

# Chapter 3

## Issues

3.1 As noted in the previous chapter, the *Water Act 2007* was recently the subject of a review undertaken by an expert panel chaired by Mr Eamonn Moran, PSM QC. In addition to calling for submissions, the panel's review involved consultation with a large number of key stakeholder groups.<sup>1</sup>

3.2 The panel's report, which was tabled on 19 December 2014, made 23 recommendations. The recommendations proposed amendments to the Water Act and amendments (or review) of the Act's subordinate instruments. The Government's response accepted the majority of recommendations made in the panel's report – with Recommendations 9 and 21 being agreed to in part.<sup>2</sup>

3.3 Not all of the amendments contained in the bill propose substantial changes to the Water Act. The committee received submissions from a number of key stakeholder groups which raised concerns about specific amendments. Primarily, the key issues raised by submitters relate to review and reporting requirements, accreditation of water resource plans, indigenous issues and the changes proposed under Item 27 (Section 106) in relation to water trading by the CEWH.

### Key issues raised

#### *Review and reporting requirements*

3.4 The issue of review and reporting requirements did raise some level of concern – particularly in relation to the proposed timing of major reviews.

3.5 The Water Act currently contains various review and reporting requirements, including:

- that annual reports prepared by the MDBA include an analysis of the effectiveness of the Basin Plan;
- that the MDBA be required to give advice to the MDB Ministerial Council on the impacts of the Basin Plan (five years after it takes effect);
- that five-yearly reviews be conducted of the water quality and salinity management plan targets and the environmental watering plan; and

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1 Explanatory Memorandum, Water Amendment (Review Implementation and Other Measures) Bill 2015, p. 3.

2 Explanatory Memorandum, Water Amendment (Review Implementation and Other Measures) Bill 2015, p. 3.

- that ten-yearly reviews of the Basin Plan are undertaken.<sup>3</sup>

3.6 The amendments proposed in Part 1 of Schedule 1 relate primarily to a number of recommendations made in the Water Act Review. It was argued that rephrasing and re-aligning the review requirements in relation to the Water Act would prove a simpler and more effective approach. Specifically, the review found that the required ten-yearly reviews of the Basin Plan should be informed by the five-yearly evaluations (and that these evaluations should be undertaken in the year immediately prior to the ten yearly reviews). The Water Act Review also suggested that by delaying the commencement of these activities for several years, the results would be more meaningful; particularly given that full implementation of the Basin Plan will not be achieved until 2019, or – in the case of sustainable diversion limit adjustment measures – 2024.<sup>4</sup>

3.7 The Minister for Agriculture and Water Resources, in his second reading speech argued in relation to these amendments that:

In line with the review panel's recommendations, a further review of the Water Act will be conducted in 2024. Furthermore, the first legislated review of the Basin Plan previously set for 2022, will now take place in 2026, with 10-yearly reviews thereafter. This strikes the appropriate balance between regulatory certainty and allowing the Basin Plan to be reviewed when its outcomes can be better assessed.<sup>5</sup>

3.8 The Australian Network of Environmental Defenders Offices (EDO) noted that the Water Act currently requires the MDBA to conduct a review ten years after the Basin Plan takes effect – essentially in the year following November 2022. The organisation further noted that the amendments proposed by the bill would require the MDBA to review the Basin Plan in 2026 – and then provide the Minister with a report of that review – effectively postponing the review date by four years.<sup>6</sup>

3.9 EDOA told the committee that whilst it understood the logic of the amendment it did remain concerned that it would result in:

... approximately 14 years passing before the Basin Plan is reviewed. This is particularly problematic in light of the fact that the sustainable diversion limits (SDLs) in the Plan do not take into account future climate change.

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3 *Water Act 2007 and Water Amendment (Review Implementation and Other Measures) Bill 2015*, Bills Digest No. 79, 2015-16, Parliamentary Library, 5 February 2016, p. 7.

4 Report of the Independent Review of the *Water Act 2007*, Commonwealth of Australia, November 2014, p. 30.

5 The Hon. Barnaby Joyce, MP, Minister for Agriculture and Water Resources, Second Reading Speech, *Water Amendment (Review Implementation and Other Measures) Bill 2015*, *House of Representatives Hansard*, 3 December 2015, p. 14623.

6 The Australian Network of Environmental Defenders Offices, *Submission 6*, p. 4.

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This may prove to be catastrophic when the next significant drought hits South Eastern Australia.<sup>7</sup>

3.10 EDOA also recommended that the SDLs in the Basin Plan "should be reviewed before 2022 for the express purpose of determining if they are consistent with current knowledge on projected impacts of climate change".<sup>8</sup>

### *Accreditation of water resource plans*

3.11 The EDOA also raised concerns in relation to accreditation of water resource plans, which would be amended by Part 2 of Schedule 1 of the bill.

3.12 Under Section 54 of the Water Act, water resource plans are required to be prepared for each water resource plan area in the Basin. There are 36 water resource plans areas defined in the Basin Plan, which largely correspond with existing Basin state water management areas. Water resource plans are required to be consistent with the Basin Plan and the relevant long-term annual diversion limit<sup>9</sup> for the particular area.<sup>10</sup>

3.13 The Water Act (Sections 45 to 49) sets out the process for amending the Basin Plan. In summary, the MDBA may – following consultation – prepare an amendment to the Basin Plan and provide it to the Minister for adoption. One proposed amendment (Item 11) would add new subsection 48(8) which would provide that if an amendment to the Basin Plan is prepared by the MDBA (as a result of a ten year review of the plan under Section 50) then the Minister must, by notifiable instrument, determine that the amendment 'affects water resource plan accreditations'.<sup>11</sup>

3.14 EDOA submitted that while the Water Act Review recommended streamlining the accreditation process, the amendments proposed in the bill actually introduce a high degree of flexibility regarding accreditation of water resource plans. Further, the group argued that this flexibility would "allow Basin States to choose which version of the Basin Plan is relevant for accreditation purposes (assuming certain conditions are met)".<sup>12</sup> EDOA suggested that this "is no doubt intended to

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7 The Australian Network of Environmental Defenders Offices, *Submission 6*, pp 4 and 5.

8 The Australian Network of Environmental Defenders Offices, *Submission 6*, p. 5.

9 The annual diversion limit refers to the maximum quantity of water that can be taken for consumptive purposes.

10 *Water Act 2007* and Water Amendment (Review Implementation and Other Measures) Bill 2015, Bills Digest No. 79, 2015-16, Parliamentary Library, 5 February 2016, p. 11.

11 *Water Act 2007* and Water Amendment (Review Implementation and Other Measures) Bill 2015, Bills Digest No. 79, 2015-16, Parliamentary Library, 5 February 2016, p. 11.

12 The Australian Network of Environmental Defenders Offices, *Submission 6*, p. 5.

account for the adjustments to the SDLs that will likely occur in 2016 and 2024 (which will in turn result in amendments to the Basin Plan)."<sup>13</sup>

3.15 The group further argued that this amendment would result in Basin States being able to choose the version of the Basin Plan with the highest SDLs, "that is, the version that allows the highest consumptive use in the relevant water resource or resources".<sup>14</sup>

3.16 The EDOA told the committee that while it is not opposed to the adaptive management approach that underpins the Basin Plan, the amendments would not "facilitate an adaptive approach for the purposes of mitigating the impacts of climate change",<sup>15</sup> and:

... furthermore, the proposed amendments are highly complex and to that extent inaccessible to the vast majority of people and groups with an interest in the management of Basin water resources. This is in itself problematic as it all but eliminates the possibility of meaningful engagement across the Basin.<sup>16</sup>

### ***Indigenous matters***

3.17 The committee received several submissions in relation to the amendments designed to increase indigenous involvement and engagement in the Basin's water management.

3.18 During the Water Act Review, a number of indigenous and environmental groups argued that there was a need for greater recognition of 'Indigenous interests' in the Water Act. The review panel expressed general support for the idea of greater indigenous involvement and indicated general support for amendments to the Water Act which would enable there to be a more active incorporation of indigenous interests and expertise in the planning and management framework of the Water Act.<sup>17</sup>

3.19 The EDOA noted that whilst the Water Act currently does not adequately acknowledge indigenous knowledge or provide for cultural water, the group recognised that proposed amendments "partly address this significant oversight."<sup>18</sup>

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13 The Australian Network of Environmental Defenders Offices, *Submission 6*, p. 7.

14 The Australian Network of Environmental Defenders Offices, *Submission 6*, p. 7.

15 The Australian Network of Environmental Defenders Offices, *Submission 6*, p. 7.

16 The Australian Network of Environmental Defenders Offices, *Submission 6*, p. 7.

17 Report of the Independent Review of the *Water Act 2007*, Commonwealth of Australia, November 2014, pp. 5-6.

18 The Australian Network of Environmental Defenders Offices, *Submission 6*, p. 7.

3.20 While strongly supportive of the amendments, the group also submitted that further amendments to the Act are required to properly provide for indigenous participation in water management in the Basin, including:

- an appropriately worded object to the Act;
- a requirement that water resource plans set aside a certain percentage of water for cultural use; and
- a requirement that the Water Act and Basin Plan give effect to the United Nations Declaration on the Rights of Indigenous Peoples.<sup>19</sup>

3.21 The New South Wales Aboriginal Land Council (NSWALC) noted that the management of water in the Murray-Darling Basin is of critical importance to Aboriginal people who live in those regions, and argued that "water is central to the cultural, social and economic prosperity of Aboriginal people".<sup>20</sup>

3.22 The NSWALC told the committee that it was prepared to give conditional support to the bill, and noted that the bill contained some positive amendments in terms of increased indigenous representation on the MDBA and the BCC. The group indicated that it was strongly supportive of these provisions and viewed them as a "small but positive step toward better recognition of Indigenous interests in the Murray-Darling Basin management framework".<sup>21</sup>

3.23 However, the organisation also indicated that it had some concerns regarding the risk that environmental outcomes would be compromised, and the potential impacts on Aboriginal culture and heritage.<sup>22</sup> The organisation told the committee that it was strongly against any changes which would compromise environmental flows:

... environmental flows are strongly tied to Aboriginal social, cultural and economic interests in water in the Murray-Darling Basin area.<sup>23</sup>

3.24 Similar views were expressed by Murray Lower Darling Rivers Indigenous Nations (MLDRIN). MLDRIN noted that it had participated in, and provided information to, the Water Act Review and was generally supportive of the changes included in Part 3 of the bill – in that they constitute minor, but valuable improvements.<sup>24</sup>

3.25 However, MLDRIN also told the committee that the Water Act Review and the bill have:

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19 The Australian Network of Environmental Defenders Offices, *Submission 6*, p. 8.

20 New South Wales Aboriginal Land Council, *Submission 10*, p. 1.

21 New South Wales Aboriginal Land Council, *Submission 10*, p. 2.

22 New South Wales Aboriginal Land Council, *Submission 10*, p. 1.

23 New South Wales Aboriginal Land Council, *Submission 10*, p. 3.

24 Murray Lower Darling Rivers Indigenous Nations, *Submission 12*, [p. 2].

... both fallen short of acting on a number of key recommendations put forward consistently by Aboriginal organisations throughout the review process and in subsequent discussions with Government. ... We reiterate our position that further reform is needed to address the fundamental inequity of water entitlement frameworks in the Basin, which have been established and operated in the absence of genuine Aboriginal engagement and participation.<sup>25</sup>

### ***Amendments proposed under Item 27 (Section 106)***

3.26 Overwhelmingly, the primary issue of concern to submitters was water trading by the CEWH, and the related amendments proposed under Item 27 (Section 106) of the bill.

3.27 As noted previously, the Water Act provides that water may be delivered to meet current environmental needs or carried over to future years to meet future environmental needs, or traded, in order to actively manage Commonwealth environmental water holdings.<sup>26</sup>

3.28 This issue was discussed in the Water Act Review which noted that:

Trade of Commonwealth environmental water, either allocations or entitlements, is one of the management tools that enhance the capacity of the portfolio to meet environmental watering requirements. For example, trade can be used to manage variability in water availability and environmental water demand across the Basin by selling allocations in one catchment where environmental watering needs have largely been met and purchasing in another catchment or at a later time when additional environmental water would provide a net improvement in environmental outcomes. It can also be used to re-balance the portfolio of entitlements based on improvements in knowledge of environmental watering requirements.<sup>27</sup>

3.29 As outlined in the previous chapter, amendments proposed under Item 27 would enable the CEWH to dispose of water or Commonwealth environmental water holdings if it uses the proceeds of the disposal for acquiring water or Commonwealth environmental water holdings. In relation to water allocation, the CEHW would be able to use the proceeds for environmental activities, provided the long-term annual diversion limit has been complied with.

3.30 In its submission, the Wentworth Group of Concerned Scientists (WGCC) told the committee that it did not support the amendments proposed under Item 27

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25 Murray Lower Darling Rivers Indigenous Nations, *Submission 12*, [p. 2].

26 *Water Act 2007* and Water Amendment (Review Implementation and Other Measures) Bill 2015, Bills Digest No. 79, 2015-16, Parliamentary Library, 5 February 2016, p. 16.

27 Report of the Independent Review of the *Water Act 2007*, Commonwealth of Australia, November 2014, p. 75.

(Section 106) to "allow trade revenue to be used for 'environmental activities' instead of buying water for the Murray-Darling Basin".<sup>28</sup> Further, the WGCC indicated that:

We are concerned ongoing investment in environmental activities would lead to a long term reduction in environmental flows. We are also concerned that important environmental activities may be cost-shifted to the CEWH, and that the safeguards may be vulnerable to misuse.<sup>29</sup>

3.31 The WGCC set out its specific concerns about the proposed amendments as follows:

- The amendments would likely reduce reinvestment in environmental water allocations and consequently leave less environmental flows in rivers in the long term. As it currently stands, the 2,750GL Basin Plan recovery target is the 'minimum amount of water that will enable the achievement of ... Basin-wide environmental objectives' and to date there has not been enough water acquired to meet this minimum target.
- The *Water Act 2007* states that CEWH's functions are specifically related to water holdings, and the *Environmental Water Holdings Special Account* was set up for this purpose. The proposed amendments would broaden CEWH's responsibilities beyond those which were intended in the *Water Act 2007* and may encourage cost-shifting whereby CEWH's funds are used to subsidise environmental programs that should be funded from other sources.
- Safeguards in the proposed amendments were difficult to enforce and may leave Commonwealth environmental water funds vulnerable to misuse. The SDL safeguard does not limit the volume of water allocations that can be disposed of, nor the amount of money that can be reinvested in environmental activities.<sup>30</sup>

3.32 WWF-Australia noted that it was supportive of existing legislation, which provided the CEWH with flexibility to trade water "provided that the trade will improve the capacity of CEWH's water holdings to be applied to meet environmental water objectives".<sup>31</sup>

3.33 WWF-Australia indicated that it recognised the importance of water trading, and the fact that it provided flexibility in relation to water management. However, the organisation told the committee that it fully supported the concerns raised by the WGCC and that it "does not support the amendments under Item 27 (Section 106) to

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28 Wentworth Group of Concerned Scientists, *Submission 5*, [p. 1].

29 Wentworth Group of Concerned Scientists, *Submission 5*, [p. 1].

30 Wentworth Group of Concerned Scientists, *Submission 5*, [p. 2].

31 WWF-Australia, *Submission 1*, p. 1.

allow trade revenue to be used for 'environmental activities' instead of buying water for the Murray-Darling Basin".<sup>32</sup>

3.34 The committee notes that the stated objective of proposed new subsection 106(3) is to provide increased flexibility for the CEWH. Specifically, to enable the CEWH to sell water allocations and use the proceeds for other activities which meet environmental objectives – in addition to the purchase of other water or water holdings.<sup>33</sup>

3.35 In his second reading speech, Minister Joyce indicated that in terms of subsection 106(3):

The flexibility will enable the Commonwealth Environmental Water Holder to get the best environmental outcomes possible, as efficiently as possible, whilst also assisting in the socioeconomic requirements of Basin communities.

This recognises that achieving environmental outcomes in the Basin will often require both water and complementary environmental activities. We know it is not just about adding water, because the lack of environmental works and measures, such as fish ladders and carp screens, can be a real barrier to maximising environmental outcomes.<sup>34</sup>

3.36 The EDOA submitted that it "is highly unusual not to define terminology such as 'environmental activities' in legislation".<sup>35</sup> The organisation indicated that while it understood the value of adopting a flexible approach (which would provide the CEHW with the ability to undertake a range of activities that may augment the environmental outcomes they can achieve with their water) the organisation is concerned that bill does not contain sufficient checks and balances in this area.<sup>36</sup>

3.37 The CEWH noted in its submission that while the bill did not explicitly define environmental activities:

... an environmental activity is one which "... would improve the capacity of the Commonwealth environmental water holdings to be applied to meet the objectives of .... the environmental watering plan" (section 106(3)(c) of the Bill). This makes it clear that the activities need to be: (a) directly

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32 WWF-Australia, *Submission 1*, p. 1

33 Explanatory Memorandum, Water Amendment (Review Implementation and Other Measures) Bill 2015, p. 16 and the Water Amendment (Review Implementation and Other Measures) Bill 2015 Bills Digest No. 79, 2015-16, Parliamentary Library, 5 February 2016, p. 17.

34 The Hon. Barnaby Joyce, MP, Minister for Agriculture and Water Resources, Second Reading Speech, Water Amendment (Review Implementation and Other Measures) Bill 2015, *House of Representatives Hansard*, 3 December 2015, p. 14621.

35 The Australian Network of Environmental Defenders Offices, *Submission 6*, p. 3.

36 The Australian Network of Environmental Defenders Offices, *Submission 6*, p. 3.

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linked to and improve the use of Commonwealth environmental water: and (b) of a kind that would help that water achieve the objectives of the environmental watering plan."<sup>37</sup>

3.38 The CEWH further noted that investments in environmental activities must also be consistent with the broader functions of the CEWH, including that the holdings relating to water in the MDB must be managed in accordance with the Basin Plan's environmental watering place, and be consistent with the Basin-wide environmental watering strategy.<sup>38</sup>

3.39 WWF-Australia noted that while it was supportive of investment in environmental water and environmental activities that promoted the long-term health of river systems (including measures to treat cold-water pollution and construct fish ladders and carp exclusion devices) the organisation was concerned that ongoing investment in environmental activities could lead to a long-term reduction in environmental flows.<sup>39</sup>

3.40 The Australian Conservation Foundation (ACF) and Environment Victoria provided a joint submission which argued that the change proposed under Item 27 (Section 106) "will not bring any additional environmental benefit to the Murray-Darling Basin and is an unnecessary amendment to the Water Act".<sup>40</sup>

3.41 However, the ACF and Environment Victoria also submitted that regardless of their views in relation to environmental benefits – given the primacy of Section 105 – they were satisfied that the changes proposed under Section 106 posed minimal risk to the environment, provided the following conditions are met:

- 'Reasonable belief' should be an objective test based on best available science and the circumstances at the time. The key test is that both the decision to dispose of environmental water and how to use the proceeds must comply with Section 106(3)(c) so that it would improve the capacity of the Commonwealth environmental water holdings to be applied to meet the objectives of the environmental watering plan.
- Any disposal of water must not impact on the SDL in the catchment – as outlined in Section 106(5).
- The ability to engage in other environmental activities allows the CEWH greater flexibility to perform its functions and achieve its objectives. However any such activities must be in accordance with the environmental watering plan and must be demonstrated to improve the

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37 Commonwealth Environmental Water Holder, *Submission 3*, p. 4.

38 Commonwealth Environmental Water Holder, *Submission 3*, p. 4.

39 WWF-Australia, *Submission 1*, pp 1 and 2.

40 Australian Conservation Foundation and Environment Victoria, *Submission 8*, [p. 1]

environmental outcomes of environment watering conducted by the CEWH.

- Item 28 of the bill amends the CEWH's annual reporting requirements. The CEWH will have to report on the 'purpose for which the proceeds of disposals of water or Commonwealth environmental water holdings have been used during the year'. The annual report should include details of how spending on environmental activities improved the CEWH's capacity to meet the objectives of the environmental watering plan.<sup>41</sup>

3.42 Murray Irrigation told the committee that, while it was of the view that the amendments "do not go far enough to ensure the *Water Act 2007* delivers triple bottom line outcomes", it does support the intent of the bill.<sup>42</sup> In particular, it commended the proposed amendment to Section 106 of the Water Act to enable the CEWH to "consider more than volume and flows when looking for solutions to environmental water delivery to maximise the benefits achieved from the volumes held".<sup>43</sup>

3.43 The Ricegrowers' Association of Australia (RGA) indicated that it supported the CEWH being able to use the proceeds of the disposal of water allocation for the purpose of environmental activities. The RGA argued that the CEWH should be "provided with flexibility in the use of any funds generated by trade, provided these funds are used for the purpose of improving environmental outcomes".<sup>44</sup>

3.44 However, the RGA also noted that under the current NSW cost sharing framework for water infrastructure, all water entitlement holders are required to contribute equally to the cost of operating the water infrastructure managed by the NSW Government. The RGA therefore recommended that Item 27 of the Bill should be amended:

... to include an additional provision within the replacement section 106 which ensures that the Commonwealth Environmental Water Holder will be responsible for all future costs associated with any such 'environmental activity'.<sup>45</sup>

3.45 The Australian Dairy Industry Council (ADIC) expressed strong support for the Section 106 amendments, and noted that it has long called for increased flexibility for the CEWH in trading.<sup>46</sup>

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41 Australian Conservation Foundation and Environment Victoria, *Submission 8*, [p. 1]

42 Murray Irrigation, *Submission 9*, p. 4.

43 Murray Irrigation, *Submission 9*, p. 2.

44 The Ricegrowers' Association of Australia, *Submission 4*, p. 3.

45 The Ricegrowers' Association of Australia, *Submission 4*, p. 3.

46 Australian Dairy Industry Council (ADIC), *Submission 7*, [p. 1].

3.46 Further, ADIC argued:

Proceeds from environmental water trades should be able to be used on projects that bring improved environmental outcomes for the Murray Darling Basin in addition to purchase of water for environmental use. It is appropriate for the Act to provide more flexibility for environmental water to be temporarily traded regardless of whether it can be carried over the next season. These amendments provide for environmental outcomes through projects such as riparian management, pest control or support for state projects such as more efficient flood management. At the same time, water not needed for environmental flows can be returned to the irrigation pool for use by farmers.<sup>47</sup>

3.47 Cotton Australia argued that the current limitation which prevents the sale of Commonwealth water "unless it can be demonstrated that it cannot be carried over into the next water year" is at odds with other water users "where irrigators situated within the Gwydir Valley are continually reviewing and changing water management to deliver the best commercial outcomes".<sup>48</sup>

3.48 Cotton Australia also indicated that it is supportive of the proposed amendments to Section 106, and argued that the changes would enhance the CEWH's ability to manage the water resources at its disposal and maximise environmental outcomes.<sup>49</sup>

3.49 Cotton Australia further argued that "those who are concerned that these changes to Section 106 may somehow take away from the integrity of the Plan, should take comfort in the fact that the Bill provides significant safeguards," which include:

protections that ensure the revenue from sale of Commonwealth Environmental Entitlements can only be used to purchase other entitlements;

the revenue from sales of both entitlements and allocations cannot be used to pay fees and charges; and

sales can only occur if the Long-Term Average Diversion Limit conditions have been met.<sup>50</sup>

***Payment of fees and charges***

3.50 Several submitters commented on the issue of the proceeds of trade being used to pay fees and charges.

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47 Australian Dairy Industry Council (ADIC), *Submission 7*, [p. 1].

48 Cotton Australia Limited, *Submission 2*, [p. 2].

49 Cotton Australia Limited, *Submission 2*, [p. 1].

50 Cotton Australia Limited, *Submission 2*, [p. 3].

3.51 Under the amendments proposed by subsection 106(4) the proceeds of trade could not be used to pay fees and charges for holding and delivering Commonwealth environmental water.

3.52 The amendment, which is consistent with Recommendation 15 of the Water Act Review, is designed to ensure that the CEWH's operating costs continue to be met from Commonwealth consolidated revenue, rather than from the sale of Commonwealth environmental water holdings.<sup>51</sup>

3.53 The CEWH's submission noted that the bill clarifies that 'environmental activities' do not include statutory fees and charges for holding and delivering water. Further, CEWH told the committee that:

Fees and charges are recurring, non-discretionary and a large ongoing expense. Selling water to cover these fees would require the sale of large volumes of allocations without reciprocal environmental benefits. This would reduce the capacity to meet the environmental objectives of the Water Act and Basin Plan.

It would also require the Commonwealth Environmental Water Holder to approach the water market with the objective of raising significant amounts of revenue, which due to the scale of the requirement would be likely to cause negative impacts for some market participants.

Importantly, the Commonwealth Environmental Water Holder will continue to pay the same fees and charges as other water holders, consistent with existing arrangements.<sup>52</sup>

3.54 The RGA submitted that the CEWH should be provided with the flexibility to use trade proceeds to fund the water charges it incurs. It was noted that these charges are currently funded by tax payers, and it was argued that providing the CEWH with the flexibility to use the funds for its water charges:

... would mean that the Commonwealth government is able to divert these tax payer funds to another purpose if need be. This prospect may be important for the Commonwealth in a tight fiscal year.<sup>53</sup>

### **Committee comment**

3.55 The committee notes that – under Section 253 of the *Water Act* 2007, an independent review of the operation of the Water Act (and the extent to which it has achieved its objectives) has been conducted.

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51 Explanatory Memorandum, Water Amendment (Review Implementation and Other Measures) Bill 2015, p. 18.

52 Commonwealth Environmental Water Holder, *Submission 3*, p. 4.

53 The Ricegrowers' Association of Australia, *Submission 4*, p. 3.

3.56 The committee also notes that in conducting the Water Act Review, the panel consulted with a large number of stakeholders. The committee is aware that the panel received more than 70 submissions over the course of its review and consulted with a large number of key stakeholders – including state and territory governments, and organisations across the irrigation, environment, community and indigenous sectors.

3.57 The committee sees as significant the fact that the Water Act Review made 23 recommendations – the majority of which were accepted in the Government's response – with Recommendations 9 and 21 being agreed to in part.

3.58 Finally, the committee notes that a number of the organisations which submitted to its inquiry into the bill indicated that they had both been consulted and were actively involved during the Water Act Review.

3.59 The committee specifically notes the concerns raised by a number of organisations in relation to the amendments proposed under Item 27 (Section 106). However, the committee also notes the safeguards that have been included in Section 105 of the bill and concludes that they will be sufficient to protect the interests of all stakeholders.

3.60 The committee therefore recommends that the bill be passed.

### **Recommendation 1**

**3.61 The committee recommends that the Senate pass the Water Amendment (Review Implementation and other Measures) Bill 2015.**

**Senator the Hon. Bill Heffernan**  
**Chair**

