—

CHAIR: Senator O'Neill, I think it's perhaps a stretch—

Senator O'NEILL: I want to be assured that there is going to be independence in terms of scrutiny of what's going on.

CHAIR: and we're talking about—I think you've already been advised that there's an independent advisory board and there's other process—

Senator O'NEILL: It's not exactly independent. It's called that, but it's not really independent and it is certainly not what was promised. It's not a statutory body.

Senator Birmingham: We'd have a lot more time for scrutiny in processes like Senate estimates if you just stuck to asking questions, Senator O'Neill, rather than giving speeches.

Senator O'NEILL: Senator Birmingham, seriously, if you continue to critique my questions, I'm going to call a private meeting, because I'm not going to be subject to that kind of patronising in this role.

Senator Birmingham: Senator O'Neill, I know that as a senator—

Senator O'NEILL: Chair, I look to you for containment of this sort of behaviour.

Senator Birmingham: Senator O'Neill, I know that, as a senator from Tasmania, sometimes you don't understand the Murray-Darling issues, but—

CHAIR: Let's continue with the questions, please.

Senator Birmingham: It's not Tasmania is it, sorry—they were Christine's talking points.

Senator O'NEILL: That's another thing that you got wrong.

Senator Birmingham: They were Christine's talking points—sorry, Senator.

Senator O'NEILL: Another thing you got wrong, Senator.

Senator Birmingham: Or Senator Keneally, wasn't it?

Senator O'NEILL: Mr McCormack appointed a National Water Grid Advisory Body, as I said. One year after it happened or after it was established and after they went back on their promise to establish a statutory body, we went to the next question around the advisory panel. You said the matter was determined by the government.

Mr McRandle: These are appointments of government. So, yes, the advisory body is an appointment of eight individuals. Information about them and a list of names is on our website. As I said, it's a government appointment process.

Senator O'NEILL: So do you know if any of the government advisory panel own water entitlements?

Mr McRandle: I'm not aware. We did ask, as part of that process managing the administration, for the conflict of interest declarations that are a normal part of the government appointment process. I don't recall any information that raised concerns. Those appointments are scrutinised by government.

Senator O'NEILL: So, if I go back to that, I was asking questions about the way contractors and consultants—and I'm sure that the standards would certainly apply to members of an advisory panel on water. Just before we went to the break at lunchtime I asked who checks these self-determined assessments of conflicts of interest.

Mr McRandle: These are matters that were discussed previously to today's session. The conflict of interest declarations are declarations that individuals make about their own circumstances. They're also obliged to raise with government any change in circumstances that would see a conflict arise. So it's important that—that's an important part of the structures around those declaration forms.

Senator O'NEILL: So are you 100 per cent confident that people who self-declared that they have no conflict of interest are actually in a position where there is no conflict of interest? Can you guarantee that to me?

Mr McRandle: Senator, as is always the process with these sorts of conflict of interest declarations, you rely on the honesty of the people making those declarations as a large part of your checks and balances in setting up the governance.

Senator O'NEILL: It's not particularly robust model if you ask me.

CHAIR: Haven't we already heard from the secretary that there is a process internally?

Senator O'NEILL: And it says here about record keeping in the document that you've given me that declarations have to be held on file and managed in accordance with the department records management policy, but that doesn't mean that these are interrogated and carefully fact-checked.

Mr Metcalfe: What I can say is that under section 307B of the Commonwealth Crimes Act, if a person is guilty of an offence of giving false information to a public authority they are guilty of a crime that may attract a penalty of two years imprisonment. So it is not something that someone could do lightly.

Senator O'NEILL: And has anybody been prosecuted—sorry, can you finish what you were saying then?

Mr Metcalfe: It's not something that—we would anticipate that people would honestly provide information in relation to any interest they may have to allow that to be assessed. And they do so knowing that if they mislead us then they will be guilty of an offence.

Senator O'NEILL: And how many people have been charged with such an offence?

Mr Metcalfe: I'm not the Director of Public Prosecutions.

Senator O'NEILL: How many have been investigated for such an offence?

Mr Metcalfe: I can't—it's a very general question, Senator.

Senator O'NEILL: How many have you ever referred for investigation because you fear there may be a conflict of interest?

Mr Metcalfe: Across the entirety of the Commonwealth and across the entirety of the last 120 years—

Senator O'NEILL: No, I'm not asking an unreasonable question. I'm asking about on your watch in this. We've got members of an advisory panel and I've asked do they own any water entitlements. The answer was, 'Well, they would have to declare anything like that in a conflict of interest.'

Mr Metcalfe: That's the normal expectation in seeking public office. It obviously applies in parliament and to public servants and others. They are required to self-declare and there is a penalty if they don't.

Senator Birmingham: Senator, again, do you have a particular accusation to make or are you just seeking to slur these eight distinguished Australians?

Senator PATRICK: Has Ms Stott declared that she owns water entitlements?

Senator McKENZIE: It's on the public record.

Senator PATRICK: I'm just asking the question.

Mr McRandle: Sorry, Senator, I am—

Senator PATRICK: Has Ms Stott—

Mr McRandle: Yes, in fact, I was just getting advice on that. My staff were confirming that she has declared that she has some water entitlements, and she declared that as part of her interests in the appointment process.

Senator O'NEILL: Is she the only one?

Mr McRandle: She's the only one that I'm aware of.

Senator O'NEILL: Who has declared?

Mr McRandle: She's the only one that I'm aware of.

Senator Birmingham: So are you suggesting one of the other seven is lying, are you?

Senator O'NEILL: I would like to trust every person that I encounter, Senator Birmingham, but you're the government with the responsibility for making sure that the people of Australia are served. I think you should probably check the veracity of these claims. We finally got out that at least one person has water entitlements who's on there.

Senator Birmingham: You didn't finally get it out, Senator O'Neill.

Mr McRandle: No, Senator, this was declared by the person during the appointment process. She was entirely upfront about that declaration. This has been a longstanding arrangement over many governments around conflicts of interest declarations and how they are handled. As the secretary of the department of agriculture mentioned, there are penalties for people making false declarations and that's a pretty strong incentive not to lie on those declaration forms. I'd also point out that at the start of each advisory body meeting there is a check on any change to the status of conflict of interest declarations. So it stays a front of mind issue for each meeting that we have.

CHAIR: As there is for board meetings; as there is for governments; as the secretary declares his conflicts. I'm very nervous about continuing this line of questioning around the other members of the board. I don't know that this is a useful process to ever get anybody else to do anything for a government if this is the sort of argy-bargy around personal reputations at estimates. If you have an allegation to make—

Senator O'NEILL: There are a few interesting appointments that have come under scrutiny, even as we speak today. So, yes, I think it's important.

Senator Birmingham: Let us just make sure that the record is perfectly clear. These individuals completed their declaration of interest statements. One, Ms Stott, made clear that she has water entitlements and she made that clear on her declaration of interest statement. And for the record, in terms of an advisory body like this covering the information it does, it would probably be a failure if one of the members was not somebody who had an active interest in water issues and an active understanding and probably did have water entitlements. Of course, knowing that and knowing their conflict in terms of issues that might affect their—but it's an advisory body, not a decision-making body. It's not a body that is going to go and trade water or do anything that would present a conflict in that regard. But conflict of interest declarations have been sought and recorded. As you saw, within minutes of you asking, the officials were able to check them off of the register and provide that level of detail.

Senator O'NEILL: Is that register public?

Mr McRandle: I'd have to check. I'll take that on notice. Registers are generally handled by a corporate area of a department. We don't necessarily store that information. But I would need to check and come back on notice.

Senator O'NEILL: I have just a couple of quick questions on the projects. Mr McCormack has said that more than \$1.5 billion has already been committed by the Australian government to identify and build dams, weirs and pipelines that will deliver the national water grid. Can you give me a breakdown of that 1.5 billion figure?

Mr McRandle: Yes, we can. I think the information is also contained on our website, so it's been publicly available. I think that number—I'm not sure what date you are referring to on the Deputy Prime Minister's statement, but since then the government has made some further announcements around water commitments. So I think the number is probably closer to 1.7 billion at this stage.

Senator O'NEILL: So 1.7 of the funding has been spent—is that correct?

Mr McRandle: \$1.7 billion has been committed to projects out of the \$3.5 billion available in the fund. The remainder of the fund is then—will be allocated to projects as we go through developing the next pipeline of projects, and we're engaging with states and territories now to identify what those future projects could be.

Senator O'NEILL: Right. So how many projects has this 1.7 billion been spent on?

Mr McRandle: This is the 22 projects that I mentioned earlier.

Senator O'NEILL: At various stages?

Mr McRandle: At various stages. Some are in negotiation around the funding arrangements; some of them have now been completed. When the National Water Grid Authority was established, none of the projects that existed that were government commitments had been completed. Five of those have now been completed with the national water grid and three more are expected to be completed by the end of next year. There are a number of projects that are in the construction phase and there are some other projects for which we are refining the detailed funding arrangement with state and territory governments. That's done under the national partnership arrangements.

Senator O'NEILL: Mr McRandle, can you confirm today that the \$2 billion that is still to be spent will not disappear like the other parts of the programs that we've been discussing this afternoon disappeared?

Mr McRandle: The extra \$2 billion was announced only a couple of weeks ago in the budget. The government has announced very clearly that investment in water infrastructure is a very high priority. The Deputy Prime Minister has written out to state and territory counterparts immediately after the budget seeking their views on projects to come forward for the next pipeline.

Senator O'NEILL: Can I just ask a couple of questions with regard to the National Water Infrastructure Loan Facility then.

Mr McRandle: Of course.

Senator O'NEILL: Is it correct that in 2016 in the budget speech the National Water Infrastructure Loan Facility was announced and the Treasurer, Scott Morrison, said at the time, it 'will catalyse new investment in dams and pipelines across Australia'. How many loans have been made from the National Water Infrastructure Loan Facility that was announced by Treasurer Scott Morrison in 2016?

Mr McRandle: We covered this on Tuesday in the Infrastructure estimates. I think they were covered again in the department of agriculture estimates the other night.

Ms O'Connell: On Wednesday evening.

Senator O'NEILL: I wasn't at either of those, so can you enlighten me with the answer?

Mr McRandle: So, for the record, there were no loans that were made operational through the National Water Infrastructure Loan Facility.

Senator O'NEILL: No loans over the four years?

Mr McRandle: That's correct.

Senator O'NEILL: So the Prime Minister was wrong—it didn't catalyse any new investment in dams and pipelines?

Mr McRandle: I think the thing to keep in mind is that there were two funds available for states and territories to draw on—the National Water Infrastructure Development Fund, which is a grant fund, and the National Water Infrastructure Loan Facility. States had the option of coming forward to the federal government to seek funding and their preference was clearly for the development fund, which was fully committed at the time of this budget and has had an additional \$2 billion put in as of a couple of weeks ago.

Senator Birmingham: I understand there were three projects that were offered loans as part of the operation of that facility at the time, but they ultimately were not accepted.

Senator O'NEILL: So this \$2 billion Water Infrastructure Loan Facility is part of the Regional Investment Corporation—is that correct?

Mr McRandle: It was. The loan facility was terminated as part of a budget announcement.

Senator O'NEILL: Did it receive any applications?

Mr McRandle: I think that, as the minister mentioned, there was an application. I think there was an application from the Western Australian government initially. Then the minister in Western Australia subsequently wrote to the government to advise that they weren't in a position to take the loan for the project that they had in mind, so they discontinued pursuing that loan.

Senator O'NEILL: Is this another example of—the headline and the announcement were going to, I think, to use the words of Mr Barnaby Joyce—this scheme that was allocated funding in 2016 and that has had no money invested across the country—it was described as 'the scheme that would waterproof Australia's future'. It was so poorly designed that there wasn't a cent spent from the money that was allocated.

Mr McRandle: As I said, Senator, the states and territories clearly had a preference for the development fund alternative to the loan facility and that's why the government has made decisions now to top up the development fund to provide a pipeline of projects. They've also put in place a change in the approach to the way that they manage those projects. Previously there used to be individual grant rounds. The government has now put it on the same footing as the other infrastructure programs that we run with a 10-year outlook. That really allows us to work very closely with states and territories with a good deal more certainty in the planning phase and putting forward a long-term view on water infrastructure investment.

Senator O'NEILL: It's hard to have confidence in declarations like this one from the Deputy Prime Minister: No one should doubt our commitment to getting these sorts of projects done in partnership with all states and territories – our \$1.3 billion National Water Infrastructure Development Fund and \$2 billion National Water Infrastructure Loan Facility are in place to deliver the planning, assessment and construction work needed to build the water infrastructure of the 21st century. Like all Australians, I love the sound of that. I believe in infrastructure. I believe in the jobs that people get when they build it. I believe in the productivity that it gives us when we do it. But the reality is that this National Water Infrastructure Loan Facility has delivered no dams and created no jobs, and it's made no water available. That's a fact, isn't it.

Mr Metcalfe: There was consensus about this the other night before the committee when the Regional Investment Corporation appeared. They had responsibility for the loan facility until recently. One of the key points coming out of that evidence was that effectively the loan facility was there to encourage the states and territories to commence more water infrastructure projects given that, while some states have, other states haven't been doing that. So the outcome was about an increase in water infrastructure. I'm sure that my colleagues could talk about the many things that are occurring in relation to an increase in water infrastructure. The intent of the loan facility was basically so that there could be no reason why a state could say that it didn't have the financial means to do it. So that's the outcome that was being achieved. Now, as it turned out—

Senator O'NEILL: But it didn't achieve that outcome.

Mr Metcalfe: No—

Senator O'NEILL: It was so poorly designed by the government that it didn't attract any attention and didn't deliver any money.

Mr Metcalfe: I was about to finish by saying that the outcome is about more water infrastructure. The loan facility was there to assist that if necessary. As it turned out, the states and territories decided not to use that because presumably there were other ways for them to proceed in relation to the construction of dams and—

Senator O'NEILL: But this government got the headline—

Mr Metcalfe: weirs and pipelines.

Senator O'NEILL: Yes, but the government got the headline that it was waterproofing Australia. It was going to build dams and weirs and create jobs and it did none of it.

Mr Metcalfe: It was to ensure that the states and territories—the Commonwealth cannot operate bulldozers and the Commonwealth cannot have picks and shovels. The states and territories have that constitutional responsibility. The Commonwealth was basically saying: 'There should be no excuse or no financial excuse for you not to commit to projects. Here's our money on the table.' As it turned out, the states and territories decided not to take up the offer.

Senator O'NEILL: How much did it cost us to put the money on the table?

Mr Metcalfe: We can ask the—

Senator O'NEILL: What was the price of that?

Mr Metcalfe: We can ask the Regional Investment Corporation to provide details about that. Again, that is an issue that is covered in their annual report, which was tabled the other day.

Senator O'NEILL: I'm struggling to understand how a no loans program is considered a success when it was heralded as a central piece of the government's support for growing jobs in the region.

Senator Birmingham: Senator O'Neill, I'm not sure that anybody sitting at the table has sought to claim it as a success in the way that you just characterised. There were a number of projects—

Senator O'NEILL: It was a failure.

Senator Birmingham: There were a number of projects for which states were offered loans. States chose not to proceed with those loans. The government in this year's budget recognised the fact that states, where financing was necessary, were clearly proceeding with other options, which is probably not unsurprising in the low interest rate, highly accessible financing environment that we find ourselves in. The government decided instead to put \$2 billion further into the capital grant funding program for the National Water Infrastructure Development Fund, as you heard before, which has proven to be popular.

Senator O'NEILL: So the loan scheme was established. What was the interest rate on it? Was that why it was so unattractive?

Mr McRandle: I think questions around the interest rate need to go to the Regional Investment Corporation, as Secretary Metcalfe said.

Senator O'NEILL: Yes, but they're not here. I'm sure you should know about this.

Mr McRandle: We don't administer the loans, but I think in evidence that I saw the other night it was in the order of about 1.4 something per cent, which reflects current interest rates. Of course, states and territories can also borrow off their balance sheet should they want to take a loan. They don't need to come to the Commonwealth for those things. It was an option that was available to states and then states would make the choice about whether they would borrow themselves or seek funding from alternative sources, one of which was the development fund, which operated in parallel.

Senator O'NEILL: If I were cynical and I thought the government wanted to make an announcement about creating jobs and building dams, I could establish a loans fund and say, 'We're in this and were providing the money.' They could get the announcement, never have to deliver the money and never actually create the dams or deliver the jobs. I've got the announcement.

CHAIR: Senator, we heard a lot of information about this early this week. There was a great deal of discussion about the states' involvement as the other side of this piece. You did have representatives here for those parts of the hearings. Can I ask if you've completed this section and if I can pass the call to Senator Patrick?

Senator O'NEILL: I just want to be clear—if it can't be answered today, how much did it cost to facilitate the no loans Water Infrastructure Loan Facility?

Senator Birmingham: You should put that question on notice to the Regional Investment Corporation.

Senator PATRICK: I just wanted to help out by tabling a couple of documents. I've got a schedule that's actually come off your website that goes to the SDL projects. I've also got a schedule from the JCPAA in relation to the Future Submarine Program. I just wanted to give you an idea. That's the sort of information that I'm after.

CHAIR: Those documents Senator Patrick refers to are being circulated by the committee and we'll accept those as tabled.

Mr Metcalfe: Just while they're coming around, Chair, I just need to amend an answer I provided previously. Senator O'Neill, I quoted a section of an act to you about false and misleading conduct. Inadvertently I found the New South Wales act, not the Commonwealth act. The correct reference is the—

Senator O'NEILL: I think it was the New South Wales—

Mr Metcalfe: Yes, it's the Commonwealth Criminal Code Act 1995, section 137.1, and the penalty is 12 months imprisonment.

Senator O'NEILL: Can you find on notice if there have been any prosecutions from your department under that—

Mr Metcalfe: We don't prosecute them. I'll check if there have been referrals by the department to the AFP or the DPP.

Senator O'NEILL: Yes.

Mr Metcalfe: I'll take it on notice.

Senator O'NEILL: Thank you.

Senator PATRICK: Here's an example of one of your schedules that lays out for the SDL projects—that's correct. There's a second one that shows a more detailed one. That's the Future Submarine Program. I would expect that there is something in between in relation to the 450 and that's kind of the thing that I'm looking for. I just wanted to make it clear. If not I'm changing the headline to 'rudderless on the river' if we don't get one, seeing as you introduced Navy into the picture. I have a couple of questions. I might just direct this to you first, Mr McRandle, so I can confer with you. In the case of Ms Stott, I make no accusation here. I'd just suggest it because it's an example someone who has a potential conflict. I presume there are other processes, other than simply declaring, which are helpful in managing conflicts of interest, such as recusal at board meetings and restricting of information in certain circumstances.

Mr McRandle: Absolutely, Senator. I think the important thing to bear in mind in the context of the advisory body is they are just that—they're not a decision-making body. They provide advice and they work—they provide advice to us. Ultimately, cabinet is the pinnacle of the decision-making body in terms of Commonwealth investments, so there's further scrutiny through other agencies involved in this process. But, in terms of particular meetings, if a person had a particular interest that they wished to declare, they may choose to leave the meeting for that part of the discussions.

Senator PATRICK: And, of course, in the giving of advice, often that might involve the perusal of information which might be only available within government?

Mr McRandle: That's right. We tend not to share sensitive information with the advisory body given the nature of their role. This is different from, say, working in a commercial transaction environment, where that material may have value to the market, for example. But we are very alert to those sorts of issues. As I say, we've had two meetings of the advisory body since they first established. That was largely getting them into the understanding of what the parameters of the water grid are about. We gave them a debrief after the budget to let them know of the \$2 billion. They obviously didn't know about any of those announcements until the budget was

announced. The minister was pleased that we kept that information. We keep that information very tight. They're not part of the internal part of government, so they're not employees of government, for example.

Senator PATRICK: To be clear, I was making no accusation. I was just trying to get an understanding of how you might treat, as an example, Ms Stott. Secretary, this is in some sense slightly bigger than water but relates back to it. I'm not sure whether you were here when I had a bit of a discussion with Minister Canavan about policies as to water always going to the most valuable crop. That seemed to be the government's position. Post COVID, where our farmers did a great job in keeping us supplied, has the government reconsidered some aspects of that? We know that, for example, the fodder program is a skewing of the market. We know that the almond moratorium is a skewing of the market as well. But, post COVID, have you looked and said, 'What do we do to make sure we've got dairy? What do we do to make sure we've got all the different crops that we would need in circumstances where we have another COVID-19?'

Mr Metcalfe: It's a very thoughtful question. I'll need to check to see whether there has been any work done on that. It's not something that immediately springs to mind. However, the point about food security, particularly if you take a long-term view about food security, is very much at the heart of the work of the government more generally to support our agricultural industries. We gave extensive evidence to this committee a couple of days ago about the Ag 2030 Plan and the aspirations of the industry to grow.

On the particular issue about water availability in a strategic sense: the general position, of course, is that the water market will determine where water will go. But I will check on the point you've made—

Senator PATRICK: Yes, it's a question about resilience. In extremis, if we just went to the water going to the most valuable crop we would grow cotton, almonds and not much else. That's in extremis—I'm not suggesting that's what happens. It's about making sure there's a safety net somewhere.

Mr Metcalfe: Yes. One could argue that in fact the most valuable crops are actually, in some respects, fruit and vegetables—horticultural crops. A great deal of work—and, indeed, the evidence that our research and development corporations have given about agricultural innovation—is about growing more food with less water. It's about the use of water and how effective it can be, and cotton has demonstrated that of course. Cotton uses far less water now than it did 20 or 30 years ago, through plant-breeding techniques. But it's a serious point that you've raised and I'll come back to you on notice.

Senator PATRICK: Thank you.

Ms O'Connell: I'll just supplement with little information on that. It's a bit specific, but the current ACCC review is having a look at that question of water going to the highest—

Senator PATRICK: Which review?

Ms O'Connell: The ACCC review.

Senator PATRICK: I understand that the ACCC is doing a number of reviews at the moment.

Ms O'Connell: The water one.

Senator PATRICK: The water markets one?

Ms O'Connell: Sorry—yes. That's right; they're having a look at the question of water going to the highest-value purpose. It doesn't answer the complete question but it's an important and relevant point.

Mr Metcalfe: Without wanting to speak unduly: even if there hasn't been any work done to date, that wouldn't rule out the potential for something to be looked at. COVID will be with us for some time, I suspect, and indeed it's simply thrown up these issues about supply chains, food security et cetera.

Senator PATRICK: Thank you. I might ask the Murray-Darling Basin Authority to return to the table—Mr Reynolds, maybe? Actually it might be your general counsel—I want an update on the litigation in respect of the southern Riverina irrigators and what the state of that case is.

Mr Reynolds: I might just ask our counsel, who I think is next door, to come in.

Senator PATRICK: Alright, I'll ask you another question in the meantime—on the Barmah Choke. You said before that if there were a breaking of the banks that it would flood and that's a good thing. I've had people say to me that it's not actually a good thing. I just want to ask you to ground that evidence, perhaps on notice, with anything you have which would suggest that it would be a positive thing, or if that's what's always happened historically. You've made a statement that's contrary to some opinions. I know that the Commonwealth Environmental Water Holder has actually made some comments about this in the past, but maybe between the two of you you can come up with something you can table.

Mr Reynolds: I think that what I said was that water flowing into the forest is a good thing environmentally at certain times of the year.

Senator PATRICK: Okay, maybe that caveats it. I've raised the question in the past about water flooding and actually causing a detrimental effect to the forest.

Mr Reynolds: Water at the right time in the forest is important. Naturally, the forest would have flooded nearly every winter and spring. Even in the last couple of years, when it's been really dry, if we didn't have the major storages in place, like Hume Dam, then water would have flooded out into the forest, and river red gums benefit from that. They benefit from getting a drink nearly every year. And so, while many people see the forest and think there are dead trees amongst the forest from overwatering, that's not actually the case.

Senator PATRICK: Ms Casey?

Ms Casey: The litigation is continuing.

Senator PATRICK: In which jurisdiction? Because there was a New South Wales—

Ms Casey: Supreme Court.

Senator PATRICK: And are they taking the MDBA or the New South Wales government to court?

Ms Casey: The MDBA is the defendant in the claim. New South Wales DPI did receive a subpoena to produce documents though, so they are involved in that context. But, in terms of where things are at the moment, I think, since we last spoke, the MDBA had filed a defence in response to the statement of claim, and you'll recall that that claimant reframed the litigation as a class action. The plaintiff group was due to file and serve a further amended statement of claim on the 20th, but we are anticipating a change in the timetable.

Senator PATRICK: So it hasn't really advanced that much further?

Ms Casey: I think it's continuing to evolve.

Senator PATRICK: In terms of the claim against the Commonwealth—without prejudice to any position you may have—what's the value of the claim against the Commonwealth?

Ms Casey: The claim is currently unquantified. Damages are not specified in the claim.

Senator PATRICK: But do you have any understanding of what the range might be?

Ms Casey: No. We currently report the matter as an unquantifiable contingent liability for accounting purposes, and I think that we'll continue to do so until there's a resolution.

Senator PATRICK: I did ask Mr Glyde that question last time around and about how you were booking that in the budget. He said that it was complicated, but you've actually just answered that question for me, which is good.

Senator DAVEY: What is the cost to the Commonwealth of responding and preparing? We've got the unquantified contingent liability for—

Senator PATRICK: Legal costs to date.

Senator DAVEY: Yes.

Senator PATRICK: External legal costs to date.

Senator DAVEY: Legal cost to date.

Ms Casey: That's a difficult question for me to answer. The reason for that is that Comcover is running this claim on behalf of the Commonwealth, so they're bearing our external legal costs. But what I reflected on last time was that these kinds of matters are intensive from a resourcing perspective and they do take a lot of internal time as well as external time. So I don't have a figure for that, unfortunately.

Senator PATRICK: I might now go to flood plain harvesting. The New South Wales government has released its draft flood plain harvesting rules for the Border Rivers, and they're proposing that 500 per cent of the total licence volume can be taken in any one year. What's the MDBA view on that?

Mr Reynolds: I might ask Mr Goodes to respond to this one, if I can.

Senator Birmingham: For reference, Senator Patrick, I think we did cover a bit of this ground with Senator McKenzie, from memory—

Senator PATRICK: Yes. I was here for that. I've got slightly different questions.

Mr Goodes: Your questions seem very specific about Border Rivers, is that correct?

Senator PATRICK: Yes. There was a report in *The Weekly Times* that Mr Chris Brooks, who's the chair of the Southern Riverina Irrigators, said:

... he had raised the issue in a meeting with MDB Authority chief executive Phillip Glyde last week, who he said had agreed carryover rights of 500 per cent were unacceptable.

That's hearsay, at this point. I'm just wondering: what is the position of the MDBA in relation to this? Is it unacceptable?

Mr Goodes: Thank you for the question. In relation to the MDBA's compliance role, our role is to ensure no exceedance of the SDL. In that, it's up to New South Wales to determine how best to set the account management rules, in conjunction with their water sharing plan rules. That—combined in the water resource plan—is the tool that we would then assess.

Senator PATRICK: So at this point in time it's not a case of it's unacceptable; it's whatever the New South Wales government say?

Mr Blacker: I believe New South Wales earlier this week were consulting on those, so they're draft arrangements at the moment. They've not been finalised by New South Wales.

Senator PATRICK: Yes, they are the draft flood plain harvesting rules. Let's take this a different way. Are you undertaking any modelling to determine that the 500 per cent will fall within the SDLs?

Mr Blacker: Certainly as part of our water accounting function we would look at a set of accounting rules combined with any other rules proposed by New South Wales in relation to flood plain harvesting. Those at the moment are draft rules in their revised water sharing plans. Those water sharing plans effectively sit as part of a water resource plan. They're nested in or form the bulk of the water resource plan, if you like. Those are things that we would consider as those water resource plans are assessed.

Senator PATRICK: Yes, but your approval of these still goes back to that science. It must be backed by science. Specifically my question is: as you do that assessment will you model its effect on the SDLs?

Mr Goodes: Part of the assessment phase of the water resource plan is to assess the modelling that leads to the assumptions that lead to the policy positions in the water resource plan, so it's part of the assessment process.

Senator PATRICK: That's for all of them?

Mr Goodes: Yes, all 36.

Senator PATRICK: Will you make that modelling publicly available? I presume there's nothing secret.

Mr Goodes: All of the assessment reports for all of the water resource plans are released. Once the plan is accredited, all of the process behind that is publically available.

Senator PATRICK: Sure, but sometimes modelling is highly dependent on inputs and assumptions. Normally there is something like a modelling report that goes into much more detail. It's like when you get the budget papers. They tell you what the results of the modelling are, but you really have to get a modelling report to understand what assumptions were made. That's the bit I think ought to be in the public domain because that's how the real experts can examine it and critique it.

Senator DAVEY: Why don't you ask for the benchmark modelling to be put into the public domain in the first instance and then we can evaluate any ensuing modelling?

Senator PATRICK: I think there are some arguments about that.

Mr Blacker: About 18 months ago now the MDBA, jointly with the New South Wales government, undertook an independent review of the modelling that underpins the New South Wales flood plain harvesting program. That was a highly collaborative process. It went out and did a large amount of intense stakeholder engagement right across New South Wales and in some instances beyond New South Wales. That report is publicly available. It did look at all of the science and the evidence behind that in the modelling. It, if you like, cracked open that black box to have a look at those assumptions and look at the detail behind it. There were I think 48 recommendations in that report, all of which were accepted by the New South Wales government. They have been undertaking those modelling upgrades as part of their action plan that we mentioned earlier.

Senator PATRICK: Sure. One of the characteristics of giving frank and fearless advice is that it's fearless. It's not fearless because you show it to one person but because you make it public. Of course when it's made public even the person conducting the modelling is much more careful in what they do because they know it's going to be reviewed by people who might want to critique it. So, moving forward, I'm asking you: is it the policy of the Murray Darling Basin Authority that modelling and modelling reports' assumptions will be made public?

Mr Goodes: The publication happens at two points. The first is when the wad of documents on the water resource plan is lodged. That's the documentation that's undergoing assessment. The second is at the end. It is inclusive of the deeply technical modelling review. That is also published.

Senator PATRICK: There's been some question about the legality of flood plain harvesting in New South Wales at the moment. What's your view on the current legality of flood plain harvesting in New South Wales?

Mr Blacker: I note that New South Wales this morning have dealt with some of that in those frequently asked questions that they've put forward. It's certainly been an area of scrutiny, I would say, for a period of months now in New South Wales. I note that there's been an upper house parliamentary inquiry in New South Wales asking exactly that question and I believe its findings reflect that this is a complex and difficult space.

Senator PATRICK: I want a single-word answer. Part of the reason I'm interested in it is that obviously that provides certainty for everyone. Right now people are running around going, 'I don't know whether what I'm doing is lawful or unlawful.'

Mr Blacker: There are a few things in that space at the moment. So, obviously, that uncertainty's not ideal. It's a responsibility of the New South Wales government to set that policy. They've obviously moved through with a regulation of the minister, and that's now been disallowed by the parliament. The Natural Resources Access Regulator in New South Wales has frontline responsibility for regulating flood plain harvesting take. They've put out their views on this and how they are going to manage that, whilst New South Wales completes that licensing process in the coming months. I believe the chief regulatory officer's views on that were published last week in media outlets. Further to that, the New South Wales minister yesterday published some media releases in relation to what the New South Wales government would be doing to move towards that certainty. So, those are matters that are live matters for the New South Wales government at the moment.

Senator PATRICK: The MDBA is on the record as saying, 'Once this is sorted out'—the flood plain harvesting—'the BDL and SDL will be increased to reflect new volume amounts.' Will that require a change to the Basin Plan?

Mr Blacker: No. The Basin Plan allows for better evidence to come forward in relation to baseline diversion limits. So, those provisions already exist within the plan.

Senator PATRICK: I know that the vote that we had in the Senate in relation to the SDLs, for example, or changing things after the Northern Basin Review, the 70 gigalitres, required an amendment of legislation. So, you're now suggesting the BDLs and SDLs can change without a change of legislation?

Mr Goodes: I think that the definition of the BDL in the plan does not require any amendment because it's just a better interpretation. However, because that then impacts the SDL, my understanding is that, yes, to effectively change the number of the SDL does amend the Basin Plan.

Senator PATRICK: That was my understanding from the legislation we've passed already, which, for the record, I voted against. What would be the timing of that amendment?

Mr Goodes: There are 20 water resource plans undergoing assessment at the moment. Depending on how many sorts of amendments there are, it's not something I have an answer to at this point, Senator, I'm sorry.

Senator PATRICK: You don't have a rough feel for the timing of it?

Mr Goodes: No.

CHAIR: Senator Patrick, can you make this your last question.

Senator PATRICK: Yes. I've just got a couple more on this line. New South Wales legislation requires the flood plain harvesting take to be at 1993-94 levels of development. Will you be validating New South Wales data; can you confirm whether the new licences are set at the 1993-94 level of take; and if not, why not?

Mr Blacker: As part of the water accounting that we do to ensure SDL compliance, that's an aspect that we look at, yes. In terms of water resource plan assessments, it's also a component of our consideration.

Senator PATRICK: How will you undertake those verifications? By what mechanism, process or approach?

Mr Blacker: It's quite a detailed and technical area and it's not my area of expertise. I might need to take that one on notice.

Senator PATRICK: All right. Thank you very much.

Senator DAVEY: I have questions about MDBA costs. Would Mr Reynolds be the right person? I note that New South Wales are going through their pricing determination process through their independent pricing authority. In the issues paper that was released in September, the New South Wales Department of Planning, Industry and Environment proposed total MDBA costs to increase by 34.2 per cent, and then they go on to say that these costs are to meet the MDBA's river management activity costs. Why are they going up 34 per cent?

Mr Reynolds: The river management program is developed in conjunction with the three states, New South Wales, Victoria and South Australia. Each state meets a share of that overall program based on a formula that

shares that according to the program that's being delivered. Each state is obliged to meet that cost, and it's up to the states as to how they recover those costs from users or meet the share from Treasury. In fact, the MDBA RMO costs are not increasing from 2021 to 2021-22 which has been quoted, but New South Wales has elected, or DPIE has required, WaterNSW to recover a greater proportion of New South Wales's share of those costs.

Senator DAVEY: So the cost increases that have been passed through to users are a policy issue as opposed to the costs of MDBA actually increasing?

Mr Reynolds: That's exactly right. In fact, I think the cost of the program in that year is decreasing by about three per cent. Our costs do fluctuate a bit from year to year because of the way major capital investments are funded on an annual cycle. We do have projects that would cause our costs to go up and down a little bit but they're actually decreasing by about three per cent in that cycle.

Senator DAVEY: That's good to hear. It's good to hear that it's not your costs going up by 34 per cent. I'm pleased to hear that. When I read that and I went to your annual report, because I was very interested to see what River Murray's operations costs were as opposed to the overall MDBA costs, because we know the MDBA does compliance, does policy and planning and is the river operator, I couldn't find a breakdown. Is that breakdown reported anywhere and is it available?

Mr Reynolds: In terms of actual numbers, for now we do have the budget not the costs. But in terms of reporting it is all reported to the joint venture governments through the ministerial council. We report in detail on a quarterly basis to them on all of that, what's called the joint venture program. When we talk about River Murray operations costs there's the cost to run the river operations, to run the river itself and to manage the infrastructure. There is also what we refer to often as the non-RMO costs, which are more natural resources and water quality solidly programs as well. All of that is reported regularly to the joint-venture governments and to ministerial council.

Senator DAVEY: Is there a reason why that information is not then shared publicly?

Mr Reynolds: Not particularly. We do, as I say, report that regularly through to all of the jurisdictions, including to the Commonwealth—

Senator DAVEY: So the work has been done, so it's not going to cost any more. It's just a matter of giving it to them and them putting it on the website. Is that a matter where you would need their permission?

Mr Reynolds: Given that a lot of the program is delivered by state agencies, we would want to work through that with the state jurisdictions as to how that was reported, in what format and how it was split up.

Senator DAVEY: Okay. It's a matter I'll follow up with them. As you said, some of the projects are theirs. In your annual report you do report the contributions you receive from other jurisdictions and you also report on expenditure by state constructing authorities. Does that mean the states pay you money and then you go and pay them money? It's a big washing cycle of dollars?

Mr Reynolds: Yes. The program is planned for the coming year costed. The cost-share arrangements for that are determined. The state jurisdictions and the Commonwealth government provide those contributions to the MDBA, then we, under arrangements set out under the Murray-Darling Basin Agreement, provide those programs of work to the state constructing authorities, which are typically the major water utilities in each of the states—so WaterNSW, Goulburn-Murray Water in Victoria and SA Water in South Australia—but the departments also deliver some of that work. We provide the programs to them and they deliver the works and invoice us progressively throughout the year as they deliver works and we pay them. That's the process that it works through.

Senator DAVEY: It sounds like a churn. In 2020, contributions from jurisdictions was \$86.3 million and then costs to you back to the states was \$67.7 million. Would it not be easier for you to just collect the \$20 million and leave them with the money and then coordinate the work instead of money going backwards and forwards with the additional administrative costs of just accounting for that instead of—

Mr Reynolds: I think there are a couple of elements to that. The arrangements are specified in the Murray-Darling Basin Agreement, so they're effectively legislated, and have been in place for some time. It's important to recognise that states fund a share of the entire program for the whole Murray system. They don't fund the work that's delivered in their state; the concept being that beneficiaries on the Murray system benefit from the whole system being run holistically. What we do is develop a program for the management of the whole system. States fund that and then we fund individual agencies within states to deliver the component of that that those agencies are best positioned to do. It means that the states' contributions do not match the amount of money that goes back to each state. The amount of money that is, for instance, the expenditure in South Australia will typically exceed the contribution that they make given the number of structures that they manage.

Senator DAVEY: I think the biggest concern that stakeholders who speak to me have is that, in the absence of seeing the separate business unit numbers, so River Murray operations compliance and then policy and planning, some of the contributions from jurisdictions are going to fund activities which are ostensibly meant to be funded by the Commonwealth, such as the Basin Plan activities.

Mr Reynolds: I can assure you that we are very diligent in separating the funding streams for the joint programs versus our Commonwealth program. I can also say that, as part of the current process in New South Wales, we are cooperating with IPART to provide them information on how the program is developed so they can make an assessment of the efficiency and prudence of that program in the same way that they test the programs of other state agencies. That process is underway as part of the current work that IPART is doing.

Senator DAVEY: IPART is a public and transparent process. Will the information you provide them be made public through their processes so that other stakeholders who are participating in that assessment process can look and make comment?

Mr Reynolds: I'm not exactly sure what IPART would publish, but we're providing the information to them into their normal process. I imagine that either the raw information or their assessment of it would be published.

Senator DAVEY: It has been suggested in the past—and I think I've suggested it before and, as you've already said, you do all the work to enable it to happen—that there be some level of a public, transparent process in the development of MDBA operations costs. You do the process and I'm not for a second actually questioning how diligent your accounting is or anything like that. It's just that because the stakeholders, the users of the River Murray system, don't have any line of sight to it, do you think that an IPART type process for the MDBA would be suitable to help alleviate some of the concerns?

Mr Reynolds: One of the challenges here is because of the way the joint venture program is managed under the Murray-Darling Basin Agreement, we don't actually levy fees and charges, so the economic regulation processes that apply within states, which are really about testing the fees and charges, don't apply to our program directly. That's why it comes through where you're seeing it now: WaterNSW are passing through costs from the MDBA. You might recall that the former water minister committed to three-yearly reviews of the efficiency of River Murray operations costs. We engaged an independent consultant to undertake that work, which was published in either November or December last year. That was the first of those reviews, and the commitment is to do that on a three-yearly cycle.

Senator DAVEY: That's great. Thank you very much. If I've got time, can I ask Ms Connell one final question based on something she said earlier?

CHAIR: One final question. For the department's information, we intend to finish this section in about half an hour and then we'll move to the WELS with a view to being wrapped up by five o'clock. Can we try to be as direct in questions and answers as we can be, so we can get through it.

Senator DAVEY: Ms Connell, this is directly in response to something you said earlier that's been brought to my attention. You mentioned earlier that, in terms of water recovery under the 450, there were some on-farm projects on the books that you were going through the process of finalising. I had been informed that when the government announced in September that we would no longer be looking at on-farm work, that all proponents were contacted and basically told, 'Thanks, but no thanks'. I have a letter here that was sent by the water minister's office to a constituent who was asking questions about water recovery, buy back or efficiency infrastructure projects. I'll quote from this letter: 'Consistent with this approach, the Australian government is no longer seeking to meet water recovery targets by purchasing water entitlements in the Murray-Darling Basin. Instead the government is shifting its water recovery focus to modernising off-farm irrigation infrastructure.' Can you just confirm that that is the case and there is no more on-farm water recovery occurring?

Ms Connell: Senator, it is the case that the government is committed to moving to off farm. We are in the process of dealing with existing applications that had been made under the program. There are not many of them, they're for very small amounts of water and, given the program was open, we're currently moving through managing those applications.

Senator DAVEY: So these were submitted prior to the government's announcement?

Mr O'Sullivan: The on-farm program is technically still open and applications have been received since the announcement. The government's announcement is about an emphasis on off farm, and an approach about on farm to work with state governments to bring together community led, community supported projects that are acceptable and meet all the neutrality criteria.

Ms Connell: In relation to that we have started the discussion at the Basin Officials Committee with states about the fact that the Commonwealth's intention is that states work with communities to bring forward community led projects if they can establish that they meet the neutral or positive socioeconomic test.

Senator DAVEY: And this would be the test that was agreed by all state governments, I think in December last year, by the Ministerial Council?

Ms Connell: Yes.

Senator DAVEY: Which is quite an extensive and significant test.

Ms Connell: That's right.

Senator DAVEY: And it includes the potential for public feedback on projects proposed.

Ms Connell: It does include, I think, two steps where public commentary can be taken through the Have Your Say website.

Senator O'NEILL: If I can just ask and get responses to these questions as succinctly as possible, that would be much appreciated. My first line of questioning is with regard to the National Water Infrastructure Development Fund. Could I get an indication of how many FTE staff are allocated to work on the fund?

Mr McRandle: Yes. We have a headcount of about 33 in the organisation at the moment. The National Water Grid Authority is composed of two branches: one branch does the science, policy and engagement work, the other one is managing the water projects with the states and territories, and they're roughly split fifty-fifty in terms of the staffing allocation. It's about 15 or 16 staff working on the projects, and those projects are all administering the National Water Infrastructure Development Fund. That's the sole source of funding for the National Water Grid Authority's projects.

Senator O'NEILL: Of the 33, you say roughly 17 FTE are working on the—

Mr McRandle: Fifteen to 17. I'll see if I can get a precise number from the relevant branch head, just while we're going through these questions now.

Senator O'NEILL: And the fund is absolutely administered through the National Water Grid Authority.

Mr McRandle: Correct.

Senator O'NEILL: So the department is separate from you—or you're embedded within it?

Mr McRandle: No. We went through this before. We're part of the department. The accountable authority for the department is the secretary of the department. I'm the deputy secretary in the department and also have the title of CEO of the National Water Grid Authority. We manage, within the National Water Grid, the administration of the National Water Infrastructure Development Fund.

Senator O'NEILL: So you sit within the department—we discussed that before—but the administration responsibility is yours and yours alone.

Mr McRandle: Yes. There are, obviously, staff that assist me but I'm the head of that area.

Senator O'NEILL: Great. How many projects are listed?

Mr McRandle: Twenty-two.

Senator O'NEILL: And you're going to give me an update on where they're all up to, on notice?

Mr McRandle: Yes, we can give you that on notice.

Senator O'NEILL: I'm sure you have a Gantt chart expecting delivery at certain points down the track.

Mr McRandle: The document that lists the projects will also give you the expected completion dates, or if the projects have not yet had their funding agreements finalised it will note that.

Senator O'NEILL: How much has been spent overall from the fund?

Mr McRandle: Actual expenditure—let me just see if I can get that.

Senator O'NEILL: And maybe in which years as well.

Mr McRandle: We've only been operational since October 2019, so the 2019-2020 year was our first operating year, and this is our second operating year, and, obviously, with the budget being delayed this year because of COVID, we've just had the budget announcement.

Senator O'NEILL: Everything is a bit out of whack.

Mr McRandle: Yes.

Senator O'NEILL: What's the overall spend?

Mr McRandle: Let me see if I can get those numbers for you and, recognising the time pressures, I'm happy to take that on notice and provide that to you as well.

Senator O'NEILL: In March estimates apparently you were going to spend \$182 million this year. How much have you spent?

Mr McRandle: I think that was a reference to the previous financial year, \$180 million. In the end, it was \$50 million that was expended, and that was largely explained by some projects being slightly delayed. And we're making up those additional payments in this financial year. It was really a little bit of slippage of a few months, but it just crossed the financial year.

Senator O'NEILL: That's an underspend of \$130 million.

Mr McRandle: That's correct, in that financial year, but it was—

Senator O'NEILL: There's a bit of a pattern emerging in my questioning today: the headline announcement and then the gap between that and what actually gets spent.

Senator Birmingham: Could you not interrupt the officials when they're answering, Senator O'Neill.

Senator O'NEILL: Senator Birmingham, you've got to stop directing me about the way I can ask my questions.

Senator Birmingham: You've got to stop being rude to people.

Senator O'NEILL: I'm a senator for New South Wales. I have a right to ask questions, and I'll ask them in a way that I think gets good value for the Australian people.

Senator Birmingham: That's right—New South Wales, not Tasmania.

Senator O'NEILL: I'm happy to ask questions for every state and territory across the country, but I am very proudly a New South Welshwoman and I've got some questions about dams in New South Wales coming up.

Senator Birmingham: Anyway, if you could just stop being rude to people, they might be able to answer.

Senator O'NEILL: Mr McRandle, would you like to answer the question?

Mr McRandle: As I mentioned, with the establishment of the Water Grid Authority in October, we had some planned expenditure for that year. That expenditure was not able to go as quickly because we weren't able to settle some of the project funding arrangements with the states and territories in that less than a full year period. We've carried those funds over, and those project agreements have now been signed, so I'm very confident that we're able to get onto those projects and make up that ground.

Senator O'NEILL: How much are you going to spend now?

Mr McRandle: The administered funding for 2019-20 year was the \$51.4 million that I mentioned, and, it looks like \$237 million is planned for the 2020-21 financial year.

Senator O'NEILL: To 30 June 20—

Mr McRandle: For the 2020-21 financial year.

Senator O'NEILL: Has the funding been allocated to all the projects already? Is it clearly assigned?

Mr McRandle: The funding has been allocated to projects. As projects are committed to by government, there's a funding allocation, but the phasing of funding between years is subject to settling a project milestone agreement, effectively, with the states and territories. That's done through the national partnership arrangements. What I was talking about before was, for a number of projects for which there were commitments, the detailed funding arrangements with the states and territories hadn't been settled in the last part of the last financial year. That caused the carryover of funds into this financial year, but those projects have now been signed up, and we have funding arrangements put in place.

Senator O'NEILL: Given the potential impact that this spend can have in this COVID period of time—

Mr McRandle: Absolutely.

Senator O'NEILL: across the country, I hope you have a lot more success in this period of time than is currently the record.

Mr McRandle: I completely agree, and we're working very diligently, very hard towards getting those funds out there, and our state and territory counterparts are also in a likeminded way approaching this.

Senator O'NEILL: When I get back here next time, I hope that we find that that's been fulfilled.

Mr McRandle: I certainly hope that's—

Senator O'NEILL: I've got a question about the Sustainable Rural Water Use and Infrastructure Program. Was this program underspent last year?

Ms Connell: Yes, it was underspent.

Senator O'NEILL: Thank you for your clear answer. What was the underspend—by how much?

Ms Connell: The underspend to the program was \$257.45 million.

Senator O'NEILL: Of the total allocation of what was promised to be spent?

Ms Connell: Of \$383 million.

Senator O'NEILL: That's a gap of near \$130 million. Why isn't the government spending the money from this program?

Ms Connell: The Sustainable Rural Water Use and Infrastructure Program actually covers a range of programs that the department is responsible for administering. We've talked about one of those programs today: the Aboriginal water entitlement program, where we've had very clear advice in the strongest terms from peak Indigenous bodies that they want us to engage further and much more closely with them in the way that program is designed.

Senator O'NEILL: So how much was that? Was that \$41 million or something like that? That's what I took from our earlier conversation.

Ms Connell: Forty million—that's correct.

Senator O'NEILL: Forty million—okay. So that takes us back down to close to 200.

Ms Connell: Given the government's commitment to no further buybacks, there's also a figure of \$142 million that was underspent, and there are a range of other projects or programs that make up that broader program which are underspent. As we've referred to earlier today—

Senator O'NEILL: If you can provide that on notice in detail, that would be really good. But I just want to go to what you just said. There was \$142 million allocated to water buybacks—is that correct?

Ms Connell: That's correct.

Senator O'NEILL: And the government said, 'We're not going to do that anymore,' so that \$142 million is still sitting there, not spent.

Ms Connell: That money was allocated to bridging the gap. As I advised the committee earlier today, we've still got approximately 46 gigalitres of water remaining to bridge the gap. So that money will be applied going forward in relation to still meeting that bridging the gap target, but the government's commitment in relation to that target is to recover the water through off-farm efficiency projects.

Senator O'NEILL: So, if I were to explain to some people at a community meeting why the government didn't meet its own spending commitments for the program, there are a range of reasons. One of them is that we need consultation with Indigenous people before we get it out. The other is that they changed their minds about buying water. What else? What are the other reasons?

Ms Connell: I just note in relation to the bridging the gap target that it's been noted here today that over 2,000 gigalitres of water has already been recovered to meet that target, so we are really down to the last roughly three per cent of that target. It has to come from specific water resource plan units through the basin; it's not the case that we can buy it anywhere. So it's obviously challenging to identify the acquisition needs in that respect. In addition to that, we've obviously confronted the challenges of COVID-19 over the last six to seven months. That has had an impact on program delivery and states' performance. A lot of the money that we provide under this broader program goes to states to progress projects.

Senator O'NEILL: Could you on notice give me a sense of this. There's a \$257 million underspend. That can be broken down?

Ms Connell: Into about 14 or 15 different subprograms.

Senator O'NEILL: That would be great. And could you give me a sense of what was the reason that they didn't proceed, because it sounds like there's a range of them.

Ms Connell: We'd be very happy to do that.

Senator O'NEILL: And then what is that money going to go to now?

Ms Connell: A proportion of that money will go to the Murray-Darling Communities Investment Package. I'm happy to provide you with a copy of the details, but I think you can also find in the budget papers the components of the investment package and the funding elements of those programs.

Senator O'NEILL: Which page would I find that on?

Ms Connell: It's spread out over various pages.

Senator O'NEILL: Maybe you can compile that in such a way that I'd be able to read it and understand it.

Ms Connell: We'd be happy to do that, and you can also find it on our website. The Murray-Darling Communities Investment Package measures and actions have been published on our website. I'll get a copy for you. That publication outlines the funding that's going to each of the newly funded measures as well.

Senator O'NEILL: Will the total of that \$257 million underspend be fully expended?

Ms Connell: I'll have to take on notice the manner in which that underspend is being distributed this year over the various projects.

Senator O'NEILL: So it's going to go to things like infrastructure, supply, water purchases—

Senator Birmingham: There's an acknowledgement of different parts of it, but, for some parts of it, it is there not for the purpose of spending the money but for the purpose of achieving the final goal of the SDLs. We would want to achieve that at, ultimately, the lowest possible cost to the taxpayer. So if it comes in under budget then that's good news.

Senator O'NEILL: So that \$257 million might not get spent?

Ms Connell: As the minister was explaining, the basin plan projects are, as you'd be aware, designed to be in place by 2024. So there is, as you would appreciate, some movement of funds between years given the progress of community consultation, states undertaking strategic business cases, engaging contractors and undertaking one of the projects in relation to fencing in the northern basin. So there are a range of issues and elements we need to take into account.

Senator O'NEILL: I think we've just opened this up a little. There might be some questions on notice with regard to that, but thank you for the commitments you've made already to the questions I've asked. What are the three New South Wales dam projects that were announced by the Prime Minister in October 2019?

Ms Connell: That's a question for the national water grid—

Ms O'Connell: We'll get the Water Grid Authority back at the table.

Mr Metcalfe: You'll need a bigger table!

Ms O'Connell: Yes, it's a challenge now with the reduced number of seats.

Mr McRandle: Senator Sheldon, I think, asked about the three dam projects the other day. In fact, there weren't three dam projects; there were two dam projects and one feasibility study, just for clarity. That was the same question asked the other day. The two projects are the Wyangala Dam and the Dungowan Dam—so the Lachlan and Peel River catchments—and there is the Mole River, also in northern New South Wales, which is the feasibility study.

Senator O'NEILL: Is Mole River the Border Rivers project?

Mr McRandle: Yes.

Senator O'NEILL: Great, thank you. In that announcement, the Prime Minister said that formalised agreements between the federal and New South Wales governments outlining the time frames will be finalised shortly. That was in October 2019. It was a happily received announcement, I'm sure, in many quarters. Have those agreements actually been finalised, and what are they?

Mr McRandle: As per my response to these questions last Tuesday, the funding agreements are being finalised now and will be shortly settled with the New South Wales government. The Deputy Prime Minister announced that what was previously the loan facility component of those projects would no longer proceed and instead the federal government was putting grant funding in through the development fund. So what was previously partially grant and partially loan funding that was proposed—and we were working through with New South Wales on how the loan facility this might work—goes back earlier discussion on the loan facility—

Senator O'NEILL: The question about the loan—that they didn't give any loans out.

Mr McRandle: The government decided to terminate the loan facility as part of this budget.

Senator O'NEILL: Shifted the money into—

Mr McRandle: Not technically. Strictly speaking, you close down one facility, and then there's a separate decision for an appropriation into grant funding, because loan funding doesn't sit in a box waiting to be dished out; it actually sits back in Treasury. So, technically speaking, the loan facility was terminated as part of these budget announcements. The difference is that the loan component has become the development fund component,

so we've put to New South Wales in the last few weeks a new investment schedule, and we're expecting them to sign that, I would think, if not this month then in November.

Senator O'NEILL: Has any money been paid to the New South Wales government for commencement of these projects?

Mr McRandle: No, they have not asked for a drawdown of these funds at this stage, and we don't have the funding agreements settled with them.

Senator O'NEILL: When was the concept design of the project completed?

Mr McRandle: I would have to take the dates around some of the project elements on notice.

Senator O'NEILL: But it is completed?

Mr McRandle: I would have to take on notice exactly where the project is up to. I know on the Wyangala project—and, again, we discussed this the other day—the New South Wales government is out consulting with the community at this stage. There's also the environmental phase of the project that will go through. That will be managed by the New South Wales government.

Senator O'NEILL: That's the next couple of questions. Has the concept design commenced?

Mr McRandle: Can I take the information around the project status or the project for Wyangala on notice and provide to you separately?

Senator O'NEILL: Yes, for both of them.

Mr McRandle: For that and for Dungowan as well.

Senator O'NEILL: Thanks very much. The environmental assessment—has that commenced?

Mr McRandle: I'm not sure if it's formally commenced. Again, that will be part of this project information. We'll do—maybe not quite a Gantt chart, but we'll do a little summary of where the project is up to. For all of these dam projects, the proponent is the state or the territory. In fact, I've very helpfully been provided a fact sheet by my colleague.

Senator O'NEILL: It's great having a good team of people to work with, isn't it?

Mr McRandle: Absolutely. I'll make sure I've got the right dam. Wyangala Dam: March 2020, field investigations commenced; September, inundation mapping report—that's looking at how the expanded dam would affect the surrounding region—October, this month, expected early works to commence—this will be work that New South Wales commences, and these are preliminary works or preparatory works for the dam—June 2021, expected EIS public display for comment. So it will go out in the middle of next year for public comment. The work will commence around the scientific analysis for EIS, but it'll go for public comment in the middle of next year. My time line then leaps to the end, with expected completion of the project in 2025.

Senator O'NEILL: So 'early works' means something's happened.

Mr McRandle: That's right. Some preliminary work is out there.

Senator O'NEILL: Do government—either you or the state government—have a feasibility study for the project?

Mr McRandle: This project was identified off a New South Wales rural river study in 2018, so there was some previous work that was done by the New South Wales government on these dams.

Senator O'NEILL: So you are relying on that work?

Mr McRandle: Yes, in many cases we'll rely on business case, for example. Usually the proponent develops the business case or the feasibility studies, and they are presented to us for assessment and determination about whether—

Senator O'NEILL: You don't do your own feasibility? You just rely on what they provide?

Mr McRandle: No, I mentioned that we've also funded 50 feasibility studies that we share with the states and territories. So it's a fairly cooperative approach that we're trying to establish here. The other project that you mentioned was the Dungowan dam. Project planning commenced in October 2019. The environmental assessment was initiated in January of this year. In March they commenced detailed investigations and design—investigations being things like geotechnical works that may be part of that. They were expecting early works to commence this month, and we haven't had the most recent update from New South Wales. There might be a month lag in the reporting on that. Final business case completion for this project is June next year, and expected construction is October 2021. It's expected to take four years, depending on the final design they settle on.

Senator O'NEILL: Was an application made for the project under the NWILF?

Mr McRandle: The application wasn't made at the time of the announcement last year by the premier and the Prime Minister. The arrangements were that New South Wales would provide 50 per cent of the funding and the Commonwealth would provide 50 per cent of the funding. That 50 per cent was partially development fund funding and the other half was going to be loan funding. That was what we were negotiating with the New South Wales government, but then, as part of this budget, with termination of the loan, the federal government has offered it all as grant funding.

Senator O'NEILL: There are variation there. It sounds like there are some with feasibility studies and some without. Why is that?

Mr McRandle: Projects can be in different stages of design and development. Part of what the government's chosen to do and announce in this budget—putting this whole scheme onto a 10-year planning cycle means we can work much more cooperatively and in a partnership with states and territories and take it through feasibility design, concept design—

Senator O'NEILL: You jointly undertake feasibility?

Mr McRandle: We'll support them with the funding and we will stay closely engaged with the states to get updates from them. We signed the contract with the state to deliver the project, and they have milestone payments and need to report to us with evidence of what's been achieved.

Senator O'NEILL: It's that contract you're expected to sign this month or early next month?

Mr McRandle: That's right. There's the funding agreement.

Senator O'NEILL: Were any of these projects that we have been discussing—the Wyangala Dam, the Dungowan Dam or the borders river project on Mole River—on Infrastructure Australia's priority list?

Mr McRandle: I believe that one of them may be. Rather than relying on going back to the Infrastructure Australia priority list in my head, which is not terribly reliable, I'll come back to you on notice with the answer.

Senator O'NEILL: It was a good list. I don't know if it's been relied on properly. Were any of the projects on the infrastructure New South Wales priority list?

Mr McRandle: I haven't checked the Infrastructure New South Wales priority list, and as the federal government our larger concern is dealing with Infrastructure Australia, but I know all the infrastructure—

Senator O'NEILL: Yes. I guess I want to understand why things would be advanced that weren't on the priority list for either the federal government or the state government, especially given what we're hearing in New South Wales about influence being pedalled in all sorts of ways within the Liberal Party.

Mr McRandle: Let me take on notice where they sat, in respect of each of the infrastructure organisations, state and federal.

Senator O'NEILL: When do you expect the money to start to flow to these projects?

Mr McRandle: Once we sign the funding agreement with the early works already commencing on some of these projects, I would anticipate that there may be some early funding from the Commonwealth to support those activities. New South Wales will come back to us with a milestone schedule and a payment schedule, as part of settling these arrangements, in the coming weeks.

Senator O'NEILL: I have one further line of questioning, if I can, Chair, with regard to staffing and budgets.

Ms O'Connell: Our CFO is here.

Senator O'NEILL: Thanks very much, Mr McRandle; I look forward to those answers.

Ms O'Connell: So this is for the department?

Senator O'NEILL: Yes, the staffing numbers in each division, the team working on the program and project, including for the MDBA and related water entities.

Ms O'Connell: We'll get our CFO to answer them, from the department. Then we'll go to the MDBA to answer them for the MDBA.

Mr Brown: Sorry, Senator, could you repeat the question?

Senator O'NEILL: Could you tell me the staffing numbers in each division and team working on each program and project, including for the MDBA and related water entities?

Ms O'Connell: Beforehand, to clarify for Scott Brown, are you only interested in the water part of the department? The department does all sorts of other things. Do you just want to focus on the water today?

Senator O'NEILL: Yes, we're just talking water today.

Ms O'Connell: Okay, he can do the water division and then we'll move to the MDBA.

Mr Brown: I will, first of all, refer you to the portfolio budget statements. In there it gives you the ASL for outcome 5. You'll see on page 91 of the portfolio budget statements we have an average staffing level, for this new financial year, of 138. Sorry, what was your next question?

Senator O'NEILL: Staffing numbers in each division and team working on each program and project.

Mr Brown: In terms of divisions, as I said, once again we would refer you to the 138, because that is for the water division and the water function. In terms of staff working on each program, that is more difficult because our structure doesn't break down staffing by program. You might, for example, have one person who works on three programs. So it's not as if we can align those 138 people to a particular program.

Senator O'NEILL: Do you allocate them by project, then, rather than by—

Mr Brown: We allocate them by division and branch and team. They don't always align to particular programs, because a particular team might be working on three programs.

Ms O'Connell: That number, 138, is for the water division, and they work on everything from policy through to project, program, whatever is needed to be done within the whole of water division.

Senator O'NEILL: The MDBA?

Ms O'Connell: Yes. We'll just swap.

Ms Casey: Our ASL at the moment is 271. And I have a breakdown of current staffing numbers arranged by division and section. Perhaps I could table that.

Senator O'NEILL: That would be most helpful. Thank you very much.

CHAIR: Senator O'Neill, do you think some of these questions could be tabled?

Senator O'NEILL: Yes. It would be great to actually interrogate them, but we've run out of time. So I think, in the interests of moving on to the final session of questioning, I'm going to have to put them on notice. Sorry. I'd like to find out a bit more, but I think we've run out of time on that one.

CHAIR: Thank you, Senator O'Neill. I appreciate that.

Senator PATRICK: I have a question to the Murray-Darling Basin Authority. The Basin Plan SDL is set on the basis of meeting environmental flows, or the targets outlined in the hydrological modelling to inform the proposed Basin Plan. If the Wyangala Dam expansion proceeds, is it possible to meet the environmental flow targets in the Lachlan Valley? Has anyone done any work on that?

Mr Reynolds: We haven't done any work specifically. The Basin Plan does not determine what infrastructure can or cannot be built.

Senator PATRICK: I understand.

Mr Reynolds: So, the Wyangala Dam project would need to be operated within the requirement for the sustainable diversion limit. It would also need to ensure that there's no detriment to the flow regimes that are part of the water resource plans—what we call planned environmental water. So, minimum flows downstream and the like still need to be maintained. The flexibility with which that dam is operated would need to take account of those things.

Senator PATRICK: Clearly there's a requirement to consider it in the context of the Murray-Darling Basin Plan. It would not be sensible to let too much public money be spent without at least making sure it ticks that box. My question goes to process. Clearly you have to do some work. I'm just trying to understand—and Mr McRandle might be able to help as well—what the process is in terms of making sure that we do not start spending too much money without an appreciation that it's not going to cause a problem in respect of the plan. I want to know what the checks are or what you're going to do to—

Mr McRandle: I might have missed the beginning of your question, but I think you're asking whether any more water allocations would come from—

Senator PATRICK: No, I'm wondering what due diligence you are doing, before spending too much public money, to ensure that the Wyangala Dam project will, if constructed, still enable the environmental flow targets in the Lachlan Valley to be maintained or to be reached.

Mr McRandle: Yes. That's a really important part of it. And I guess, as a starting point—and I'm sure you're aware of this—the states and territories are responsible as the regulators and allocators of water—

Senator PATRICK: Sure.

Mr McRandle: They can't do anything that would alter their existing commitments, for example, under the plan. In the case of the Wyangala Dam, the more important part—and this is one of the reasons for the water grid being established—is to create greater water security. It's about reliability of supply. I think for eight of the last 13 years the allocation to farmers has been zero. The aim the project is trying to achieve is that with more water—

Senator PATRICK: I don't really want to go to the merits of the plan. Clearly that's important. It can be the best plan in the world; it can be a really useful piece of infrastructure. But if you spend the money and it actually violates the plan, that's a bad thing. So, I just want to get a clear understanding that that will be checked, it will be modelled, before any approval or significant public funds are spent on it.

Mr McRandle: Yes. This will be part of the approvals process. Before main construction works can start, the approvals need to be given, and that includes the environmental assessments as well as the water regulation approvals at the state government level.

Senator PATRICK: Can you provide, on notice, a little checklist of what the process is? You were talking to Senator O'Neill about different things that you're going to do. Can you maybe set out the sequence of events—where the business plan fits, where the modelling fits, where the environmental—

Mr McRandle: Yes, I'm very happy to that.

Senator PATRICK: Just lay that out.

Mr McRandle: Sure.

Senator PATRICK: And maybe for that dam project—

Mr McRandle: We provide that as sort of a framework approach to all the projects. So, you can apply it to each of those. I think we can provide it in that form to you.

Senator PATRICK: That way, next time we come back, we can say, 'Did you do that?' and 'Where is it?'

Mr McRandle: Absolutely.

Senator O'NEILL: And the timing of the community consultation, given how advanced things already are, is of particular interest to me.

Senator PATRICK: I know it's another project plan kind of thing, but that's actually good practice.

Mr McRandle: Absolutely. Yes.

Senator PATRICK: The last question I had for you—and you may have answered it already—was whether you have received a business case, either preliminary or final, for the dam.

Mr McRandle: I did read out earlier the dates around the business case.

Senator PATRICK: Yes, I thought you might have, and I might have missed it. But the bottom line is that you haven't received a draft yet?

Mr McRandle: Let me just check the—

Senator PATRICK: I'm interested in the business case, feasibility study, cost-benefit analysis, hydrological modelling—

Mr McRandle: Actually, I don't have that document in front of me now. Can I take that one on notice?

Senator PATRICK: No, that's okay; I can go back to the *Hansard* and have a look at it. Finally, consistent with the idea of open and transparent government, recognising some commercial sensitivities around financial operations if there's a commercial play involved—I don't know—will all of this information be made available publicly as it's generated, so that people can look at it and contest and congratulate?

Mr McRandle: A lot of the project information will need to be made public. Things like environmental assessments are by nature documents that need to be published under the law. The rules for infrastructure funding for the water grid are the same rules that apply to other infrastructure projects. Any project where there's more than a \$100 million commitment needs to be scrutinised by Infrastructure Australia as well. So, there's another layer of—

Senator PATRICK: Sure. I want scrutiny by the people who are paying for it, which is the public.

Mr McRandle: That's right, but these things are published as part of that process. I would imagine that pretty much all of the project documentation, other than sensitive construction costs—where obviously you want to get a market price—would be published. But if that's different, I will update you.

Senator PATRICK: Maybe in that chart you're going to provide of all the things that happen, if there's a document that pops out that says, 'That's one's going to public' or 'That one may require some redaction'—that would be good.

Mr McRandle: Yes.

Senator PATRICK: Thank you very much.

CHAIR: Thank you very much to department officials.

Water Efficiency and Labelling Standards Regulator

[16:43]

CHAIR: Ms Connell, do you wish to make an opening statement?

Ms Connell: Thank you for the opportunity to make a short opening statement as the new WELS Regulator. The national Water Efficiency and Labelling Standards scheme—or the WELS scheme, as it is generally known—is a success story. The scheme was established to reduce Australia's water consumption by promoting water-efficient products. I can report that this year alone the scheme is estimated to have saved 141 gigalitres of water, and that's expected to increase until 2036. The scheme has delivered benefits to the national economy at the household and business levels. It's keeping approximately \$1.2 billion in the pockets of many Australians this year as savings due to cheaper utility bills at what we all know is a very difficult time.

Most consumers rely on the WELS label—the star rating—to inform purchasing decisions, which makes it a useful tool for businesses to use to help promote their efficient products. The star rating label for water efficiency is displayed on dishwashers, washing machines, taps, showers, urinals, flow controllers and toilets. The WELS registration and compliance programs help businesses large and small compete for purchasing power on a fair playing field, and the scheme also benefits other Australian business sectors such as, for example, the water utilities and businesses advising on sustainable buildings. I'm happy to report it's a world-leading scheme. It was introduced in 2005 following a range of voluntary schemes that had limited uptake and produced a limited reduction in water demand. So, to improve the confidence, a decision was made by the Australian and New Zealand governments that a transnational mandatory water efficiency labelling scheme was needed. The scheme is so well regarded that we are now leading the development of a standard for water efficiency labelling programs internationally.

Reviews are also built into the scheme to make sure it stays fit for purpose and world leading. Earlier this month, Minister Pitt announced the panel for the 2020 independent review to consider the effectiveness and efficiency of the scheme. The panel will also review the WELS intergovernmental agreement and will be looking for opportunities for how the scheme can continue to mature. I would like to note that the last independent review concluded that the WELS has achieved, and is likely to continue to achieve, much in the three main areas it sets out to: specifically, to reduce water consumption; to ensure water efficiency information is available for consumers; and to promote more efficient technologies. We look forward to the findings of the review in 2021.

CHAIR: Very good. Thank you.

Senator PATRICK: Thank you. So you are officially the person that makes showers less enjoyable but more efficient—is that right?

Ms Connell: I'm happy to report that is the case.

Senator PATRICK: Thank you. Firstly, working in this area, what's the FTE?

Ms Connell: We have approximately 10 departmental staff and five contractors working on the administration of this scheme.

Senator PATRICK: How many of them are frontline tap and washing machine kind of people? You've got some admin staff. There's a CEO, you, and people that do the hardcore regulation work.

Ms Connell: Those staff cover a range of operations. They manage product registrations; they maintain the database; they manage education with the registrants, which is obviously a critical part of the scheme as a regulatory framework; they work with businesses to support business improvement; they have to support the maintenance of the legislation and the relevant product standards; they work on commissioning research; and, importantly, they undertake compliance and enforcement activities. We've got four of our staff who are inspectors under the legislation.

Senator PATRICK: If there are four staff who are inspectors, that leaves six doing a lot of the other work. What are the contractors doing?

Ms Connell: I couldn't say what. The work is shared around.

Senator PATRICK: Maybe on notice. There are not many in the team. Maybe you could even list out, for each FTE, what's their primary responsibility. That would be good. You're okay with that?

Ms Connell: Yes, we're happy to provide that.

Senator PATRICK: Thank you. How much public funding does WELS receive and how much industry funding does WELS receive?

Ms Connell: As is reported in our annual report, governments contribute 20 per cent of the funding for the scheme. For the 2019-20 financial year, that amounted to \$392,000, and fees from industry account for the remaining 80 per cent. In 2019-20, those fees were \$1,568,000—

Senator PATRICK: So most of your money comes from industry?

Ms Connell: Eighty per cent of the scheme is cost recovered from industry, with a total annual cost of approximately \$2 million. In the scheme of things—if you'll pardon the pun—it's a relatively cheap program.

Senator PATRICK: How many registrants are there in Australia? I asked a question on notice that looked at over the last four or five years, but how many are currently registrants?

Ms Connell: We currently have 434 registrants.

Senator PATRICK: Australian?

Ms Bunfield: In terms of Australian registrants, they would be businesses that have an Australian business number and an Australian address. We have 232 in our database.

Senator PATRICK: Do you know how many of them produce product as opposed to simply being importers or exporters?

Ms Bunfield: At the moment, we don't have information regarding where those registrants sit along the supply chain, whether they're a manufacturer or a supplier of products. We think there are probably around 10 who are manufacturers of—

Senator PATRICK: So there are 10 Australian manufacturers amongst 434 registrants. Has that changed as a result of COVID? Are you aware of anyone who's dropped off the radar, dropped off the list?

Ms Bunfield: No, I'm not aware. I could take that on notice to see whether there has been a change. We're undergoing our registration period right now. That opened on 15 September. We will see, following the closing of the re-registration period, whether there's a significant change. We'll know around 15 December when the re-registrations close.

Senator PATRICK: I want to talk about the 10 Australian manufacturers. One of things that disturbs me, in the questions on notice that I've asked, is there's a fair bit of travel that is done—some international—a lot of domestic travel that is carried out by WELS. But I could only find a couple of examples where you actually went to a manufacturer. This comes to the heart of why I asked that you appear today, and I asked the minister today to take some interest in this on the basis that I'm going to talk about a South Australian company.

There's a South Australian company that makes taps. They present to me and say, 'Rex, we can't compete with imports from China,' for example. What comes from China is bulk taps. They get a registration from WELS and they produce 10,000 of them and they come into the market. Australian companies can't compete with that because it's not a level playing field, Minister. There are different environmental standards, different pay standards and so forth. The way the Australian company survives is they are niche. I wish I could bring some taps along, but I'd get told off by the chair for having props. They'll produce a tap and then some company will call up and say, 'We're doing a construction at a new site and we need the tap to be a centimetre longer.' So nothing really changes—the shape of the tap, the width of the tap, the flow device at the end of the tap—they simply make it a centimetre longer. But under your rules, typically, they then have to go through the regulatory process of getting a stamp on that. They survive as a result of their niche and responsive capability, but there's a chain, a burden, placed around their neck by having to get registrations for each of the products they produce. They might produce 10 of one thing. They get paid properly for it, and the customers are very happy, but they only produce 10.

The purpose of me calling you here is to say I would like you guys to go out and see some of the Australian companies and how they work, see their business model, and see if we can work out a way in which we can help these businesses, because this cost is very constraining for them.

Senator Birmingham: Perhaps, Senator Patrick, it doesn't need to be done through the public record of estimates. But perhaps officials could take the details of the company which you've been engaged with and use that as a bit of a case study to see if there are efficiencies in the regulatory process that could be applied, and we could use that as a model to advance the type of issue you've raised.

Mr Metcalfe: Yes, we're certainly committed to best-practice regulation. In the circumstances you described, we'd be very happy to sit down with those companies that we do regulate and indicate where there are better ways of regulating to achieve the result around water efficiency but in a way that reduces their compliance costs.

Senator PATRICK: I understand that we have to be even-handed with our trading partners, but there might be a way of saying that the regulation applies to everyone if the quantity is low—

Mr Metcalfe: Yes. Whether the issue is around small manufacturers or small quantities and those sorts of things—

Senator PATRICK: Yes.

Mr Metcalfe: I know that we'll certainly be very happy if there are. We probably have the details, but if there are any details you want to provide to us then we'll be—

Senator PATRICK: This particular company has actually invited Wells to come to South Australia. I have the email here and that invite goes back to 2016, when I was an adviser to Senator Xenophon.

Ms Connell: Senator, it's been brought to my attention, as the new regulator and, as the secretary said, I'll commit to meeting with the manufacturer. I would also note that the independent review will look at the issues you're raising.

Senator PATRICK: Yes. I do focus on South Australia, but I suspect that other manufacturers around the country are in the same situation. They're doing well, but it's a red-tape issue. In some respects, you're not necessarily motivated to change the arrangement because, actually, the majority of your income relies on charging these people for the stamp or the for stars. Secretary and minister, I'm grateful for the offer.

Mr Metcalfe: Thank you for drawing it to our attention. We'll certainly ensure that we look at that issue carefully and, to the extent that the travel restrictions allow, we'll endeavour to see something firsthand or, if not, through virtual means.

Senator Birmingham: The free settler state of South Australia is free, Mr Metcalfe!

Mr Metcalfe: To New South Wales?

Senator Birmingham: Yes.

Mr Metcalfe: Okay, I'll be on the plane soon.

CHAIR: What about the great state of Queensland as well, while we're calling out states?

Senator Birmingham: The free settler state of South Australia is free to Queensland as well!

Mr Metcalfe: I live in New South Wales, and I can't go to Queensland I'm afraid.

Senator O'NEILL: If you can't go somewhere—you've got a lot of the country off your radar! We've got to get past that.

Mr Metcalfe: I have a 94-year-old mother who I can't visit.

Senator O'NEILL: That's sad—it's hard.

Senator PATRICK: With a bit of liberty, Chair, I have a final question. Minister, you gave a very definitive answer in respect of the Basin Plan. I'm just wondering if you could give a definitive commitment in relation to the location of full-cycle dockings?

CHAIR: Ha—very good! On that note we'll call it a day.

Senator PATRICK: There was no answer from the minister.

CHAIR: No, because that's outside the remit of this committee.

Mr Metcalfe: Chair, can I just deal with a couple of those other matters?

CHAIR: Yes, thank you.

Mr Metcalfe: There is one short answer and two longer answers. If it's okay, Chair, I'll just read the shorter point into the *Hansard* but I'll table the two longer responses so that they're on the record.

Before this committee the other day—when we were dealing with the agriculture functions of the department—I provided some advice to Senator Sheldon about the wearing of personal protective equipment by my staff when they were onboard the *Ruby Princess*. I can confirm that all staff, apart from one, were wearing PPE. That staff member should have been wearing PPE, but I'm told that the requirements to wear it had only just been introduced and she'd forgotten to take it with her and proceeded to get on the vessel. We have spoken to her and re-emphasised the need for PPE to be used in those situations. Instructions and the application of it are consistent with the Department of Health.

Senator Ciccone asked some questions about the Building Landcare Community and Capacity Program. I have a fairly long response, so, if it's okay, I'll table that. And he also asked questions about changes to the *Animal health in Australia* publication. He actually addressed the questions to Animal Health Australia when they

appeared before the committee but, because, effectively, we were the client organisation for that publication I undertook to make some inquiries as to why there were some changes being made to their reporting system. I have a response to that, so I'll table that as well. Thank you very much, Chair.

CHAIR: Thank you.

Senator O'NEILL: Just to clarify: I'm trying to understand if one of the pieces of information that was provided to us today was in response to Senator McAllister's request for a list of projects.

Ms O'Connell: Yes, I tabled that information just after lunch. Did you get it?

Senator O'NEILL: Yes. I just want to double-check that that's it in its entirety. Can you just hold it up?

Ms O'Connell: This one?

Senator O'NEILL: Yes, great.

Ms O'Connell: And I did explain at the time that there's one specifically-mentioned project in full. That's because it's a publicly announced project. We've listed the other proposals by jurisdiction. We would need to go back to project proponents to see if they wanted to make them public.

Senator O'NEILL: Okay.

Ms O'Connell: These are the projects which deliver the 70 gigalitres. A number of them are still going through the process of assessment, but they're the projects.

Senator O'NEILL: I haven't got it to hand, but I did have a look at it earlier and I'm pretty confident that, at this stage, we would want more detail than has been provided here. Can I just—

Ms O'Connell: We would need to go back to the proponents to seek their agreement to make the name of the proposal public and available to you. We can certainly do that.

Senator O'NEILL: That's great. This is much better than having nothing, but it's not the full reveal that I was hoping for.

Mr Metcalfe: I think what Ms O'Connell is saying is that in order to provide fuller information we would need to check with the various proponents. We can commence that process, but we'll obviously be reliant on their responses as well.

Senator O'NEILL: That would be good. And I want to ask one clarifying question in response to some questioning by Senator Davey around the off-farm and on-farm—just to condense that. I don't know if I heard you incorrectly, but, basically, is there a preference now for the federal government to deal with off-farm matters and you're encouraging the states to take on any on-farm matters? There were a lot of words used about consultation and shared responsibility et cetera. I'm trying to understand whether it's the states' responsibility now to fund those on-farm projects. And, if that's the case, why is it still open for on-farm—for submissions to the federal government, which is what I think I heard?

Senator DAVEY: It's not for on-farm—

Senator O'NEILL: I'm trying to understand that. If you can't clarify that quickly, could you take it on notice?

Senator Birmingham: I think that Senator Davey's observation is worth an answer on notice. Essentially, the government has stated that the priority for recovery, particularly as it relates to the 450, is for off-farm activities. That's the priority, but in so far as there is still an ongoing on-farm element that might be open we can answer that on notice.

Ms O'Connell: Yes.

Senator O'NEILL: Yes, great.

CHAIR: Thank you everybody. That concludes today's proceedings. I thank Minister Birmingham and all witnesses who have given evidence to the committee today. I thank my fellow senators for the way the day has progressed. Thank you also to Hansard, to Broadcasting and to the secretariat. This committee stands adjourned.

Committee adjourned at 17:03