

PORTFOLIO COMMITTEE NO. 4 - INDUSTRY

Thursday 31 October 2019

Examination of proposed expenditure for the portfolio area

WATER, PROPERTY AND HOUSING

UNCORRECTED

The Committee met at 1:15

MEMBERS

The Hon. Mark Banasiak (Chair)

The Hon. Lou Amato

The Hon. John Graham

The Hon. Emma Hurst (Deputy Chair)

The Hon. Trevor Khan

The Hon. Taylor Martin

The Hon. Mick Veitch

PRESENT

The Hon. Melinda Pavey, *Minister for Water, Property and Housing*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

Corrections should be marked on a photocopy of the proof and forwarded to:

**Budget Estimates secretariat
Room 812
Parliament House
Macquarie Street
SYDNEY NSW 2000**

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The CHAIR: Welcome to the budget estimates supplementary hearing for the portfolio of Water, Property and Housing. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respect to the Elders past and present of the Eora nation and extend that respect to other Aboriginals present. Today's hearing is open to the public and is being broadcast live via the Parliament's website. In accordance with broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I would also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings. The guidelines for the broadcast of proceedings are available from the secretariat. All witnesses in budget estimates have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018.

Any messages from advisers or members' staff seated in the public gallery should be delivered through the Committee secretariat. Minister Pavey, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers seated at the table behind you. I ask everyone to please turn their mobile phones to silent. Minister, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament. I remind all witnesses, with the exception of Dr Keniry, that you do not need to be sworn as you have been sworn at earlier budget estimates hearings.

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JIM BETTS, Secretary, Department of Planning, Industry and Environment, on former oath

JIM BENTLEY, Deputy Secretary, Department of Planning, Industry and Environment, on former oath

JAMES McTAVISH, Regional Town Water Supply Coordinator, on former oath

JOHN KENIRY, Natural Resources Commissioner, affirmed and examined

The CHAIR: As there is no provision for witnesses to make any opening statements, we will begin with questions from the Opposition.

The Hon. MICK VEITCH: Thank you, Minister, and everyone for your attendance this afternoon. Minister, at the start of the supplementary process on Monday I asked some questions to Minister Constance and Minister Toole about assessments being undertaken around road and rail infrastructure to get critical emergency water to communities that are close to running out of water or already have run out of water. Their response was that you are coordinating this response on behalf of the Cabinet, so I have a series of questions to ask in that vein. The first question is: What assessment has been undertaken of the resources of the Government—in regards to water tankers and the like—that could be used in the event that we need to get critical emergency water to communities that are running out?

Mrs MELINDA PAVEY: Thank you for the question. Interestingly, I was at Branxton on—what day was that?

The Hon. MICK VEITCH: Today is Thursday.

Mrs MELINDA PAVEY: Tuesday. We delivered our five-millionth litre of water in a water tanker to 250 properties in the Upper Hunter. It has been a very strict strategic and logistical exercise. It is not just the Upper Hunter. There are lots of other communities that we are carting water to, on and behalf of, and the challenging part is in our unregulated river system particularly. Also Rural Aid have been magnificent. They are supporting free cartage to 350 properties. I also recall that I was working at the time for the Deputy Premier, Ian Armstrong, in 1994 when we pulled out of storage a water train that we were going to need to take water from Sydney to Kempsey. Thankfully, it rained. I am just giving you some overview—

The Hon. MICK VEITCH: Are they the sorts of things that we are looking at doing now? Are we looking at water trains? Do we have those?

Mrs MELINDA PAVEY: At this point with that bit of an overview, I am going to hand it to our Regional Town Water Coordinator, who is on the ground and out in regional New South Wales every day when he is not at budget estimates hearings supporting our communities. He will go through the logistics of where we are at and are thinking. Generally, we will get through this summer with some carting to farms and some of our much smaller towns, but our big worry is if we do not get good rain by next year.

The Hon. MICK VEITCH: The forecast is not looking good.

Mr McTAVISH: We have done a substantial amount of work in relation to road transport carting operations in a number of communities. The Minister mentioned Murrurundi. That will continue until such time as the pipeline project between Scone and Murrurundi is complete. We are also looking at the options for a large number of communities with the preference being for works to be commenced as soon as possible, which delivers better outcomes. We are talking there about an engineering solution. We are also working on—

The Hon. MICK VEITCH: This is good and we will probably explore this a bit further, but at this point in time are we assessing the road capacity in those communities. Have we also assessed the available water tankers? Roads and Maritime Services [RMS] use water tankers for road construction. Have we looked at whether or not we could convert them for potable water if we need to, and that sort of stuff?

Mr McTAVISH: A logistical solution for these towns is the most expensive and least efficient but may be necessary in a number of cases. We are working now to identify where those communities that will need water are. I was in Armidale last night. I had discussions with Armidale council about doing some planning in relation to their longer-term water requirements. We have also had conversations in Macquarie Valley in some small communities in the Far West. We are looking at the options for road transport and rail transport. We are doing some work now in a number of places to look at the receivals infrastructure in those areas. We are looking at the possibility of developing a plan for water carting to a number of those communities which will involve both road and rail. The assessment we have now is that there is insufficient potable water carts to make the potable supply

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for those communities viable. The process of accreditation that is undertaken now for potable water carts is quite exhaustive and they still need to meet food safety requirements and water septic requirements.

The Hon. MICK VEITCH: When you say there is a shortage, does that include looking at the private sector as well?

Mr McTAVISH: Yes.

The Hon. MICK VEITCH: Combining State and private resources, there may well be a shortage. Queensland are already doing a lot of this, as you are aware. Where are we going to get these from? Is that sort of work being done?

Mr McTAVISH: It is. Rather than looking at having water carts which are fixed water carts, we are looking at options for the utilisation of International Organisation for Standardization containers. If you know chemical ISO containers, which you often see on flatbed rolling stock, the conversion of some of those containers to a water container is a relatively straightforward process. The issue from a receivals point of view is simplified then as well because you can seal the container at the point of loading. You can unload it using container handling equipment and handle it at the other end reasonably well. We are doing some work with a number of locations now to look at that receivals infrastructure rail site and the receivals infrastructure into their reticulated network.

The Hon. MICK VEITCH: The assessment of the road network and the rail network—a lot of the councils are saying the roads are deteriorating pretty rapidly anyway because of the current dry. They need water to get the roads up to a standard that would take the number of trucks that may well be required. How are we going to go about bringing those roads up to a standard that will get those water trucks in?

Mr McTAVISH: To be honest, the physical capacity to cart water on roads for major towns simply does not exist. We would be looking at alternate methodology, which would principally be based on rail, and then either unloading at a rail siding and moving on or, as a number of mining operations have done in recent months, decanting directly into their network. That work is being done now. For those communities in the Far West that do not have access to water for their roads maintenance operations, there have been a number of groundwater supplies that have been developed in recent years to allow them to do some maintenance. But for many areas there will be a continuation of the deterioration of their road network for local government simply because they do not have water availability in a reasonable proximity.

The Hon. MICK VEITCH: Have we trained water to any community yet?

Mr McTAVISH: No, not in this drought. In previous droughts we have. The Minister indicated there was the work done in 1994 with Kempsey.

The Hon. MICK VEITCH: The reason I ask that is on Monday we were advised by Mr Collins that they have trained water into two mines already.

Mr McTAVISH: Yes. That is a private concern and it is not a matter that I have been involved with at all.

The Hon. MICK VEITCH: Okay.

The Hon. JOHN GRAHAM: We might turn, Minister, to the issue you have been outspoken about in the past 24 hours—the release of water by the Commonwealth water holder. Can I ask about some of the details about that? When was this water released?

Mrs MELINDA PAVEY: I do not have an exact date for the order but I have been advised since the event an order went in around September with WaterNSW. I make it clear, WaterNSW is not in a position to accept or approve water orders from the Commonwealth Environmental Water Holder [CEWH].

The Hon. MICK VEITCH: Is there any consultation around that release order with the department or yourself?

Mrs MELINDA PAVEY: Dr Bentley might want to answer this further. My point is that it is in their control and their purview, they are an independent statutory authority. If they put an order in it is accepted.

The Hon. MICK VEITCH: You are talking about the Commonwealth when you say "they"?

Mrs MELINDA PAVEY: Yes.

The Hon. JOHN GRAHAM: Before we turn to that I am asking when was the water released?

Mrs MELINDA PAVEY: During September and October.

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The Hon. JOHN GRAHAM: Can you be more precise?

Mrs MELINDA PAVEY: No, I can take that on notice.

The Hon. JOHN GRAHAM: Perhaps with the assistance of an official on the date?

Dr BENTLEY: The dates were between 16 September and 11 October. In response to what you asked before—

The Hon. JOHN GRAHAM: We might come back to that, if that is okay?

Mrs MELINDA PAVEY: For context.

Dr BENTLEY: You asked about consultation. There is a committee that parts of the department sit on, including Department of Primary Industries—Water.

The Hon. JOHN GRAHAM: Which parts of the department?

Dr BENTLEY: Energy, environment and science and Department of Primary Industries—Water sit on that committee with the Commonwealth water holder.

The Hon. JOHN GRAHAM: You have given us the date of the release. When was the order for the release?

Dr BENTLEY: We will have to take that on notice.

The Hon. JOHN GRAHAM: When were agencies within the cluster—you named a couple of the people at the table—consulted about this release?

Dr BENTLEY: If I do not know when the release was requested, by definition I do not know when my people were consulted on that. We will have to come back to you.

The Hon. JOHN GRAHAM: You are confirming that they were consulted?

Mrs MELINDA PAVEY: No.

Dr BENTLEY: I am confirming there is a committee.

Mrs MELINDA PAVEY: It is an advisory rather than a consultation.

The Hon. JOHN GRAHAM: Were they consulted?

Dr BENTLEY: The committee was told of the intention and the New South Wales policy prevented further release that the environmental holder would have requested.

Mrs MELINDA PAVEY: Because of carryover arrangements.

Dr BENTLEY: It would have been a lot more than it was, were it not for the fact that the New South Wales rules came into force.

Mrs MELINDA PAVEY: In relation to carryover.

The Hon. JOHN GRAHAM: I understand. You were advised, the committee was advised, but you cannot tell us the date. Minister, were you advised at that point of this release?

Mrs MELINDA PAVEY: No.

The Hon. JOHN GRAHAM: When did you first become aware of this?

Mrs MELINDA PAVEY: At the end of October.

The Hon. JOHN GRAHAM: It was released from 16 September to 11 October. It was not until the end of October that you even became aware of this release, although your agencies were certainly aware all this time.

Mrs MELINDA PAVEY: That is the advice I have just received.

The Hon. JOHN GRAHAM: Why did they not tell you?

Mrs MELINDA PAVEY: I am not told of every release that happens on all the river systems across New South Wales.

The Hon. JOHN GRAHAM: This is not every release.

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The Hon. TREVOR KHAN: Just let the Minister answer.

The Hon. JOHN GRAHAM: This is not every release. You clearly have concerns about this release, why were you not told?

Mrs MELINDA PAVEY: I do have concerns. The communities in the Central West and the communities across New South Wales do have genuine concerns that 22 gigalitres—12 months worth of water for the communities of Forbes, Cowra, Condobolin, Parkes and Lake Cargelligo—has gone down the river to a swamp. Part of the argument that the Commonwealth Environmental Water Holder has put today was to keep the river running. The river was already running. I was shocked at the extent of the release and how much it impacted Wyangala Dam. We were at 24 per cent at Wyangala Dam two months ago.

I think it is really important to understand, Mr Graham, that it is a matter of their choosing what they want and when they want to do it. They do not seek our approval. They might advise, they might consult to let us know but it is not an approval process. The only reason we were able to stop the further extension—it was around 16 gigalitres—that they wanted to do was because it fell into the carryover provisions, and because of the height of Wyangala Dam, or the lack of capacity in Wyangala at the moment, we put those carryover provisions in, which hurts our farmers, which hurts our communities.

The Hon. JOHN GRAHAM: The reason I am asking about this is because that is not the view of the Commonwealth. I have been reading your media. These are referred to as "agreed releases" not by the Commonwealth water holder but by your colleagues in Canberra.

The Hon. MICK VEITCH: You are saying they are not agreed?

Mrs MELINDA PAVEY: There is not an approval process where I get to sign-off on it, no.

The Hon. JOHN GRAHAM: You were unaware of this altogether, is that your answer?

Mrs MELINDA PAVEY: I became aware towards the end of October—I cannot give you an exact date—and at that point I was shocked because of the level of water. It is not an approval that they seek from us; it is an advisory—if you want to put that into the terms of a consultation. They are an independent statutory authority that manage their water allocations in a way that they want to manage it.

The Hon. JOHN GRAHAM: Was there any objection from New South Wales—clearly not from you, Minister, you were unaware of it—agencies when they were advised about this flow?

Mrs MELINDA PAVEY: WaterNSW is the agency and the corporation that deals directly with the Commonwealth Environmental Water Holder and you have not called for them today. There may have been conversations, I am not sure of that. We will take that on notice in relation to those conversations.

The Hon. JOHN GRAHAM: But you cannot tell us today whether they happened?

Mrs MELINDA PAVEY: No, I cannot because they are not here.

The Hon. JOHN GRAHAM: You have not asked?

The Hon. TREVOR KHAN: The Minister is entitled to take it on notice.

The Hon. JOHN GRAHAM: The Minister clearly objects to this flow. I am asking the Minister has she asked her agency, "Did you object to this flow?"

The Hon. TREVOR KHAN: And the Minister has taken it on notice.

The Hon. JOHN GRAHAM: I am now asking about the actions of the Minister. Did the Minister ask her agency did they object?

Mrs MELINDA PAVEY: I have asked for advice from WaterNSW but I am yet to receive that. WaterNSW is the agency that would have been dealing directly with the Commonwealth Environmental Water Holder.

The Hon. JOHN GRAHAM: Are you upset that your agency did not tell you? It seems remarkable given your objection now.

The Hon. MICK VEITCH: And the size of the release. The size of the release is quite substantial; it is not an average release.

Mrs MELINDA PAVEY: To the contrary, Mr Veitch. We only have to see how the Murray River has been running.

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The Hon. MICK VEITCH: I am talking about the Lachlan.

Mrs MELINDA PAVEY: Whether it is the Lachlan, whether it is the Gwydir, whether it is the Murray or whether it is the Murrumbidgee, the Commonwealth Environmental Water Holder is responsible for the management of the water in the way it sees fit. That is what they are doing. That is what I am calling out: I do not think it was a fit decision for them to make.

The Hon. MICK VEITCH: Have you raised this with the New South Wales environment Minister as well?

Mrs MELINDA PAVEY: I have in the context of general conversations and I have also raised it with the Federal Minister a week or so ago—the Federal Minister being Sussan Ley. As Sussan Ley has pointed out, it is an independent statutory authority.

The Hon. JOHN GRAHAM: I have to correct you there, Minister. This is what Sussan Ley is saying, she has assured that these flows are jointly managed and all flows are mutually agreed. That is the position of your Federal colleagues. Is that right?

Mrs MELINDA PAVEY: My advice is that due to the independent statutory nature of the Commonwealth Environmental Water Holder, they make the decision. It is not for us to advise or say, "No, we do not think you should be dropping that water." They make their own decisions.

The Hon. JOHN GRAHAM: You reject the view that these are jointly managed. Do you reject that view?

Mrs MELINDA PAVEY: I have said, and will say again, the Commonwealth Environmental Water Holder controls their decisions and makes their decisions.

The Hon. JOHN GRAHAM: Understood.

Mrs MELINDA PAVEY: The only capacity we had to stop an even bigger blow was by reiterating that there was carryover water, then the water sharing rules came into play.

The Hon. JOHN GRAHAM: I do not want to misquote you. As I understand it, you are rejecting the view that all these flows are mutually agreed. That is clearly the position you are putting to us.

Mrs MELINDA PAVEY: I stand by my comments.

The Hon. JOHN GRAHAM: These are not mutual—

Mrs MELINDA PAVEY: I stand by my comments.

The Hon. MICK VEITCH: Minister, you said that you found out at the end of October. We are at the end of October.

Mrs MELINDA PAVEY: We are in November, are we not? Tomorrow we are in November.

The Hon. MICK VEITCH: I want to clarify, was it last week you found out or the week before?

Mrs MELINDA PAVEY: The week before.

The Hon. MICK VEITCH: Not last week, the week before?

Mrs MELINDA PAVEY: It was in the first sitting week.

The Hon. JOHN GRAHAM: And how did you find out? How were you informed?

Mrs MELINDA PAVEY: Verbally.

The Hon. JOHN GRAHAM: By?

Mrs MELINDA PAVEY: By one of my advisers; he had found out.

The Hon. JOHN GRAHAM: By a ministerial adviser?

Mrs MELINDA PAVEY: By one of my ministerial advisers.

The Hon. JOHN GRAHAM: Were they advised by the agency?

Mrs MELINDA PAVEY: I am not sure of that. We will take that on notice. I mentioned it in the House last week during question time.

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The Hon. MICK VEITCH: Going forward from here, you are not happy about this process and the manner in which this water has been released. Are you putting in place measures to ensure that you are better informed in the future of these sizable releases? What are those processes that you are putting in place?

Mrs MELINDA PAVEY: That is a good question. I am going to take up the opportunity that I think was offered to me by Minister Sussan Ley through her comments in *The Daily Telegraph* today that, in essence, if we need to communicate better and ensure the advice is better and be more genuinely consultative, let us do that.

The Hon. MICK VEITCH: Will that include the New South Wales environment Minister?

Mrs MELINDA PAVEY: Yes.

The Hon. MICK VEITCH: You have informally or via conversation raised this question with the environment Minister?

Mrs MELINDA PAVEY: Yes, Federally, and informally in conversations. I said it in front of the environment Minister in our House.

The Hon. JOHN GRAHAM: I am not sure that counts.

The Hon. MICK VEITCH: What is the New South Wales environment Minister's position on this?

Mrs MELINDA PAVEY: You would need to ask him.

The Hon. MICK VEITCH: He did not convey concern to you?

Mrs MELINDA PAVEY: We have not been in a situation where we have been able to have an extended conversation about it, but my conversations in relation to this policy or this approach by the Commonwealth Environmental Water Holder needs to be had with the Commonwealth. It is so important. One of my frustrations in this portfolio is that we have actually done enormous work in returning water to the environment, around 30 per cent—

The Hon. MICK VEITCH: Has New South Wales released any environmental flows?

Mrs MELINDA PAVEY: They would have because the Office of Environment and Heritage and Mr Betts might be able to have more detail about that, but not to—

The Hon. MICK VEITCH: New South Wales has released environmental water.

Mrs MELINDA PAVEY: They do not have the quantity of water that the Commonwealth environment—

The Hon. MICK VEITCH: But New South Wales has released environmental flows.

The Hon. JOHN GRAHAM: At the same time as this flow?

Mrs MELINDA PAVEY: No. You have just made that up.

The Hon. JOHN GRAHAM: No, I am just asking. Is that at the same time?

Mrs MELINDA PAVEY: I do not have details of that. Do you?

Dr BENTLEY: No, I do not.

The Hon. JOHN GRAHAM: Can you rule out that New South Wales was not releasing water as part of this flow?

Mrs MELINDA PAVEY: I believe that is the case but I will confirm that.

The Hon. JOHN GRAHAM: You believe that it was the case that they were not?

Mrs MELINDA PAVEY: That they were not.

The Hon. JOHN GRAHAM: Okay.

The CHAIR: Sticking with the Wyangala issue and we will also look at another environmental release, you have said that you are going to take up the offer from Sussan Ley about being more consultative, but in reality that does not fix the idiocy of what has happened. Would you agree?

Mrs MELINDA PAVEY: Yes.

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The CHAIR: They can be consultative all they want and they will still send this water away from New South Wales. How do we fix that problem? Can you fix that problem?

Mrs MELINDA PAVEY: I am going to answer this question in a couple of parts very genuinely. To my point a couple of minutes ago, we have done good work in restoring the balance. Let us face it, there were a lot of very poor decisions in the late seventies and early eighties that over-allocated a lot of our river systems. It is the farmers of today that have had to bear fixing that in terms of entitlements taken. On a positive note, there have also been a lot of on-farm efficiencies. We are better farmers than what we were in the early eighties generally.

How do we fix this? That is why I am working with the Victorian Labor Government to analyse and assess more adequately what the future goals of the Murray-Darling Basin Plan are. That is another 450 gegalitres from communities. Whilst that now does have a socio-economic imperative over it, there is also another 605 gegalitres in sustainable diversion limits that need to be achieved. They are still very big numbers hanging over our communities. We have seen—and anyone who has been down to the Barmah Choke recently, which I did in the past couple of weeks—that that is a river system full to bursting.

In fact, we are putting at risk the very viability of the Murray River to maintain the pressure of the flow that has been going down it, let alone the fact that the most we have ever got across the border between South Australia and Victoria is 53 gegalitres a day. The basin plan has it at 80,000 gegalitres a day. My point in mentioning all of this is we have done good work. Our farmers need certainty but we also need to deal with facts and the science, which actually shows it is questionable whether the future goals of the Murray-Darling Basin Plan can actually be achieved. Going into South Australia with something like 153 gegalitres, half of the water supply of New South Wales going out in the last couple of months.

The CHAIR: I think you were quoted in the media as saying 9,000 Olympic swimming pools.

Mrs MELINDA PAVEY: Yes, but in the past two months it is something like 153 gegalitres, which would sustain our towns for 12 months. My proposition is that the Murray-Darling Basin Plan was designed to deal with rising salinity throughout the basin, some over-allocations. On the whole, I think we have done a great job. But this pressure to deliver more into South Australia without looking at the results, looking at the positives and even how we could be achieving more for the environment. We saw photos recently of one of the rivers running particularly dry and all the dead carp. I want carp out of the system.

The CHAIR: That is probably not the best way to do it though.

Mrs MELINDA PAVEY: No, what has done it is drought. You have emptied a river and what was the most fish? It was carp. The point is: We have capacity and we need to improve our environmental outcomes. If there is a better way to be doing that without inflicting further pain on communities, putting at risk water supplies during the worst drought that we have seen in the Central West and the north-west with 31 months of record low inflows, then we must have those conversations.

To have a conservative Coalition Government in New South Wales joining with a Labor Government in Victoria to question the science and the data because the Murray-Darling Basin plan—our Ministerial Council meeting could not agree to do that. We have stepped outside of the process to do that work because another State would not agree to do that work. My point is we must look at the evidence, analyse what has happened and, by any stretch of the imagination, it was not error by the Commonwealth Environmental Water Holder to release that amount of water at this time of the season, at this time of the drought with the bureau of meteorology making the predictions that they are making.

The CHAIR: The evidence would also suggest that. You mentioned the Barmah Choke. Sending 9,000 Olympic swimming pools worth of water down there and unnaturally flooding those red gums is not the best environmental science either. You are talking about having discussions with Victoria. Are you having discussions with South Australia and saying to them: This cannot keep going on?

Mrs MELINDA PAVEY: We did have conversations at our last Ministerial Council meeting and South Australia were obviously there. I understand the difficulty of the South Australian Government and its Ministers, but all I ask for is some honest conversations about how we can get a better deal for the environment, our economies, our communities and our farmers and, for that fact, Australia. If we just look again at the way we are doing this work, that is where we need to get to. I reiterate, we have a Labor water Minister and a Coalition water Minister working together to try to do this work. That is why our Ministerial Council meeting in December is going to be interesting. I do not want to pick on South Australia. I do not want to pick on the fact that they are still watering their lawns and their lawns are green, but the fact is we could get even a better deal for their farmers

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and their economies and their communities. If we keep going the way we are going, we are not going to have any water in South Australia if this drought continues. What have we achieved then?

The CHAIR: They have turned an estuarine system into a fresh lake system, which is sitting at 102 per cent. I think South Australia is doing quite well out of this.

Mrs MELINDA PAVEY: That is a very valid point, but I want to put New South Wales first—that is my job—and I have to try to negotiate and work within the constraints or opportunities that exist in the Ministerial Council with the Murray-Darling Basin States. That is what we must do in a productive way. I do not think it is unreasonable, and I actually think South Australians are looking at what is happening to their neighbouring States and they do not like what they see either. We are Australians first and foremost, but I have taken the approach that I will always put New South Wales first. We have done so much of the heavy lifting in the Murray-Darling Basin Plan and it is about time that that load was shared.

The CHAIR: You talked about reviewing the science of the Murray-Darling Basin Plan and making sure that we have it right. Can we actually do that now that we have signed an intergovernmental agreement which basically binds us to the Murray-Darling Basin Authority? Can we still have that conversation, and not only have the conversation but actually do something about the conversation that we have? Can we do anything or does the intergovernmental agreement lock us in to following the Murray-Darling Basin Plan, even if it is clearly flawed?

Mrs MELINDA PAVEY: That is a very good question and I think the Deputy Premier also dealt with that in his budget estimates earlier today.

The Hon. TREVOR KHAN: He was brilliant.

The Hon. JOHN GRAHAM: I am glad you were watching.

The Hon. TREVOR KHAN: He was great—knocked it out of the park.

Mrs MELINDA PAVEY: I note the interjection. Did you get that, Hansard, so Trevor can show the boss? That is why we are doing this work, particularly about the modelling, about the extra water that is part of the intergovernmental agreement. Let's look at that, let's see if it physically can be done. Let's have some proactive and positive conversations and look at better options potentially for South Australia, like the south-east drainage channel. Would it not be better to put some diversions there and, instead of that water going out to sea in the south east, put it back into the lakes—if that is how they want their lakes to be managed—in a freshwater capacity, rather than the naturally occurring estuarine that science would show was the case.

Are the fish happy in South Australia in a freshwater system that used to be estuarine? Is this the type of science and data? There are so many different views and noisy arguments on each side of the debate. It is hard to have conversations, but I think what the drought is delivering to us is an opportunity to have a national focus on what is in the best interests of Australia. And in many ways the best interests of New South Wales will help lead to the best interests of Australia. This is about getting the right balance. We can achieve better environmental outcomes if we have a look at the facts, I believe.

The Hon. EMMA HURST: Is there a threshold during drought where town water is prioritised over business use of water, or proposed business use?

Mrs MELINDA PAVEY: If you are on a town water supply, and we have 92 water authorities across New South Wales, town water is the priority—stock and domestic town water—but I will use the example of Baiada, which is a big company that exists in Tamworth. They do rely on town water for their operations, and that is factored in to the water supply security of that town and what is needed going forward, which is why they will be users of that town water. They provide 450 jobs in Tamworth directly, and 2,000 indirectly. Business is not our enemy, business keeps our towns alive, and we have factored in the need for business within the existing town water supply capacity. Mr McTavish, do you want to add anything further?

Mr McTAVISH: Typically, under local government or local water utility water restrictions framework, they do require commercial activities to reduce their water use, and in many areas, when they go to level 5, for example, it is to reduce their water use by 30 per cent. We are doing some analysis now on the impact to regional economies of reduced water availability for those communities and the reality is that, in most of those towns, if we restrict commercial use unnecessarily it will result in a substantial economic loss to the community.

The Hon. TREVOR KHAN: Tamworth is on level 5.

The Hon. EMMA HURST: Having regard to chicken farming and chicken processing, there has been a new process that has put in a development application to use 2.688 megalitres of water, which will equate to

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about 40 per cent of Goulburn's daily water consumption, to slaughter 192,000 chickens a day. Have there been any efforts to reduce their use if they are going to be using 40 per cent of the town's water?

Mr McTAVISH: In which community is this?

The Hon. EMMA HURST: In Goulburn.

Mr McTAVISH: Typically, the decisions in relation to development applications rest with council and in most councils they do require major developments to be considerate of the impact on water supply. In many areas, including some proposed chicken processing facilities elsewhere in the State, they are looking at incorporating new technology to utilise wastewater reuse. In a proposal in northern New South Wales, for example, they are looking at an 80 per cent reuse efficiency goal, which will reduce the impact on the town water supply draw.

The Hon. EMMA HURST: In the initial budget estimates inquiry, Minister, you confirmed that 10 licence holders control about 86 per cent of the total share component of the Barwon-Darling and four of those control 75 per cent of the total share. I understand the details could not be made public for privacy reasons, but can you inform the Committee whether you or your office have actually met with any of the 10 licence holders in the past year and, if so, what was discussed?

Mrs MELINDA PAVEY: I will take that on notice.

The Hon. TREVOR KHAN: The ministerial diaries are available.

The Hon. EMMA HURST: For privacy reasons, this was not public. Could you also take on notice if they requested any specific changes to rules and if you discussed the Natural Resources Commission [NRC] review into the Barwon-Darling Water Sharing Plan?

Mrs MELINDA PAVEY: I will take that on notice.

The Hon. MICK VEITCH: I want to go back to when you actually found out about this environmental water release. Was it like 10 days ago or thereabouts?

Mrs MELINDA PAVEY: I told you I think it was the first week of the sittings when we came back.

The Hon. MICK VEITCH: The water finished on 11 October.

Mrs MELINDA PAVEY: Sorry?

The Hon. MICK VEITCH: Did you find out after the water release finished on 11 October?

Mrs MELINDA PAVEY: Yes, and we sought details at that time.

The Hon. MICK VEITCH: It was about that time that you found out?

Mrs MELINDA PAVEY: What was the date of our first sitting week?

The Hon. JOHN GRAHAM: We were sitting on the 15th, 16th and 17th.

Mrs MELINDA PAVEY: It was around the 15th to 17th that I was first verbally told. We do not get documents or briefing notes every time there is a release done. It was just that one of my ministerial policy advisers found out and he raised it with me. I was just surprised that such a big amount of water, with Wyangala dropping at such a sudden rate—

The Hon. MICK VEITCH: What I am trying to work out, Minister, just to satisfy myself, is if you found out after 11 October, which is when the water release ceased.

Mrs MELINDA PAVEY: That is to the best of my recollection, and with the drought and everything else going on at the moment, it is a pretty intense period. But I am confident that that was the moment that I was told. As I have said, if there is proof otherwise, I will correct the record.

The Hon. MICK VEITCH: That would be great, and since you found out—

Mrs MELINDA PAVEY: Actually I have just been told—my policy adviser told me it was the week of the 14th.

The Hon. MICK VEITCH: Since you found out, what have you done?

Mrs MELINDA PAVEY: I have sought advice from the agency, from Water NSW.

The Hon. MICK VEITCH: As to why it happened?

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Mrs MELINDA PAVEY: No. I sought advice not about why it happened. It happened because that is what the Commonwealth water holder wanted. It does not seek advice from us; it puts an order in. It was enough of a message. We said, "No you cannot have the carryover", because we actually had a power to stop that.

The Hon. MICK VEITCH: So you have done that?

Mrs MELINDA PAVEY: We did that. No. Water NSW did that because of the water sharing plan rules that you are very well aware of, Mr Veitch. I think the fact that we had suspended carryover to those farming communities might have been enough of a signal for the Commonwealth Environmental Water Holder to say: If they have suspended water delivery for carryover water—

The Hon. JOHN GRAHAM: Minister, we are not taking anything for granted here because you found out two weeks ago and you are unable to tell us whether New South Wales made any objection.

Mrs MELINDA PAVEY: There is not a process for objection.

The Hon. JOHN GRAHAM: It is just clearly not the view of the Federal agency. This is the view of the Commonwealth Environmental Water Office. It says, "These releases are the result of careful planning and collaboration across government agencies in New South Wales." There clearly is room for you to object in the way you have done in *The Daily Telegraph*. In the two weeks between when you found out and when this was on the front page of *The Daily Telegraph*, was there any objection from New South Wales?

Mrs MELINDA PAVEY: It is not our role to object.

The Hon. JOHN GRAHAM: That is not the view you have taken this morning in *The Daily Telegraph*.

Mrs MELINDA PAVEY: I am telling you—okay.

The Hon. JOHN GRAHAM: Was there any official communication to the Commonwealth about your concerns? You are clearly concerned. Did you tell anyone?

Mrs MELINDA PAVEY: It was too late. It had been done because that is the power that CEWH has. It puts the order in and it takes it. Unless it breaches the water sharing plan, like it did and we stopped the carryover, it is entitled to do what it desires to do. The other point from today's *Telegraph*, which I question, is the comment from an official within the Commonwealth Environmental Water Holder suggesting that it wanted to keep the fish and crayfish alive and keep the river running. The river was running and did not need that extra water. I knew that, Mr Veitch, coming from that beautiful part of the world.

The Hon. MICK VEITCH: I quote from the most recent iteration of Intergovernmental Agreement on Implementing Water Reform in the Murray Darling Basin, which was revised in August 2019 and signed by the Premier on 9 August 2019. It states:

5 **Managing water for the Environment**

- 5.1 The Parties agree that their environmental water holders and managers will work collaboratively, in close consultation and where appropriate by agreement ...

You are saying that did not happen in this instance. Is that what you are saying?

Mrs MELINDA PAVEY: I am saying that it did not need a rocket scientist to work out that if you were not getting a carryover, that the dam was around 23 per cent or 24 per cent at the time, and that we have got Bureau of Meteorology predictions—

The Hon. MICK VEITCH: Minister, it states, "In close consultation and where appropriate by agreement ..."

Mrs MELINDA PAVEY: —we do not need New South Wales agencies advising them of that information. It is a fact.

The Hon. MICK VEITCH: Did your agencies get this wrong then, Minister?

Mrs MELINDA PAVEY: The Commonwealth Environmental Water Holder ordered the water. It wanted the water and it was sent at that request.

The Hon. JOHN GRAHAM: Minister, is it not just too late to be putting this objection now? You are the water Minister for New South Wales. Wasn't the time to make this submission before the water was sent down the river, not afterwards? There is clearly planning going on. There are clearly discussions. There is clearly advice. Why did you not object before the water went down the river, if this is your view?

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Mrs MELINDA PAVEY: That is because I do not have the capacity or the power to object. I am not even informed.

The Hon. JOHN GRAHAM: You have objected today, strongly.

Mrs MELINDA PAVEY: That is right.

The Hon. JOHN GRAHAM: But it is too late.

Mrs MELINDA PAVEY: On behalf of anybody who has a touch of commonsense, the objection is worthy.

The Hon. JOHN GRAHAM: That is too late.

Mrs MELINDA PAVEY: If we need to change the system to ensure that our communities are put first as we go further into this drought with the Bureau of Meteorology predicting things not to improve for the next 12 months—

The Hon. JOHN GRAHAM: What sort of changes are you proposing?

Mrs MELINDA PAVEY: I will take that on notice and provide you with advice. After conversations within our agencies and with the Commonwealth, we will come back to you.

The Hon. MICK VEITCH: Minister, the intergovernmental agreement clearly talks about "close consultation". In this instance, are you saying that did not occur?

Mrs MELINDA PAVEY: Mr Veitch, I have answered this question to the best of my ability. Commonsense says that releasing 22 gegalitres of water—because that is what the Commonwealth Environmental Water Holder wanted, as it wanted along the Murray and the Murrumbidgee, all our river systems—is just one step too far. On behalf of those communities, I have called this out.

The Hon. MICK VEITCH: Why did you call it out today and not two weeks ago when you found out? That is the issue. It is on the front page of *The Daily Telegraph* today. You knew two weeks ago. Why did you not call it out two weeks ago?

Mrs MELINDA PAVEY: I called it out last week in the Parliament.

The Hon. MICK VEITCH: It is on the front page of *The Daily Telegraph* today. Today is the media—

Mrs MELINDA PAVEY: I do not control the timing of the media. My point is that I did raise it internally. I raised it in the Chamber last week because I was wanting to get further information and advice.

The Hon. JOHN GRAHAM: After two weeks of advice, you cannot tell us whether New South Wales raised a concern about this. Your agencies may have raised a concern or may not. You cannot tell us that. Did anyone say this is a problem?

Mrs MELINDA PAVEY: Yes. That is why the information came to my policy advisor and that is how we first found out about it. There was incredulation that this had happened.

The Hon. JOHN GRAHAM: But you cannot tell us today whether your agencies put that view to the Commonwealth.

Mrs MELINDA PAVEY: You are trying to suggest wrongly that this is a shared experience and a shared decision. It is not.

The Hon. JOHN GRAHAM: That is the view of the Commonwealth. I am putting the view of the Commonwealth to you.

Mrs MELINDA PAVEY: Read the rules around the statutory, independent nature of the Commonwealth Environmental Water Holder.

The Hon. JOHN GRAHAM: My colleague has just read the rules and said "collaborative".

The Hon. TREVOR KHAN: No, he has not.

The Hon. MICK VEITCH: Intergovernmental Agreement on Implementing Water Reform in the Murray Darling Basin states:

5 **Managing water for the Environment**

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5.1 The Parties agree that their environmental water holders and managers will work collaboratively, in close consultation and where appropriate by agreement ...

The Hon. TREVOR KHAN: That is the intergovernmental agreement; it is not the statutory—

Mrs MELINDA PAVEY: As my learned colleague here has just pointed out—

The Hon. MICK VEITCH: That infers that there are going to be some discussions—"close consultation and where appropriate by agreement"?

Mrs MELINDA PAVEY: That is because I am not the environmental water holder.

The Hon. MICK VEITCH: Did you know that there was environmental water being held in Wyangala Dam?

Mrs MELINDA PAVEY: Of course I did.

The Hon. MICK VEITCH: Did you know there was Commonwealth water being held in Wyangala Dam?

Mrs MELINDA PAVEY: Of course.

The Hon. MICK VEITCH: And when did you find—

Mrs MELINDA PAVEY: But I am not the environmental water holder.

The Hon. MICK VEITCH: But have you raised concerns previously about the amount of water being held and when it may well be released.

Mrs MELINDA PAVEY: Mr Veitch, I was surprised and shocked when I learnt of the amount of water that was released between September and October. I found out the week of 14 October. I made comment on it in the Parliament last week. More and more of the community are learning what is going on, which has led to the incredulation of the story today.

The Hon. MICK VEITCH: But you knew it could release this water at some stage?

The Hon. JOHN GRAHAM: Minister, the thing that I am struggling with is that is it not your job to know this ahead of time, not object to it afterwards.

Mrs MELINDA PAVEY: The rules currently do not have the information before me before things happen. To your point earlier, we may need to look at that. But I just would have thought commonsense may have prevailed in the processes.

The Hon. JOHN GRAHAM: Your agencies knew. You have told us that already.

Mrs MELINDA PAVEY: I am not the environmental water holder. I do not have control—

The Hon. JOHN GRAHAM: But you are the water Minister for the State of New South Wales.

Mrs MELINDA PAVEY: Yes, but I do not have control of the environmental water in this State.

The Hon. JOHN GRAHAM: Is it not your job to know these things, though?

Mrs MELINDA PAVEY: Mr Graham, it is not my job to know what the CEWH orders. I am not involved in the decisions around the CEWH. When I became aware, as the water Minister—

The Hon. JOHN GRAHAM: This is happening in New South Wales.

Mrs MELINDA PAVEY: —with the challenge our communities have with at least another 12 months of low inflows expected, as pointed out by the Bureau of Meteorology, I think it is appropriate to actually call that out.

The Hon. MICK VEITCH: Your agencies are involved in these discussions, not you?

Mrs MELINDA PAVEY: Water NSW is, and if it were here today, it could go further into—

The Hon. MICK VEITCH: Essentially, it knew. Are you saying, "They got it wrong"?

Mrs MELINDA PAVEY: Sorry?

The Hon. MICK VEITCH: Did they get this wrong? Did they, at any stage, express concern about the amount of water that is going to be released?

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Mrs MELINDA PAVEY: I said that about five months ago that there was a bemusement, I understand, from Water NSW that the order went in. But I am not the environmental water holder here.

The Hon. JOHN GRAHAM: We have talked a bit about when the consultation finished. When did this consultation—

Mrs MELINDA PAVEY: What do you mean "finished", Mr Graham?

The Hon. JOHN GRAHAM: When did your agencies finally become aware of the order? When did your agencies start consultations with the Commonwealth over this? How long?

Mrs MELINDA PAVEY: As I have said that earlier, to the details of that I will take that on notice but Dr Bentley—

Dr BENTLEY: I think I answered that earlier that I do not know the date that started or finished.

The Hon. JOHN GRAHAM: We are certainly happy to have it on notice.

The Hon. MICK VEITCH: Minister, we were talking earlier about communities that were at risk of running out of water—critical water to communities is actually an important part of the plan and the hierarchy of the plan—are there any communities along the Lachlan that meet the criteria of running close to running out of critical water supply?

Mrs MELINDA PAVEY: Mr McTavish might be able to further expand on that. I have had regular conversations with the likes of the mayor of Cowra, Bill West. As we go through this drought we are learning things every day in terms of capacity, in terms of transmission—

The Hon. MICK VEITCH: My question is specifically along the Lachlan right now. Are there communities at risk of running out of critical water supply?

Mrs MELINDA PAVEY: If we do not get rain in the next six to 12 months, there are potentially impacts. Mr McTavish and I have been talking this morning about the Lachlan in particular, because of the attention that is on it. But there are pipeline solutions and there are cartage solutions—as you would know. But Mr McTavish, you might like to expand on that answer?

Mr McTAVISH: We do have concern about the supply availability in a number of communities along the Lachlan, the larger communities like Cowra, Forbes and Condobolin and the like, and some of the smaller communities and some of the users on the river as well—and the associated supplies. In most of those communities, there is a groundwater alternative that we are working with those local water utilities to enhance. In some cases that will involve—particularly around Condobolin—some pieces of infrastructure that will need to be built reasonably quickly. The worst-case scenario is something that WaterNSW briefed all of those local water utilities on in Cowra about two weeks ago and I attended that meeting.

I have also discussed this with all of those councils, a number of them individually but also collectively. There is a piece of work going on there. Those mayors and general managers have agreed to align their activity across the Lachlan below the dam to ensure there is consistency between each of those local water utilities from a water restrictions point of view.

The Hon. MICK VEITCH: Minister, does New South Wales hold any environmental water in Wyangala at the moment?

Mrs MELINDA PAVEY: That question is best placed with Mr Betts as Secretary of all the agencies. I am sure it does, and I think I said this earlier, and will take it on notice.

The Hon. MICK VEITCH: In a pretty free flowing exchange this morning, the Deputy Premier suggested that he has asked you to get legal advice on removing New South Wales from the Murray-Darling Basin Plan. Have you acted upon that request?

Mrs MELINDA PAVEY: Yes, of course. We are seeking further information. There has been advice sought in the past.

The Hon. MICK VEITCH: Is that an active consideration to move New South Wales out of the Murray-Darling Basin Plan?

Mrs MELINDA PAVEY: As I said 20 minutes or so ago, our active consideration is around the future demands that the plan is putting on our communities across New South Wales. One thing that Mr Barilaro and the rest of the New South Wales Government is committed to, is putting New South Wales first. We have—

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The Hon. MICK VEITCH: So the legal advice—because there will be quite a process for this to occur, you cannot just walk out. Is that correct?

Mrs MELINDA PAVEY: That is right. There are financial implications. The information I have, also, is that it would not stop the Commonwealth Environmental Water Holder continuing to take water because of the rules that are in place—and the laws that are in place.

The Hon. JOHN GRAHAM: Is the legal advice you have sought, internal legal advice or have you sought external legal advice in addition?

Mrs MELINDA PAVEY: At this point, it is internal.

The Hon. JOHN GRAHAM: When was that request made by the Deputy Premier?

Mrs MELINDA PAVEY: I do not have a date on that.

The Hon. JOHN GRAHAM: Was it in the last day or two?

Mrs MELINDA PAVEY: No, no.

The Hon. MICK VEITCH: It was a while back?

Mrs MELINDA PAVEY: Yes.

The Hon. MICK VEITCH: Are you also looking at potential financial penalties on New South Wales as a result of moving out of the Murray-Darling Basin Plan?

Mrs MELINDA PAVEY: That would be a consideration, yes. We would have to take advice on that. A number of staff are paid annually by the Murray-Darling Basin Authority to work in WaterNSW within the Department of Industry—Water so it would have implications, financial as well as legal.

The Hon. MICK VEITCH: What would be the trigger then for the New South Wales State Government to say, that is it, we are out? What is the trigger?

Mrs MELINDA PAVEY: It is a decision that the Government would need to make. But it is also—as I tried to make the point—that the work I am doing and our Government with Victoria—

The Hon. JOHN GRAHAM: What is the trigger from a government point of view?

Mrs MELINDA PAVEY: That is what I am trying to get to. We need to assess the operations of our river systems and the impacts on our communities. For example, the sustainable diversion limits that are part of the next stage of the plan would have us flood towns like Shepparton and kill orchards. Constraints means overflow of river on a regular basis like it did before we arrived. Well, that has big impacts. That is why we are working with Victoria to see what that would look like so we can better explain to our communities, so we might be able to get the changes we need in a collaborative approach with South Australia. So that we can keep with the principles of better environmental management, better water management and better farming but not sacrificing the opportunities and the equity we are seeing currently with lakes full to brimming in South Australia—

The Hon. JOHN GRAHAM: Understood. Minister, the other thing—

Mrs MELINDA PAVEY: Just let me finish. To contextualise what we are doing and the pain we see of 153 gigalitres going across the barrages in South Australia while our communities are going dry is a very important fact.

The Hon. JOHN GRAHAM: Minister, I want to ask you about the Deputy Premier's comments this morning because they were quite wide-ranging. He indicated that he had asked you to seek legal advice about pausing all water sharing plans in New South Wales. Does the legal advice—

Mrs MELINDA PAVEY: I think he said delaying water sharing plans.

The Hon. JOHN GRAHAM: Pausing all water sharing plans in New South Wales.

Mrs MELINDA PAVEY: No, I think he said delaying.

The Hon. JOHN GRAHAM: Does the legal advice you have sought encompass that as well?

The Hon. TREVOR KHAN: I want to know where all these Labor members are?

Mrs MELINDA PAVEY: As I understand, the Deputy Premier referred to delaying water sharing plans which are now all on exhibition, which are creating concerns within many of our drought stricken communities—

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no matter where you are. The resources, from an agency level, at managing the water sharing plans and the timing for their completion by end of year, is proving a challenging one, given the drought—

The Hon. JOHN GRAHAM: How long are you considering delaying those plans for?

Mrs MELINDA PAVEY: Can I just finish, Mr Graham, please? I do not have a time frame on it but tomorrow we will be in November.

The Hon. JOHN GRAHAM: Agreed.

Mrs MELINDA PAVEY: We do have a tight time line. I have raised this, personally, with Minister Littleproud, talking to the challenges and the challenges we have meeting the metering requirements because we do not have any water to check the metres and the new obligations. There is a big ask on our farmers at the moment at a time when they are doing it incredibly tough. It is appropriate that we have consideration to delaying the plan so we can get the full spectrum and the full buy-in of our farming community so we set those plans at the right point. That may—and will—include changes to the Barwon-Darling water sharing plan, to the point of fears and concerns that some of those levels we have moved to are not appropriate for proper water management. But I do point out, that the Menindee Lakes were empty from about 2005 to 2008 under a Labor Party government. Just saying, because there is a view that it is just us.

The CHAIR: Minister, the intergovernmental agreement—

The Hon. LOU AMATO: Silence over there?

The Hon. MICK VEITCH: Well there is, Lou. There is silence. Do you know why? Because you guys have drained it this time around. We are talking about now, not 2005. Different drought. Different drought, Lou, so do not be too smart.

The CHAIR: The intergovernmental agreement. Was that our best time to actually withdraw from this Murray-Darling Basin Plan without penalties? Because it seems like a signing this ties us—

Mrs MELINDA PAVEY: Are you talking about what happened in Cairns recently?

The CHAIR: No, the signing of the intergovernmental agreement. Us signing that—

Mrs MELINDA PAVEY: What date is that?

The CHAIR: In August 2019. Not signing that in August 2019, would that have been our best opportunity to start the process of withdrawing from the Murray-Darling Basin Plan without penalties? Because it does list penalties there for termination.

Mrs MELINDA PAVEY: I think at any point there is going to be repercussions, whether it was August or a moment into the future. We are, in good faith, communicating with the Commonwealth, with the other States and working with Victoria to assess how we are managing the plan, and whether it is serving our communities in an appropriate way. I think anyone witnessing and learning today of the recklessness of the Commonwealth Environmental Water Holder and the release of that water, will suggest that there are ways we could be doing this better. There are ways that we can continue good work to improve the environment—fish habitat—but I think we must all have our eyes and ears open, because it is a ridiculous situation. Some 165 gigalitres over the barrages in South Australia over the past two weeks, enough for 12 months water supply in New South Wales.

The CHAIR: I think we all agree that it is ridiculous. You said that you do not have the power to object, but then you have objected in the media. By doing that, you are essentially saying that your objection carries no weight and the people who really carry the weight are the Sir Humphreys in the Commonwealth Environmental Water Holder.

Mrs MELINDA PAVEY: What we are saying is that we are working across governmental and party lines, between the two biggest States in Australia—

The Hon. TREVOR KHAN: It is outrageous.

Mrs MELINDA PAVEY: —to assess and improve the principles of the Murray-Darling Basin Plan. I am confident that in our Ministerial Council meeting in December we can make the changes we need to, to sustain our States and get some more common sense around it.

The CHAIR: I go back to a question that you took on notice regarding the Barwon-Darling water sharing plan and its cap accreditation. It has not had a cap accreditation since 2014. The answer you sent back stated:

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The model used to audit compliance with the Cap under Schedule E of the Murray Darling Basin Agreement, which is itself Schedule 1 to the Commonwealth Water Act 2007, had provisional accreditation to 2014. There are no current arrangements available in the MDBA to re-assess this model accreditation.

The MDBA has accepted that the existing model will continue to be used for Cap compliance.

The response that you have given has really misrepresented the premise of the question. The premise of the question is—

Mrs MELINDA PAVEY: Was this a question from you, Chair?

The CHAIR: It was, yes. The premise of the question was that the Barwon-Darling sharing plan has not had a cap accreditation since 2014, so therefore it has been an illegal sharing plan since 2014. To put it more simply: Is the Barwon-Darling sharing plan illegal because it does not comply with the Commonwealth Water Act for accreditation?

Mrs MELINDA PAVEY: I do not believe so.

The CHAIR: Can you tell us why not, if it has not had the accreditation since 2014 and that is required under the Commonwealth Water Act? If you are not complying with a piece of legislation, is that not the very essence or definition of illegal?

Mrs MELINDA PAVEY: It depends on the interpretation of the Act and how it is assessed. I will take your question on notice and respond accordingly.

The CHAIR: Thank you. Do we have Commonwealth water holders having entitlements in the Barwon-Darling sharing plan as well?

Mrs MELINDA PAVEY: Yes, at Toorale Station.

The CHAIR: So potentially we could have had five years of these environmental flows, all these water holders taking their water and we had no idea?

Mrs MELINDA PAVEY: No, I think we have an idea of who has what entitlements in—

The CHAIR: But we do not know what they are taking if we do not have a cap. How do we know what they are taking? These are the concerns that have been expressed by the locals. They are saying that no-one wants to even look at accrediting this sharing plan because they believe it is shonky.

Mrs MELINDA PAVEY: I understand that within those communities there is a perception that they have not been appropriate and we need to deal with that, and we will. I acknowledge the previous water Minister, the Hon. Niall Blair, in bringing forward the review of that plan. I acknowledge that the Commonwealth Environmental Water Holder released a large amount of water when Menindee Lakes was at 5 per cent last January. We then had the 10 degree Celsius change in temperature and there are also concerns that there has been over-extraction—a combination of events. But it was directly after that Commonwealth water was dropped down to South Australia that we had that incident. We are now down to 1 per cent at Menindee Lakes, 12 months later. It is a challenging period and those lakes are where that region and that community at Broken Hill have their fun. During this drought there are certainly challenging periods as there have been 23 times since the 1950s when that river has run dry. As I referred to earlier, there was a long period—

The Hon. MICK VEITCH: It is ephemeral.

Mrs MELINDA PAVEY: Yes, it is an ephemeral system and an unregulated river, which is why we want to do work to improve capacity. We are in consultations for the Wilcannia Weir and we are also improving weirs up and down the river system. Your colleague the member for Barwon, Mr Butler, has quite rightly raised with me the opportunities that may exist to return some of the more natural weirs that were blown up, purportedly during clearing the river paddle steamers in the late 1800s. It is a challenging system that has often run dry. We need to do what we can to have those weirs and those opportunities for those towns to have fun and, more importantly, have water and capacity.

The CHAIR: Going to some of the water infrastructure, you took on notice a question that I asked about the National Infrastructure Water Development Fund applications. You listed that several of those had been unsuccessful, including the Lake Rowlands to Carcoar Dam pipeline, regulating the weir on the Macquarie River, the Yenda and Roaches en-route surge reservoirs, the Mandamah rural water supply scheme, the Scone to Murrurundi pipeline, the Central Tablelands water security project and the Tamworth raw water harvesting efficiency and security project. They were all unsuccessful in gaining Federal funding. Does your Government intend to proceed with those projects without Federal funding, considering that one of them would only cost

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\$665,000? I am sure we could pass the tin around and find that money. Do you intend to go ahead with those projects regardless of Federal funding?

Mrs MELINDA PAVEY: We are going through a lot of projects at the moment—\$130 million in emergency funding without assistance from the Federal Government, currently, to keep our towns in supply. Did you have any comments, Mr McTavish, on those projects?

The CHAIR: I am happy for you to take it on notice as to whether they are, for want of a better word, in the pipeline for State funding.

Mr McTAVISH: Some of those projects have already been delivered, such as the Scone to Murrurundi pipeline. That is due for completion next year.

The CHAIR: Okay, thank you.

The Hon. JOHN GRAHAM: Minister, I want to return to the line of questioning about the plans the Deputy Premier announced today—

The Hon. TREVOR KHAN: You're not going to interrupt them again, are you?

The Hon. JOHN GRAHAM: Given the Premier signed the intergovernmental agreement on 9 August this year, has anyone told the Premier about this plan to leave the Murray-Darling Basin Plan?

Mrs MELINDA PAVEY: I think you are using your words in a very tricky way, Mr Graham.

The Hon. TREVOR KHAN: Outrageous.

Mrs MELINDA PAVEY: I have said over and over that we are doing the work to ensure the best deal for New South Wales with the Victorian Government. That work will be available to us before the Ministerial Council meeting.

The Hon. JOHN GRAHAM: I am asking a slightly different question, Minister.

Mrs MELINDA PAVEY: No, you asking a question and slanting in a way that is provocative.

The Hon. JOHN GRAHAM: It might be provocative but I am asking for a reason—

The Hon. TREVOR KHAN: To be provocative?

The Hon. JOHN GRAHAM: Clearly, there are different views in this Government about some of these issues. I want to know if the announcement this morning by the Deputy Premier was planned and agreed upon. Does the Premier know about it? Does the environment Minister know about it? Or, is it the Deputy Premier turning up and announcing this with little consultation?

Mrs MELINDA PAVEY: He did not announce it. I think you are being tricky. He said that we would look at the work that is being done. I was not here and I did not hear him, but he referred to the work that we are doing to talk about the future of the plan and what we are doing with the Victorian Government outside of the plan because the Ministerial Council would not agree to it. That work will be foundational. We have advised the Premier of this. My office has advised the Deputy Premier's office. We are doing our homework.

The Hon. JOHN GRAHAM: He was pretty strong though. He talked about pausing all the water sharing plans and ripping up the plan.

Mrs MELINDA PAVEY: He said "delaying". He said "delaying the water sharing plans".

The Hon. JOHN GRAHAM: I just want to check that that is an agreed government view, not the view of the Deputy Premier this morning. That is my question.

Mrs MELINDA PAVEY: Now you are conflating the two issues. You have got your water sharing plans that are due back to the Murray Darling Basin by the end of the year. The Deputy Premier quite rightly has reiterated the concerns that are in our communities about getting that done with the pressure of the drought. I have raised this with Minister Littleproud. That is a work in progress. The Deputy Premier gets our communities. He has spent three weeks of the past six travelling to every part of regional New South Wales listening to what our constituents are saying to us, listening to —

The Hon. JOHN GRAHAM: Minister, was this the issue—

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Mrs MELINDA PAVEY: No, no, just let me finish. You want to slant it in a way that suits you and I am going to give you the whole context. He is quite entitled to be talking about delaying those water sharing plans.

The Hon. JOHN GRAHAM: He spoke about this extensively this morning.

Mrs MELINDA PAVEY: Would we have the support of the Labor Party in supporting maybe taking a little bit more time to improve consultation on those water sharing plans? Is that what you are offering, Mr Graham?

The Hon. JOHN GRAHAM: Minister, is this the issue that the Deputy Premier threatened to resign over in the Expenditure Review Committee this morning?

Mrs MELINDA PAVEY: That is a stupid question.

The Hon. JOHN GRAHAM: If that is your view, Minister, I might turn to Dr Keniry. We had an extensive discussion last estimates about your report. I welcome you to this estimates hearing. It is an important report. It talks about the collapse of our longest river system. It describes the water sharing plans in 2012 as being in crisis. I do not think the Minister would object if I say that she was quite critical of an aspect of the report at the last estimates. We welcome you here today. I would simply offer you the chance to respond to some of the public discussion about that report.

Dr KENIRY: In terms of the criticism, they are opinions. Obviously there are differences of opinion between myself and the Minister on some of the content of the report. People are entitled to their opinions. I have been around for a long time; I have been in a few scraps. I will take it as it comes. In terms of the content of the report and what has transpired since, what I would like to say is that the draft water resource plan that has been put out for public consultation, that is picked up in full five of what we think are the most important of our recommendations, which are really the ones about protecting the low flows. That has been a good outcome. A lot of the other recommendations we made for the short term, they have been picked up in part, and that is probably in the pace that is there, that is about the most we could expect.

The Hon. MICK VEITCH: It is good to have you here. Welcome to the forum. In the draft report, and the Minister will correct me if I am wrong, the phrase that caused the most consternation for the Minister was:

Expert opinion suggests extractions pushed the river below Bourke into hydrological drought three years earlier than the upstream sections of the river.

That was in the draft report. Then in the final report is the revised wording. It states:

... plan rules pushed the Barwon-Darling system below Bourke into persistence of very low flow conditions three years earlier than the river upstream.

That is essentially the change. Are you unhappy that it played out in the media?

Dr KENIRY: Yes, but we cannot control how it plays out. We were aware when we released the report that there was going to be some contention about it because we consulted quite widely with irrigators and graziers out there and also the local government people. We knew there were quite disparate views about what some of the issues with the plan were. We were not surprised that some of these issues would play out.

The Hon. MICK VEITCH: When you say "plan rules pushed the Barwon-Darling system below Bourke into persistence of very low conditions three years earlier", you are essentially saying that the water sharing plan that was in place from 2012 is one of the significant contributors to the low flows?

Dr KENIRY: Yes. In the report we had set out what we thought were the contributors to the issues. The first one we mentioned was drought, and then a number of others. But certainly the rules under the water sharing plan were one of the issues that we pointed to because we came to the view that those rules were not doing enough to protect the low flows.

The Hon. MICK VEITCH: Are the phrases "hydrological drought" and "persistence of low flow" interchangeable phrases?

Dr KENIRY: I think if you are an expert in this field—

The Hon. MICK VEITCH: No, I am not.

Dr KENIRY: —such as Professor Sheldon, who wrote the first words, her view would be that they mean the same thing. But in the final report we have chosen to use words that are a bit more understandable than

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terms like "hydrological drought", which I think in hindsight was a term that is probably understood by a few experts, but not really understood, and is too easily interpreted as just drought rather than hydrological drought.

The Hon. MICK VEITCH: What is hydrological drought?

Dr KENIRY: Well it is that there is no water in the river.

Mrs MELINDA PAVEY: Exactly.

Dr KENIRY: That is an important distinction to no rain. When we are talking about drought, it is no rain. Hydrological drought is there is just not enough water or no water in the river.

The Hon. MICK VEITCH: I know there was a bit of mirth when I asked the question, but I think it is quite important that people understand what is the difference because in a lot of places, they do not.

Dr KENIRY: True. In the benefit of hindsight we would have preferred to have not used that term because it is something that people can very easily misinterpret. Even though the words that are in the final report, to an expert, really says exactly the same thing as we had in the first place but we have not used the technical term.

The Hon. JOHN GRAHAM: You say you have been in a few scraps before but you are not backing down on this one?

Dr KENIRY: Well, we have changed the words to suit.

Mrs MELINDA PAVEY: He did.

Dr KENIRY: And the report was out for public consultation. There were a number of other changes made in response to submissions we got from the draft report, but we certainly have not backed down on the major recommendations.

The Hon. MICK VEITCH: Thank you, Dr Keniry. Minister, I will move on to the water sharing plan audits? Where are we at with regards to the 25 overdue water sharing plan audits that were referred to in the previous budget estimates? I am after an update as to how they have progressed.

Mrs MELINDA PAVEY: That is a good question, Mr Veitch. I am going to refer to Dr Bentley for an answer on that issue.

Dr BENTLEY: We are on track to complete them by the end of December—I think is the due date.

The Hon. MICK VEITCH: All of them or are any of them causing—

Dr BENTLEY: The 25.

The Hon. MICK VEITCH: All 25 by the end of December, or before Christmas?

Dr BENTLEY: We are on track for that. That is what we are on track for, yes.

The Hon. MICK VEITCH: In one of the responses to supplementary questions from the previous hearing, the response we got back was:

The backlog of audits arose from 2015 due to the substantive workload over the last few years relating to Basin Plan implementation and resourcing constraints.

What were those resourcing constraints, Minister?

Mrs MELINDA PAVEY: Given the fact that both the Minister and the Deputy Secretary were not at the agency or involved in our positions at that time, it probably is a difficult question to answer but I am sure Dr Bentley will give it a good shot.

Dr BENTLEY: Thank you, Minister. As the Minister says, I was not here. However—

The Hon. MICK VEITCH: It is in the answers that were provided to our questions.

Dr BENTLEY: The volume of work that the staff who are involved in the water sharing plans have to do, the amount of resource that we put to those things is incredible. It is just the sheer volume of work. With the benefit of hindsight, we should have got those audits done earlier than we did, but we did not.

The Hon. MICK VEITCH: Hopefully we get the 25 audits before Christmas.

Mrs MELINDA PAVEY: Audits?

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The Hon. MICK VEITCH: Yes, that we get those water sharing plan audits before Christmas. What is the timetable post that for looking at those audits and preparing whatever action plans are required to correct actions that may be arising from those audits?

Mrs MELINDA PAVEY: I will refer that to Dr Bentley.

Dr BENTLEY: That somewhat depends what the audit tells us.

The Hon. MICK VEITCH: Because 25 is quite a large number?

Dr BENTLEY: Indeed. At the same time that we are doing regional water strategies and dealing with the drought we will have to receive these audit plans and work out what time is required to respond to those in parallel with or together with all of the other work we are doing to manage the response to the drought.

The Hon. MICK VEITCH: You are prefacing your projected work by saying that the resourcing constraints may be an issue going forward in progressing some of these audits?

Dr BENTLEY: That would not be an unusual situation. Clearly, the amount of resource you have to put to something will be one of the determinants in how much time it is going to take you to do them.

Dr KENIRY: I can add something to that. From the end of late 2018 the Natural Resources Commission had become responsible for doing the audits within the first five years of the plan. Once the backlog has been caught up, then the responsibility for those audits will fall to us. That planning is just starting. Those audits, I think there will be 12 of them, they will apply to plans that have started from 2016. We have until the end of 2021 to do the audits because we have a five-year period to do it. We will get started on that work next year in 2020.

The Hon. MICK VEITCH: Through you Minister, does that require additional resourcing for the NRC or are you trying to do that within your resources?

Dr KENIRY: Probably, but at the moment we are still working up a proposal that we will have to submit to say if we are going to get through the whole 12 in the 18 months or so that we will have, that this is the resources we will need.

Mrs MELINDA PAVEY: I think it is important to point out that we now have 150 regulator staff within the regions. Mick Keelty, who is the commissioner for water federally, has pointed out that New South Wales went from being regarded as being at the bottom of the pile and is now at the top of the pile in terms of surveillance and in terms of ensuring the integrity of the irrigator system across New South Wales. That is a good place to be for the future of the good, decent, honest farmers who do the right thing. We do have staff out there not just fining people or finding people doing the wrong thing but, at times, advising people how to do it better and operate their systems within arrangements that some farmers were not aware of.

We have done a good job in New South Wales. There has been a lot on our plate. I am particularly proud of the Natural Resources Access Regulator [NRAR] and the work it is doing and the way it is going to improve our reputation and the capacity of our farmers to deliver and take up opportunities. I know this is something that you and I do share: we want our regional towns to grow. We want prosperity. We want our farmers to do well. That is why we are getting ahead, we are going to be putting shovels in the ground for two new dams by the end of next year.

The Hon. MICK VEITCH: I am a glad you mentioned NRAR because I do have a couple of questions about matters prosecuted by NRAR. There was one that related to \$15,000 for illegal works along the river front of the Murray River and another one for \$1,000 for lying about water take and logbooks. Do you think these penalties are sufficient?

Mrs MELINDA PAVEY: I do not know the details or the context of the two examples you have pointed out. That is something that I had a conversation with Mr Barnes about in the first weeks of being in the portfolio. There was a lot of concern that the provisions of the Act were not a disincentive enough for some doing the wrong thing.

The Hon. MICK VEITCH: Are you planning to review those aspects of the Act that are not a big enough disincentive?

Mrs MELINDA PAVEY: We do have the toughest penalties but it was pointed out that there is capacity and sometimes separation of powers. We are not the ones issuing the fines and there is a higher capacity in the Act for larger fines. In terms of answering that question and Gary Barnes' view on that, it is a shame he was not invited here today because I am sure he could talk to that in greater detail. He would probably know the situation that you have referred to in those two examples.

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The Hon. MICK VEITCH: As you would appreciate I cannot ask him for a view.

Mrs MELINDA PAVEY: Because you did not ask him to be here today.

The Hon. MICK VEITCH: But I can ask you. I do not ask public servants for their view or opinions because that is inappropriate.

The Hon. TREVOR KHAN: I would take a point of order.

The Hon. MICK VEITCH: That is right, old grumpy over here would get involved. Minister, I am asking you for your view. Do you think \$1,000 for lying about a water take and logbooks is an appropriate penalty?

Mrs MELINDA PAVEY: I do not know. On the surface that fine would appear to be not appropriate, but I do not know the details. I do not know what court it was at. I do not know enough to be able to give a fulsome and fair dinkum answer.

The Hon. MICK VEITCH: There is a whole range of irrigators who do the right thing all of the time and they are being slighted by a small number of cowboys, I suppose you would call them.

Mrs MELINDA PAVEY: Thieves.

The Hon. MICK VEITCH: Those people are bringing the law-abiding irrigators into disrepute. I ask the question on the basis that there are some people in the irrigation industry saying that was not enough.

Mrs MELINDA PAVEY: Yes, on the surface I can see that is not an unreasonable question. I would need to see more detail. This is what we do in government. You need to look at how laws are interpreted, how courts see that and if it is not an appropriate penalty we would always look at changing that, as we should—as any Government should.

The Hon. JOHN GRAHAM: I welcome those comments, Minister. It is true that there is big money at stake here, water is like gold in some of those communities. If it is stolen there is big money to be made. You would agree with that, would you not?

Mrs MELINDA PAVEY: Like any industry there is often big money to be made if you go beyond the rules. There is also decent hardworking money to be made if you stay within the rules. That is what I support and that is what NRAR has taken on. I welcome the endorsement by former national police commissioner Mick Keelty, who is now our water police commissioner across Australia and the MDBA to acknowledge those who do well—99.9 per cent—but weed out those who do not.

The Hon. MICK VEITCH: Minister, you might have to take this on notice because it is a bit more detail than I would expect to be available to you now. I do not want the details of the companies or individuals but is it possible to provide a list of the prosecutions and fines that have been undertaken by NRAR since it commenced?

Mrs MELINDA PAVEY: I am sure it is. We will take that on notice.

The Hon. MICK VEITCH: Dungowan Dam is an issue that I know the Hon. Trevor Khan is pretty keen to prosecute as well. Has WaterNSW, or any of its previous entities, ever submitted a request for funding from the Federal Government for a Dungowan Dam project?

Mrs MELINDA PAVEY: We have and we have been successful.

The Hon. MICK VEITCH: Previously to now?

Mrs MELINDA PAVEY: I do not know. I was not there.

The Hon. MICK VEITCH: Can you take it on notice and the department can provide it for us?

Mrs MELINDA PAVEY: Do you want the department to be wasting time on that?

The Hon. MICK VEITCH: I think it is important that we know what has been going on here.

Mrs MELINDA PAVEY: We have a drought to worry about, Mr Veitch.

The Hon. MICK VEITCH: When did the Federal Government first indicate that \$75 million would be available for a partial funding of Dungowan Dam project?

Mrs MELINDA PAVEY: I do not have a timeline of that, but that was a commitment that the former Minister and local member, Barnaby Joyce, had made, as I recall. I do not have timing on that.

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The Hon. MICK VEITCH: With regard to Dungowan Dam it is an unusual arrangement in that the council is also involved. They have purchased the land previously getting ready to make provision for increasing the height or a new wall at Dungowan. When this is all completed who is actually going to own the dam?

Mrs MELINDA PAVEY: Good question. Time's up.

The CHAIR: You have time to answer it.

The Hon. JOHN GRAHAM: I will pay that.

The CHAIR: I will allow the answer.

Mrs MELINDA PAVEY: I can be a bit more serious. I do not think the good people of Tamworth are going to be concerned about the title—they need that dam, a new dam. It will be a completely new dam. I have had very brief conversations with the mayor, Col Murray, about that. We are still to work out the details around that. It is an important question, absolutely, but we will get on with the process of planning and EISs with the goodwill of Tamworth Regional Council and WaterNSW and everyone involved. We are delighted we are getting on with the project. How that is landed at I will be happy to keep you informed, Mr Veitch.

The CHAIR: Minister, the intergovernmental agreement talks about a "constraints management strategy" on the second page. Doing a bit of research, the constraints management strategy is all about looking at, I guess, the physical and operational management constraints that effect environmental water delivery. Can you tell us how that is going to interact with your critical infrastructure bill that you have before the House at the moment? You are talking about developing some of these infrastructure projects a lot quicker. How is that going to interact with the constraints management strategy, if at all?

Mrs MELINDA PAVEY: The towns and the communities with which we are dealing with emergency town water supply provisions is in the schedule of the bill. That bill is before the Parliament at the moment and the three dams are also mentioned as part of the critical State infrastructure pathway. It is my understanding that, helped by this note, that there is no interaction between the constraints and the emergency provisions in our bill.

The CHAIR: Further on, at paragraph 3.4 it talks about enabling the Commonwealth Government to deliver on its "Bridging the Gap" commitment by 1 July 2019 and the parties must reaffirm their continuing commitment to remove restrictions to trade in water. Does that not encourage the water speculators that we have seen crop up with the water plan and the concerns that a lot of people have raised about so-called water barons holding on to water? Does that clause, in your mind, potentially increase the chance of these water speculators?

Mrs MELINDA PAVEY: No, not that I am aware of. Minister Littleproud has detailed that the ACCC is looking at this issue of water traders, water barons, profiteering going on throughout the drought. It is important to understand that that arrangement, in terms of being able to trade water licences, has been something that has been available to farmers now for 15 years. We have seen a perversion because of the drought and also because of the new industries that have developed. I particularly highlight the nut growing industries, almonds, which is causing a great deal of consternation because they require a lot of water.

There is a lot of profit and change in the farming dynamic. I point out that it was farmers who voted and changed the way that water was traded. It was farmers themselves who accepted and supported the idea that if they had a next door neighbour who had a water entitlement who just wanted to be a grazier and did not want to use that water, but they wanted to put in a crop such as barley, or soy beans or put some more grapevines in, they should have the right to buy that licence.

That is the basis of the water trading system. We have seen perversions and some unscrupulous behaviour and quite rightly Minister Littleproud is looking at that. We should be careful of throwing the baby out with the bathwater in a system that has improved productivity and capacity and allowed farmers who wanted to buy that water and give that money to their neighbour, or somewhere else in the valley, or another system. It is proving to be challenging but there are also a lot of farmers that do not want it changed who are managing within that system and have seen the benefit that it has brought to them. We are seeing perversions and there is a capacity to tighten controls on the cowboys or profiteering.

The CHAIR: Is there something that New South Wales can do or does this have to happen at a Federal level. You mentioned David Littleproud is looking at it but is there something that we can look at?

Mrs MELINDA PAVEY: We all need to be involved in the conversations because it impacts on us all. I think the referral to the Australian Competition and Consumer Commission to have a look at what those recommendations are, is a difficult conversation to have in the midst of drought. I grew up on a dairy farm. I know these families. I know these people, particularly in the south of the State, who are being priced out of doing what

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they have always done and are sending their cows to market. It is a terrible situation that is only made a tiny bit better by the fact that land values have remained high and there is opportunities in the price of the water. We are dealing with a changing farming sector and that can be tough.

The CHAIR: We have spoken about dams both in this hearing and previous hearings. Mr Justin Field asked you a question about your top 10 priority dams to be built.

Mrs MELINDA PAVEY: What did I answer?

The CHAIR: You said that those include, in no order of priority, a new dam on Mole River, a new Dungowan Dam, among others, and the Government is committed to raising Wyangala Dam wall. We have quite recently heard you mention the Mole River, Dungowan and Wyangala. What are the others that you are considering? They are the only three we seem to hear from the Government.

Mrs MELINDA PAVEY: No, that is a bit rough. Have you read the infrastructure 2018 WaterNSW report? It talks, importantly—as I have had conversations with Roy Butler—of weir projects and underground dams. I know Mr Veitch is very interested in those.

The CHAIR: You did mention that at the last budget estimates hearing. Are there any specific sites for those?

Mrs MELINDA PAVEY: When I am in a position to share that with you I will. There is also Camerons Dam that the member for Upper Hunter is very much pushing, because we had the experience with Kristina Keneally cancelling Tillegra after spending \$100 million. There needs to be capacity build—that is what I am hearing and that is what the communities in the Upper Hunter are particularly saying to me. I even had Rous County Council from the North Coast of New South Wales wanting some more security around their water supplies. I am going to use this opportunity where there is such community interest. In recent polling done by a firm in Sydney, 78 per cent have supported dams. I think the basis of your question is that you want us to be thinking bigger and wider, and we are.

The CHAIR: I just wanted clarification because you say "among others", but they are not actually listed.

Mrs MELINDA PAVEY: We will send it to you, the 2018 WaterNSW infrastructure report.

The CHAIR: I would appreciate that. You mentioned Tillegra and that it was canned by the Keneally Government. You were asked about it on *Sky News* a few weeks back.

Mrs MELINDA PAVEY: It was, Mr Khan.

The Hon. TREVOR KHAN: Was it?

Mrs MELINDA PAVEY: In December 2010. Kristina Keneally did a press conference.

The Hon. TREVOR KHAN: Oh, yes. I think I was involved in gentraders at that stage.

The CHAIR: You said that it was not being considered due to land being sold. From my understanding, and from the maps I have seen, there was only one small property at the bottom that was actually sold to a local councillor and potentially the project could still be completed in some fashion. I am happy to be corrected on that.

Mrs MELINDA PAVEY: I have been told there is two parcels of land. So you are corrected.

The CHAIR: My concern is that there are passionate people pushing for this project. Whenever they have asked government or a Minister about it all they have got is it is not going to happen, end of story. Are there any other reasons outside of the land purchase issue about Tillegra Dam that are prohibitive?

Mrs MELINDA PAVEY: Dr Bentley, before his esteemed position as Deputy Secretary of the Department of Primary Industries—Water, was the CEO of Hunter Water. He would be able to expand enormously on that question.

The CHAIR: He may wish he stayed there.

The Hon. TREVOR KHAN: That is a bit rough.

The CHAIR: Just the grilling.

Dr BENTLEY: I will perhaps not comment on that. I can tell you that the Lower Hunter Water Plan, work which Hunter Water and the department and Central Coast water are all involved with at the moment, is pursuing a wide range of options, which include a lot of additional storage capacity. One of the things with Tillegra Dam is it is a very large storage capacity and there is a whole range of small-, medium- and large-size options we

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have available to us. There is also desalination, there is also increased re-use and a lot more demand side measures we could do. This work will be done in 2020. They are looking at all of those surface options alongside the benefits of the other options as well.

The CHAIR: You said it was large scale?

Dr BENTLEY: It was large, yes.

The CHAIR: The Deputy Premier insinuated this morning that it was of a shallow capacity.

Dr BENTLEY: It can be large and shallow. The main storage in Hunter Water's system at the moment is a large shallow dam and it has very high evaporation.

The CHAIR: Would Camerons Dam, which the Minister mentioned, serve the same purpose as Tillegra may have done?

Dr BENTLEY: I cannot comment on that particular dam just because I cannot remember it, but I know that there are dozens of potential options that the Hunter Water team and Government have looked at together. I believe there are something like four or five options that they are looking at within their consultation for the work of the Lower Hunter Water Plan. It does not mean that there will definitely be increased surface storage, but there are surface storage options actively being considered, including off-river storage. So there are many options if we feel we need to go for more storage. Taking Tillegra off the table does not eliminate the opportunity for storage.

The CHAIR: There have been some concerns expressed that the population in that area, and particularly Newcastle, is expanding too quickly for its own good in terms of water supply. Are we looking at a combination of desalination and potential storage?

Dr BENTLEY: The growth rates in Newcastle would indicate that if you take drought to one side, and I know that is a difficult thing to do at the moment, but leaving drought to one side—and desalination at the moment is about drought response, but leaving that to one side—it is about 2036 when the lines on the supply and demand curves cross. What we did when I was at Hunter Water was to put our focus on reducing leakage, which we did very successfully, and working with the community about reduced consumption. It is 12 per cent down since level 1 restrictions were announced in the Hunter, so the Hunter community has really come to the party on that.

Mrs MELINDA PAVEY: In five weeks, a 12 per cent reduction. What did you do with the leaks?

Dr BENTLEY: Leakage was around 12 per cent and it is a little over 8 per cent now, so quite a significant turnaround in leakage. What that does is give you a bit more time, but even without that we were looking at 2036, so there is not a rush to jump to a massive solution. In terms of the response to your question whether growth is outstripping the ability to serve the population, no, it is not, apart from when you are in these serious drought situations, and that is why the desalination plant at Belmont is under active consideration at the moment.

The CHAIR: You mentioned 2036. We are in 2019. Standard predictions for building a dam are 20 years or 30 years, but, in seriousness, 10 years if we talk about the truncated process. We are getting very close to that 2036 figure, are we not, when you think about it.

Dr BENTLEY: In Hunter Water the strategy was that we need to make a decision or we need government to confirm a decision 15 years before we need the source, so that would be something like 2021. The Lower Hunter Water Plan is being worked on at the moment. I do not have the exact date off the top of my head, but it is either 2020 or 2021 when that plan gets published. That plan will set forth the options that we should be taking forward, so we are in the time that we have available.

The CHAIR: Excellent.

The Hon. JOHN GRAHAM: I might ask a property question. In response to questions on notice that were provided, you agreed to supply a list of property disposals—and you did provide that, as have your predecessors, and we thank you for it. The information, though, seemed only to contain the information for the Hunter. Can you provide the information you have provided, but more broadly across the State?

Mrs MELINDA PAVEY: The information I had, had all of it.

The Hon. JOHN GRAHAM: Yes, I cannot guarantee that it was not a problem at my end.

Mrs MELINDA PAVEY: I bet it was.

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The Hon. JOHN GRAHAM: We will return to that issue later.

The Hon. TREVOR KHAN: With an apology.

The Hon. JOHN GRAHAM: Possibly, but if you could check, I would appreciate it. Returning to water—

Mrs MELINDA PAVEY: Just one tiny property question?

The Hon. JOHN GRAHAM: I need the list to be able to ask more questions. I want to return to water and ask about the report that should have been received by the Government, which was from the Office of Local Government Deputy Secretary, Tim Hurst. It related to water infrastructure and local councils, so local council in particular—

Mrs MELINDA PAVEY: That was the *Sydney Morning Herald* piece the other day?

The Hon. JOHN GRAHAM: Yes, it has recently been referred to. Have you seen that report?

Mrs MELINDA PAVEY: No, but I obviously had some general conversations around it. Dr Bentley, have you seen—

Dr BENTLEY: I have not personally received the report, but Mr Hurst and I discussed situations about particular councils over the last three months.

The Hon. JOHN GRAHAM: Can you give us any background to your view? It seemed like quite a critical report.

Mrs MELINDA PAVEY: Contextually, Mr Graham, there are like 92 different water authorities across New South Wales, and I think a couple of our smaller councils were highlighted. We are going to need a team approach to get through the drought, to work with our councils. Mr Veitch, Mr Khan and Mr Martin certainly know very well that there are real challenges in capacity in some of our smaller councils. We do not want to come in with a heavy hand, we want to work with them and support them. It is good that these reports are happening so that we can go in and not embarrass but work collaboratively.

The Hon. JOHN GRAHAM: I am really pleased to hear that that is the approach. My concern was blaming councils, where they are rate-capped, there are some real capacity issues to deal with and they need support.

Mrs MELINDA PAVEY: Absolutely.

The Hon. JOHN GRAHAM: And that is your view, so thank you, I will not put my next few questions if that is your view.

The Hon. MICK VEITCH: Minister, I thought the article was unfairly critical—

Mrs MELINDA PAVEY: So did I.

The Hon. MICK VEITCH: —in a range of local government areas.

Mrs MELINDA PAVEY: That is not like the *Herald*.

The Hon. MICK VEITCH: No, but at the same time it did highlight the work that Orange had undertaken after the last drought, and there are some communities—

Mrs MELINDA PAVEY: How many litres of water a day is Orange using? It is 140, one of the lowest in Australia. The recycling, harvesting—

The Hon. MICK VEITCH: Yes, and Goulburn also undertook some activity to fix its water supply issue after the last drought. Orange has done the same thing. There are some lessons for other communities, with some guidance and assistance from government. We learn the lessons and we have got to make sure it does not happen again. Where the article missed the point was that some places have learned lessons from previous droughts and some of the smaller councils are already struggling because of a range of issues. State and Federal Governments are asking for work to be done, providing the money and hoping to keep jobs in communities, and councils are now saying: We cannot do all of this because we do not have the capacity to do it. To be fair, I think there are several issues in the article that were missed.

Mrs MELINDA PAVEY: I agree with you on that. That is why Dr Bentley and I have been out on the road, talking and looking at the capacity. We were recently at Cootamundra for the opening of the Goldenfields site. That was a great event. I did not put any money into it and yet opened it. Farmers had put up fifty grand or

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so with Goldenfields Water. The best story out of that day was that the rack rate for putting in pipelines is something like \$160 a metre, and they did it for about sixty bucks a metre.

The Hon. MICK VEITCH: Goldenfields is a good organisation.

Mrs MELINDA PAVEY: It is, and we want them and great organisations like them in the regions to be part of delivering our Safe and Secure infrastructure, which we are excited about. But we know that there are communities that are challenged in delivering that and we do not want consultants out of Sydney making money off the back of that, so we need to potentially take a very regionalised view in the delivery, get those economies of scale and put some projects in a grouping together. That is how we can support those communities with capacity build, and Dr Bentley has been delivering this type of infrastructure throughout the world during his career.

The Hon. MICK VEITCH: As part of Mr McTavish's work right now, helping these communities, will there be a role post-drought? It actually takes a long time for drought to break; there is not a line on the calendar or a date on the calendar.

Mrs MELINDA PAVEY: That is right.

The Hon. MICK VEITCH: Post this, is there going to be some discussion with all these communities to make sure we do not get into this situation again? Let us learn the lessons, like Goulburn and Orange, and assist other communities. Is that the works program?

Mrs MELINDA PAVEY: Yes. Dr Bentley, you can talk, and then I am sure Mr McTavish would like to add.

Dr BENTLEY: The simple answer is yes. We have already started work to say: How do we make sure that we do not forget the lessons that we are learning through this drought? We are looking at which of the local water utilities that currently have capability and capacity so that if we were to add to their capability and capacity they could help neighbouring authorities and neighbouring utilities. I think one of the problems is that sometimes when very good infrastructure is delivered for them and by them, it is then difficult to recover the cost of that appropriately through the water rates and the local council rates and so on. We are looking at a range of models whereby we can ensure that we are able to appropriately resource the provision and maintenance of the infrastructure that they need going forward. There will be more resource applied to that. We are currently working through the options for that, including delivery models and so on.

The Hon. MICK VEITCH: Mr McTavish, do you have anything to add to that?

Mr McTAVISH: Just to let you know, we have been engaging with Local Government NSW, the Water Directorate and each local water utility in relation to what the future needs to look like and making sure that they are engaged in that conversation, not only from an infrastructure point of view but also in the policy space as well.

The Hon. MICK VEITCH: Minister, you spoke about the good work of Hunter Water in reducing its leaks percentage. How does Sydney Water compare?

Mrs MELINDA PAVEY: Given that Dr Bentley is very motivated and focused on this issue now in his new role, Sydney Water has done better. It recognised in recent years that it needed to do better and follow the lead of Hunter Water. I am sure Dr Bentley would like to talk to that.

The Hon. MICK VEITCH: Just the numbers, where are they at?

Dr BENTLEY: Sydney Water was about 9 per cent the last time I saw the numbers. These are not numbers that are without error bands and they are not numbers that are independent—approximately 9 per cent, very close to now where Hunter Water got to. They have turned that round and it is a pretty good performance.

Mrs MELINDA PAVEY: What was it?

Dr BENTLEY: I do not know the exact percentage. It was a little higher.

The Hon. MICK VEITCH: You can taken on notice to make sure we do not get it wrong.

Mrs MELINDA PAVEY: Be aware, as you would know, being a farmer-type, Mr Veitch, that during drought, the pipes, because of that soil, contract—

The Hon. MICK VEITCH: There is movement and stuff. That is right.

Mrs MELINDA PAVEY: —which creates some leaks. We had that terrible experience—

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The Hon. MICK VEITCH: My next question is actually a good question for a "farmer-type" person. It has to do with the proposal of the desalination plant at Newcastle. What is the status of that at the moment?

Mrs MELINDA PAVEY: I could talk to it because I was just up there talking about it, but I will let Dr Bentley talk about it.

Dr BENTLEY: The EIS has been submitted and Hunter Water is on track for, should it need to proceed with construction, being able to do so. But it is still the response that you hope you don't have to do because it would be an indication that the drought has got very deep—much like the expansion of the Sydney desalination system. It is not what we want to do but we will be ready to do that or ready to build the Belmont plant for Hunter Water, should that be required.

The Hon. JOHN GRAHAM: What is the trigger for making that decision?

Dr BENTLEY: It is storage level in the Hunter system. Off the top of my head, I cannot remember—

Mrs MELINDA PAVEY: It is a 35 per cent to 40 per cent trigger point.

Dr BENTLEY: It has to be operable by the time they get to 15 per cent. It is on track for that. All its work on track to be able to respond.

The Hon. JOHN GRAHAM: How far ahead do have to hit the trigger to be confident that you can be there before they hit the 15 per cent?

Dr BENTLEY: Sorry, can you repeat the question?

The Hon. JOHN GRAHAM: To be confident that you are ahead of that 15 per cent, what is your estimate of the time period?

Dr BENTLEY: It is the answer that the Minister gave. It is the storage level when you start construction.

The Hon. JOHN GRAHAM: So it is storage level, not time.

Dr BENTLEY: Yes.

The Hon. MICK VEITCH: I will now move on to flood plain harvesting. What work is currently being done to assess the impacts and the outcomes of flood plain harvesting?

Mrs MELINDA PAVEY: We do an enormous amount of work on flood plain harvesting as part of our water sharing plans. What in particular, Mick?

The Hon. MICK VEITCH: I guess what we are looking for is the impact with regard to the amount of water that may be caught and held as a part of the whole MDBP. As you know, if the flood plain is not being harvested, some of this water would normally go into the river system and it is caught at some other point as a part of the MDBP. What work is being done to assess the impact of flood plain harvesting? How is it going to apply? How do we actually measure it?

Mrs MELINDA PAVEY: We have made a commitment, as part of the plan, to measure it. That is what I touched on earlier. We are challenged with getting our metering mechanisms approved because we have not got any water to measure it with at the moment. As you would also know, the southern part of New South Wales has enormous government-funded storages compared with the north. This was how the north collected that flood plain. Let us hope we will get to March and April of next year and will have a big east coast flow, those flood plains will be regurgitated and rejuvenated and that we can harness some of that water before it goes straight down to South Australia. As you know, it is a flood plain so it harvests only and that is the intention of it during a flood on those naturally occurring flat plains of the north-west.

The Hon. MICK VEITCH: On page 26 of the budget estimates supplementary questions, in response to question 35, the response makes reference to the following:

In valleys where flood plain harvesting has grown above the relevant limits ... reports will be developed on a valley by valley basis ... and will be published by September 2020.

What are the "relevant limits" that we are talking about in that response?

Mrs MELINDA PAVEY: I will take that on notice, unless Dr Bentley wants to answer.

The Hon. MICK VEITCH: Which valleys are we talking about?

Mrs MELINDA PAVEY: I presume the valleys of the northern basins.

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The Hon. MICK VEITCH: Maybe the northern valleys? Could you take on notice which valleys?

Mrs MELINDA PAVEY: Okay.

The Hon. MICK VEITCH: Is September 2020 still a realistic target in light of the fact that developing the measurement or metering tool requires a bit of water and we have not got it?

Mrs MELINDA PAVEY: I hope it is because it means we have had some rain.

The Hon. MICK VEITCH: Is that still the target we are working for?

Mrs MELINDA PAVEY: No, I hope it is, which would mean that we have had some rain. I think we have to be realistic in terms of the audits, the water sharing plan to sign-off and the works that we are doing. There has been an enormous amount of work. It has been said to me, "You cannot manage it if you cannot measure it." There is a need to do that to restore that credibility and, if you like, social licence of some of those farmers.

The Hon. MICK VEITCH: Minister, are we going to measure or are we going to meter?

Mrs MELINDA PAVEY: Both.

The Hon. MICK VEITCH: Are you going to do both with flood plain harvesting? What work is being done on determining the metering process?

Mrs MELINDA PAVEY: Dr Bentley can answer that question. It has been a joy.

Dr BENTLEY: There is a lot of work going on that is not yet resolved. I think to define what is the difference between "measurement" and "metering" is rather difficult, if I may say. We are trying to work out at the moment the best way of measuring.

The Hon. MICK VEITCH: I guess the reason I asked the question is that we have to be careful that we do not use them interchangeably.

Dr BENTLEY: Indeed.

The Hon. MICK VEITCH: That is important.

Dr BENTLEY: That work has not yet been finished and we are in that at the moment.

The Hon. JOHN GRAHAM: I want to ask a couple of questions about the Broken Hill pipeline. In the supplementary questions to the last hearing, it was revealed as having an asset value of \$392 million. Presumably, that will obviously be required to be depreciated. What is the period over which the pipeline is being depreciated?

Mrs MELINDA PAVEY: I presume it is around ninety years but I will take that on notice. Have you tasted it yet?

The Hon. JOHN GRAHAM: No.

Mrs MELINDA PAVEY: Why not?

The Hon. JOHN GRAHAM: I am happy to.

Mrs MELINDA PAVEY: Have you not been to the hill?

The Hon. JOHN GRAHAM: I certainly have.

Mrs MELINDA PAVEY: When did you go?

The Hon. JOHN GRAHAM: Not since—

Mrs MELINDA PAVEY: The pipeline.

The Hon. JOHN GRAHAM: —the pipeline.

The Hon. TREVOR KHAN: So 1963 does not count.

Mrs MELINDA PAVEY: He was not born. Not like you, Mr Khan.

Dr BENTLEY: Could you clarify the question?

The Hon. JOHN GRAHAM: The question was: What is the term at which it will be depreciated?

Dr BENTLEY: At which it will be depreciated?

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The Hon. JOHN GRAHAM: Correct. And how long is the subsidy from Restart NSW extending for? What is the period of time?

Mrs MELINDA PAVEY: We will take that on notice. It is in the realm of five years.

The Hon. JOHN GRAHAM: I am entirely happy if that is the case.

Dr BENTLEY: If we can get an answer before we finish we will give it to you.

The Hon. JOHN GRAHAM: I appreciate it. I want to understand the following statement from one of the supplementary answers:

... IPART have determined that offtake customers are not ... to pay a capital contribution to the construction of the pipeline.

What does that mean for something like a future mine in the area? Are they not required to pay a capital contribution? Is that correct?

Mrs MELINDA PAVEY: I think that would be re-explored. Is there one on the books or are you talking about reading the tea leaves?

The Hon. JOHN GRAHAM: No, I think it is certainly not out of the question.

Mrs MELINDA PAVEY: But is there a proposition that is coming forward or are you just talking about into the future?

The Hon. JOHN GRAHAM: I am asking into the future, although I would not describe that as highly speculative.

Mrs MELINDA PAVEY: That would not be a bad thing. But there would be appropriate work there.

The Hon. JOHN GRAHAM: I presume that is an Independent Pricing and Regulatory Tribunal [IPART] determination though. How much flexibility is—firstly, Mr Betts, is that correct? What is the view on that? Then how firm is that view, given the Minister's comments?

Mr BETTS: The capital cost of the pipeline is, as I understand it, fully expensed through a capital grant from Restart NSW, which deals in capital grants. The impact of any future development application would have to be considered through the statutory planning system in the first instance.

The Hon. JOHN GRAHAM: Yes. But this is IPART's view, the view your agency has put to us. What does it mean for a future development? It means they do not have to pay.

Mr BETTS: Again there might be all kinds of conditions of consent associated with any planning approval for a future mine—

The Hon. JOHN GRAHAM: So it could be varied in the planning system—a good point—although what is the likelihood of IPART varying its view?

Mr BETTS: I cannot answer that. It is a speculative question.

The Hon. JOHN GRAHAM: We might leave it there.

The CHAIR: You will have to, you have got no choice. Thank you, Minister, and officers for attending this hearing. We have finished with your questioning and the Committee secretariat will be in touch in the near future regarding any questions on notice and supplementary questions, answers to which will be due in 21 days.

(The witnesses withdrew.)

The Committee proceeded to deliberate.