

Chapter 5

Water buybacks and water trading

5.1 This chapter discusses water buyback and water trading in the Murray-Darling Basin. In particular it discusses the conduct of and problems with the government's program for purchasing water entitlements to return to the Basin for environmental purposes. Following a short outline of the government's water buyback scheme, the chapter discusses several key problems with the process that were raised by witnesses throughout the inquiry.

5.2 First, the chapter discusses the 'Swiss-cheese' effect that has occurred through the buyback process whereby government purchases have created excessive cost pressures on remaining water holders because of gaps in water delivery in the surrounding regions.

5.3 Second, the chapter considers the issue of distressed sellers in situations where water sales, while technically voluntary, are undertaken by farmers (the sellers) who are facing significant financial pressures which have unwillingly pushed them towards selling water entitlements.

5.4 Finally, the chapter considers the issue of sleeper and dozer licenses and the potential problems that the initial over-allocation of water entitlements of previous decades has for the government's aim of purchasing water for environmental purposes.

5.5 The related issue of the water buyback process and types of water entitlements in terms the reliability of water, such as high security, general security and supplementary water (including for the cases of Twynam, and Nimmie-Caira) is discussed in chapter six.

Background of the water buyback

5.6 The Commonwealth government committed to water recovery for the environment in 2008 as part of the \$12 billion Water for the Future program. This was followed in 2010 with the government's commitment to 'bridge the remaining gap between what [water] has been returned for the environment and what is required to be returned by the Basin Plan.'¹ The two main ways that the government recovers water for the environment are through its programs to improve water efficiency and infrastructure, and its \$3.1 billion Restoring the Balance in the Murray-Darling Basin program (RTB) which purchases water entitlements from water holders.² The total target for all programs (i.e. RTB and other programs) seeking to return water to the

1 SEWPaC, *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation*, November 2012, p. 7.

2 SEWPaC, *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation*, November 2012, p. 7. See also SEWPaC, *Restoring the Balance in the Murray-Darling Basin*, www.environment.gov.au/water/policy-programs/entitlement-purchasing/index.html, (accessed 4 March 2013).

environment is the 2750 GL/y reduction in take of surface water (see chapter two). Water recovery undertaken since 2009 is attributed towards the 2750 GL/y reduction in take. As at 30 September 2012, the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC) states that 1577 GL/y had been recovered through the following:

- 1094 GL of secured water purchases
- 316 GL received or scheduled for transfer under infrastructure works contracts
- 154 GL recovered through state government actions
- 11 GL gifted by the Queensland Government and 2 GL of other recovery.³

5.7 The RTB is also referred to as the government buyback scheme. The buyback scheme is managed by the Commonwealth Environmental Water Holder (CEWH) as set out in the *Water Act 2007*. The water that is obtained through the water entitlements purchased under the buyback scheme is used for environmental purposes.⁴

5.8 As of 31 January 2013, the government had secured water purchases of about 1119 GL in terms of long-term average annual yield as part of the buyback process (an increase from 1094 GL as at 30 September 2012).⁵ The Government's water strategy notes that until 2016, trajectory of water recovery will be:

...to set the pace of environmental water recovery so that 2100 GL of environmental water would be acquired by 2019 if that pace of recovery were to continue to 2019. Water entitlement purchasing will be used only as a residual where the water returns expected from SRWUIP [Sustainable Rural Water Use and Infrastructure program] investments and other sources are not sufficient to reach this target.⁶

3 SEWPaC, *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation*, November 2012, pp 8-9.

4 SEWPaC, *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation*, November 2012, p. 7.

5 SEWPaC, Progress of water recovery under the Restoring the Balance in the Murray-Darling Basin Program, www.environment.gov.au/water/policy-programs/entitlement-purchasing/progress.html (accessed 24 February 2013).

6 SEWPaC, *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation*, November 2012, p. 11.

5.9 A result of this approach is that subject to the 2016 review of the sustainable diversion limit (SDL) adjustments, the government aims to secure a further 239 GL (of the total 2750 GL/y figure) through water entitlement purchases.⁷

5.10 The government has stated that its approach to water purchasing is to:

- purchase water entitlements only from those who wish to sell (no compulsory acquisition)
- purchase a portfolio of water entitlements that can be efficiently and effectively used to meet environmental needs identified in the Basin Plan
- ensure value for money from the use of public funds is consistent with government procurement requirements
- integrate water purchasing with opportunities to rationalise or reconfigure irrigation infrastructure wherever possible
- operate in the water market with the same rights and obligations as other market participants
- deliver a fair, equitable, transparent and accountable process for sellers
- consult with states over the approach to purchasing in each Basin jurisdiction.⁸

Concerns about the buyback program

5.11 Over the course of the inquiry, the committee heard concerns from numerous witnesses about the buyback process. The committee notes that the bulk of water purchases under the buyback process have been completed. However, it is worth highlighting the concerns identified as part of this inquiry to help ensure that the remaining purchases are conducted in the most efficient and effective manner possible.

Impact of buybacks on irrigators

The 'Swiss cheese' effect

5.12 The committee heard significant evidence about the 'Swiss cheese' effect as part of the water buyback process. The House of Representatives Standing Committee

7 SEWPaC, *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation*, November 2012, p. 11. Note: the Draft Water Recovery Strategy states that the 'role of water purchasing is to complement the projected water recovery from infrastructure, SDL offsets and any other sources, thus enabling the task of bridging the gap to be completed by 2019' and further adds 'the pace and location of water purchasing will be regularly adjusted to take into account the latest information on water recoveries from the various sources. This includes adjusting the pace and location of water purchasing if the volume of SDL offsets from supply measures is less than 650 GL.' SEWPaC, *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation*, November 2012, p. 17.

8 SEWPaC, *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation*, November 2012, pp 17–18.

on Regional Australia's report *Of drought and flooding rains: Inquiry into the impact of the Guide to the Murray-Darling Basin Plan* refers to the 'Swiss cheese' effect as:

...what happens when some entitlement holders along an irrigation channel sell their entitlements and stop irrigating. The effect of this is to create 'holes' in irrigation areas, reducing the efficiency of delivering water down that channel, stranding assets and increasing the maintenance costs and delivery fees for the entitlement holders who remain.⁹

5.13 The Wentworth Group of Concerned Scientists (the Wentworth Group) stated a preference for buybacks as a tool of water recovery in the Basin but also noted that the buybacks needed to be strategic. In response to a question about how this may help prevent the 'Swiss cheese' effect, Mr Tim Stubbs from the Wentworth Group noted:

...First we need a plan that clearly articulates how much water we need for a healthy Murray Darling Basin. This plan does not do that, so we need a plan that sets that number down as the science is based. We need to understand where that water needs to come from, which share comes out of each catchment and what contributions to the downstream flows are needed. Then you have a process that puts all that on the table and uses the money that is available to get the best outcome with a mix of strategic buybacks and spending on [infrastructure]...¹⁰

5.14 The potential differences across the Basin states were also noted in the inquiry given the different histories of State governments in managing water resources. For example, the National Irrigators' Council (NIC) was asked to comment on how it dealt with its role as a national body and the interests of different states, especially in regard to the 'Swiss cheese' effect and the government's buyback program. The NIC's CEO, Mr Tom Chesson, outlined his approach to this issue:

All along we have been very mindful as representatives of irrigation groups or irrigation supply schemes that we did not want to see that Swiss cheese effect taking place. What was originally proposed with the basin plan was spending money on infrastructure and efficiencies first and foremost, before you ventured into water buybacks—non-strategic buybacks.¹¹

5.15 A number of representatives of rural communities and industries expressed concerns about the 'Swiss cheese' effect, the pressure it was placing on the costs for irrigators, and the even the failure of irrigation schemes (such as the Romani scheme

9 House of Representatives Standing Committee on Regional Australia's report *Of drought and flooding rains: Inquiry into the impact of the Guide to the Murray-Darling Basin Plan*, May 2011, p. 104.

10 Mr Tim Stubbs, Environmental Engineer, Wentworth Group of Concerned Scientists, *Committee Hansard*, 10 September 2012, p. 12.

11 Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Committee Hansard*, 23 April 2012, p. 53.

in Hay, New South Wales).¹² Indeed, Mr Terence Hogan AM, Chairman, Riverina and Murray Regional Organisation of Councils (RAMROC) suggested that this issue was an early, central and constant problem with the Basin Plan and its development:

...The draft Murray-Darling Basin plan [November 2011] still proposes very substantial removal of irrigation water currently used for food and fibre production. When the pre-2009 acquisitions are taken into account, well over 3,500 gigalitres will have been diverted to meet the demands being made for regular watering of environmental assets. The whole process to date has been not good, as you have already alluded to, starting with ad hoc water purchases that never even had a strategic plan, foundation or basis. This caused the often referred to 'swiss cheese' effect, leaving stranded assets and disruptions, loss of agricultural production and adverse impacts on families, business and communities. The subsequent processes have been nearly as bad.¹³

5.16 The practical implications of the 'Swiss cheese' effect were vividly described by one witness in particular. A local farmer, Mr Duncan Fraser, told the committee:

...I have a property about 50 kilometres south-west of Hay. I am secretary of the Romani joint water supply, which is a private joint water authority, which was set up in approximately 1964 to pump out of the Murrumbidgee southwards. All the members of the scheme are off the river. There were 17 base licences held in the scheme until recently; I had three licences myself. Obviously, because of the changes that were forecast a few years ago regarding the Water Act and whatever, there were concerns about the viability of our scheme with the reduction of water, given that we have transmission losses from the river to the delivery points for members of the scheme. We were faced with a situation where we considered that we were probably at the end of the line and that we could not continue as we were. In the end, in 2008, we decided to allow members to permanently sell water off the scheme. Everyone, except me, basically bailed out. I still retain two licences, but I am the only person left holding water on the scheme. I decided to hold onto two licences because I was concerned about the effect the exodus of water would have on the local community. I wanted to see that we could retain some water. Given that everyone else sold out, I am in a situation where I am a stranded irrigator and not a willing seller. I am in a situation where the water is of no use to the local community, because I cannot do anything with it—I cannot irrigate because I cannot justify turning the pumps on with the water loss that would occur between the river

12 See for example Cr Margaret Thomson, Mayor, Shire of Wentworth, *Committee Hansard*, 3 April 2012, p. 32; Mr Ian Murdoch, Chairman, and Ms Cheryl Rix, General Manager, Western Murray Irrigation Ltd, *Committee Hansard*, 3 April 2012, p. 12; Mr Mark McKenzie, Chief Executive, Murray Valley Winegrowers Inc., and Mrs Tania Chapman, Chair, Citrus Australia Ltd, *Committee Hansard*, 3 April 2012, p. 28; and for the Romani scheme see Councillor Roger (Bill) Sheaffe, Mayor, Hay Shire Council, *Committee Hansard*, 10 September 2012, p. 25; and Mr Duncan Fraser, Private Capacity, *Committee Hansard*, 2 April 2012, p. 66.

13 Mr Terence Hogan AM, Riverina and Murray Regional Organisation of Councils, *Committee Hansard*, 2 April 2012, p. 58.

and the delivery points. That is the situation that I am personally facing. This is magnified right along the Murrumbidgee for a lot of private irrigators on the river.¹⁴

Distressed sellers

5.17 A number of representatives of rural communities also noted that the government buyback process did not take into account the financial difficulties faced by many farmers selling water entitlements.¹⁵ Indeed, one witness, Mr Terence Hogan, AM, Chairman of RAMROC, told the committee that the problem was widespread:

...In most cases, it is believed that irrigators who have sold their water were not willing sellers...but more likely sold out because of financial pressure or family necessity, with the sale income often used to retire debt or exit the agricultural industry altogether.¹⁶

5.18 The committee also heard how this situation may have come about for certain farmers. As a rural financial counsellor, Mr Darren Macartney told the committee:

After so many years of drought there has been a lot of talk about the water sellers being willing sellers. Yes, they might have put their hands up to sell the water, but it was because they were under so much financial pressure after 10 years of drought that that was the only way to get any of their debt down. Livestock numbers are really low. The only way of getting some quick dollars to get some equity in the farms—because their equities were really squeezed and the banks were putting pressure on them—was to sell that licence, get some money and pay off some debt to try to continue. Otherwise where do they go? They are at a stage where their equity is very minimal and they are getting forced out. No-one wants to buy the farm anyway, so where do they go? The only avenue was to sell some of that water.¹⁷

5.19 Witnesses from Hay, NSW, argued that the sale of water entitlements (either by distressed sellers or willing sellers) had flow-on effects for the community as it was difficult to transfer properties from irrigation to dry-land farming. As the following exchange shows:

Mr Hill: ...Once a water licence leaves a property, unless it is a temporary transfer and there is still a licence and they can purchase water back

14 Mr Duncan Fraser, Private Capacity, *Committee Hansard*, 2 April 2012, p.66.

15 In addition to that noted below, other witnesses also expressed concerns about this issue. See for example, Mr John Culleton, Chief Executive Officer, Coleambally Irrigation Cooperative Ltd, *Committee Hansard*, 2 April 2012, p. 29 and Mrs Betty Lloyd, Grower Representative Board Director, South Australian Citrus Industry Development Board, *Committee Hansard*, 3 April 2012, p. 38.

16 Mr Terence Hogan AM, Chairman, Riverina and Murray Regional Organisation of Councils, *Committee Hansard*, 2 April 2012, p. 58

17 Mr Darren Macartney, Rural Financial Counsellor, Rural Financial Counselling Service, New South Wales Southern Region, *Committee Hansard*, 2 April 2012, p. 13.

in...that property, because of the soil type, has been converted to an irrigation farm. Once that water is taken away, that soil does not suit dryland pasture. It is too heavy a soil and it just becomes no longer a usable asset.

Senator RHIANNON: Nothing can be done about that?

Mr Hill: Over the long term, I am sure. It would be very expensive. You could put native species back into that system. But it would be very expensive to do it.

Mr Schipp: With the investment that has gone into some of that irrigation infrastructure, a lot of money and capital expense, a lot of land forms and a lot of ground have gone to waste. People have sold off their water. We have an abundance of land suitable for irrigation and not for water, now. It has been a big cost to the community in general, in that development that has gone on in land that will be underutilised.¹⁸

5.20 In June 2012, SEWPac released a report it commissioned into the experience of water holders participating in the buyback process, which presented a more positive view of buybacks from water holders. The report detailed the results of a survey of over 500 irrigators who had sold (or applied to sell) water entitlements between 2008/09 and late 2011. The key findings of the report included:

- Almost 80 per cent of those interviewed said that selling water to the Commonwealth was a positive decision for them.
- The principal reason for selling water was to generate cashflow with the intention of either retiring debt (30 per cent), supplementing farm income (22 per cent), or funding on-farm improvements (8 per cent).
- The majority of proceeds from water sales are spent within the local region.
- Almost all of those who sold their entitlement to the government and exited farming found alternative local employment, or retired in their local community.
- Around 60 per cent of those interviewed sold part of their entitlement to the government. Around half of these sellers said the water sale had not affected farm production in a significant way.
- The survey results suggest that many irrigators who sell some of their water to the government have found ways to change their farming operations to maintain production levels.

18 Mr James Hill, private capacity, and Mr Andrew Schipp, District Agronomist, New South Wales Department of Primary Industries, *Committee Hansard*, 2 April 2012, pp 13–14.

- Overall, there was strong support among surveyed sellers for the resumption of general tenders in 2013. Those who supported the resumption outweighed those opposed to it by two-to-one.¹⁹

The future of buybacks

5.21 The committee is aware that a large proportion of the water entitlement buyback process has been completed. The recently published *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation* states that the remaining target for buyback purchases is 239 GL.²⁰ However, as discussed in chapter four on environmental works and measures, there is also scope for further water entitlement buybacks if there is a shortfall from environmental works and measure not meeting a target of 650 GL/y (as part of the 2750 GL/y reduction in take).

5.22 Some concerns were raised about the uncertainty of this approach regarding the volume of remaining buybacks. As the NIC CEO, Mr Tom Chesson, stated:

Within the water recovery strategy documents...we have all heard the three tranches of water: the 2,100, the 650, the 450—to get to the 2,100, there is roughly 239 gigalitres of buybacks left and about 600 gigalitres will be recovered through infrastructure work. What we are saying is that the 239 gigalitres of buybacks will take you up to 1,500 gigalitres of buybacks all up and then another 600 take you to the 2,100. Let's just cap it at that 1,500. That allows buybacks to continue, but it gives certainty to communities that there are not going to be large-scale buybacks if the 650 gigalitres of environmental works and measures do not materialise. We believe they are there—I want to put that up-front—but there ways and means that governments can make it so complicated that it simply will not occur. If that happens, as Minister Burke said yesterday, there will be buybacks to bridge that gap.²¹

5.23 The New South Wales Irrigators' Council expressed a strong preference for infrastructure investment over buybacks:

...There are three means of acquiring water in the plan as it sits at the moment. One is environmental works and measures, one is buyback, and the other is infrastructure investment. So obviously it would be our conclusion that those volumes not found through environmental works and measures should be found through infrastructure rather than the economic vandalism of straight buyback.²²

19 Marsden Jacob Associates prepared for SEWPaC, Survey of water entitlement sellers under the Restoring the Balance in the Murray-Darling Basin Program, June 2012, www.environment.gov.au/water/publications/mdb/survey-seller-rtb-program.html (accessed 1 March 2012).

20 SEWPaC, *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation*, November 2012, p. 23.

21 Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Committee Hansard*, 23 November 2012, p. 14.

22 Mr Andrew Gregson, Chief Executive Officer, New South Wales Irrigators' Council, *Committee Hansard*, 23 November 2012, pp 17-18.

Committee view

5.24 The committee is concerned that in a number of areas, the non-strategic purchase of water entitlements by the government has led to the 'Swiss cheese' effect that adversely affects the remaining irrigators in the area. The committee notes that the government has recently sought to address this issue through the Strategic Sub-System Reconfiguration Program²³ that provides 'financial support for projects which integrate water access entitlement purchases with the decommissioning and reconfiguration of shared water delivery infrastructure'.²⁴ The committee is of the view that avoiding the creation of the 'Swiss cheese' effect in irrigation communities should be a high priority when the government conducts the remaining water purchases under the Basin Plan.

5.25 The committee is also concerned that there may have been some farmers who sold water entitlements in the past due to financial pressures. Whilst the committee notes that the sale of water entitlements was positive for many sellers, more than 20 per cent of farmers surveyed reported an experience which was other than positive. The committee considers that some future entitlements may be purchased by water holders facing financial distress.

5.26 The committee notes the concerns raised regarding the uncertainty about the volume of future buybacks is caused by the possibility of buybacks being used to meet a shortfall from environmental works and measures (should such a shortfall occur).

5.27 The committee urges the government to take steps, when making any future water buybacks, to inform potential water entitlement sellers of the full implications of the sale of their entitlements, particularly if they are facing financial stress related to their water holdings.

Recommendation 12

5.28 The committee recommends that the government develop a water trading information and support program aimed at helping possible "distressed sellers" understand their financial options and risks relating to water trading.

Sleeper and dozer licences

5.29 As part of this inquiry the committee examined the issue of sleeper and dozer licences in the Murray-Darling Basin. New South Wales State Water defines a sleeper licence as 'one which uses none of its Allocation over the course of the Water Year'

23 The Hon. Tony Burke, MP, Minister for Sustainability, Environment, Water, Population and Communities, Media Release, 'Gillard Government supports irrigators', 13 February 2013.

24 SEWPaC, Restoring the Balance in the Murray-Darling Basin, www.environment.gov.au/water/policy-programs/entitlement-purchasing/index.html (accessed 24 February 2013).

and a dozer licence as 'one that uses very little of its Allocation over the course of the Water Year'.²⁵

5.30 The problems arising from sleeper and dozer licences were associated with the significant increases in water allocation and extraction in the 1970s and 1980s. As noted by researchers Hugh Turrall, Daniel Connell and Jennifer McKay regarding the NSW experience in particular:

Water use had been growing in the basin throughout the 1970s and 1980s, with continued development, mostly in NSW... Fearing that this would lead to overabstraction, no new licences were issued after 1986, but existing unused licences were not rescinded. In NSW, it is common for licence-holders, particularly stock farms, to keep water rights in reserve for drought periods (known as 'dozers') or not use them at all ('sleepers'). As time went on, more of the sleeper and dozer volume was activated, through property transfers and enterprise diversification, and, more recently, through water trading.²⁶

5.31 The National Water Commission (NWC) also considered sleeper and dozer licences as part of a review of water trading in the Murray-Darling Basin. In a survey of existing literature about the extent of these licences the report noted:

The activation of so-called 'sleeper' and 'dozer' licences may have been a result of the development of the water market and the value water markets place on such entitlements.

Previous studies have provided some evidence of activation and trade in sleeper and dozer licences. In the interstate trade pilot project, 99% of the 9.5 GL of water traded was previously not being used by sellers (Young et al. 2000). In an assessment from 2004, sleeper and dozer licences represented 50% of sales in northern Victoria (Alankarage 2004). Similar results were reported by Bjornlund and McKay (2000).²⁷

5.32 The NWC report also noted that activating sleeper and dozer licences could have the following impacts:

- In a system in which overall diversions are capped, increased use of water allocations to these rights can lead to a reduction in the reliability of future allocations to other entitlements, thus affecting individual water entitlement holders.

25 NSW State Water, Glossary of water terms, www.statewater.com.au/Custom+service/iWAS/Glossary+of+Water+terms (accessed 1 March 2013).

26 Hugh Turrall, Daniel Connell and Jennifer McKay, "Much Ado About the Murray: the Drama of Restraining Water Use" in Francois Molle and Philippus Wester (eds.). *River basin trajectories: societies, environments and development*, Wallingford, UK, CABI, Colombo, Sri Lanka, International Water Management Institute (IWMI), 2009, p. 278.

27 NWC, *The impacts of water trading in the southern Murray–Darling Basin: an economic, social and environmental assessment*, 2010, p. 38.

- In a system in which overall diversions are not capped (or not capped in a completely effective manner), increased use water allocations to these rights are likely to lead to a reduction in water available to meet environmental water requirements.²⁸

Sleeper licences and the Basin Plan

5.33 The committee heard a mix of evidence about sleeper and dozer licences and the relationship of these licences to the Basin Plan. The evidence before the committee did not add much to detail about the extent of sleeper and dozer licences in the water market beyond the reports above. However, there were views expressed that sleeper and dozer licences were undesirable. For example, the Wentworth Group lamented the transfer of sleeper and dozer licences to private ownership:

The water was held by the public through licence. That was transferred to the private sector. That is a lot of dollars. The fact that the sleeper and dozer licences were also transferred in that process is something too. I know that John Anderson said to me it was his greatest mistake...

The fact is...we have traded water from the public sector to the private sector on the basis of a social contract that the water would be brought back into the river system sufficient for sustainable river health—and that is what the Basin Plan is about.²⁹

5.34 Some witnesses also expressed the view that over-allocation of water entitlements associated with sleeper licences was a main cause of current problems facing water resources in the Basin system.³⁰ Indeed, Ms Debbie Buller, President of the Murrumbidgee Valley Food and Fibre Association, argued it was a central problem facing the Basin system:

...If you look at what the stated problem is [for the Murray-Darling Basin], they are talking about things like the system being overallocated and there having been too much extraction for irrigation. They are the sorts of things that we hear all the time—they are the assumptions—and therefore the government needs to step in and right this wrong.

There is some rationale behind that overallocation argument and I am not arguing against that—water has been overallocated. But it was not purpose-built irrigation areas that caused the overallocation problem. That is not where it came from, was it? Yet somehow or other, those areas are being very heavily targeted and the storage systems that were clearly built as human resources to build those areas are the areas that are being targeted at the moment. They were not the areas that caused this problem.

The overallocation problem came, in particular, from when water got separated from the land—and we all know how that process occurred...

28 NWC, *The impacts of water trading in the southern Murray–Darling Basin: an economic, social and environmental assessment*, 2010, p. 38.

29 Dr John Williams, Founding Member, Wentworth Group of Concerned Scientists, *Committee Hansard*, 23 April 240412, pp 15–16.

30 For example, Mr David Davies, Private Capacity, *Committee Hansard*, 2 April 2012, p. 1.

We have all the states knowing that that was coming and legislating and doing that and not paying attention to all the sleeper licences that were sitting there that could not be used because they were attached to land. That is where our overallocation problem came from. So why are we not actually focusing on the real problem? It is your unregulated river flow, the creek streets—actually, some of our streets did look like creeks recently, I have to say. That is where the problem has come from. If we are not prepared to attack the problem and notice what the real problem is, then we cannot fix it, and if you are using the wrong resources to try to fix it, what is going to happen down the track?³¹

5.35 However, the committee also heard evidence that the development of diversion limits in the Basin Plan, reduced the likely impact of sleeper and dozer licences on the management of water resources in the Basin. For example, the Murray-Darling Basin Authority (MDBA) noted that even if sleeper licences came to be used, the overall cap on allocations should not be affected. As the following exchange shows:

CHAIR: One of the mistakes we have made is to allow the trading of supplementary licences. Victoria started that. We also allowed sleeper licences to be tradeable. A lot of river systems worked well until they woke up the sleepers. The day they woke up the sleepers and made them a financial instrument, they over allocated the river system straightaway.

Ms Swirepik: In relation to the states and states' allocation of water, what is important for us is that the diversion stays the same and there is a cap on diversion. So, even if sleeper licences are woken up, in theory there are no further diversions.³²

5.36 The NIC made a similar statement regarding the reduced effect of sleeper and licences in response to a question about the extent of such licences in the water market. Their CEO, Mr Tom Chesson, explained:

...One of the things the drought did is that people now are trading a lot more water. If people can make money out of trading, they will, instead of putting in a crop. That has happened as well. But, as you know, a lot of those sleeper licences got hammered during the National Water Initiative and the state water-sharing plans, particularly in New South Wales. I remember the Mungundi to Menindee water-sharing plan area. A sleeper licence with no history of use lost 89 per cent of their water; with a full history of use it was around 60 per cent. I would also say that the sleeper licences are taken into account in the baseline diversions, so, whether they are being used or not, they have apparently been taken into consideration.³³

31 Ms Debbie Buller, President, Murrumbidgee Valley Food and Fibre Association, *Committee Hansard*, 2 April 2012, pp 20–21.

32 Ms Jody Swirepik, Executive Director, Environmental Management Division, *Committee Hansard*, 23 August 2012, p. 23.

33 Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Committee Hansard*, 23 April 2012, p. 50.

Committee view

5.37 The committee acknowledges that original decision to allow sleeper and dozer licences to be tradeable financial instruments was problematic and contributed significantly to the current over-allocation of the resource. The committee is concerned that more information about the extent of sleeper and dozer licences in the Murray-Darling Basin system is not available. Furthermore, based on the evidence received, the committee was not fully convinced that sleeper and dozer licences no longer impact on the management of water resources in the Basin system. The committee considers that the extent of the problem arising from the activation of sleeper licences is not fully known.

5.38 The committee does not consider that rescinding such licences is an appropriate and desirable solution. In this respect the committee concurs with the view of the Senate Environment and Communications References committee that 'the important National Water Initiative principle of secure property rights in water should be respected.'³⁴

5.39 The committee considers that further consideration of the extent of and potential impact of sleeper and dozer licences on the Murray-Darling Basin system needs to be developed. The committee urges the government to monitor this issue more closely as part of the implementation of the Basin Plan.

Recommendation 13

5.40 The committee recommends that the government undertakes explicit auditing and reporting of the extent and impact of sleeper and dozer licences on the Basin Plan.

Recommendation 14

5.41 The committee recommends this audit be publicly released and that updated audit information is incorporated into the MDBA's reporting on the Basin Plan at regular intervals.

34 Senate Environment and Communications References Committee, *Sustainable management by the Commonwealth of water resources*, October 2010, p. 18.

