

REPORT ON PROCEEDINGS BEFORE

PORTFOLIO COMMITTEE NO. 4 - INDUSTRY

**CONSTITUTION AMENDMENT (WATER ACCOUNTABILITY AND
TRANSPARENCY) BILL 2020 AND THE PROVISIONS OF THE
WATER MANAGEMENT AMENDMENT (TRANSPARENCY OF
WATER RIGHTS) BILL 2020 AND THE WATER MANAGEMENT
AMENDMENT (WATER ALLOCATIONS - DROUGHT
INFORMATION) BILL 2020**

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At Macquarie Room, Parliament House, Sydney, on Monday 13 July 2020

The Committee met at 09:45

PRESENT

The Hon. Mark Banasiak (Chair)

The Hon. Catherine Cusack (via teleconference)

The Hon. Sam Farraway

Mr Justin Field

The Hon. Trevor Khan

The Hon. Peter Primrose

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KATRINA HODGKINSON, former Minister for Primary Industries, before the Committee via teleconference, sworn and examined

The CHAIR: Welcome to the first hearing of the Portfolio Committee No. 4—Industry inquiry into the Constitution Amendment (Water Accountability and Transparency) Bill 2020 and the provisions of the Water Management Amendment (Transparency of Water Rights) Bill 2020 and the Water Management Amendment (Water Allocations - Drought Information) Bill 2020. The inquiry is examining three separate bills in relation to water, the first introduced by the Government, the second by the Shooters, Fishers and Farmers Party and the third by the New South Wales Labor Party. Before I commence, I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginals present.

Today is the first of two hearings we plan to hold for this inquiry. We will hear today from two former Ministers for water along with the present shadow Minister for water. We will also hear from a number of organisations representing irrigators and two water researchers. Before we commence, I would like to make some brief comments about the procedures for today's hearing. While Parliament House is closed to the public at this stage, today's hearing is a public hearing and is being broadcast live via the Parliament's website. A transcript of today's evidence will be placed on the Committee's website when it becomes available.

While witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018, the Committee has resolved that there will be no questions taken on notice at the hearing or supplementary questions from members. Witnesses are advised that any messages should be delivered to committee members through the committee staff. To aid the audibility of this hearing, may I remind both committee members and witnesses to speak into the microphones. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing.

I now welcome our first witness for today, the Hon. Katrina Hodgkinson, former Minister for water, appearing via teleconference. Ms Hodgkinson, I understand that you have been provided with a copy of the oath and affirmation.

Ms HODGKINSON: I might say from the outset that it is a little difficult to hear.

The CHAIR: Would you like to start by making a short statement so that we can kick off with questions after that?

Ms HODGKINSON: Yes. I am delighted to be here with you. I am sorry I cannot be there in person due to a prior engagement, but thanks to modern technology here we are on the phone. I was water Minister when the Coalition came into government in 2011—well, that is not quite right: I was Minister for Primary Industries, of which water was a part. Since that time, it has, of course, been separated out. I was responsible for water coming in as a fresh government in 2011 for a couple of years. I am delighted to have been invited to be here and I will answer your questions to the best of my ability.

The CHAIR: Just so you know, we are doing a bit of a free flow of questions. It will not be like a normal committee hearing where you will have allocated time for each party, but I will ask that committee members state their name when they are addressing you, so you know who you are talking to.

Ms HODGKINSON: Thanks, Mr Chairman, that would be appreciated.

The CHAIR: If there are specific comments to a specific bill, given that we are looking at three bills, all witnesses and committee members can make it clear, when they are asking a question about a bill, if they identify which bill they are referring to. I think the easiest way would be to say the Government bill, the Shooters, Fishers and Farmers Party bill or the Labor bill. That will help Hansard and the committee secretariat greatly. I think Mr Field is ready to kick off with questions.

Ms HODGKINSON: Can I ask: Have there been replacements to the Committee from the regular members that would normally appear? Has Ms Hurst been replaced by Mr Field? Is that correct?

Mr JUSTIN FIELD: That is right. I am a substitute for her.

Ms HODGKINSON: Are there any other replacements, Mr Chairman?

The CHAIR: Mr Khan is substituting for Mr Lou Amato and we also have Mr Daniel Mookhey, who is not here at the moment, but I think he is substituting for Mr Veitch, so there are a few substitutions.

Ms HODGKINSON: Thank you.

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Mr JUSTIN FIELD: Ms Hodgkinson, thank you for your time. My questions primarily relate to the drought of record bill, which is the Labor bill that is being looked at. The Millennium Drought broke in the year before the 2011 State election and your appointment as Minister for Primary Industries. In your time as Minister, did you ever consider making changes to water sharing plans to exclude the Millennium Drought as the drought of record for the purposes of making water allocation decisions?

Ms HODGKINSON: It is a really good question—thank you, Mr Field—because it was an incredibly challenging time. I became member for Burrinjuck in 1999. At that time I was living on my family farm, which is located between Yass and Murrumbateman. We went into drought around 2002, I think. By the time 2005 hit, that was a very challenging time for my family personally. We are on a 5,000 acre farm. My father was having to cull sheep regularly and they were not getting a dollar a pen on the market. He subsequently took his own life that year. It was a very challenging time for my family and then, as you say, the drought broke properly in 2010. In fact, that was a massive flood year—2010 and 2012 were both massive flood years. We came into government in 2011. I brought all that memory along with me.

I have been provided with the three second readings for these three bills by your secretariat, very kindly. In reading Mr Veitch's second reading speech, he very accurately reflects the emotion that was in certain parts of southern New South Wales. I think at the time Mick was living in Young and I was at Yass and so we were experiencing very similar climatic changes in weather conditions. While I appreciate the sentiment that Mr Veitch has put into his bill, on reading that I was quite nervous about thinking of such a large prescriptive change to the water management Act, because every change that you make prescriptively through legislation has a different impact on the different communities. There is an old saying in water policy: It is not rocket science, it is actually a lot harder because every time you fix something in somebody's eyes, you are ruining it in somebody else's eyes. Before there is any change of this nature, while I really understand the sentiment behind his emotional—I beg your pardon, I should not use that word, but it is a very reflective second reading speech.

I think that, in my honest personal point of view, changes to the Water Management Act should be done in full and total consultation with all of the communities that will be impacted by any changes. That is a very big job. In fact, I believe that community consultation is written into the Water Management Act 2000. When we were putting that original Act through in 2000 I had only been an MP for a year or so, but I worked pretty closely with Richard Amery and also with Donald Page, the former member for Ballina, who was shadow at the time, from memory. It was a long process and we tried to cover as much as we possibly could in that bill. I have no doubt that it is absolutely time for a full overhaul of the Water Management Act 2000. I think the biggest change before that was in 1912.

It has been 20 years since the Water Management Act was put through. I know that the Aquifer Interference Policy and various other bits and pieces have been done over the past 10 or so years but it probably is time for an overhaul. That is a very big job and you would not just write something like this into the Act because it will have enormous repercussions for people downstream, in particular. We are in an era of climate change right now. Because of that, things are a lot less predictable than we might have imagined they would be in the past. For that reason we probably need less prescriptive legislation and more ministerial discretion that is able to respond in uncertain times.

Mr JUSTIN FIELD: Well, can I put to you, when you came into the role the Act simply required that the department consider drought records as they were when they were making water allocation decisions or how the management, particularly of water held back in storages, were determined. Just after you left the ministerial position, Minister Humphries changed that to make it prescriptive to specifically exclude the Millennium Drought, which obviously would have changed how much water was held back in storage, and allowed more water to be allocated. That did have very real consequences—in the way that you talk about it—on downstream communities, particularly on towns. I guess my question was: What role did you play in making those changes, given it was only a month after you left the position that the amendments to the Water Management Act were introduced? Had you already started preparations for excluding the Millennium Drought from the drought of record?

Ms HODGKINSON: Not from memory. We worked very hard on the Murray-Darling Basin Plan during that period. The water sharing plans came to me quite early in the piece—they were all prepared by the department and I was encouraged to sign off on those as quickly as I could because they had been several years in the making. These things are not done lightly by the department. A lot of work goes into them by a lot of very bright people, as I am sure everybody on the Committee is aware—

Mr JUSTIN FIELD: But they were changed again just a month after you left.

Ms HODGKINSON: Sorry, if I might just finish off my point as I am thinking about it.

Mr JUSTIN FIELD: Of course.

CORRECTED

Ms HODGKINSON: Every change that was made in the water plans while I was Minister was done in concurrence with the environment Minister, and every change had to go before Cabinet. There might have been work being done by the department prior to Minister Humphries taking over the role, but I am sorry I just do not know that.

Mr JUSTIN FIELD: It was a pretty significant change, that amendment bill. It changed nearly all of the regulated water sharing plans, some of which you had only recently signed off on. So they were all then changed by legislation. Did you consult directly with Minister Humphries when he took over the role about those changes that were being prepared?

Ms HODGKINSON: When the Water portfolio went over to Minister Humphries, I just passed it over entirely and I had so much legislation under Primary Industries anyway there was a lot keep me occupied. So you would need to ask Minister Humphries, I guess, for information on the changes that that he made as Minister.

The Hon. PETER PRIMROSE: May I ask, in light of your earlier comments that any changes would be significant and would need considerable amount of consultation, do you believe that having these changes that Mr Field has outlined occur literally within a month of a new Minister coming in, that those changes were justified and reasonable?

Ms HODGKINSON: I cannot comment on that, Mr Primrose. It was a new Minister coming in making changes that he put forward. So if I was responsible for them during my time as Minister then I might be able to comment more fully. But I would just go back to my earlier comment that I understand the sentiment behind Mr Veitch's legislation, but I am a small "legislation" person not a capital "Legislation" person; I believe in minimising the impacts that prescriptive legislation has on rural communities. I just go back to my earlier comments, as well, that we are in an era of climate change and I think everybody is pretty well aware and we need to be able to be more responsive, not less responsive. Changing legislation is obviously quite onerous and can take a long time.

The Hon. PETER PRIMROSE: Well, Ms Hodgkinson, I will not keep pursuing that issue but if you were Minister today, for example, would you believe that it would be appropriate to include all drought data in considering the development of water sharing plans?

Ms HODGKINSON: I think it would be very important to absolutely look at what has happened in the past, but also be able to be more responsive to fast changing climatic conditions. I think that when the floods hit in 2010 it took a lot of people by surprise because it had been dry for a very long time and those rivers, particularly others around the Lachlan in that time—2010 and 2012—herds of cattle were swept away in rivers. It was just absolutely horrific and I would also just mention environmental flows, if I can, in the same breath. When you have prescriptive environmental flows during a massive weather condition like we had in 2012 then that can really leave disaster downstream.

Obviously, you should take into account all conditions in the past but try to predict to the best possibility that you have looking forward and what we can expect in the future, but nobody can read the tea leaves at the moment—even the very best intelligence that is in the current Department of Primary Industries. You really need to take strong advice from those scientists who have that knowledge and that climatic experience. As Minister you have to put your trust in the department when it comes to things like that, to a large degree, because they are the ones who are doing all the research behind it and they get paid to do a good job and I think they do a good job.

Mr JUSTIN FIELD: Ms Hodgkinson, can I ask you: Did you ever ask for or receive a briefing on the impact of the Millennium Drought being included in water allocation decisions?

Ms HODGKINSON: Look, I asked for many things as a Minister. It is possible but it does not come readily to mind.

Mr JUSTIN FIELD: Do you ever recall seeing any modelling that showed how excluding the Millennium Drought from water allocation decisions would increase general security water allocations to irrigators?

Ms HODGKINSON: Look, it is unlikely because the Millennium Drought only finished in 2009 and I became Minister in March 2011, so there had not been a lot of time—there had really only been one weather event between the drought and my entry into the Ministry. It is a lot to get your head around—water policy—as any former Minister will be aware. There is a lot of new terminology and you do your best as a shadow Minister to get on top of it, which I was for the two years beforehand. But nothing can prepare you for the onslaught that it is in becoming the actual Minister responsible for water in New South Wales. It is a very complicated beast and there are many aspects to it. So, you do your best to keep on top of it and try to do the right thing by all of your

CORRECTED

community, but you are very heavily reliant on quite a significant government department to provide you with the best information possible.

Mr JUSTIN FIELD: Just to be clear, you did not ask for or start the process to deliberately and specifically exclude the Millennium Drought from water sharing plans that eventually got implemented through the 2014 Water Management Bill?

Ms HODGKINSON: It is highly unlikely. I cannot rule anything in or out because that was a very busy time in the ministry, but it is highly unlikely—although I did ask for many briefings and I had a lot of discussions with the various leaders of the different agencies that I was the Minister for.

Mr JUSTIN FIELD: Thank you.

The CHAIR: It is the Chair here—Mr Banasiak. I have just a few questions, one particularly about the Barwon-Darling water sharing plan. You may be aware—

Ms HODGKINSON: Sorry, Mr Chairman, do you mind just repeating that? I just did not quite hear you.

The CHAIR: I have one question about the Barwon-Darling water sharing plan to start off with. You may be aware that there are concerns around cap accreditation. Given that sharing plan was operational around your time I am just wondering what your opinion is on that sharing plan, particularly with the cap accreditation. Given that we are looking at a new sharing plan coming up, what would be your concerns about that new sharing plan in terms of cap accreditation and what that sharing plan encompasses, particularly with calls for it to include intersecting streams as part of that?

The Hon. TREVOR KHAN: Point of order: Essentially we have got three bills to consider. I would suggest that your question is beginning to stray onto a wider subject than simply the three bills that are before us. I ask that you reflect as to whether it is actually within the terms of reference.

Mr JUSTIN FIELD: Can I suggest something, Chair?

The CHAIR: If you would like to, Mr Field, before I rule.

Mr JUSTIN FIELD: I think we may see this a few times today, given that two of the bills are about transparency. I know that the content of the bills is a model for how transparency would be enabled. One of the reasons that public demand is out there—and parliamentary demand, as well, to some degree—is because of how some of these processes have led to certain decisions around specific water sharing plans. That is not to resolve the question of the point of order, but I do think we need a little bit of latitude to understand the sorts of things that are driving the public demand for transparency.

The Hon. TREVOR KHAN: Chair, can I say that I am not expressing extreme outrage, as you know I am wont to do, but it does seem to me that this could get out of control if we go too far in terms of it. I do not want to take a point of order every time there is a question that goes outside the strict interpretation, but again I express an element of caution at this stage.

The CHAIR: I will be cautious, but given that one of the bills is looking at water sharing plans and what should be included, and given the former Minister's comments about, I guess, the impact of making prescriptive changes I would just be interested to see her opinion in terms of whether there—and she did say that potentially we need an overhaul of the Act.

The Hon. TREVOR KHAN: Well, you rule against me.

The CHAIR: Ms Hodgkinson, what is your opinion on the 2012 water sharing plan and looking forward? Are there any prescriptive changes that you would deem necessary, given that you mentioned an overhaul?

Ms HODGKINSON: I think I was asked what I would do if I was the water Minister today. Can I just say that I am really happy to be out of Parliament and not water Minister for the State, because I am actually really enjoying life as a private citizen these days. I do not really follow it very closely, I must say. I work in a different world now. But in relation to the water sharing plan that you mentioned, Mr Chairman, I would have taken advice from the department in relation to any changes that may have been made in relation to that.

The CHAIR: Just turning to the other two bills, which are around water transparency—in particular, who makes disclosures and who does not—were you ever required to disclose your water ownership? There has been a bit of a conjecture about whether it was a ministerial obligation or a member of Parliament obligation. We have seen some advice from the Legislative Assembly Clerk to say that it possibly could have been, but each

CORRECTED

member would have to seek their own legal advice. Were you ever asked or required to disclose your water ownership at all, or was it ever an issue raised?

Ms HODGKINSON: Thanks for the question, Mr Chairman. I came from a dry land farming area between Yass and Murrumbateman—that was my family property. I did not have any direct ownership over that property and nor did we have water allocations. It is a dry land farming area. If I was a water trader then I probably would have declared it in my pecuniary interests; I always tried to over-declare rather than under-declare. But I would just also urge a word of caution on this. We have seen in the past members trying to put so much in the pecuniary interests that sometimes well-meaning people slip up and forget to put something in and it has quite serious consequences, obviously, for those people. My attitude has always been to put in more than you probably need. But no, I did not have to put in anything about trading water because I just did not do it, so it was not relevant to me. In relation to the bills that are before the Committee from your own party, Mr Chairman, and also from the Government, I think that if you wanted to put in a piece into pecuniary interests that you are trading water and therefore gaining, I guess, an income from it if you are trading it, or some sort of financial advantage, then that should be in the pecuniary interests, yes.

The CHAIR: Just on to one other element of the Shooters, Fishers and Farmers Party bill about a searchable New South Wales water register, I cannot seem to find as to when the current online New South Wales water register was established. Was that established under your reign or was it beforehand?

Ms HODGKINSON: I am sorry, Mr Chairman, do you mean for parliamentarians?

The CHAIR: No, just for the general populace.

Ms HODGKINSON: The water register?

The CHAIR: Yes. Was that something that was established under—

Ms HODGKINSON: [Inaudible] questions on notice. That is something I do not know. I would have to double-check back through—well, I do not even know that I could double-check through parliamentary records because I have not got access to anything ministerial, obviously, having left the ministry. That is probably a question best directed to the water department itself, to NSW Department of Primary Industries –Water. I can remember there has often been talks of registries, general registries. It is something I would need to go back on. It was a long time ago, eight years ago. Do I think that there should be a registry for members of Parliament who have a water access licence? It is probably a bit above and beyond, but if they are actually trading and that is a financial advantage then I can understand why that would be a requirement under the pecuniary interests register.

The CHAIR: Do you think such a searchable water register is necessary? We are talking about the general populace now, not for Ministers.

Ms HODGKINSON: Well, what would you use it for? You have to be really careful about privacy.

The CHAIR: Given we have one for land—

Ms HODGKINSON: [Inaudible] this issue, but if somebody has got some and somebody does not have some, they look it up on that particular register and say, "Well, she's got some, he's got some; I need that too". It is one of those very fractious things. I think you would have to look carefully at privacy.

The CHAIR: Given that you have a searchable register for land and we have satisfactorily navigated the privacy issues around that, do you think a similar model may work?

Ms HODGKINSON: I think that water is a little bit more fractious than land ownership, particularly in current climatic conditions. Land will stay in the one place, and there is obviously a register of what has been paid for it and you can look that up—anybody can look that up. But water is probably a little bit more sensitive. Members in the Western Division would be well and truly aware there is a lot of division between environment and irrigators. You know, it is just a very tricky policy area. For that reason, I would be careful about respecting people's privacy in that space.

Mr JUSTIN FIELD: We are coming back to me, Justin Field, Ms Hodgkinson. I wanted to ask you about a report that was commissioned by the Department of Primary Industries in 2013; it was called *Assuring Future Urban Water Security*. It was looking particularly at regional councils and their ability to maintain secure water supplies. Do you recall commissioning that report?

Ms HODGKINSON: Affording future urban water supplies—it probably went across my desk, as did hundreds of others. It is something that I was always concerned about: general water security rights and making sure that people in country towns had access to potable water looking not just five or 10 years in the future but

CORRECTED

looking 50 to 100 years into the future, and I am still very strong on that and there has been a lot done in that space over the years. In fact, that might have related to water sewerage supplies.

Mr JUSTIN FIELD: This might prompt you a little bit. It was called *Assuring Future Urban Water Security*; it was commissioned by the Department of Primary Industries in 2013 or reported then. The draft modelling in the report was conducted by NSW Public Works and here are some of the findings of that modelling: consider the possible impact of climate change on dam levels and water supply across 11 regional councils and found the amount of water that could reliably be made available in those areas would fall between 9 and 30 per cent by 2030—so a pretty significant fall in water security, I guess, and some would think that is pretty soon and may trigger a response. I just want to come back to the fact that just after, literally a month after you finished in the ministry water sharing plans were changed to actually worsen that situation and I think you can draw a direct connection to a number of towns almost running out of water in this most recent drought. I am just trying to understand if you remember that report and if it triggered any sort of response from within your department at the time.

Ms HODGKINSON: Thanks for the question. It is the sort of thing, as I said, that I raised regularly in Opposition, regularly as the Minister. Having come from a small country township myself, which actually went onto level six water restrictions in 2006, just after my father passed away, it was hell, it really was, it was shocking. We drove to Goulburn with 40-litre tanks and filled them up and even then, I think Goulburn ended up on level six as well. It was just a horrendous time. So it is something that has always been on my mind. Water potability and security for country towns is something that I am very passionate about still. Also making sure that people had reliable sewerage is something that I focused my ministry on and I was very pleased to be able to help a lot of country towns out there with their water and sewerage supplies. Affording future urban water supplies to country towns is something that certainly I was very passionate about. When the ministry went over to a different Minister that is a question to ask them.

Mr JUSTIN FIELD: And I will. Just to the specifics of the bill, and I understand you said before that you had a read of the second reading speech, most of those water sharing plans are being redrafted right now and they continue to contain the provision that that dates the drought of record in most cases to before the Millennium Drought. So when those water sharing plans expire in 2030 it will be 24 years of out-of-date drought information that will essentially underpin those plans. Do you think that is acceptable given you have identified climate change as a risk and identified the challenge for regional communities running out of water? Do you think that is an acceptable state for New South Wales water sharing plans?

Ms HODGKINSON: As I mentioned before, Mr Field, water policy is not rocket science, it is a lot harder, and when you take water away from someone you rob Peter to pay Paul. It is a very, very delicate balance. I am not the Minister now; I have not got access to a government department. I cannot say what I would do in the circumstances if I was the Minister now. I have got great faith in the current government and the current Minister to be able to look at all of the various factors. I am sure she is absolutely looking at all of those factors right now and has got the great benefit of all those scientists working within the Department of Industry—Water to be able to provide timely, accurate—well, as accurate as humanly possible—advice to make sure that she gets those water sharing plans absolutely right. But certainly a lot has happened in the last seven years that I have not been in that portfolio and I am probably not qualified to comment too much further in relation to the current state of the water sharing plans updates.

Mr JUSTIN FIELD: Were you concerned when just a month after you handed over the Water portfolio to Minister Humphries that he brought in legislation that would remove the Millennium Drought from the drought of record and potentially leave all these regional towns exposed to future water shortages?

Ms HODGKINSON: I really cannot comment on things that Minister Humphries might have done. I was from the southern part of New South Wales, a dry land community, and I guess my prejudice has leant in favour of country towns that needed access to potable water supplies to communities that were desperately in need. That was something that I had experienced and something I was very passionate about, but recognising that the full extent of the Water Management Act and certainly the Murray Darling Basin Plan as well and all of those various other policies and different parts of water management within New South Wales that are incredibly complex, needed to be taken into consideration as Minister. So it is not just a matter of thinking "This is needed, let's do it"; you have got an incredibly complex network of different policies and procedures that must be followed before anything can be done properly. I will leave any matters that other Ministers were responsible for to them; I am happy to be accountable for my own actions.

Mr JUSTIN FIELD: Your office would have been working on this bill given it came in only months after you came out of office. Is it your testimony that you had made the decision to not include that in that bill, to

CORRECTED

not include the changes to the drought of record figures in the water sharing plans and that that was a decision by Minister Humphries specifically to include it?

The Hon. TREVOR KHAN: You are making an assumption.

Mr JUSTIN FIELD: I am offering—

The Hon. TREVOR KHAN: Your lead-in involved a series of assumptions that the witness has already said she either does not have a recollection or she was not involved in. You are putting that as a fact as to what was going on in the department, which she is not aware of and cannot answer that.

Mr JUSTIN FIELD: I do not think anyone believes that the department drafts a bill without direction from—

Ms HODGKINSON: I think that it would really need to go back to departmental records, which I just do not have access to. I was responsible for over 100 pieces of legislation as Minister, there were many things going through at any one time and a lot of different advice coming through from various agencies and departments that I now just do not have access to and it has been seven years. Forgive me for not being able to answer questions specifically, Mr Field, but to do so I might say something inaccurate. I have answered to the best of my ability.

Mr JUSTIN FIELD: I understand. Thank you.

The CHAIR: Mr Primrose?

The Hon. PETER PRIMROSE: It is Peter Primrose here again, Ms Hodgkinson. Can I just ask you a question again in relation to the government legislation. One of the things that I took particular note of was your concern about possible slip-ups in declarations given the complexity. The government bill, and I will be asking the Minister this, says that members of Parliament would be required to—ordinary returns would require a declaration within 14 days. I was wondering whether you believe putting the onus on the member of Parliament involved in that trade to actually take action within 14 days to make the declaration may lead, given such a short period of time, to a slip-up, as you mentioned?

Ms HODGKINSON: That is possible but I think that if you are trading water you are going to know well and truly beforehand what is going on and you will know that once you have conducted that trade. So I would probably take departmental advice on the length of time that is appropriate. There might be some requirement that is reflected in another part of the pecuniary interests that they have got that actual time frame from. So whether we do it within 14 days or 30 days or whatever it is there is going to be a time period involved with it, which is appropriate if you are making a financial gain. Maybe it is just reflecting something else that you need to be clear within a particular time frame. Maybe that is where they got that from, I do not know.

The Hon. PETER PRIMROSE: Thank you.

The CHAIR: Mr Field, do you have any further questions?

Mr JUSTIN FIELD: No, Chair.

The Hon. TREVOR KHAN: I have no questions.

The CHAIR: I am shocked and outraged.

The Hon. TREVOR KHAN: I know.

Ms HODGKINSON: I am happy to finish early, Chair.

The CHAIR: We are always happy to finish early. That concludes the Committee's questioning for you. Thank you for taking the time to attend the hearing via teleconference.

Ms HODGKINSON: Port Macquarie says hello.

The CHAIR: Excellent. The Committee says hello back to Port Macquarie. Thank you.

Ms HODGKINSON: Will do. Alright. Good luck to the Committee with your deliberations. Thank you for allowing me to be part of your feedback system.

The CHAIR: You are most welcome.

(The witness withdrew.)

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CLAYTON BARR, member for Cessnock, shadow Minister for Water, shadow Minister for Innovation, Science and Tertiary Education, shadow Minister for the Hunter, before the Committee

The CHAIR: Would you like to make a short opening statement?

Mr CLAYTON BARR: Yes, I will, please, Mr Chair. I want to thank the Committee for taking on the bill that has been introduced by Mr Veitch with regard to drought information. I know the Committee already had the other two bills to deliberate on. I know that water is incredibly complex, as the point was just made by the previous Minister, Ms Katrina Hodgkinson, in her testimony a moment ago. I guess that, as a person who is very literal in my deliberations and, quite frankly, nerdy about the detail, I am all about using science and the facts to inform the decisions that we make. Heaven forbid! So I guess that what I want to see as an outcome ideally in terms of water sharing and water allocations across New South Wales is that those decisions, as best as possible, are made based on science. If you want to call that an ideological position, then that is what it is, but I also respect entirely that potentially including drought of record information, low inflows, or "drought information" as it is referred to in this bill, would have an impact. I appreciate and respect that enormously.

I do not think there is a corner of the State that I have not been to in meeting with stakeholders about many things, not the least of which would be the impacts of a bill like this. But the reality is that, in my opinion, we cannot continue to ignore the simple facts. I guess if we fast-forward to the year 2050, 2060, 2070, 2080—pick a year—are we still going to be prevented from using any drought information beyond 2004? I put to this Committee that the answer to that is probably no, so I guess that at some stage we are going to have to deal with this issue and the question really is whether or not this particular Parliament deals with it.

I want to note also please, for the record, that because our water sharing plans have recently failed our communities, our towns and our cities, the current Government correctly has invested more than \$700 million making sure that towns did not run out of water. Good work, but that is the cost to the taxpayer of not getting water sharing plans and drought of record information right. There is a proposal to spend another \$1.1 billion on two major dams—again, for water security. That is the taxpayer cost of not getting water sharing plans right. That is a very expensive outcome for the taxpayers of New South Wales for failing to recognise a whole host of things about water, not the least of which is that I think everybody accepts, certainly the Minister accepts, and has had on multiple occasions, that the climate is changing and the Bureau of Meteorology and the scientists accept that the climate is changing and that we should expect longer, hotter, drier periods, and that we have to be prepared for those.

We cannot have our towns and our communities run out of water. Equally, I want our irrigators to have access to as much water as they can within the scope of what we can deliver to irrigators because farming, horticulture and agriculture play an incredibly important role in our regional communities and in our economy. Thanks, Mr Chair.

The CHAIR: Thank you. I will open up the hearing for questions.

Mr JUSTIN FIELD: I am happy to start. Thank you, Mr Barr, for your time today. My questions primarily relate to the Labor bill, the Water Management Amendment (Water Allocations—Drought Information) Bill 2020, which I know you have had some involvement with. I want to start with the question that I asked the former Minister. Water sharing plans are currently being redrafted as part of the Murray-Darling Basin Plan requirements the State has to meet. That would see them renewed for another decade. At the moment they still have the outdated drought of record levels in them, which would mean the drought information would be as much as 24 years out of date when some of those plans fall due. What is your response to that particular outcome and where do you think that will leave regional towns in the future?

Mr CLAYTON BARR: Can I just deal specifically with water sharing plans and their remake first? Over the past six months since it was first mooted that they would be remade and extended out to 2030, I have spoken to stakeholders—key stakeholders—from the entire range of stakeholders around water. I have not come across a single stakeholder who is happy about the consultation, or lack of consultation, in the remaking of these water sharing plans. That is from irrigators, farmers, environmentalists, towns and communities and our First Nation people. No-one is happy with the way that these plans have been remade and extended. I cannot find a single entity. That is alarming in itself.

To go to the second part of the question, though, I guess, Mr Field, and the idea that by 2030 we are not going to have any more recent up-to-date information, I put it to the Committee and I put it in my submission that I think, in former Minister Humphries' second reading speech, when he was making the change back in 2014, there is a bit of a tone or inclination there that the Millennium Drought, in particular, was a bit of an outlier, that

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maybe we should not be hinging too much weight on that because we are possibly unlikely to have something like that again. I guess that is the sentiment and the tone of his contribution, as I interpreted it and read it.

The reality is that within 10 years we have gone into a drought that for the northern part of the State was even worse than the Millennium Drought and there is every chance—I mean, our experts are modelling that we are going to see more of that, not less of that. So, by 2030, we have just spent more than \$700 million. We are about to spend another \$1 billion—that is 1.7, 1.8. By 2030 we might be re-spending all of those similar amounts of money. I think that would be a terrible shame for everyone.

Mr JUSTIN FIELD: Do you know how the Labor bill would impact on each valley in terms of changes to general security allocations?

Mr CLAYTON BARR: No, I do not and, as I talk to stakeholders, the stakeholders do not know either. I have read all the submissions. I guess that in the submissions there is a lot of—with all due respect to all the submissions—there is a lot of guessing about what the impacts would be because we do not know exactly what they would be. I know that when former Minister Humphries made his second reading speech, he gave some very specific data and details about what that would mean. I know that some of the submissions referred to very specific numbers—13 per cent to 25 per cent from memory—but one of the submissions acknowledges that was modelled purely on the Lachlan River experience during the Millennium Drought. We know the Lachlan River ran dry during the Millennium Drought. Former Minister Hodgkinson and her family were right on the end of that.

So I think that the most important thing that I would hope, that I am actually excited about the opportunity for this Committee to do, is to get the departmental officials, the modelling, on the table so that every person across New South Wales, regardless of whether you are in irrigator, a farmer, an environmentalist, an Indigenous person, you can have access to what the impacts would be if we included drought of record modelling. What we do know is that in the southern part of the State, the Millennium Drought was worse than the current drought. What we do know in the northern part of the State is the recent drought was worse than the Millennium Drought. That is from supplementary questions during budget estimates in March of this year.

Mr JUSTIN FIELD: There has been some criticism—

The Hon. TREVOR KHAN: Sorry. Can I just ask a follow-up question? Do I take it that what we are considering is a bill, which is essentially your bill, where you are saying, "Look, I am promoting a bill to be passed by this Parliament," where you do not actually know what the negative or positive impacts would be on particular valleys?

Mr CLAYTON BARR: What I am saying is, Mr Khan, that I think that this Parliament and the legislation of this State should consider the reality—the drought, the records.

The Hon. Trevor KHAN: We are dealing with your bill, Mr Barr.

Mr CLAYTON BARR: Yes.

The Hon. Trevor KHAN: You are putting forward a bill, are you not—

Mr CLAYTON BARR: Yes.

The Hon. Trevor KHAN: —where you concede you really have no idea what the impact of that bill would be on individual valleys across the State?

Mr CLAYTON BARR: As I have talked to stakeholders I have moved around the State. What I have found is that there are going to be a range of implications for a bill like this in different parts of the State.

The Hon. Trevor KHAN: So the answer is you do not know. It is simple, is it not?

Mr JUSTIN FIELD: You did not know in 2014, Trevor, and you voted for the other one.

The Hon. Trevor KHAN: Let us just deal with the bill that is before this Committee. That is why we are here, to consider a bill that this member is promoting. I think it is fair that everyone understand that it seems Mr Barr is promoting a bill where he does not actually understand what its outcome would be.

The Hon. Peter PRIMROSE: Can I ask just a follow-up question, which might—

The Hon. Trevor KHAN: No, he has got to answer mine first.

The Hon. Peter PRIMROSE: If I may, mine follows on from that. You are proposing a negative. I am arguing that what I understood you were saying was that you were calling for modelling, to know what the modelling is and what the data is in reality, Mr Khan.

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Mr CLAYTON BARR: That is a reality. The modelling is absolutely key to the outcomes or one of the outcomes of introducing a bill or putting forward a bill like this or having the conversation through this committee process. But the bill—

The Hon. Trevor KHAN: Mr Barr—

Mr CLAYTON BARR: I am coming back to your answer now.

The Hon. Trevor KHAN: Thank you.

Mr CLAYTON BARR: Putting forward the bill has been informed by conversations with stakeholders right around the State and asking them about what they believe—because, again, they have not had access to the modelling either—would be the implications. Across the northern parts of the State—and, again, it is in the testimony provided here—there are a number of people saying that they believe that there would be very little impact. In the southern parts of the State they are saying that they are very concerned about the impacts. You have people across the State saying that the Government actually had the ability—despite whether we include or do not include drought of record information—to allocate water against general security, high security et cetera, et cetera based on a decision of government. Minister Hodgkinson made the point that when we changed a single lever—and I think the Hon. Niall Blair made this in his valedictory speech as well—in water it had flow-on effects. That is a reality.

The Hon. Trevor KHAN: Let us deal with the northern part of the State. You know that one of the submissions was made by the Gwydir Valley Irrigators Association, with a SEPP there in the north of the State, do you not?

Mr CLAYTON BARR: Yes.

The Hon. Trevor KHAN: And you have spoken with them, have you?

Mr CLAYTON BARR: Yes, I have.

The Hon. Trevor KHAN: And you have seen their submission.

Mr CLAYTON BARR: Yes, I have.

The Hon. Trevor KHAN: It says it appears the Water Management Amendment (Water Allocations—Drought Information) Bill is seeking to solve an important but very complex problem across a range of different water sources and unknown scenarios with a simple solution. Its implementation is likely to have perverse outcomes in some regions and not address the problem in others. That is one of the northern irrigators' opinions, is it not?

Mr CLAYTON BARR: That is.

The Hon. Trevor KHAN: They do not back it.

Mr CLAYTON BARR: Hang on, if I can just go to another part of their submission—

The Hon. Trevor KHAN: I am quoting from page 6, right near the end.

Mr CLAYTON BARR: Sorry, the Gwydir—my apologies. I thought we were talking about the Namoi.

The Hon. Trevor KHAN: We can go to that as well.

Mr CLAYTON BARR: No, I was going to respond by speaking about some part of the Namoi, which also talks about the fact that they do not believe that there would be much impact on them.

The Hon. Trevor KHAN: Yes. You are introducing the bill, and the Gwydir says do not do it. You are not suggesting that the Namoi says do it, are you? The Namoi irrigators say do not in their submission, do they?

Mr CLAYTON BARR: I would like you to point to exactly where they say that.

The Hon. Trevor KHAN: Really?

Mr CLAYTON BARR: I think that what they are saying—I sat down last night to read through these and I tried to do a bit of a tally about who supports and who does not support and who does not seem to commit one way or the other or makes comments on both sides of the argument. I would think that the bulk of the submissions that have been made—at least five, possibly six of them—have one foot in both camps. I think you have two or three saying do not do it and four of them saying absolutely do it. That is the tally of them.

The Hon. Trevor KHAN: Let us go to another one, the New South Wales Irrigators Council. On page 8 of their submission they say: The proposed change would also delay general security allocations being

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announced through the water year. As most flows occur in late winter to early spring, changing the inflow modelling would have the greatest impact on these months, meaning general security allocations would be made later in the season, too late for planting summer crops. Do you agree with that proposition?

Mr CLAYTON BARR: I agree that that is what is in their submission, yes.

The Hon. Trevor KHAN: Do you agree with that assertion?

Mr CLAYTON BARR: No, I agree with what is in their submission. I agree that what you just read out was in their submission.

The Hon. Trevor KHAN: Right, but you do not know whether what they assert is correct?

Mr CLAYTON BARR: What they assert is the need for some flexibility and agility in the allocation of water. That is what underpins that comment.

Mr JUSTIN FIELD: Perhaps I could go back to the line of questioning that I was on before you asked for a clarifying question, Mr Khan.

Mr CLAYTON BARR: But that was fun.

Mr JUSTIN FIELD: That was fun. The point I was trying to elucidate from you about the intention of the bill—and I will refer to what was said by the Minister when it was introduced in 2014—Minister Humphries said, "This will have the effect of maintaining the water shares between the environment high-security licences and general security licences as agreed when the water sharing plans were first developed." What I read from that is that, instead of responding to the facts of how much water was coming into the basins, this was a quick fix to exclude the actual data to maintain the balance or the shares between those different types of water licences. Your bill does not preclude making changes to those balances to more accurately reflect the climate. Correct?

The Hon. Trevor KHAN: Are you trying to join the Labor Party now, Justin?

Mr CLAYTON BARR: No, it is an important point, Mr Khan, inasmuch as the water sharing plans all treat the drought of record/drought information/low inflows differently. That is one thing that the water sharing plans do have the ability to do. In terms of flexibility, I guess we are limited to a valley-by-valley scenario, but one of the things that becomes a little inflexible about the water sharing plans is that they are locked in for 10 years. From a weather, climatic and water delivery perspective, I think that that really fails any sense of agility or dynamic adaptability. But on the other hand, if you are an irrigator and a farmer and you want to make some long-term investment decisions, you probably need that 10-year certainty to make those investment decisions.

But the water sharing plans themselves have the capacity to deal with the drought of record information, however that particular water sharing plan sees fit. What we do know from a number of the submissions—and I certainly hope that members picked up on this—is that despite the legislation introduced in 2014, which prevented the Millennium Drought from being used, there are three or four submissions that all say that water departmental officials are now holding back water in a very conservative way that reflects the Millennium Drought. So you essentially have departmental officials right now trying to find a way to game the system, if I dare say that, but in reality to protect water supply around and against the legislation as it stands. That cannot be a successful or a sustainable outcome for anyone, but that is what is happening according to the testimony in front of this Committee right now.

The CHAIR: Mr Khan, do you want to continue your questioning?

The Hon. Trevor KHAN: I am happy to. You have read the Lachlan Valley submission?

Mr CLAYTON BARR: I certainly have, yes.

The Hon. Trevor KHAN: It would seem that they do not support your bill. Do you agree with that?

Mr CLAYTON BARR: I made a few notes about Lachlan Valley so I will go to those.

The Hon. Trevor KHAN: I think it is submission No. 2.

Mr CLAYTON BARR: Yes.

The Hon. Trevor KHAN: Again, we can continue with numbers, if you like, but I am struggling to see where we come to in terms of your numbers. Would you agree with me that essentially, somewhat similar to the irrigators council, they say you are essentially using a blunt instrument to deal with a fairly complex problem?

Mr CLAYTON BARR: No, I do not agree with that because the instrument that I am seeking to introduce is about setting up a set of rules, which can then be used and interpreted and enacted by the individual water sharing plans in a way that they deem fit. That is where the bluntness is very much taken away from the

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bang-bang of what might be a blunt instrument and is actually refined into something that is a little bit more agile and sublime, because the water sharing plans can deal with the issue as it applies to their valley. They do not all have to deal with it in the same way.

But the other thing that the Lachlan Valley submission is saying there, Mr Khan, is that under the rules, ignoring the Millennium Drought, the amount of water that should be held back is essentially for two years. But they believe that basically the amount of water that is being held back under some very conservative estimates is three years, which would reflect the needs of the Millennium Drought, which seems to be contrary to the current legislation. That is interesting.

The Hon. TREVOR KHAN: What I suggest to you is they do not support your legislation. That is right.

Mr CLAYTON BARR: They are, the same as all of the submissions, concerned about the legislation in so much as they—the submissions that are against the legislation—are only unable to exactly and accurately determine the outcomes and that is why this Committee getting all of that modelling on the table is absolutely essential.

The Hon. TREVOR KHAN: Do you think the appropriate way for you to progress would be to get the data on the table, review it and then introduced a bill?

Mr CLAYTON BARR: Yes, and do you know how hard that is to get the data on the table from Opposition, Mr Khan?

The Hon. TREVOR KHAN: Unlike everyone but Mr Primrose, I have experienced Opposition as well as government and so I understand the problem that is faced.

Mr CLAYTON BARR: I would suggest Mr Primrose is experiencing Opposition right now.

The Hon. TREVOR KHAN: Yes, here is.

Mr CLAYTON BARR: And has been in government in the past. Look, to go back to the point that there are stakeholders right across the State who are not happy with the extension of the water sharing plans, in part—

The Hon. TREVOR KHAN: Let's deal with your bill, because that is what we have here to consider: your bill.

Mr CLAYTON BARR: Okay.

The Hon. TREVOR KHAN: And the problem you have is that the irrigators say that you have got it wrong. That is right, isn't?

Mr CLAYTON BARR: The irrigators have put forward their opinion.

The Hon. TREVOR KHAN: That you have got it wrong.

Mr JUSTIN FIELD: Just to follow-up on that one, if I could—

The Hon. TREVOR KHAN: No, he has to answer the question before you get your follow-up.

Mr JUSTIN FIELD: Yes, I thought he had already answered the question.

Mr CLAYTON BARR: The irrigators are entitled to their opinion—absolutely. But the irrigators are also not happy with the extension of the water sharing plans, which suggests that the Government has got it wrong.

The Hon. TREVOR KHAN: Is that like a Trumpian, "look over here" sort of answer?

Mr CLAYTON BARR: No, it is not like a Trumpian, "look over here" sort of answer. What it is saying is that we—and, again, this comes back to why the bill is in the Parliament at the moment. Because we have stakeholders all over the State, from the entire range of views about water sharing, who are unhappy with the current water sharing plans as they are and whether or not they meet the needs and deliver the outcomes of a very complex Murray-Darling Basin Authority and plan, and our individual water sharing plans, and the need to submit water resource plans to the Federal Government and hopefully get them approved and then deliver on all of the environmental outcomes that are expected from the Murray-Darling Basin Plan.

Nobody is happy with the current water sharing plans and one of the things that a number of stakeholders are raising with me about the water sharing plans and their complete inadequacy as they currently are, including the member for Tamworth, Mr Kevin Anderson, is that the water sharing plans in many instances are not fit for

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purpose. One of the things that prevents the water sharing plans from being fit for purpose is the fact that they are not allowed to deal with drought information as we know it today.

Mr JUSTIN FIELD: Mr Barr, are you aware of the comments of the Tamworth mayor, Col Murray, who said, "We can't predict what our water availability is going to look like unless we get the best possible inputs into the model and we were bewildered as to why that wasn't the most up-to-date and relevant data"?

Mr CLAYTON BARR: I am aware of those comments, yes.

Mr JUSTIN FIELD: Are you aware of how the drought of record changes in 2014 may have affected towns such as Tamworth and Dubbo in the most recent drought?

Mr CLAYTON BARR: Well, if the drought of record had been included in the Tamworth scenario, because the Millennium Drought was not as bad in the north as historical data, the town of Tamworth would not have been impacted by more recent data. However, going forward from today, because the departmental officials have acknowledged the current or recent drought is worse than the Millennium Drought, then the city of Tamworth would be better protected under a water sharing plan that includes drought of data if that was allowed to happen going forward, irrelevant of whether you build a new Dungowan Dam or not.

Mr JUSTIN FIELD: Just on the dam point, as you raised it, what would be the consequences of keeping the drought of record information as it currently is in water sharing plans if these new dams are built or the capacity increases are finalised?

Mr CLAYTON BARR: I guess that the Committee can inform itself on that from submission number one from Mr Brian Stevens, which fundamentally says that in his nearly two decades of experience dealing with water policy in New South Wales, the basic policy of water in New South Wales and dams and mass storages is: fill it up, empty it as quick as possible and then refill it on the next rain event; get the water out as quickly as possible and make the space. The reality is that if the Dungowan Dam goes ahead as scheduled, then there will be less than half of the additional of water set aside for town and a little bit more than half of the additional water set aside for irrigation.

Certainly, in terms of water security for the city of Tamworth as a result of the build of the Dungowan Dam, there would be more water security if it were full. There is a question mark about filling it, but there would be more water security for that city. But that comes at a price of another \$480 million of tax payers' money because, basically, the water sharing plan and the relationship between who is using what water and what water comes from where is complex and a decision has been made to go to down a certain path.

The Hon. PETER PRIMROSE: Can I go, Mr Barr, to page 2 of your submission—it is the bold part. I go back to the modelling issue, again. If I can quote you:

It is not currently known what impact, if any, using drought of record information would have on WSP's—this is in essence what must be uncovered by the Committee in its deliberations. The people of NSW are entitled to know and the debate on these issues should be informed by scientific modelling and data. Sadly, at the moment, communities are left "guessing" at the impact that up to date drought of record would have on water allocations.

Who would have that information? Who would it be sought from?

Mr CLAYTON BARR: Given that the former Minister, the Hon. Kevin Humphries, in introducing his bill back in 2014 referred to some very specific modelling and some very specific numbers, the expectation is that the departmental officials would have all of that modelling. There are a number of videos or video clips on the NSW Department of Industry website about some of the abilities they have around modelling and data sets, but what is not publicly available is a valley by valley, region by region, water sharing plan by water sharing plan nature of modelling that would include or preclude drought of record information. That is what needs to be out in the public arena. I cannot imagine a reason why it is not, particularly given the drought we have just gone through and particularly the hundreds of millions of dollars of tax payers' money that is being spent on repairing broken models. Yet, it is hidden away and I hope that this Committee can bring it to light.

The CHAIR: Just a couple of questions from me. If you have been travelling around the State you would have heard some concerns from the southern irrigators, and you would know that the south is based on a system of predictive allocations. They basically have to sort of guess what may come down the river and that will inform their allocations. How do you see your bill interacting with that predicament?

Mr CLAYTON BARR: I appreciate that the southern irrigators have actually written a submission against my bill. I put to the Committee and I put to the southern irrigators—and I talk to them reasonably often—that changing the drought of record, particularly in the Northern Basin, and trying to ensure longer term flows

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over more years of no inflows—drought—would surely increase the capacity for the Barwon-Darling to provide water into the contribution across the South Australian border. If the northern part of the State can contribute water to what is going across the border, that actually frees up water for the southern irrigators. I want to make that point at the start. The other thing I want to say about the southern irrigators—I need to actually isolate "Murray" in this point I am about to make—along the Murray River, is that the problem with the Murray River is not that they are not able to secure water for community towns, stock and domestic.

The problem is in some ways that there is too much water being pushed too hard down that river system and, despite that, that some of those general security licences cannot get access. One of the key reasons why they cannot get access is because they are being forced to contribute almost 100 per cent of the flows across the South Australian border, because none of the other rivers and valleys and systems are I guess—I should not say "none", but other valleys and systems under our current set of rules are unable to contribute their energy and effort to the water that needs to flow across the South Australian border. It seems an incredibly unfair outcome that irrigators along the Murray—specifically just the Murray River—are doing all of the heavy lifting here. They will continue to do all of the heavy lifting while ever our water sources do not include drought of record information that will allow all of our respective water sources right across all other parts of the State to make their contribution to the water that has to go across the South Australian border, and that will free up water for the Murray irrigators.

The CHAIR: What weighting do you think we should place on the drought of record, given that we do have data that shows that we go through this cycle? I have talked to people up in the north and they talk about a 50-year cycle where they are, where they get 50 years of lean times and then they have—in terms of a harvest they have 50 good years. What weighting do you think we should place on the drought of record? I may accept the assumption that we should have all years' data in there, but what weight do we place on that drought of year?

Mr CLAYTON BARR: I think that is actually a question for the individual stakeholders and community groups and people who participate in the consultation process in each of those water sharing plan regions and valleys. They have to be allowed to have the data on the table, is my fundamental belief, and then they can make decisions based on the data being on the table. At the moment they are not even allowed to have the data on the table because legislation prevents those water sharing plan stakeholder meetings from considering that data. It would be illegal and unlawful for them to consider that in their decision-making. But then once it is on the table—and I would hope that would be an outcome—they can make individual decisions about that, just the same as the Government can make individual decisions about allocations between high security and general security; just the same as the Government can make decisions about a whole bunch of other issues related to water.

A lot of these general security water licence holders have had no water in recent years. That is not because drought of record data information is included; that is in the absence of drought of record data included. There are a lot of machinations inside of the Water portfolio that can be dealt with. This is one instrument that purely and simply just seeks to bring the facts back to the table for consideration in the making of water sharing plans.

The CHAIR: Moving on to the other two bills, in your submission you talked about that maybe a blend of both bills will best serve the people of New South Wales. How do you see that blend working? Do you see one bill being amended to essentially have all the other bill's contents put in it? How do you see it working?

Mr CLAYTON BARR: In the appendix to my submission—of course I submitted my contribution in the lower House, the Legislative Assembly debate around that. I think that there are elements of both bills that need to be joined. I guess the short answer to your question, Mr Chair, is yes, I absolutely hope that this Committee will take the existing bill—of either form; I really do not have an opinion about whether you start with the upper House bill from the Shooters, Fishers and Farmers Party yourself or whether you start with the bill from the Coalition Government down in the lower House—but blend the two bills together, because there are elements of both bills that are absolutely worthy. The New South Wales Labor Opposition has also put up some suggestions for amendment, which I believe strengthen the bills, but at the moment I would say that either of the two bills in their current form have gaps and I believe the best outcome is for as many of those gaps to be filled in as possible. The way to do that is to blend the two bills together.

The CHAIR: In your submission and your second reading debate speech you talked about being a bit of a nerd, and you went through disclosures and you also went through the New South Wales water register. How easy did you find the current New South Wales water register to navigate?

Mr CLAYTON BARR: If I did not want to know anything about anything I found it really easy—as long as you did not want to know anything. I did some digging around and playing around with it and I came up with a few water licence numbers. I entered the licence numbers. I could see when transactions were made on those individual licence numbers. I was interested, and I made the point in my contribution to the debate, that sometimes those transactions were based on zero dollars. The Minister responded and explained why that might be the case, and I take it on good faith that that is the case. But I just find it hard to accept that of the very few

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water licence numbers that I was able to ascertain that there were trades happening at zero dollars and zero cents, and that it was impossible to identify who the owner or the entity was that was making those trades.

By comparison, I spent my first term of Parliament on the committee for the Valuer-General of New South Wales. We went through a few processes quite simply where for a fee of \$19.95 you can go online and do a search of property, property title, when it transacted, how much it transacted for, who sold it, who bought it et cetera. You can do that for property, which in many instances is people's single most expensive asset, but you cannot do it for water trades; you can just do it by number. I just find that a little bit crazy. I know that the Water Management Act 2000 already allows—and has allowed for 20 years—for the Minister to have a water register of his or her design and making with the details that he or she decides needs to be in there. The fact that I guess we are 20 years down the track and we still have the water register that we have maybe just means that this Parliament has not considered this question closely enough in the past. I commend the member for Murray, Helen Dalton, for asking these questions of Parliament.

The CHAIR: I cannot seem to find how the Minister explained those zero trades. What was the explanation given? Was it because those water access licence numbers were essentially the same person and they were just moving water around into their accounts?

Mr CLAYTON BARR: I think from memory—and I am just speaking from memory now, Chair—she explained it as a trade for water that might have been traded for environmental purposes. But, again, that is just from memory. She did respond to it in her speech in reply at the end of the second reading debate.

The CHAIR: Okay.

The Hon. SAM FARRAWAY: Mr Barr, just a couple of very quick questions following on from some of your comments. Firstly, do you support the policy about building dams in New South Wales?

Mr CLAYTON BARR: I think that the New South Wales Labor Party has built 75 per cent of the dams in New South Wales so, yes, I think that there is a role for dams.

The Hon. SAM FARRAWAY: I just thought it was a bit of a long bow in your comments to suggest that we are having to spend \$1.1 billion in building dams directly from failed water sharing plans. All I would say is that building dams is bigger than water sharing plans. Going back, do you think it is directly related? Because that is essentially what you said earlier: that the Government is being forced to spend \$1.1 billion on new dams because the water sharing plans failed.

Mr CLAYTON BARR: I think that one of the key reasons, as defined and declared by the Minister and the Deputy Premier of New South Wales, is that these dams are being built for water security so that our towns and regional communities do not run out of water. Those are their words.

The Hon. SAM FARRAWAY: My second question touches on obviously the Murray-Darling Basin plan and everything with water sharing plans. Your position as the shadow water Minister—there have been calls for a royal commission into the Murray-Darling Basin plan. Would you as the shadow Minister support a call for a royal commission into the Murray-Darling Basin plan?

Mr CLAYTON BARR: I am very much on the public record as supporting a call for a royal commission—a Federal royal commission—into the Murray-Darling Basin plan, on the grounds that we need to be able to reach across the borders. I started that public comment in supporting the Deputy Premier, Mr John Barilaro, who during the election campaign committed to a Federal royal commission, or called for a Federal royal commission. I moved a motion to that effect in the New South Wales lower House; the Coalition Government voted against that. But I went on the record right then, back then, as saying yes we should be doing this, and I welcome the National Party announcement just a few months ago in preparation for the Shooters, Fishers and Farmers petition about this issue. I welcome the fact that the National Party have said they also support it.

The Hon. SAM FARRAWAY: With regard to some commentary and questions from my colleague Mr Khan, in consultation—and you say you have spoken to a lot of stakeholders—and my view, in going through the submissions, and it might be contrary to how you perceive it, the irrigators that have submitted generally do not support them and there is definitely angst there around not having the modelling. My question to you as the shadow water Minister in relation to the bill that is put forward is how do you explain to irrigators, particularly in the south—and it is highlighted in their submissions; they have had zero allocation for some years now—using what modelling is suggested but not proven, and there has not been any demonstration of any modelling, would essentially give them zero allocations in years to come even with a weather event? What sort of dialogue have you had with these irrigators and these stakeholders, because in their submissions and in the conversation I have had with them as well they certainly fear your bill and there is a lot of angst around this, as Mr Khan highlighted earlier?

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Mr CLAYTON BARR: I think it is entirely healthy and accurate and worthy of this Parliament's consideration how concerned our southern irrigators are about their water allocations.

The Hon. TREVOR KHAN: It is about your bill.

Mr CLAYTON BARR: The reality is that their general security allocation in recent years has been falling and in the most recent years has been at zero per cent. That is a result of decisions of this particular Government, who could have pushed or pulled different levers to give them more water than that if this Government so decided. I know that you want to frame this up as a consequence of my bill suddenly being the final nail in the coffin, I think was in one of the submissions, but the reality is that the nails are already being pushed into that coffin by decisions of this particular Government and the way that they are dealing with water right across the State. What I am asking for in my bill is that we put the facts on the table, and I make reference to a Facebook post by the Hon. Wes Fang, who just back in June said if we are going to have a debate on water we need to have the facts on the table. Hear, hear, Mr Fang!

The CHAIR: That is his first "hear, hear!"

Mr CLAYTON BARR: So I think that Mr Fang will be voting for this bill because he loves a good fact on the table. But the reality is, Mr Farraway, that there are so many levers at play here. We as a government—I say we as a government collectively now—we as a government here in New South Wales Parliament can make many, many different decisions on a daily basis about what we do with water and how we allocate water. I am just saying that one of the things that should lead to those decisions is the truth.

The Hon. SAM FARRAWAY: What do you say—and the Lachlan shire raised this pretty clearly in their submission—to these regional towns, and obviously as shadow Minister for water I suspect you would travel the regions and you would talk and engage with a lot of these stakeholders, and I quote directly from their submission: "If the worst-ever drought up to 2020 was used in the resource assessment it would mean managing for a longer drought ... and that more storage reserve was required and therefore GS [general security] licences would have less access to water and lower reliability. This would have a flow-on effect for the valley in terms of less production, less economic benefit to the wider community." In my consultation there is a huge fear with the bill about the consequences of not having the modelling, as we have discussed earlier, and the consequences that flow that if you are going to have communities like the Lachlan with less production happening, less economic development, these communities will slowly die without this happening. Has this been highlighted to you, this sort of fear, this sort of angst in these communities about some of the consequences of implementing a bill as you have presented it?

Mr CLAYTON BARR: In my travels across the State some of these communities are already dying not as a consequence of my proposed bill. They are dying from their lack of allocation at the moment. You go down into the Sunraysia rice valleys down there, you look at the dairy farms along the Murray just south of Deniliquin that we have gone from 135 back to about 30 now in the last three or four years, we have got hundreds if not thousands of people in each of these towns and communities out of work. I was up at Bourke the week before last and they were talking about the fact that now the cotton production up there, which might have employed 700 people during a season, is now down to less than 200—that is not a result of drought of record.

The Hon. SAM FARRAWAY: No, my question, Mr Barr, is about the direct consultation with stakeholders like Lachlan shire around your proposed bill and what it would mean to their local regional economy in and around the Lachlan shire. They have highlighted it in their submission; you referred to it earlier. My comment and my questioning is around you have presented a bill with no modelling. As to how hard the modelling is to organise or not, that is not in front of us right now—that is really up to you to follow through with—but you have legitimate concerns in the Lachlan Shire Council around a region that is bouncing back out of some very, very tough times and they are, to describe it the best way, incredibly worried that if you would implement a bill with no modelling, not knowing what the true consequences are, the good work that has been done there today could be tarnished, and they clearly say it in terms of less production, less economic benefit for the wider community.

Mr CLAYTON BARR: Yes, but the other part of what they also say there is that they are guessing that that will be the outcome.

The Hon. SAM FARRAWAY: So are you, Mr Barr.

Mr CLAYTON BARR: Right, and so which of the guesses is the more accurate?

The Hon. TREVOR KHAN: They live it. You live in Cessnock; they live in the Lachlan.

Mr CLAYTON BARR: I said right at the start that this proposed bill is really about, if you want to call it ideological but it is about getting the facts on the table so that the decisions can be made with the facts on the

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table, and that is a reality. The other part of the submission from the Lachlan council—the same as Griffith and the same as most of the others down there—is that they already are seeing the consequences of the Millennium Drought being imposed on water modelling when, quite frankly, that would be unlawful. The most important thing that can come from this Committee is that the modelling is put on the table and that when this bill goes back to the New South Wales upper House that all of the members of Parliament have had the opportunity to have access to that modelling so that during the debate they can make the most informed contribution to the debate they possibly can.

The CHAIR: Thank you. Just one final question. Does it concern you that at least 17 per cent of our New South Wales water is owned by foreign entities given that New South Wales is responsible for issuing those water licences, not the Commonwealth?

Mr CLAYTON BARR: I think that that is outside of the scope of my bill.

The CHAIR: But in terms of the other two bills, in terms of water transparency, does it concern you that we have close to 17 per cent of it being owned by foreign entities but we do not know who those foreign entities are?

Mr CLAYTON BARR: I will take on good faith the 17 per cent number given how difficult I think that the water register is to deal with to get to the bottom of those numbers, but I have read similar numbers in other media reports. I think that there are a number of submissions in this current set of committee submissions that deal with the fact that there is a broader general concern about water trading at large, and regardless of who owns them, just whether or not water trading for the purpose of profit—not for growing food and fibre but simply for the purpose of profit—whether or not that is a good outcome, and I would agree wholeheartedly with that. It is my view that water should be used for the purpose of growing food and fibre and the productivity of our nation as a whole, as opposed to profit-making on a share trade scenario.

The CHAIR: Thank you. That concludes your questioning. Thanks for coming in and giving us your answers.

(The witness withdrew.)

(Short adjournment)

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IAN JAMES CUSH, Chair, NSW Irrigators' Council, before the Committee via teleconference, sworn and examined

CLAIRE MARGARET MILLER, Interim CEO, NSW Irrigators' Council, before the Committee via teleconference, affirmed and examined

CHRISTINE FREAK, Acting Policy Manager, NSW Irrigators' Council, before the Committee via teleconference, affirmed and examined

The CHAIR: Welcome back. We continue with questioning of witnesses. We now have witnesses from the NSW Irrigators' Council. You are aware that this Committee is examining three bills, which is new for the Committee. If you are making specific comments about a specific bill, please make clear which bill you are referring to. That will assist Hansard staff, who will prepare the hearing transcript, and the Committee secretariat, who will take notes for the report, to accurately record your comments. Committee members will identify themselves to you when they ask questions so you will know who is speaking. I invite any or all of you to make a short opening statement. We will then proceed to questions.

Mr CUSH: Okay, thank you. I will make a brief opening statement. Thank you for the invitation for a presentation today and to answer your questions. For those of you who do not know, the NSW Irrigators' Council is the peak body representing irrigation farmers and irrigation farming industry in New South Wales. We have a little over 12,000 water access licences, or we represent over 12,000 water access licences, in New South Wales. The privacy of our members is very important. That is why it is very important that we get this stuff right because we have a lot of elderly access licence holders—entitlement holders—and we do not want to have it so that we have unscrupulous people running around harassing them, trying to get their water in unpleasant ways.

The transparency of information; it is very important to have it. I note that the Bureau of Meteorology homepage now actually has the water information site on, which is trying to get like for like from Australia so that the average people can actually understand the very complex issue which is water. The drought of record stuff, it seems to me, being a farmer from Moree, it is a one-in-a-hundred-year event, very similar to this coronavirus that we are suffering at the moment. Imagine if New South Wales had factored in locking the borders down every year for the last hundred years. The last time it happened was 1919 and here it is happening again in 2020. Anyway, that pretty well sums it up and we will move on from there. Thank you.

The CHAIR: Okay. I will turn to questions. Given the Committee received your submission only recently, please bear with us if we are a little slow in gathering our thoughts. Mr Field?

Mr JUSTIN FIELD: I am happy to start. I will not direct my question to any one individual. I am happy for you to decide who is best to answer it. My questions will almost exclusively relate to the Water Management Amendment (Water Allocations—Drought Information) Bill 2020. Why would you not want water sharing plans to be based on the most up-to-date information?

Mr CUSH: Okay, Mr Field. Ms Freak, would you like to answer this question please?

Ms FREAK: Yes, Mr Cush. This is an incredibly important and complex matter. We do think using the most up-to-date information in water policy is incredibly important, just as it is important that our water management framework is reflective of the changing climate. However, our concern with this bill is that there has not been a thorough assessment done of the actual impact which will result. It is our understanding that an assessment has only been done for one valley in New South Wales, and that is the Lachlan Valley. What that found was that there would be an average reduction in reliability of general security licences by 13 per cent and as much as 25 per cent, which is incredibly concerning for our farming sector. But a similar assessment has not been conducted for other valleys, so we are highly concerned about what those potential impacts might be.

We are also concerned that this bill will make no material difference to the security of town water supplies, and that is because town water supply and critical human needs are already so far up the order of priority for water access, and that is a legislative order of priority. We think that the Government needs to be doing more focused efforts to improve town water security. We feel that, overall, this matter is being dealt with through the development of regional water strategies, which the New South Wales Government is currently underway in developing. What those strategies seek to do is incorporate 10,000 years of paleoclimatic data into our water management framework and we feel that that is a much more robust and evidence-based way of updating our water management framework for drought conditions. Because thorough assessment has not been done for this bill, we cannot support it.

Mr JUSTIN FIELD: I am sure those of us who have watched water or who live it like you do would understand that decisions around allocations and determinations of how much water is made available for different

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uses is in the water sharing plans. It is not entirely clear at all what will be in these regional water plans. Why do you think that those are the best places to deal with the question of climate change and how that is going to impact on long-term outcomes for water users and the rivers?

Ms FREAK: Well, that is, fundamentally, what the purpose of the regional water strategies is to do, and I will quote the New South Wales department website:

... we are preparing new regional water strategies that will bring together the best and latest climate evidence with a wide range of tools and solutions to plan and manage the water needs in each NSW region over the next 20 years.

Mr JUSTIN FIELD: Just to cut you off quickly because we only have a short amount of time today. To flush out your answer a little bit more, if those regional strategies do not change the water sharing plans, which are currently being redrafted and about to be locked in for a decade, how will they possibly be able to consider climate change in water allocations?

Ms FREAK: I think there are a number of components to that. Firstly, I think it is probably a question for the New South Wales Government around what their strategies will or will not do. They have not yet come out for public consultation so we do not know what they are going to look like. That is anticipated to occur shortly. But what we do need to remember is that—I will refer you back to the section of the Water Management Act which has the order of priorities for water access, and town water supply is number one, followed by the environment and then stock and domestic needs. We feel that this bill is going to be targeting general security entitlement holders at the very bottom of that order of priority without actually providing any more water to those at the very top. We need to keep in mind that the current way that water is managed incorporates incredibly dry years over recent periods and we have to remember that allocations of water were only made to farming based on how much water is available in the system.

Mr JUSTIN FIELD: I do want to go to the priorities, although I note that you have made the point in your submission that climate challenges are going to be best dealt with by the—

The Hon. TREVOR KHAN: Could you give a reference for the record?

Mr JUSTIN FIELD: I will. You point to it in both your overview, "Part 1: Drought of record", and in the last dot point where you state that "The NSW Government is currently developing Regional Water Strategies". You suggest that these issues in the bill should be referred to that process and you raise that specifically again—

The Hon. TREVOR KHAN: That is on page 6. Is that right?

The CHAIR: Page 5.

Mr JUSTIN FIELD: That is the grey box on page six. It is raised again, I think, on page eight. My point is, though, that you point us to it there but you are not even sure—they are not out for consultation, they do not change water allocations. I would just contest that that does not actually solve the questions raised in the bill, but to the prioritisation that you point out, which is in the box on page 7, I think the concern about the water users is that actually the prioritisation of the water management Act is not currently ensuring towns have secure water supply. We know that the rivers have suffered, and I understand this is from the drought but there is concern that the prioritisation is not right and ultimately it is the water sharing plans that are leading to outcomes that do not ensure town water supply and do not ensure environmental outcomes. Why are you so confident that those prioritisations are able to address the issues of reduced inflows from climate change?

Ms MILLER: We are confident that it is okay. For example, in the southern basin, during the Millennium Drought, water was managed to ensure critical human needs were met under absolutely dire circumstances. We have been through this before. We have seen in the northern valley, in some valleys in the northern basin, that there has been a drought of record and the Government did act to shore up those town supplies with augmentation projects. The problem with the drought of record is that it is a blunt instrument that covers everything—you know, one size fits all—and it would have the effect of every single year, water would be held aside in reserve just in case in the next year we are straight into the worst possible drought of record.

Droughts take quite some time to evolve, usually several years, and over that time you can see how there is plenty of warning to start to implement the hierarchies that are already set out in the water sharing plans. What we have with this drought of record that is imposed as a one-size-fits-all across all valleys, is that water would be kept aside and not released for production until very late in the season, if at all, just in case tomorrow we slam into a drought of record. Meteorologically that is just not what happens. We already have an adaptive framework that manages the drought. We already have a very clear hierarchy about who gets water first, and there is no doubt that it is the towns that get that water first.

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We feel that it should be referred on to the regional water strategies to go through all of those issues in each valley and really see what the impacts are every year. It is not true that the water sharing plans are set and forget. As we have been assured many times by the MDBA and the department in New South Wales, both plans can be amended through the 10-year period to reflect new information. That is where the regional water strategy process is really important.

Mr JUSTIN FIELD: What we would see, though, with the current draft plans that are going to be locked in, I assume, this year or maybe next year for another 10 years, if they do lock in the 2004, in most instances, lowest period of inflows, as it is described now, some of those plans could be as much as 24 years out of date. Would it not be better to operate the other way round to factor in the current drought lowest inflow period and then adapt the shares between the different water types—high-security licences and general security licences—to use that to be able to adapt to the change in climate? Would that not give everyone more confidence that we were not going to be caught short, like we did with this last drought in terms of town water supply, yet we were adapting to what we know is a rapidly changing climate?

Ms MILLER: Definitely the issue there is that had Government started all of that three years ago, when the consultation was supposed to occur with the water sharing plans, we could perhaps have teased out all of those issues and understood fully and made informed decisions about what we need to do or what needs to be reflected in the water sharing plans. Every single one was left until the last minute but they can be amended. They are not locked away for 10 years and it is really important that we allow the process through the regional water strategy, which is the process, to fully explore those issues, knowing that we can go back to the water sharing plans and amend them if necessary.

Mr JUSTIN FIELD: So you would not be opposed to a consultation process over the next couple of years to see how we could better incorporate our understanding of climate change into the water sharing plans and be prepared to make changes to the share allocations in those water sharing plans to reflect that?

Ms MILLER: No, we would be prepared to have a consultation that looks at all of the relative risks of doing that. The objective here is to shore up town water supplies. The investigation needs to include looking at will we actually make any difference ultimately to security of town water supplies under the current frameworks and priorities that we have in the water management Act by doing what is proposed in this drought of record bill, or are there other ways of doing this so that we are not basically killing off the availability of water for growing food and fibre and we find out that towns are as secure as they have always been for their water.

Mr JUSTIN FIELD: Just one more question from me: You mention on page 8 of your submission, “From discussions with the department we understand that this impact would average 13 per cent reliability reduction but could be as much as 25 per cent in any given year, regardless of climatic conditions.” You go on to say that you sought verification of these figures, but the department denied access to the relevant documents. Can you explain what have your discussions with the department been about this? What is your understanding of what modelling has been done and is available?

Mr CUSH: Ms Freak, do you want to answer that?

Ms FREAK: Yes. When we have asked the department, what we have been informed is that there was a study done just for the Lachlan Valley and that is the only valley that has had a study done on it. The finding for that was that it would be a 13 per cent on average impact on general security and liability and up to 25 per cent. But it is our understanding that it has not been done for other valleys. When we contacted the department, we asked whether there was any information on the potential impact on other valleys and they said that that research had not been done. We also asked for access to the documents which explained these impacts for the Lachlan so that we could try to better understand the impact of this bill, but we were informed that those documents were not publicly available so we were not able to access them.

Mr JUSTIN FIELD: Do you know when that Lachlan study was done?

Ms FREAK: It was done shortly after the Millennium Drought.

Mr JUSTIN FIELD: Shortly after the Millennium Drought, so before the 2014 bill, which made the changes, was done.

Ms FREAK: I am not sure on the exact date. I think that would be a question for the department. We were not able access the study.

Mr JUSTIN FIELD: I am happy to ask them. Is it your understanding that they did not do studies for the other valleys, so potentially we have a situation where the Government had not even done modelling on the 2014 bill before introducing it?

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Ms FREAK: Our concern is that there has not been an assessment of what the impact of this bill is going to be and nor has there been an assessment of what the positive ramifications are going to be. That is why we feel it is premature to put this through at the current stage. It needs to go through an evidence-based process such as the regional water strategies.

Mr JUSTIN FIELD: Possibly we could have done that before the 2014 bill too.

Ms MILLER: Can I add to that too by saying a lot of money has been spent acquiring entitlements for the environment. If this bill has unintended impacts on the reliability of entitlements that are held by irrigators, it also has the same impact on the same entitlements that are held by the environment. We would not want to see the environment missing out either unnecessarily if, through further investigation, it can be shown that town water supply is not less or more secure than it already is as a result of this legislation, but we would hope that it has no unintended impacts on the environment, much as we obviously do not want those impacts on water available for farming.

The Hon. Trevor KHAN: I have a couple of questions. If I can go to the top of page 8 of your submission, you identify the impact on the Lachlan Valley. I take it that the figures of 13 and 25 per cent relate to general security licence holders. Is that the case?

Ms FREAK: Yes, that is correct.

The Hon. Trevor KHAN: Do you know whether that study made any assessment of the impact on high-security water holders, at least as far as the Lachlan is concerned?

Mr CUSH: I think the Lachlan has different rules on their high security compared to most other valleys. I am not 100 per cent sure but I think there is a technicality with that one.

The Hon. TREVOR KHAN: Are you able to—sorry, go on.

Ms FREAK: Since we have not seen that study and we were not able to access much information about it at all, we are not sure. But it would be really good for that information to be available.

The Hon. TREVOR KHAN: Right. If I can go to the bottom of page 8 and the top of page 9. It seems to me that some of the questioning earlier seems to identify the Millennium Drought as the drought of record. You point out that the Millennium Drought is not the drought of record, at least with regards to some of the valleys. I suppose to the same extent the major flood events also are not the same in each of the valleys, as well. That would be the case, wouldn't it? You cannot do a rule over all valleys and say what are deemed to be maximum flows and what have essentially been minimum flows are the same across the whole of the system.

Ms FREAK: Yes, it must be specific for each valley.

The Hon. TREVOR KHAN: For instance, on page 9 you identified that the Macquarie is currently facing its drought of record. In terms of the valleys, are there other valleys that you would identify as the current drought as constituting a drought of record, apart from the Macquarie?

Ms FREAK: At this stage the Macquarie is having drought of record. Some of the northern valleys could move into a drought of record, but given recent inflows it is looking unlikely. I think further time is needed to assess exactly whether it would constitute a new drought of record or not. But a lot of the Northern Basin valleys had very severe droughts towards the end of last century and those droughts are likely going to remain their drought of record, looking at the meteorological forecast at the moment.

The Hon. TREVOR KHAN: Right. So in terms of those other northern valleys, are we talking about the Gwydir and the Namoi?

Ms FREAK: Yes.

The Hon. TREVOR KHAN: I suppose I get to the point—everyone has their, I will use the term "knickers in a knot" over the 2004 exercise. Do I take it that, realistically, whilst a date has been determined at this stage, your position is that the complexity of this whole issue is not solved by what we will describe as the "Labor bill"? It is in fact capable of producing perverse results?

Ms FREAK: Exactly. It is very possible and it likely will have some very perverse outcomes. In the process of doing that we are not confident that it will even secure any positive benefits towards town water security, which, it is our understanding is the objective. We would like to see the Government taking some very serious action around securing town water supply as well as improving the reliability of water for farming. We feel that this bill has not done enough of an assessment of the impacts and likelihood of realising the objective. We think there are much better ways of going about achieving that.

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The Hon. TREVOR KHAN: Do I take it that apart from the different climatic positions that have existed in different valleys at different times, one of the other factors to be taken into account is the mix of water usages—that is town water, high security water and general security water? Is that one of the components that, again, is not really addressed in this bill, and its impact then, particularly on the general security water?

Ms FREAK: Yes. Well, each valley would have different amounts for every different water user. At the end of the day each valley is still subject to the same requirements as the New South Wales Water Management Act and the order of priority between the different water users.

The Hon. TREVOR KHAN: Sure. But if, for instance, you have a high component going to town water, a relatively small number of high security water users and the rest being general water, that will have a different impact than on valleys where there is a relatively small commitment of town water supply but a large high security water component and relatively less general security—those mixes have an impact upon what the outcome is? Is that right?

Mr CUSH: Can I just say that the valleys with a low high security volume are very ephemeral, which is the north of the State. The valleys with the higher volumes of high security—a much safer form of water—is the south of the State. That is why there is a lot more high security water in the Murrumbidgee and the Murray. As you go north there is very little high security water. It is very important water but it is a very small volume of it because of the highly ephemeral nature of the streams up here. This year—this last summer—where we had Tenterfield dry all the way through to Menindee, it would not have mattered what the water sharing plan was for this year because there was no rain; there was no flow to make anything happen.

The Hon. TREVOR KHAN: As was said in the background: no water to share.

Mr CUSH: Exactly.

The CHAIR: Just a few questions going back to Ms Miller's comments about how water sharing plans can be amended to suit conditions that arise throughout their duration. Can you tell us how many times that has actually occurred with these water sharing plans? How often has the Government amended these water sharing plans to adapt to the situations at hand? I am just trying to get a sense of if it has the power to do it, is it using it as well as it should?

Ms FREAK: The water sharing plans can be amended by the Minister, as you say. They are amended on a number of occasions—I think that is probably a question for the department or the Minister. But very frequently would be the answer to that. In terms of government actively managing situations as they evolve, the example to point to would be around the recent first flush event. As you know, if there are extreme events that are worse than what has been catered for in the water sharing plan, there is section 324 of the Water Management Act, which means that the water sharing plan can be suspended. That is the case, for example, if there are significant risks to town water security—that can occur in order to protect those needs. That occurred earlier this year with the first flush event amidst the drought and what that meant was that government was more actively involved in managing each individual stage of the sharing of water at that time. I think that is probably the best example to answer your question.

The CHAIR: Okay. The next question comes in two parts. From my understanding the new water sharing plan for the Namoi for the first time has downstream targets for Wilcannia. My first question is: Are your members concerned about that new addition to downstream targets? The second part is: Do you see this bill coming over the top and adding another requirement on the water sharing plans and exacerbating their concerns about downstream targets?

Ms FREAK: I think it is important that the water sharing plans are able to cater for extreme circumstances. That is something that NSW Irrigators' Council raised in our submission for that first flush assessment—Water Sharing Plans have downstream targets and they need to be respected and adhered to. That is probably slightly out of the scope of this inquiry but, at the end of the day, we need certainty and the confidence that these things are addressed in the water management framework. They do need to clearly specify in there, they need to be scientifically informed and they need to be through a proper consultation process with water users. The specific example of the Namoi we would have to take on notice and discuss it with our member in the Namoi. But in a general sense, having flow targets is important.

The CHAIR: Given the fact that a lot of the concerns around this bill are about holding back water, I am wondering whether the holding back of that water would then exacerbate the concern that some irrigators may have around downstream targets.

Ms MILLER: I think this really emphasises the need to investigate all of these issues thoroughly. As we said earlier, we have the regional water strategy process. We want these issues to be thoroughly investigated

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to make sure that we have informed decisions being made on these matters because there is a lot at stake for everybody—that is, irrigators, towns and the environment.

The CHAIR: Turning attention to the other two bills that are around water transparency, and noting your concerns around privacy of your members, how do we then overcome some of your members' concerns about water speculation or water trading and having speculators coming in? How do we track and manage that so the water that is being sold is being sold I guess to the right people, the ones who are actually producing the food and fibre for us all? How do we manage that if there is no transparency about who is buying water purely for profit and who is buying water to produce the nation's food and fibre?

Mr CUSH: Is that not actually a part of another review that is happening now at the Australian Competition and Consumer Commission [ACCC]? I would have thought we would be better off to wait for that review to come through to see what it has got in it—it covers it—before we do this other one. That is my stance on it. Ms Miller, do you want to add to that?

Ms MILLER: Yes, these matters are being investigated by the ACCC. They have certainly been raised in numerous submissions. We do have an open participation market that was determined more than 10 years ago on recommendation from the ACCC to the ministerial council in formulating the Basin plan, that we have open participation to any comers. As I say, this issue has been raised as to whether that is having unintended effects on the operation of the market and putting people who are using the water to make money from growing food and fibre at a competitive disadvantage. But really, the ACCC is the one that we are waiting for. We are very keen to see that draft report, which is sitting with the Federal Treasurer at the moment. Any pressure you could bring to bear on it to release it as soon as possible, so we can see what the thinking is for the ACCC, would be very welcome.

The CHAIR: Is it your submission that you are confident in the ACCC being able to deal with speculators in the market, given that it has failed to manage speculators in the petroleum market and speculators in the commercial fishing market, which all basically—particularly the commercial fishing market—operate on a similar basis to the water trading market, in that you do not know who is who in the zoo in terms of a licence or a business number and you can have trades going left, right and centre; you would never know? You are confident that the ACCC will be able to manage speculators when it has failed in the past?

Ms MILLER: I guess we would like to see what the ACCC is saying in its draft report before commenting on that.

The CHAIR: No worries. I think Mr Faraway had some questions?

The Hon. SAM FARRAWAY: No, not at the moment.

The Hon. TREVOR KHAN: Sorry, can I just ask: Did the NSW Irrigators Council make a submission to the ACCC in its inquiry?

Ms FREAK: Yes, we did.

The Hon. TREVOR KHAN: Is the content of the submission that you made reflected in your submission to this inquiry—that is, essentially, that you have concerns over the privacy in particular of the small operators, small farmers and small holders of licences?

Ms FREAK: We would have to take that particular one on notice and review our submissions.

The Hon. TREVOR KHAN: I think it was Mr Cush who in the opening remarks made reference to his concern with regards to the issue of transparency related, I think, to the potential pressure on some licence holders of other operators in the market. Was that the general drift of your observation, Mr Cush?

Mr CUSH: Yes, that is my feeling, Mr Khan. Going from the Bureau of Meteorology numbers, the average entitlement holder is 365 megalitres. It is not a Cubbie, it is not a big nut farm or whatever, but the average entitlement is 365 megalitres. For the bigger entitlements, there have to be a hell of a lot of small entitlements—and there are. There are a lot of entitlements which are only one megalitre or two megalitres or three megalitres or four megalitres. They are very small megalitre volumes; a large volume for a small house, but it is a small number. The last thing we want is to have people being pressured into doing things when they are uninformed. We need to have clarity in the whole situation. We need to have transparency in the situation.

I have got no problem at all with aggregated numbers in valleys, or sections of valleys. In the Murray, there is a definite problem in the middle; it is no problem at all about above and below the Choke, that sort of thing. But I do not see the benefit in having everyone's name out there. They are not members of Parliament. I can understand that in Parliament it is a requirement. It is a property right; it should be disclosed. But when it is a very small landholder with a small bore licence on the coast, I do not think it is appropriate to have people's names like

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that. Sure, on a section of the Clarence River or in the valley you could have an aggregation of the volume of entitlements and the total number, but I do not think it is appropriate to have everyone's name up in lights. When we are driving down the highway we assume that we have trust in the police and governance of the roads, that people are licensed appropriately to be driving on the road. It is the same thing as water.

Ms MILLER: Can I just add in to that? Obviously the Australian Taxation Office [ATO] does a report every year on foreign ownership of water. You could [inaudible] say, well, perhaps the ATO needs to actually publish who those foreign owners are. But there is a very material difference between very large operators that own relatively large volumes of water and just your mums and dads who are just getting by. They might be using it for superannuation purposes or are in fact using it for their family farm, obviously. The risk there is that they start getting letters and pressure in the mail from brokers and others wanting them to sell their water, as they are able to visibly see how much water they have, so starting to put pressure on them or holding back prices and things—there is a huge capacity for that. If you are looking at thresholds and things, maybe it is better to work on thresholds for transparency, but as a principle we do not agree with anyone and everyone's details being out there.

The Hon. TREVOR KHAN: I will ask the sixty-four thousand dollar question that flows from that: If there were to be thresholds, what would be your view on what those thresholds are? Would that be valley by valley or would it be an overall figure?

Ms MILLER: I will take that one on notice and I will—

The CHAIR: I am—

Ms MILLER: —[inaudible] an idea. [Inaudible]—

The CHAIR: I am sorry, Ms Miller—

Ms MILLER: We would need to talk to our members about that. I know down in Victoria that there was some discussion around rolling thresholds, like active people trading allocations, maybe sort of 1 per cent or 2 per cent of the market. It would need to get down to that sort of level, which would pick up your Duxtons, for instance, which is a large water owner, and a similar sort of [inaudible] 5 per cent threshold of entitlement. But that was an idea that was floating around down in Victoria from various groups. It is something that would need to be discussed among our members.

The CHAIR: Just for the record, we cannot actually take questions on notice given the short time of turnaround in terms of having to produce a report.

The Hon. TREVOR KHAN: I think Ms Miller's subsequent answer—

The CHAIR: Yes, I think it does. It gives us a bit of guidance as to where we need to look for those thresholds. One more question from me before I pass to Mr Primrose: You talked about the Australian Taxation Office having a report every year on foreign entity ownership of water and you sort of intimated that it might be good that it goes into a bit more detail. Would you support a register that only dealt with foreign entity ownership of water, so we had a clear indication of the trades that they were doing?

Ms MILLER: I think we would need to take that one on notice again. I was just alerting you to the fact that there is a register of foreign ownership of water and the ATO does a report on that register, but there is no identifying detail within that. You can go in and analyse it and get some insight but it is not totally transparent, no.

The Hon. PETER PRIMROSE: A number of points have been made in relation to the public availability of the register and pointed out that land titles are readily searchable and information is readily available in terms of ownership and transfer, et cetera. Can you just explain why you see that there should be a difference between real property, in relation to land, as opposed to water?

Mr CUSH: Do you want to answer that, Ms Freak?

Ms FREAK: Yes. I think what is important to acknowledge here is what the status quo looks like. At present there is the NSW Water Register, which is administered by WaterNSW, and then there is the Water Access Licence Register which is maintained by the NSW Land Registry Services, and that is similar in many ways to what is the case for land. Being a [inaudible] register it is subject to a small fee to search it. What we need to look at is what additional information is being suggested that needs to be publicly available, which is not already included in those registers. The theory is that that additional information would be the personal information, which we believe is not included because it is personal and sensitive and confidential and therefore that needs to be protected under privacy. There is also the concern that with water we need to remember that this is a very toxic environment at present for the irrigation sector, and that is something which has been acknowledged by the Interim Inspector-General in his report where he has described the basin water management as being incredibly toxic were

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his words, and we feel that because of that if there was information publicly available without adequate privacy protections then this is really going to make farmers vulnerable and it is going to expose them to malicious attacks. It is what happened with 'Aussie Farms' recently. Farmers do have real fears about their security and their safety as a result of having their personal information publicly available. So it is really a question of what is actually needed for transparency? Is that included or is that not included and if it must be included then how can we protect our farmers by doing that?

Mr JUSTIN FIELD: It is Justin Field here. Can I just pose a counter? My understanding is that some of the toxic nature of the water debate primarily comes from a sense of a lack of transparency and understanding about what is happening with water trades and transfers. Would having more public information available potentially take some of the heat out of this water debate?

Ms FREAK: It is certainly the view among market participants that there does need to be improvements in transparency of both temporary and permanent trade, and that is why part of our submission was calling for the need for a public water trade register at a valley level to provide that information. We feel that having it at a valley level would address those transparency concerns but without making farmers vulnerable in the process. We feel that that is an appropriate balance between transparency and protecting privacy.

The CHAIR: Just to delve into that proposal in terms of the valley level, I am just trying to get a visual image of what that would look like. Are you proposing that only people within that valley could see what other participants in that valley would be trading? How do you see that working, or are you just talking about a broad view in terms of the data across that valley in terms of what is being traded? I am just trying to get a visual of how that would look.

Ms FREAK: My understanding is that that would be aggregated at the valley scale and then that coupled with more information on trade being readily available and being brought together so it is more easily accessible.

The CHAIR: Thank you. That concludes our time with you. Thank you for your submission and thank you for answering the questions.

(The witnesses withdrew.)

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MARYANNE SLATTERY, Director, Slattery and Johnson, before the Committee via teleconference, affirmed and examined

BILL JOHNSON, Director, Slattery and Johnson, before the Committee via teleconference, affirmed and examined

The CHAIR: Welcome.

Ms SLATTERY: I am a director of Slattery and Johnson. We are a water consultancy business. We are not acting for any clients in this matter; we have been invited to give evidence.

Mr JOHNSON: I am a director of Slattery and Johnson and I work with Ms Slattery. We have been invited to give evidence to the Committee.

The CHAIR: Would either of you like to make a short opening statement?

Ms SLATTERY: Yes, I will. First of all, thank you to the Committee for inviting us to give evidence. We have not put a submission in. As a principle we are very supportive of more transparency; we think that is essential to good governance and trust. We know that confidence in information is fundamental to a functioning market and that there is wide distrust with regards to water management at both the State and Federal level and [inaudible] their trust is essential if we want trust restored. We support those transparency bills and we think that there is merit in both bills; they could be combined. We also support the best available science and for that reason we also support the water allocations—drought information bill.

The CHAIR: Mr Field?

Mr JUSTIN FIELD: It is Justin Field here. Thank you very much for being prepared to give evidence today. We just heard, and you might have been listening in, evidence from the NSW Irrigators' Council who made the case that changes to the drought of record to reflect the most current drought information was not necessary to improve town water security or would not improve town water security. I do not want to put words in their mouth; it largely comes from their submission, but I think that was the case they were making. They pointed primarily to the Water Management Act as the reason why and said that because the Act specifies the first priorities for domestic purposes and essential town water that essentially that was the protection for town water supplies. I am just interested in your comment with regards to whether or not that is sufficient to protect domestic water supplies.

Ms SLATTERY: Mr Johnson, do you want to answer?

Mr JOHNSON: No, you go, Ms Slattery, and then I can follow up on anything you are asked.

Ms SLATTERY: We do not agree with that, and Mr Johnson is in a better position to explain than I am. We think there is a [inaudible] problem and a [inaudible].

Mr JOHNSON: Okay. I am having difficulty hearing you, Mr Field. I seem to be dropping in and out a little bit. Was the question about the allocation-drought of record bill and the effect on town water supplies?

Mr JUSTIN FIELD: I will simplify. The case was made by the NSW Irrigators' Council that this bill would not improve water security for towns. It pointed to the Act and said the Act has a specific prioritisation for domestic town water supply and that that, essentially, gave those towns that water protection. I would like to hear your position on the effect of the drought of record bill on improving town water supplies.

Mr JOHNSON: The drought of record bill, I think, will improve town water supply, or lays the groundwork for improving town water supply. I understand that position that the NSW Irrigators' Council put. It has been put quite often and it overlooks or avoids the issue of when the water is used. Although the allocations are made, they are made into the future and they do not guarantee town water supply. The big issue for me is the link between the drought of record and, in some valleys, the allocation of anticipated future inflows. To me, those two things are linked.

The drought of record is problematic. There is a reason that it was put in—well, the drought of record itself is not. There is a reason that the drought of record was used in the first place and that is the lowest recorded inflows. The assumption there is that the lowest recorded inflows can be relied upon again, and they are not. I will try to make it brief. Allocations are based on lowest recorded inflows, or they were until 2004. Since then, the lowest recorded inflows, they are much lower, and the allocations are now based on out-of-date information. It means that there is a lot more risk. There is a lot more risk being transferred to communities now than there was.

The Hon. TREVOR KHAN: Sorry, can I follow up on that?

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Mr JOHNSON: Yes.

The Hon. TREVOR KHAN: Mr Johnson, you have talked about, essentially, the drought of record. Am I right in saying that the drought of record, for instance, in the Namoi and the Gwydir, was not the Millennium Drought at all but earlier? And, if that is the case, your last statement is incorrect, at least as far as the Namoi and the Gwydir valleys are concerned.

Mr JOHNSON: It depends on whether you talk in principle or whether you want to talk about particular valleys. I have read some of the submissions and there is a statement that you should not be making general statements about particular valleys and there was an argument that the Millennium Drought was the drought of record for the south and not the north. The most recent drought, and, in fact, as far as the inflows go, we are probably still in it, has been, as far as I understand, far worse than—it is the new drought of record. And I guess if you define what you mean by "drought of record"? If by "drought of record" you mean the lowest period of inflows for any given selected period, or are we using what has now become the drought of record for water planning, which is not the lowest inflows? I would need to be persuaded that the recent drought, the most recent one, is not the worst. The Millennium Drought was only marginally worse in the 1939-41 period.

The Hon. TREVOR KHAN: Indeed.

Mr JOHNSON: And I do not know—the drought of record changes month by month when allocations are being made. You can have a six-month, 12-month, 24-month drought of record or period of low inflows. Generally the accepted lowest period was, I think, two years from 1939 to 1941. It is my understanding that, across the basin, the period starting about three years ago and only being slightly ameliorated by the recent rain is far worse across the basin than any previous drought. The Millennium Drought was only marginally worse than the 1939 to 1941 drought. This recent period of low inflows is far worse. I think in some valleys the inflows have been less than half.

The Hon. TREVOR KHAN: Yes. Look, I think we would all agree with that. We all accept it is a severe drought but I think if we look at the Namoi Water submission—and, again, I am working off recollection—and the submissions of the Gwydir Valley Irrigators Association and the NSW Irrigators' Council, I think they would all say that for the northern valleys, at least with respect to the Namoi and the Gwydir, neither the Millennium Drought nor the current drought is the drought of record. I suppose that gets back to the point of this whole exercise; that if the general submission by the various witnesses is that it must be taken valley by valley rather than as a whole-of-the-basin exercise, then I get back to the point that if you are talking in terms of the whole basin, it is entirely at odds with what some of the other witnesses are saying.

Mr JOHNSON: Well, I was not aware whether we were talking whole basin or valley by valley. I can talk about both of those levels if you like. We can talk specifics or we can talk principles. One of the reasons—I noticed that the submission, probably the NSW Irrigators' Council, they were quite specific about drought of record, and maybe less general security. Both the Gwydir Valley and the Namoi were more general. I think that is because, and I will come back to anticipated future inflows, for the Macquarie, the Lachlan and further south, water is allocated now from inflows that are anticipated to arrive in the next two years. So there is drought of record and there are anticipated future inflows.

It is my understanding, and it certainly was the case about 10 years ago—I worked in the Gwydir from the early 1990s to nearly 2010 at different times, and about 10 years ago it was my understanding that for the Gwydir and the Namoi future inflows are not considered in the allocation. In the Macquarie and the Lachlan, anticipated future inflows are included in the available water determinations that are made today and that makes the drought of record far more material in those valleys than in a valley where you are only allocating water that you have in the dam.

So if you are allocating water that you have in the dam, as I still believe the Gwydir and the Namoi do, then you might run a bit tight but you are only allocating water that is there, whereas in the Macquarie, I know, and the Lachlan and others—I know in the Macquarie about 270,000 megalitres of flows that are anticipated are allocated now. That is where the drought of record really bites because you are betting on flows that have not yet arrived. And, in fact, the water that is allocated still has not evaporated from the Indian Ocean and the Southern Ocean. That, I think, is where there is a bit of detail that—if you want to talk basin-wide, we can talk the principle of not using the best available science, best available information. If you want to talk valley by valley, then you will find that some valleys are running a much greater risk than others.

Hon. TREVOR KHAN: Well, we have to talk about valley by valley, do we not?

Mr JOHNSON: I would be happy—well, if we are talking principle—

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The Hon. TREVOR KHAN: If you are in the Lachlan Valley, would you not be saying, "Well, you've got to consider the implications of our valley"? If you are talking about a whole basin, you may completely skew the outcome as far as the Lachlan is concerned, taking the Lachlan purely as an example.

Mr JOHNSON: Yes, look, that is possible. It is my personal view that you need to look at situation by situation. Each valley has a different mix of irrigation, it has a different history. If we are talking about the Lachlan—and I was fortunate to be at a presentation by the executive officer of Lachlan Valley Water about 10 days ago and she described what has happened there. Future inflow down to the Macquarie water is allocated and when it was time for it to be used it was not there. This has happened several times in the Macquarie, it has happened in the Lachlan. The water is allocated based on anticipated future inflows and they are about 40 per cent. That was the water allocated two to three years ago, but these flows did not turn up. The water agency had made a commitment that it could not meet, so it had to suspend carryover, suspend environmental flows. In the Lachlan, the executive officer of Lachlan Valley Water said that new allocations have now been made to high-security water before the debt to general security is being met and that Lachlan Valley Water do not support that.

There are a number of ramifications of that. I understand why the irrigation industry wants to do it and it is really clear, none more so than for irrigators, but if you allocate water based on the old record—and I expect that where it was worse, the Millennium Drought was only marginally worse and in some places it may not have been worse than the more recent drought, whatever it is called, which is far worse—from a wetter time, you allocate more water so there is a higher risk. Why do irrigators want—and I have no element of judgement in this; it is simply a business decision—as much water allocated as possible and to use it as quickly as possible? Because in that case the dam has more air space so it catches more water and the utility of the structure is maximized, to quote someone.

The Hon. Trevor KHAN: Mr Johnson, could I stop you there. At least as I understand from what a number of the irrigator groups are saying—and I note that you are not saying this in a disparaging sense—it is not only the amount of water that is released, it is when. For instance, if you hold back water early in the season and if that is going to be the outcome now, the extent of your planting may very well be negatively impacted because the water is being held back, although perhaps not in all valleys, in expectation of an event that may or may not occur. What may in fact occur by using, if one could describe it thus, a more conservative approach, would be reducing the total overall agricultural plantings in various areas of the basin. That could potentially be an impact, is that not so?

Mr JOHNSON: Yes, I agree with that and it does. A more conservative approach means that less water is allocated because water is held in reserve for circumstances where towns and others run out of water. But if you think about—

The Hon. Trevor KHAN: Well, it is the general supply that is reduced.

Mr Justin FIELD: Chair, could the witness be given an opportunity to complete his answer. I am interested in where that is going.

Mr JOHNSON: What it does do, if you are holding water in storage, as was the original intent of the dam—the purpose of the dam was for irrigation but it was also to ameliorate drought conditions—is to distribute the use of water over a longer period so that people and towns do not run out. The intent has slowly changed so that one of the purposes is to maximise water use. If you are an irrigation body, it makes sense that you want to maximise water use because you maximise production and you maximise income.

The Hon. Trevor KHAN: And you maximise employment.

Mr JOHNSON: I will not argue that. I worked on a cotton farm many years ago and when you would look around, there was never a moment you did not see people. But now you go on to a cotton farm and there are few fewer people. You might maximise employment, but you would need to have evidence of that. I do not necessarily accept that it automatically follows.

The Hon. Trevor KHAN: I hear what you say.

Mr JOHNSON: If you hold more water in the dams, there is less air space and therefore there is less capacity to catch water. In effect the dams do not turn over as much water and you do maximise water use. The reason you would do it, though, is because in my view it is not if but when we get a worse drought. The only way that scientists could be, in their predictions about climate, wrong is that they did not say it would happen as quickly as it has. We can say we will not get another drought like the one we are in for 20 or 30 years and it is worth taking the risk. There are people in towns like Dubbo, which has about 40,000 people and is heading towards 50,000, and if we had not had rain in March, Dubbo would be out of water by now. There are towns all down the rivers that are out of water. I have noticed a change in the rhetoric. Those towns now should not be relying on

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dams for water. That was not what they signed up for. A part of the purpose of the dams was to provide everyone with water. A lot of it is about values.

There is no doubt what will happen if we use a more conservative approach, which I would support. The drought of record was appropriate until there was a worse one and all of a sudden it was no longer appropriate to use it. In essence we are running our rivers based on our memories of a wetter time and those times have been past for 20 years. If we continue doing that, the events that we have had in the last 10 years will keep recurring. You cannot escape your responsibility of tomorrow by evading it today. It will come eventually.

Mr Justin FIELD: Can I follow up with regards to Dubbo. I think Burrendong got down to 1 per cent. There was some reporting in *The Sydney Morning Herald* on the issue of drought of record last year. Mr Grant Tranter of Macquarie River Food and Fibre said in that article that the lowest inflows in the Macquarie River system for the current drought were in 2012-16, but there was no mechanism to include that data in the water allocation system because of the 2014 changes, so the 1936-39 drought had been taken as the benchmark. At the 24-month period of that drought in the Macquarie inflows were less than half of the previous record drought. The article goes on to say the irrigators had been allocated water in 2017 and they were allocated at that stage more than was ever returned to the river system in rainfall and it was clear that the system of allocating water according to anticipated inflows would need to be reviewed. Do you agree with what Mr Tranter said, which I take from what you have said so far you do? What is the best way to ensure that we make the right decisions about allocation with regard to anticipated inflows? Is it making sure the drought of record is upstate?

Mr JOHNSON: Could you repeat the last couple of words, please, to make sure the data record is right?

Mr Justin FIELD: What is the best way of ensuring we do not find ourselves caught short again in the next worst drought?

Mr JOHNSON: The first step would be to use the driest conditions that we have experienced, which are the recent ones. That would be—

The Hon. Trevor KHAN: Or not, as the case may be.

Mr JOHNSON: Pardon?

The Hon. Trevor KHAN: Or not, as the case may be. If in the north it is the 1930s or 40s then that statement is wrong.

Mr JUSTIN FIELD: No, what the current one is—the worst that there is.

Mr JOHNSON: Could you just maybe make the question specific? Where the recent drought is the worst drought, where is not the worst drought and the worst drought is at some other times years in. I think we can suggest that that [inaudible] valley by valley and basin wide. That has a combination of both the broad and the local—or the valley—application. Do you accept that?

The Hon. TREVOR KHAN: That is an appropriate consensus.

Mr JUSTIN FIELD: We are all nodding in here.

Mr JOHNSON: The next thing would be, I would suggest, consider the sense even with that, of allocating water that has not yet flown into the dam. So, in the Macquarie, for example—and I do not know what is in the Lachlan—the volume that is included in an available water determination is 270,000 megalitres of anticipated future inflows. That is spread across all users—including town and others. The thing about it, though, is that general security is geared up to use—it is a little bit hard for me to explain this—but it is allocated in advance. All the water gets allocated into the [inaudible], including towns—they get one-third; however, when it is used, a town like Dubbo will use this allocation this year and it will use its allocation next year in the same way—it will use, say, 10,000 megalitres this year, 10,000 next year and 10,000 the year after. But it does not need next year's or the year after's until those years.

The hidden thing in future anticipated inflows is that general security can use all its water now, except what it carries over by its own choice. But it can use all of its water now. So, even though Dubbo's water is allocated, it still depends on those minimum inflows. The reason the Government got caught and Dubbo nearly ran out is because the water that had been allocated years before had not flowed in, if you know what I mean? That is where risk comes.

Mr JUSTIN FIELD: Okay, that makes sense. Thank you. I will follow-up on that last point because it seems to me that—

The Hon. TREVOR KHAN: Ask a question rather than making an observation.

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Mr JUSTIN FIELD: It begs the question, then—let me put it that way—from your last comment, that we could see this coming but we had no mechanisms in the water sharing plans to be able to claw that back when the inflows did not come. Would it be enough to simply have the drought of record set at the worst period of inflows for that particular valley or do you actually need to do something else?

Mr JOHNSON: Look, having a drought of record set would be a start. The thing is the available water determinations, as far as I am aware, are not in the water sharing plans. They are more operational. You would need then to change the way the amount of water that is allocated. The way I think it would happen is, let us just assume—I am not saying this will happen—that you had the new drought of record. You would still need to consider the effects of allocating available water and test those future inflows. That, as far as I understand, takes the Gwydir and the Namoi out because, as far as I know, those valleys do not use anticipated future inflows. Then you would need to think about how much—even if you did continue to allocate anticipated future inflows, the amount available for allocation in Macquarie, for example—and the Lachlan and others—would be reduced by more than 50 per cent.

So rather than including 270,000 megalitres of anticipated future inflows in available water determinations, you might include 100,000 or 110,000. Immediately, about 150,000 megalitres is not made available to all of the allocations. The thing is that it does not affect the towns or the high security because they get their full allocations. Where that water comes from is general security allocations—general security irrigation and general security environment. That is where that will come from and that is why the submissions where they depend on those anticipated future inflows were much more specific than the Namoi and the Gwydir. That is my reading of it: because it affects them materially. What they are doing—as I said before, they are used to allocations based on a wetter period when those flows came in and, of course, they do not like the idea of adjusting to smaller inflows. Ms Slattery has some comments about reliability, actually. Anyway, it might be outside the scope.

Mr JUSTIN FIELD: The Environmental Defenders Office in its submission makes the case that there is a lack of information about how those allocation decisions are made:

For the Gwydir and Macquarie Rivers, no public records existed which codified the resource assessment process to reveal how each allocation decision was made, or justified the management rules.

Is that your understanding as well—that there are questions around how those available water determinations are made and the management rules?

The Hon. TREVOR KHAN: This is starting to get a bit far from the bills.

Mr JUSTIN FIELD: This is a submission that goes to the whole question of how—

The Hon. TREVOR KHAN: That does not make it an appropriate area of inquiry.

Mr JUSTIN FIELD: It specifically relates to how the drought of record is actually applied in the water sharing plans. I think it is directly connected and this is the same testimony we are hearing now that the available water determinations—

The CHAIR: Given that we are looking at bills, we are not only looking at deficiencies or unintended consequences in those bills, we should be looking at how those bills can maybe be improved to inform amendments that may come before the House. So, if witnesses have potential ways that the process of drafting water sharing plans could be improved, I think it is worthy of our indulgence.

The Hon. TREVOR KHAN: You are in charge.

The CHAIR: I am in charge.

Mr JUSTIN FIELD: Mr Johnson, did you get that? I think we decided that you could answer the question if you chose.

Mr JOHNSON: I did not quite hear that. Yes, I agree that the process is unclear. The actual process is not in the water sharing plans—even the drought of record, people assume that it is peak period but it is not. The drought of record, say, starting in February, a six- or 12- or two-year period from February, the drought of record done in March is the driest period and sometimes those years vary. The drought of record from February might be 39 to 41, the drought of record from March might be something different, the drought of record from November for two years might be 32 to 33. All of that stuff can be confusing. It make sense if you are in the organisation maybe doing it but it is not clear. As far as I know there is no codified way. There may be notes and codes of practice and rules of thumb for the department—I am not aware that there are or have ever been publicly available descriptions of the process.

Mr JUSTIN FIELD: Well, you have worked in and around this space for a long time. How does anyone know on what basis decisions for allocations then are being made?

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Mr JOHNSON: Well, you have to work in and around the area for a long time. I wrote a plan about ten years ago and I have a section on the available water determination both in the Macquarie and the Gwydir. I worked with WaterNSW people who I trusted to describe it. This is the only—this is probably clearest record that I know. It still does not discuss how the drought of record is calculated or what the drought of record is. So, the short answer to that is: You have to work in and around the area for a long time, hang around with water managers for a long time, have some role yourself and be persistent and dogged and earn their trust—or sort of a semi-trust. [inaudible]

Mr JUSTIN FIELD: Okay, thank you.

Mr JOHNSON: So that is how you do it.

The CHAIR: I am gazing across the room looking for other questions. If there are none, I thank the witnesses for their time. It has been very insightful and helpful for our deliberations. We will let you go with an early mark.

Mr JOHNSON: Thank you very much. Thank you for the opportunity to speak.

(The witnesses withdrew.)

(Luncheon adjournment)

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ZARA LOWIEN, Executive Officer, Gwydir Valley Irrigators Association, before the Committee via teleconference, sworn and examined

JOSEPH ANTHONY MARTIN, Board Member, Namoi Water, before the Committee via teleconference, sworn and examined

TONY QUIGLEY, Chairman, Macquarie River Food and Fibre, before the Committee via teleconference, sworn and examined

The CHAIR: Welcome back. We will continue our questioning of witnesses. Would any of the three witnesses like to proceed with a short opening statement—particularly you, Mr Quigley, as you did not have a written submission?

Ms LOWIEN: I am happy to make a brief opening statement and pass it around to the others, if they like. I thank the Committee for the invitation to provide a submission, as well as the opportunity to present and further some of the issues we raised in that. I apologise for getting that to you a little later than you had requested, given some time constraints for us here at the moment with a few inquiries on, of which I know and appreciate some of the Committee members are on multiple inquiries at the moment as well. I thank you for having the chance to present via teleconference. I think it is really important that regional communities and organisations like ourselves can participate in these inquiries and the opportunity to do that via teleconference today, or via hearings via videoconference, has been really very much welcomed by the industry. I thank the Parliament for expanding those opportunities for us under these difficult times.

My opening statements are largely just to reinforce the points we have made about the three bills. It has been a slightly difficult challenge having three bills that are somewhat linked in some cases but probably raising the question of some higher level issues that are confronting both the community and Parliament itself. We think it is a good chance to look at some of the issues they are seeking to address and provide some feedback, as we have done in our submission, on some other work that could happen to help build on these discussions. I will leave it there, noting that we have made a couple of recommendations in our submissions. I am happy to take questions and expand on those throughout the hearing here this afternoon.

Mr MARTIN: My remarks are very much along the same lines as Ms Lowien. There are bills here that are slightly more probably affecting us here in the Namoi than others on this list. If all members can keep in mind that we are currently between—we have an executive officer on long service leave and I am filling in for her. She wrote the submission. It is very much representative of our community's views, and I will do my best to answer questions. But we do have some concerns around privacy issues and things with some of the bills. I am happy to discuss those with you today, and thank you very much for the opportunity to do so.

Mr QUIGLEY: Thank you for the opportunity for Macquarie River Food and Fibre to participate in this inquiry. We are currently without an executive officer, too—we have a new one starting in a few weeks—so I am filling that void. As I said, I represent the irrigation industry in the Macquarie valley as chairman of our local group. I have some broad points to make about the three separate issues I think that come out from these bills. Firstly, we agree generally with the proposition that all parliamentarians should register their water holdings and dealings. In terms of conflict of interest and transparency we support that as a statement.

Secondly, though, we do not agree that the public register should be made so open that it is searchable by individual names or individual Australian business numbers [ABNs]. Most of that information is available on the current water register now if people have a need to find it, but we think that from the point of view of our individual members they feel quite threatened by that breach of privacy, that anyone in the general public can search their own private financial details, including who their mortgage provider might be, which we think is probably a step further than any other asset class can be searched.

Thirdly, in terms of the drought of record, we understand the arguments both for and against including those, but we think there are better ways to improve the efficiency and also the security of town water supplies than by simply applying the latest drought of record to any particular river valley when we all know that every drought and every flood is different, and that a pool of those droughts of record may offer a better solution, as well as many of the other levers available to government to provide water for towns in times of extreme events that we have been through in the last three years or so in the Macquarie. In short, I thank the Committee for the invitation.

The CHAIR: Thank you. I will open the hearing to questions, but before I do I ask that if witnesses are giving comments specific to one bill that we make sure it is clear which bill you are referring to, just so Hansard

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and the Committee secretariat taking notes can get that right. I now open the hearing to questions. I am looking to the opening pitcher, as always, Mr Field.

Mr JUSTIN FIELD: I will give it a crack. Thank you all for being here. Was it Mr Quigley who spoke last then?

The CHAIR: Yes, it was.

Mr JUSTIN FIELD: Mr Quigley, I address my first question to you. You said that you consider there to be better ways to improve water security for town drinking water supplies. Could you just outline those quickly, a brief outline of what you think would be the better ways?

Mr QUIGLEY: Thank you for the opportunity. I am only going to reference the Macquarie Valley here—it is the only valley I have got any sort of expertise in—but certainly I have lived through this last three years on several WaterNSW committees trying to work through this really difficult time. What has become apparent—quite a number of things have become apparent with town water supplies—the problem we have is some good solutions to them. The first one is the reliance on some of these towns and cities on river water when we know it is going to be variable. When some of those, particularly Dubbo, have good sources of groundwater, they have been able to develop an undersupply to that city. We have also got the issue of towns like Nyngan and Cobar being supplied by an antiquated channel system; we have got very high losses in the transmission and also very high storage losses in the Bogan River Weir pool at Nyngan. In this day and age with lined channels, pipeline, all the other things that are being done, we have certainly turned a blind eye to the 1940s technology which has been to supply those towns with absolutely critical water because neither of those towns has bore water close or available around them.

The blunt instrument of using drought of record means that we are going to reduce the risks to the absolute minimum, which then affects the reliability of all of the other users within that river basin. So we are going to get high-security users much higher security than they have now and those on general security, which are the irrigation farmers and the environment, will take less security. So there is one winner and one loser here, I guess. We look at some of these other things that can be done, including pipelines, regional water schemes, there are things out there that can be done to make the water that we currently have be more efficient and more reliable through these extreme events that we have been in.

Mr JUSTIN FIELD: But you do agree that you are essentially transferring the risk in those very low-flow periods, droughts, from general security licence holders, whether they be irrigators or the environment, to towns and expecting that the government steps in to put more resources in to piping or trucking or finding other water supply options when needed?

The Hon. TREVOR KHAN: You would prefer it to just evaporate.

Mr JUSTIN FIELD: No, I am just clarifying the position. The testimony was about risk and I am just clarifying that that is about transferring risk.

The Hon. TREVOR KHAN: It is appropriate to have better infrastructure.

Mr JUSTIN FIELD: Let the witness answer if we could, Chair.

Mr QUIGLEY: I think it is definitely appropriate to have better infrastructure. I am on a lined irrigation scheme. Our losses run 5 to 7 per cent, transmitting on a much longer channel than the old Albert Priest, for instance, where the loss is at 25 per cent and another 15 or 20 per cent lost in the Bogan Weir pool. To me that sort of thing, using technology that was built around the Second World War, is not acceptable and I think it is probably about time governments, both State and local, stepped up and came into the modern age, because I am not sure that just throwing more water at the problem necessarily fixes it. I think better water use efficiency, no matter what industry you are in, is important.

Mr JUSTIN FIELD: Some commentary in the media from Grant Tranter, who I understand is with your group Macquarie River Food and Fibre, was quoted in the *Sydney Morning Herald* last year. You have suffered pretty badly with this particular drought in the Macquarie. The 2012 to 2016 drought was the worst on record for that 24-month period, about half the inflows of the previous worst back in 1936-39, but of course the legislation prevented you or the department from being able to make adaptive decisions about that, given the way the legislation is written. He said it was clear that the system of allocating water according to anticipated flows would need to be reviewed. Is that the position of your group?

Mr QUIGLEY: No, it is not, and I am not sure that he was quoted in full by that journalist; it was rather selective, from my recollection. The issue here is that even if we would have attempted to use that drought period that you are talking about, it may not have still been what was needed for the current period. So I do not think that

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any particular singular drought can be the most effective tool to be used as the drought of record. As I said earlier, every drought and every flood are different and, therefore, a pool of those droughts of record works better as a reference station than singling out one particular event on its own.

Mr JUSTIN FIELD: Would you agree though that the water sharing plans as they are currently drafted do not offer a pool either; they just pick a previous point, and in some valleys that is worse than the current drought of record, in some valleys it might be the current drought of record, but we still do not have an ideal system; we still pick the single point. Right?

Mr QUIGLEY: Yes. The water sharing plans do talk about droughts of record before a certain date, but at the end of the day none of them are good at forecasting what is coming in the future. So my point really is that there are better ways to do it than relying on increasing the amount of water stored that may or may not meet the next drought of record that comes along, when there are other pieces of policy and other levers—like the extreme events policy that was used in this current situation to get through. I think we are smarter than that. I mean, to use your same analogy: if we want to reduce road trauma on the highway, do we bring the speed limit down to 40 kilometres an hour to reduce that trauma or do we take the risk and have it somewhat higher so that the transport can move efficiently along those roads? It is all about how much risk are you willing to bear and what are the consequences and what are the levers that are available to government and others if we do step outside previous boundaries and we are still able to sustain human life, as we have done through this latest event?

Mr JUSTIN FIELD: I have just got one other question. I think we all agree we draw a line somewhere, but we might have some different views about where to draw that line between risk and safety and the ability to be productive. I asked this question of the Irrigators' Council before and I will ask it of all the panellists here: I know that the water sharing plans have all been redrafted and they are going as part of the accreditation process but would you be interested in a community consultation period over the next couple of years to actually look at this issue of how we are addressing climate risk, whether that be drought of record or pooling worst-case scenarios or another model, and see if we cannot make some adaptations to water sharing plans to better reflect the need for dealing with climate in the water sharing plans?

Mr QUIGLEY: I would be open to that consultation process. I think we really need to think about a holistic approach to town and regional water supply issues rather than just simply focusing on rivers; they are one form of water supply but they are not the only one, and I think in this day and age, as I have talked of earlier, there are lots of other levers and infrastructure that could be put in place that also should go into that mix, rather than just using one blunt instrument in terms of drought of record.

Mr JUSTIN FIELD: Any other comments on that one?

Ms LOWIEN: If I could follow on. I could raise a couple of examples from the Gwydir, if that is okay, on these questions. We raised this in our submission as well: the decision about and the assumptions and the way allocations work and how we secure town water supplies are all part of the mix, and the inflow sequence is just one aspect of that. I think Mr Quigley was raising the examples of now under the basin plan we have the New South Wales extreme event policy and then filtering down to a local or a regional level we now have valley-scale incident response guidelines, which were implemented during this last drought. In that there is a whole range of operational, a whole range of legislative options available. One of the gaps that we have seen in this space has been being prepared, and securing town water supply has been a forecasting going forward for some future prediction of communities and what their needs might be, and that was raised some time ago as part of a previous inquiry—under the water augmentation inquiry.

I think that is where governments now are slowly finally stepping forward towards building these regional water strategies and I think where the discussion and this consultation that you have raised in the second question falls into that space is when we have those regional water strategies that bring together all of these tools into the one strategy for a region, that talks about agriculture, industry, other industries, other opportunities as well as population and where that population growth—let us hope it is growth—for regional areas is going and how we secure and build on those communities.

One of the major concerns we have with the drought of record bill is that it is only going to help some communities. It will probably have a perverse outcome in those where it is not required, yet it is a blanket approach for all of New South Wales. And the communities that we saw without water, particularly in our area of the State, were upstream of our large headwater storages and not really linked to this inflow sequence. So there are some major towns that use water from Copeton, for example, Inverell, at a fully secured supply and continues to and now continues to be serviced for another two years on our essential supplies reserve through a pipeline. They have made those investments to ensure that town has secure water but the other towns near us were very much upstream, whether we talk Tenterfield or Uralla or Guyra. They would not have been affected by an inflow sequence.

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So I think if we ignore the lessons from this period or what else we can do for those towns, we have to look at all the other levers that are available to government—those funding programs, whether it is Safe and Secure, funding programs which have an increased budget now—and I do think the intention of government is finally bringing together this information in these regional water strategies. We would definitely be wanting a seat at those discussions with all other stakeholders about how we can prepare our whole region across all of the different users, including our towns.

Mr JUSTIN FIELD: Thank you.

The Hon. TREVOR KHAN: Could I ask a question here?

Mr JUSTIN FIELD: Of course.

The Hon. TREVOR KHAN: Could I take the three of you to the third paragraph on page five of the Gwydir Valley Irrigators Association submission? I accept that perhaps only one of you will have the submission. The third paragraph states:

Given the higher proportion of high security to other entitlements in the southern systems, the impacts to lower priority allocations like general security were significant. Meaning a higher volume of water would be held back to ensure supply of domestic and stock, local water utilities and high security for full allocations, regardless of the actual climatic sequence.

Just taking those words, and I invite each of you to comment on this, do I take it that if what we will describe as the water allocation-drought information bill, the Labor bill, were to pass, you would expect—I will not use this in a derogatory sense, coming from the National Party—but a more conservative approach to water allocations to arise?

The CHAIR: It is a long time since you have been conservative.

The Hon. TREVOR KHAN: I have never.

Ms LOWIEN: Thank you for your question, Mr Khan. I think those two sections—the previous paragraph and that one—indeed is linked to some information which was a part of the assessment post the Millennium Drought.

The Hon. TREVOR KHAN: Yes.

Ms LOWIEN: And that is definitely the way that it would work, in our understanding, if they were to change those inflow sequences. It would essentially mean that there would be a much extended drawdown period before allocations were made available. We can appreciate all the frustrations across so many regulated storages at the moment with their current status of what water is available and where allocations are at. We would anticipate, and the analysis of the department at the time indicated, that there would be a long period of top-up until allocations would be made to those lower entitlements, particularly if you are changing what is a two-year forward secured amount to three years or another number. Some of that information, we know, has been provided now as part of the feedback to this current round of water sharing plan discussions by the department, which was released late last week in their consultation report.

It was very clear that the impacts to lower security entitlement holders, based on their analysis in the Lachlan, was potentially quite significant. So it goes back to that discussion about risk and how you can approach it. Our understanding at the time is that—why they considered to lock in the inflow sequence based on that pre-water sharing plan cycle. Since then they have developed this whole range of other statewide and localised policies to allow a much clearer framework to address if and when shortages occur and it is—we use traffic analogies a lot. The one that hits me at the moment is how New South Wales has managed their risk associated with the pandemic and they have adjusted that depending on the current exposure levels to that virus. And so that is the approach that it appears they have taken as part of water policy and I think that is that discussion about risk. The department and the Ministers at the time have made that decision based on those assessments.

I think, to be really dynamic, in a sense of being able to manage when we get to those critical needs, we need that risk-based approach because we will always need to be prepared for that other scenario. And I think we have followed those processes during this current drought and we have seen how that has played out and the communication from that. It has been really clear amongst our communities and water users that steps taken as part of the incident response guidelines and the staging of the drought categorisation, and so I think that has definitely been a positive addition to the toolbox in how they have managed town water supply.

The Hon. TREVOR KHAN: I suppose the question—sorry, Mr Martin?

Mr MARTIN: Just to reinforce what Zara is saying about using the existing levers, learning to use them better, and Tony's points about infrastructure improvements: It is my understanding in the Act there is a division 9 there that relates to compensation for alterations made that affect the provision of water to general security water

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or any other licence class covered in a regulated system basically, or most of them anyway it seems. There is an understandable requirement for that to be in there. People are trying to make investment decisions and business decisions on what they understand they have as their right. To be updating that at a later date within water sharing plans confuses that for users, and those compensation provisions are in there for a reason. Like Zara and Tony have said, there are a lot of other ways of going about this, I think, possibly with some positive outcomes for all sides of the argument.

The Hon. TREVOR KHAN: I will get to the rub. Am I right in my assumption that if what we will describe as the Labor bill went through—that is, the Water Management Amendment (Water Allocations—Drought Information) Bill—the primary group impacted by the bill would be the general security licence holders?

Mr QUIGLEY: Absolutely.

Ms LOWIEN: Absolutely.

The Hon. TREVOR KHAN: And that is particularly relative to the high security licence holders. Is that correct?

Ms LOWIEN: Yes.

Mr QUIGLEY: Yes.

Ms LOWIEN: Their entitlements are preserved under the essential supplies category—

The Hon. TREVOR KHAN: Indeed.

Ms LOWIEN: —so they would be being secured 100 per cent of the time, as with all other essential supplies, which includes stock and domestic town water supply.

The Hon. TREVOR KHAN: Sorry, I do not want to cut across you, although I do from time to time. Sorry, keep going.

Ms LOWIEN: I was just going to offer, if it helps, to read a section out of the most recent department notice on this.

The Hon. TREVOR KHAN: Sure.

Ms LOWIEN: It said:

In 2014, the NSW Government decided against becoming more conservative when making allocations and locked in the allocation risk as that taken at the start of the first water sharing plans, rather than moving to a new drought of record. This was viewed as the appropriate balance between productive use of water and drought security.

It concluded that alternative drought contingency measures including subsidies and other assistance—as well as those programs and policies and levers that I talked about—were preferable to setting water aside in reserves for long periods of time. So that was from the department's advice that we heard through the community consultation from this round of water sharing plans, and that is their most recent report on that, delivered last week.

The Hon. TREVOR KHAN: Great.

Mr JUSTIN FIELD: Can I just ask a question?

The Hon. Trevor KHAN: No. Before you do, can I, in my dumb sort of way, put to you that the effect therefore of the change that is proposed in the Labor bill relatively would be to increase the value of high security water licences at the expense of general security water licences—that is, people will want high security water licences because their general security holdings are now more tenuous?

Mr QUIGLEY: That is correct, but on top of that, it prevents a general security irrigator or the Environmental Water Holder from being able to make a decision to either plant a crop or put a flow into the Macquarie marshes. If that water has not actually arrived in the dam, they cannot almost foredraw like we are able to by using a higher drought of record when the inflows were assumed to be some sort of normal. Therefore, the opportunity to plant that crop or to put a water event down there is actually delayed until the water gets into the dam, rather than anticipating that it will. Therefore, production on both those schemes is going to be reduced because people will generally only take the risk if they will apply the water they have available without punting they are going to get more. It will reduce productivity simply by taking away opportunity, in my view.

The Hon. Trevor KHAN: Alright, and I am not discounting anything in what you say, but the final proposition before Mr Field takes over is this: If you were a large holder of water licences in, say, the southern valleys, the impact of this bill could either be—particularly if you held a lot of high-security flow—a significant bonus to you or alternatively, if your water holdings were general security, may result in a significant loss. But

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there are very significant financial implications, particularly for high-security licence holders in the southern valleys. Would that be correct?

Mr QUIGLEY: I think if you are asking that in a general way, the more high security there is in a valley, the greater the gain will be and the greater the loss to the general security participants. So yes, there is a rebalance of a change in risk and I think what you are pointing out is absolutely correct, but I have no expertise in the southern valleys.

The Hon. Trevor KHAN: And you can work on the basis that I have no expertise in much.

Mr JUSTIN FIELD: I have two clarifying questions. Would you agree that all of that presumes the balance between high-security licences and general security licences being maintained and, if your intention is to try to address changing inflow patterns because of climate, you may well need to restructure the water sharing plans to reflect that more broadly, so you would not necessarily maintain those balances?

Ms LOWIEN: I think that is an assumption that there would be changes of that scale as well, and we are not quite sure. If you were to go through and have a full discussion about all of the options available, that is an extremely contentious discussion to open up sharing the bulk water shares between high security and general security, particularly in regions. The Gwydir, Namoi and Macquarie do not have a really high proportion of high security. Ours is all very much utilised on the small volume or small area of permanent cropping. There is a much larger proportion down in the southern valleys and that would be an extremely contentious discussion in itself, opening up the bulk water shares between the two.

That is possibly part of the discussion, but I am not sure where New South Wales wants to go with this proposal in the sense that the proposal in the bill looks at one aspect of all the levers available and you want to have a discussion about the entire package. Our suggestion there is to maybe look at the gaps and the opportunities we have going forward, possibly through these regional water strategies, and have those discussions more in an open and transparent manner under that heading, rather than looking at this bill as one step and then having those other discussions later. It could be opening Pandora's box or a can of worms and that is exactly what opening up the bulk shares would be between high security and general security.

Mr JUSTIN FIELD: Would you consider this proposition then: Because it would be highly contentious, these plans as currently drafted and then the decision taken in 2014 to exclude the Millennium Drought was actually the Government avoiding that contentious challenge and instead just avoiding it and saying, "No, no, we'll keep the levels of reliability and just hope that we do not see another worst drought"?

The Hon. Trevor KHAN: You are asking these witnesses to speculate. You have the former Minister here.

Mr JUSTIN FIELD: I am going to ask the former Minister.

The Hon. Trevor KHAN: I am sure you are.

Mr JUSTIN FIELD: But what was read onto the record was a statement of the then Government about why the decision was not to do it and we have just heard evidence to suggest it is highly contentious. There was also an agreement by this witness that there should be broader consultation, and that is what I am asking about.

Ms LOWIEN: I think we are conflating, if I may, a couple of issues in the one aspect. Opening up the shares is definitely a contentious aspect. Whether it was the regions, as earlier interjections suggested, I am not one to know that, but there is definitely a range of regions. There was analysis done. Whether it was the only decision-making point, I would imagine not. What we have presented is a range of alternatives to ensure that we have town water supply, notwithstanding that there is an inflow sequence calculation as part of the allocation system. But there are other tools available and we have used them through this drought.

Whilst not all towns have got through without a day zero, many did. We have to recognise that we can learn from that and this inflow sequence will not help every town in securing its water supply because some of them are sitting on unregulated or upstream catchments. If we really want to have a discussion about securing town water supply and being better prepared for drought, the regional water strategies is possibly where that could happen. I believe that is the intention of government and I think it should happen in the context of securing and ensuring the balance between all water users.

Mr JUSTIN FIELD: Those regional water strategies do not change water allocations, though. Do you all agree that water sharing plans currently are governed by a drought of record, but it is just a drought of record that was arbitrarily picked? For the Macquarie, given that we have somebody from Macquarie Food and Fibre here, until the last couple of years, your last drought of record was in the 1930s, so you have been affected by that inflow assumption historically as well.

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Mr QUIGLEY: Yes, that is true but if you look at the four drought sequences before the last drought sequence on the record, including the one we are living in right now, they all have different characteristics. To suggest that the one outlier or the worst one should be the one picked that we take the risk profile from, we are better informed by a group of trend lines than one—that is, singling out the absolute worst. Going forward, there needs to be some objective information about how an amalgamation of those lines gives us a better picture about what may happen. But at the end of the day a drought is going to do what it wants and we have no influence on it. It is how well prepared we are for it when it arrives that really counts.

The CHAIR: My first question is to Mr Martin. I asked this question of the NSW Irrigators' Council but since it directly affects Namoi Water I will put to you as well. Under the new water sharing plan that is proposed you will see for the first time downstream targets for the Namoi. I have been told it is about 150 megalitres per day that would have to go to Wilcannia. Do you see the Labor bill exacerbating essentially the impact of those new downstream targets? Are your members concerned about that?

Mr MARTIN: I will have to take that on notice.

The CHAIR: We cannot take questions on notice, unfortunately, Mr Martin. If you are not in a position to answer how your members feel, perhaps answer to the best of your ability.

Ms LOWIEN: Is the question in regards to schedule 1 requirements for supplementary events in the water sharing plan? Because I believe the question to NSW Irrigators' Council was in regards to a target at Wilcannia, is that correct?

The CHAIR: Yes, the downstream target. My understanding is 150 megalitres per day would have to flow before anything else was given. I am just wondering how this drought of record would then impact on top of that?

Ms LOWIEN: I can answer those questions if you like, generically speaking, in terms of the northern plans. That requirement for Wilcannia and a series of requirements that sit within schedule 1 were the former requirements sitting under the interim north-west flow plans. They are linked to supplementary events in both the Namoi, the Gwydir and the Macquarie. Those schedule 1 requirements are flows at Wilcannia, Louth, Bourke, Brewarrina and at Walgett to provide, in the first case, initial flows for basic landholder rights. There are then other second and third triggers which talk more about fish passage and algal suppression. Those rules have always been in our water sharing plans since they were established in 2004. They have just been—I am not sure whether rebranding is the right term or requirements set down have been shifted as a schedule 1 Barwon-Darling flow target, but they existed before the water sharing plans under the north-west interim flow plans.

What happens in the event of a supplementary event, which is a below dam, unregulated flow, is that the Minister will make a decision to restrict those flows—more so than what the rules already provide for, to provide for these base flow requirements. What we saw in the history of those is that once the water sharing plans came in and all of our supplementary rules changed to the various sharing requirements in each of the upper catchments, the need and the use of that north-west flow plan was less prolific, whereas it was used pre-water sharing plans much more to provide for those basic landholder rights. Whereas supplementary flow sharing rules in each of the upper catchments that came through in the first duration of the water sharing plans and since already provide some sharing arrangement and passing through a certain percentage of flows. I do not see the drought of record interacting so much with that because it is in referring to the upstream headwater storage calculations for general security and the schedule 1—or north-west flow plan rules—link to a supplementary flow event.

The CHAIR: Okay, thank you. Just shifting to the other two bills, both the Namoi and Gwydir submissions talk about the existing register and the fact that you can search through that already. Can you talk me through the process because the way I have read both your descriptions of that register, it reads very similar to a commercial fishing share register. My experience with that is unless you know the backend details of whose business number that belongs to, the information is largely useless. If we are concerned about water transparency, water speculation and people buying water for profit rather than for producing food and fibre, how would we use the existing water register to either allay those concerns or highlight those concerns?

Ms LOWIEN: I can explain the two-step process that exists now and I suppose capture some of your aspects there. We use the public register, I would say, almost daily to look at the valley scale usage, allocations, we might look up individual licences or work positions for somebody who has asked a question about their licence—I would go to the register and find that out for them. So that currently freely available section provides a significant amount of data already, particularly at the valley scale, which is quite handy to provide evidence of how much water is being pumped, where we are tracking in our groundwater usage—all those situations. What the next step is—and the current way that the two registers work now—is that you would need to take specific

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information from the first register and use the NSW Planning Portal or property services search to then go and find the specifics.

If you are going for information off the water trading statistics, you essentially just need a water access licence [WAL], which is on the water trade register anyway. Then you would go and search that in the property services registry, which is then the paid search, which then brings you up that information, which might be the individual owner's name and would also have links to any conditions on that licence, in addition to those sitting against the works for that licence and ministerial discretion. It would also have the encumbrances. That second step—that bit that has the additional personal information—you have to go to a different register, just like you do now for land, and you would go in and pay for that search.

They are the two steps that we do and that is why when we saw the second bill—the Water Management Amendment (Transparency of Water Rights) Bill—many of the proposals in that bill already sit in the current two steps. So we were a bit perplexed, as with Namoi Water, on what the benefit of those changes and amendments would be, given that they already exist in that approach now. Our concern that we raised was that if they were to join those two search facilities together, whether those who freely and openly use the main register—the water register—that is available through WaterNSW now, if it was to become a paid option, you would actually be stepping away from transparency and adding to the barriers in accessing that information that is currently available.

The CHAIR: Just to rewind a bit, you said in that second step I could go to that second register with a WAL number and I could punch that in. Would that give me the name of the licence holder, or give me whatever they put down as their name or give me a business name?

Ms LOWIEN: It would give you the name that is registered with the department for that water access licence number. For example, if I needed to check something—the example I have is that I have all of the records of the transfers from when the Commonwealth Government bought water from irrigators back in 2009-10 in the Gwydir Valley. We did that paid search to track each of those transfers from individuals across to the Commonwealth to ensure that those conditions went across as the same as they existed under the individuals who then sold them to the Commonwealth.

That information is available already. It is not what they wrote down, it is what—they and their lawyers would have coordinated the ownership. The challenge you have with all things—whether it is property, or livestock in terms of land, or houses or water—is that often they are in a different variety of business structures and so that is a challenge we have in that aspect. Whether that is the problem that people are having—but neither of the bills, in particular the Water Management Amendment (Transparency of Water Rights) Bill, will change how people are choosing to structure their ownership of either water or land.

The CHAIR: It certainly will not change how they are choosing to structure their ownership, but in terms of what name they put down and what they register, it will be a bit more clear. The way you have described it reads exactly like the commercial share register, where I can set up a business and a fake name and there are no repercussions and no way to track that back to the person who really owns it, unless you know the inside information.

How you have described it actually really negates any concerns that people have raised about privacy, because you are saying that you can find this information about who owns it anyway. I am just a little bit confused about how the register is working at the moment, how this register at the moment deals with speculators and how we can use this current register to essentially identify people who are gaming the system to the detriment of farmers. That is my concern.

Ms LOWIEN: I think the slight issue I pick up with you would be somewhat around the water trade register, not so much the general database of information. Either way, there is only a certain amount of information that is collected by the department whether you own land or water. There is some that sits restricted under the paid search still, which is probably the next layer of information, which might be the individual or the link to the holding company or the business that has chosen to own or buy water or land. I think that is not unusual with land or water, that it is up to the individual in how they structure that. Those restrictions sit and that is the privacy level. We accept the information that is currently available now.

What I read in the Water Management Amendment (Transparency of Water Rights) Bill 2020 was an expansion of the information that would be available upfront, and that would require departments to change what they keep on record, which is also adding more information potentially to the current register that we have got, which is going over and above what is currently available—that is by broadening the search to include an ABN or broadening the search through an individual company. You can get that if you know the water access licence, and you can search by the water access licence, but the key difference for this bill was adding the searching engine

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to then go name of the individual or corporation or the ABN. I think that is where people—and I think we use the term in our submission—would "go fishing".

That is that instance where, "well, I don't like Joe"—because Mr Martin is sitting next to me here, I can use him as an example—and so I can go in and search without having to actually make and connect those two searches together. Yes, that information is there on what Mr Martin's business or his family might own—it is currently available now. But just to be sitting there and data-mining information of individuals potentially for locations where they live, where their farms are, what water licences they have, that is starting to get to a level where it makes water access licences quite vulnerable and also potentially going a step beyond what we think is allowable under the privacy Act, and that is not currently available for other forms of assets. I think we need to be consistent here.

I think if some of your concerns sit with the water trade register, I believe that there have been amendments to the WaterNSW water trade form requirements based on feedback and concerns about the declarations of the information there. We do have the ACCC undertaking its inquiry into water trading within the Murray-Darling Basin and I think there will be some guidance there on some consistency between the States, and I think we should take some information out of that. I do not see, though, largely how the Water Management Amendment (Transparency of Water Rights) Bill will address the issues about speculators in the market or other means, because it is still leaving it up to individuals to put the information there and to structure that business. I will leave it there, unless Mr Martin and Mr Quigley have some other points.

The CHAIR: Just on that point, if it is not this bill that will help deal with speculators in the market, what will help deal with speculators in the market? Unlike you, Ms LOWIEN, I do not have blind faith in the ACCC being able to do anything. It has proven time and time again that it has failed to deal with speculators in various markets. If it is not this bill, what can we do to deal with those speculators in the market, including foreign ownership?

Ms LOWIEN: I think there are steps being taken to be clearer on the foreign ownership requirement in terms of declarations. I know there have been some challenges with the new foreign investment review. We have obviously got water in a number of valleys owned well before those new rules came into place. I think there will be some guidance on those aspects. I do understand that there is a register kept on what is owned by foreign entities across the Murray-Darling Basin, I believe. We kind of have to wait, I think. The ACCC probably has the broadest powers in this space to look into this issue and to have consistency within the Basin. I think whilst we always wait until we see the draft report, I think we will wait to see where it might have come up with some solutions. I think declarations of that might be an option.

I must say, though, representing those of us in the northern Basin, speculation is not as big a risk that we see for us locally because we have such a low level of reliability in most of the valleys. Managing individual risk is the biggest active user in the market, essentially, of those who are trying to shore up their water supply going forward. We see water move between different owners to use on crops because largely we cannot trade outside of our valleys. The water is fixed into our system. On the speculator side of things, it is not as big a concern from our aspect because of the way our water sharing plans work with keeping water within regions. That is just due to lack of connectivity, generally speaking. I think some of that question would be worthwhile to ask any of the southern representatives.

The CHAIR: Just picking up on one point, you said you see movement within your valley between different owners. How do you discern whether it is a different owner? Is it when you go to that second step? Unless you connect the water licence number to the actual owner you would not know whether that person is transferring money to themselves through separate corporations or separate licence numbers. Is that a second step that you see that—

Ms LOWIEN: There can be a little bit of that, but I will say, from the Gwydir perspective, we are a pretty small network of active irrigators. While we might have a lot of licences for a lot of different owners—we represent around 450 entitlement holders—of those that are actively using that to grow a crop it is a much smaller number. Local knowledge brings us to knowing who is buying water. I must declare that we offer trading as a service to our members, so I know explicitly for those that I do the lodging of the forms for. I see it moving from largely mums and dads and local farmers—or those who have small licences that do not have enough allocation to grow their annual amount of crop—to someone who is seeking to shore up their supply to continue to maintain their business going forward.

The Hon. TREVOR KHAN: I think I heard that either Mr Quigley or Mr Martin was going to make a contribution to one of those last two questions.

The CHAIR: I think it was Mr Quigley.

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Mr QUIGLEY: Yes, it was. From a Macquarie point of view, we see very little speculation in water. Nearly all of our water in the Macquarie is either owned by the Government or active irrigators. The one part of anyone wanting to speculate holding water is that you are prone to lose that water if the dam spills. The first water that goes over the spillway at Burrendong is deemed to be the carry-over water. Yes, you can hang out for a higher price or hold water over from year to year, but the reverse side of that card is if the dam spills you have lost it and your return will be zero. There is a disincentive to hold water for long periods as well.

The CHAIR: I am looking at members for questions.

The Hon. TREVOR KHAN: No, I am right.

The Hon. SAM FARRAWAY: No, that is good.

The Hon. TREVOR KHAN: It has been great.

The CHAIR: Thank you very much. We are pretty much bang on time. I thank witnesses for their submissions and for answering our questions. That concludes your time.

Mr MARTIN: Thanks for having us.

Mr QUIGLEY: Thank you very much for the opportunity.

Ms LOWIEN: Thank you very much.

(The witnesses withdrew.)

(Short adjournment)

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KEVIN HUMPHRIES, resident of Tamworth, former Minister for Natural Resources, Lands and Water, and former member for Barwon, sworn and examined

The CHAIR: Welcome back to the last session for today.

Mr HUMPHRIES: Thank you for the invitation to attend. Just a brief statement and I will table a couple of recommendations, if I may, at the start. In terms of the three bills, the first bill that has been put up, the Water Accountability and Transparency Bill, I really have no view on that; I think it is a neither-here-nor-there thing. Members, particularly Ministers, are required to disclose all their entitlements and their holdings; so, to me, it is what happens. The second bill, the Transparency of Water Rights Bill—it was interesting to hear the previous discussion—again, I have not seen issues around speculation in water or who owns water or if anyone really wants to find out under the current system who owns what; the same as lot numbers with real estate, it is very similar and the process, I understand, is reasonably similar as well. I do not have too big a view on it, but my understanding is and my experience is the current system works pretty well.

The discussion around water speculation and people entering the market, it has not been my experience; most water entitlements are owned by family farms or they are affiliated with investors that have got a direct input into that farming operation. In the south the water is largely owned by the water corporations or the members through the water corporations and that is quite transparent. The biggest water holder in the whole basin is the Commonwealth Environmental Water Holder by far. So, again, I do not have a particularly strong view, but I think what is there works. My interest is, and what I wanted to attend, is certainly the third bill that is put up, the Water Allocations—Drought Information Bill 2020, because I feel quite strongly about some of the aspects of it and what it alludes to. I do not really support the bill in the sense that it is too broad-brushed and it is not detailed enough and, to be honest, it would be opening up a can of worms, I suspect. The sentiment of it, particularly in terms of security for town water supplies, I do support and I have put together a number of recommendations which I will just run through very quickly.

Some of the recommendations have been referred to by previous speakers but New South Wales is now undergoing a number of not just reviewing but formulating regional water strategies across the State and that focus was set up, I believe, to bring the best climate change evidence in order to plan for the water needs of New South Wales, particularly the regional communities, over the next 20 years. That is a good thing. Each strategy will deliver on long-term actions including water for local communities. Those strategies are designed to be adaptive; they are more regional-based rather than the specifics of the original water sharing plans, which in some cases were not necessarily as connected as maybe what they will be through the second iteration of the plans, but the regional water strategies are a good idea and my first recommendation is the New South Wales Government expedite the formulation of these regional water strategies with a particular focus on the Murray Darling Basin communities and with a focus on essential water supplies for towns.

The second recommendation is that town water supplies for communities that are geographically located within the Murray Darling Basin and supported by water entitlements within a dam storage facility or facilities be entitled and prioritised a minimum two-year water supply quarantined for critical human need. This will require a review of each water sharing plan and trigger points for environmental, industry, stock and riparian landholder needs. Quite specifically, which I might talk to later if given the opportunity, in terms of the Peel, which is really the Tamworth water supply which relates to Chaffey Dam—and I will identify the fact that I am a Tamworth resident as well—that the 2010 water sharing plan, which is currently due for review, not be extended and that the issues raised by the overview of this bill, and I refer to the Water Allocations—Drought Information Bill, be dealt with as soon as possible. That really would deal with the issue that the honourable member has raised at schedule 37, which refers to departmental historical flow, because the review of the plan really has got to take into consideration the current realities of what we have just been through. Pushing it down the road is not really an option, I do not think.

It is noted that in some water sharing plans, such as the Peel River, the priority on environmental releases is specifically identified whilst the human critical needs in the case of Tamworth, some 40,000 residents, is not. This was not the intention of water sharing plans and needs rectifying in terms of acknowledged recent extended drought periods. The Peel River plan it should be noted was one of the first iterations of plans developed. Most water sharing plans were developed between 2004 and 2006 and came up for review in 2015-16. The Peel, and not too many others—there were one or two others, I think—were not really coming to the fore until that 2010 period. That was for a whole lot of reasons; I suspect one based on lack of agreement and some internal wrangling between the department, the government of the day and local government about who owned what in terms of water infrastructure in particular.

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Recommendation 4: Where essential town water supply storage located within the Murray Darling falls below the two-year rolling average threshold, the Minister, or Ministers, given there is a dual consent issue here often, put in place an order via section 49B of the NSW Water Management Act 2000 to suspend the relevant water sharing plan or that part, with priority given to maintaining essential community water needs. For instance, in the Peel Valley, in order to gain two years' water supply—which is the equivalent of 20,000 megalitres or 20 per cent of that storage—environmental flows would cease and priority given to critical human need and essential industries including stock. They are just some of the opening comments and recommendations I make. I support the sentiment of the bill but it is too broad-brushed. Most of those issues have and should be dealt with in a review of the water sharing plan, and there is that anomaly in the Peel that does need to be addressed and it needs to be addressed, I believe, sooner than later. The fact of the second iteration of plans and with the development over the next 12 months of these regional water strategies, and given the historical dry period that we have been through recently, hopefully we will get a better outcome for some of our communities than what currently exists.

The last thing I would say is this issue really only relates to probably two valleys in the whole Murray Darling Basin. You heard from Tony Quigley from the Macquarie. It is the Macquarie Valley and Burrendong where you have got a very, very large, broad, diverse area that is dependent on that regulated water storage. Thankfully, places like Dubbo do have access to groundwater to supplement water from Burrendong and the Macquarie, but communities further west do not and to be able to have some secure storage, until better infrastructure like piping the Albert Priest Channel, which is a channel he referred to, is achieved, they need a more longer-term period. The second one is the Peel River—a growing community, a diversified economy. Chaffey Dam is only small. There is an augmentation of works underway at the moment and a Dungowan Dam upgrade, but that is four or five years away.

There are instruments within the water Act, sections 49A and 49B, which allow the Minister to make those adjustments. So the tweaks in each of the water sharing plans is there under the current framework. Some of the recent banter around the Peel—and you will hear from the Tamworth council tomorrow, I suspect—does need addressing because for that city to just have pretty much 12 months water supply sitting up there in the hill in Chaffey is not good enough, and where some of the flows that are being released after periods of rain, which we have had recently, is really, I think, quite out of whack with what the intention of the water sharing plans were about and what our agreement with the Commonwealth is under the Commonwealth Water Act 2007, which does allow for States to suspend parts of plans by order if there is human critical need, or if we have experienced a major event, like a prolonged drought, which is recent. So there are a number of recommendations there, but certainly get on with the water strategies and do not delay some of the reviews that need to—well, there are only one or two that I know of. One is the Peel.

The CHAIR: I will throw to our opening pitcher.

Mr JUSTIN FIELD: Thank you, Chair, and thank you, Mr Humphries, for being here today. I want to go back to 2014. I understand the imperative for the changes you made then. The Water Management Amendment Bill 2014, which made changes to the drought of record in a number of regulated rivers—most of the regulated rivers in the Murray-Darling Basin system—was introduced by you about a month after you became Minister. Was that work that you picked up from the previous Minister or did you bring forward those additions to that piece of legislation?

Mr HUMPHRIES: No. Well, in short, that had been years and years, and I suggest it would be over several Ministers, not just the previous one to me. The 2014 water amendment Act, to be honest, was really about licensing arrangements, defining terms within the water sharing plans, so it really was taking the Water Management Act 2000, I suppose, to a more definable instrument.

Mr JUSTIN FIELD: I am specifically talking about those changes to the drought of record and changing it to the lowest-inflows-on-record descriptions. That seemed to be anomalous in the bill. It was quite a separate section and I am simply trying to understand that that had also come forward from the previous Minister. The drought finished in 2010 and we saw these changes in 2014. I am simply trying to understand where that started.

Mr HUMPHRIES: It is a good question because I cannot tell you exactly when it did start but my understanding historically was one or two plans were really struggling to define their plans. So at the community consultation level, and the honourable member might be able to help me out here, but it was quite contentious. There seemed to be quite a bit of bickering between local officials, government officials, irrigators, and not a big valley. Tamworth council had been in previous litigation with the Government on Dungowan Dam, for instance, which is adjacent to Chaffey Dam, and I think—and I am only surmising this because I cannot exactly answer your question—a set of rules was agreed to as a baseline for all the water sharing plans. Basically, we have just got to stick to the baseline that was agreed to and that was basically 2004, pre-2004 figures.

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Mr JUSTIN FIELD: Okay, so the decision was made when the initial plans were drafted based on a general share between high security and general security, and when you realised that the Millennium Drought had been worse than a lot of the historical records, you realised in order to maintain those general shares you needed to change the drought of record based pre the Millennium Drought. Is that how it went?

Mr HUMPHRIES: That would be sound reasoning. I cannot say 100 per cent sure, but I suspect that was the reason because that was basically the rules that everybody was abiding by in the formation of that first generation of plans.

Mr JUSTIN FIELD: And that process had started before you became Minister?

Mr HUMPHRIES: Oh, it would have been, well and truly, absolutely.

Mr JUSTIN FIELD: Do you recall seeing any modelling about the effect that changing the drought of record to pre-millennium or not changing it, whichever way you look at it, would have on the different valleys?

Mr HUMPHRIES: No.

Mr JUSTIN FIELD: In your second reading speech on the bill you quoted a figure of between 8 to 20 per cent impact on general security licences.

Mr HUMPHRIES: Yes. I have that.

Mr JUSTIN FIELD: What sort of modelling would that have been based on?

Mr HUMPHRIES: I would have taken that on advice.

Mr JUSTIN FIELD: But you do not recall commissioning any modelling or seeing any modelling, in particular, for the different valleys?

Mr HUMPHRIES: No, not specifically, not to my record, but I would go back to certainly there was discussion around the time frame of which some of these plans were taking in terms of their development, given that we did have Commonwealth requirements as well and the water sharing plan process was taking a considerable amount of time, as in years, not just by our Government but the previous Government. Whilst you might want to say, "Yeah, that's good—measure twice, cut once," there needed to be a baseline. That was my understanding of it, and still is, that everyone needed to be playing by the same rules.

There were opportunities for a review of the water sharing plan every 10 years. Everyone knew that was the case so we had to get on with it and that that should be the time to take on the next decade's information and adjust the plans if they needed to be adjusted accordingly. But there was always a trigger in there to say, "Well, okay, if things get out of whack and we've got to actually make provision to suspend part of a plan," which you can do by order—if there are major changes, obviously, it has got to go back to legislation—but there were safeguards in there through those two sections.

The Metropolitan Sydney water plan was suspended, for instance, last year, and that was based on water supplies here running below a certain level—65 per cent I think it was—which basically cuts off your end-of-system water flows out of Warragamba and starts to trigger more water coming over from the Shoalhaven. So you have got to be able to adjust water sharing plans in a time of need and the schedules allow you to do that, whereas I think the blanket approach that is being proposed here—and I do not really, to be honest, fully understand what the approach is—I just do not think it is necessary but I understand the sentiment of it.

Mr JUSTIN FIELD: I want to go in a slightly different direction. Have you been interviewed by ICAC with regard to your time as water Minister?

The Hon. TREVOR KHAN: Point of order—

The CHAIR: I will hear the point of order.

The Hon. TREVOR KHAN: That really is going beyond the provisions of the three bills. I also raise one other point. My understanding is that under the ICAC legislation when a person is the subject of interview, they are then subject, potentially, to orders being made with regards to the disclosures of the matters that confront them, and that may raise an embarrassment for any person who is the subject of it.

Mr JUSTIN FIELD: To the point of order—

Mr HUMPHRIES: Could I just clarify your question for a minute?

Mr JUSTIN FIELD: Yes.

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Mr HUMPHRIES: I actually sat on the ICAC committee as well, so I am quite aware of the rules, and the Hon. Trevor Khan is correct. Was I referred? I can answer by saying: Was I referred there based on a meeting out west and an irrigator who was in trouble for, allegedly, taking water that he should not have? Yes, that was raised and that was referred to ICAC but I cannot tell you any more than that.

Mr JUSTIN FIELD: To the point of order: I appreciate that answer but, Chair, it is an open secret that ICAC has been conducting the investigation into allegations of favourable decisions in relation to water. We know there was a referral to ICAC. It has been mentioned by the witness. And we know that the witness was the Minister responsible for some of the decisions that have been publicly linked to the potential ICAC inquiry at that time. Changes were made to the drought of record immediately after Mr Humphries became Minister, and this inquiry is looking into whether or not that law should be reversed.

To the point of the Independent Commission Against Corruption Act 1988 and secrecy provisions, we also know that the select committee on the conduct and progress of the Ombudsman's inquiry into Operation Prospect, conducted in 2014-15, dealt with similar issues. At that time the Committee sought legal advice, which I think is relevant here, with regards to the secrecy provisions in the Ombudsman Act 1974. I understand those provisions are quite similar to the provisions in the ICAC Act, and the ability to question and obtain answers from witnesses may be related to other proceedings—in that case the Ombudsman's inquiry but in this case ICAC. We can do that. While the legal advice in that instance was quite detailed, I would invite the former Minister to read it. Paragraph 10 is the key paragraph. It states:

It follows, in my opinion, that the provisions of sec 34 of the *Ombudsman Act* do not prevent the provision of information to the Select Committee, nor authorize a person otherwise bound them to refuse to answer questions before the Select Committee or to provide documents to it.

So I would contest that the question is in order. It is obviously up to the witness how they choose to answer it.

The Hon. TREVOR KHAN: Can I just add a further matter, seeing I sat on the Operation Prospect inquiry and I am fully alive to those, but it seems to me the appropriate way to proceed, subject to what you do, is for this Committee to go into camera at this point in time because there clearly are rules of fairness that apply to a witness. My understanding is under those—and perhaps it falls more for the witness than for me—that in circumstances like this there is the provision for committees to go in camera to deal with the material. And indeed I have sat on so many inquiries I get to a point where I cannot remember which one but I think on Prospect one of the things we did was go into camera for the receipt of certain evidence because of the sensitivity of some of the material. And again taking into account that this is perhaps the first of a number of questions, subject to how you rule, it would seem grossly unfair that this be done in this way.

Mr JUSTIN FIELD: I have no objections to doing that. I am not sure what that means for potential testimony if it has occurred.

Mr HUMPHRIES: Let me help you: I will not be answering any questions to do with ICAC—end of story. And I can qualify it by saying that since 2014 we have had probably the worst drought and dry period on record. The issues that the honourable member has raised I think do need to be addressed appropriately and sensitively and I am supportive of that. It largely relates to the security of town water supplies. That was the intention of, I suspect, what he has raised. The previous two bills, to be honest, are just a tick-tack political bunfight pointscore exercise that I think is just a waste of time, which is why I do not really want to comment on it too much. The third bill is important. The communities that deserve that response, which I have put up, and how we go about securing those water supplies—for not every community in the State but for a handful; you are probably talking about 60,000 or 70,000 people—does need addressing. If this inquiry is to do what it is mandated to do—or what I suspect it is mandated to do—it should concentrate its effort down that line.

Mr JUSTIN FIELD: Chair, I would like to hear your ruling before we move on any further, if that is possible.

The CHAIR: I have seen the same advice as Mr Field and agree it does not preclude the former Minister from giving answers but it does not mandate that he does. So unless Mr Field is wanting to insist on having those answers—and obviously Mr Humphries can then insist on not giving those answers and then we get into the situation where we as a committee have to vote as to whether we summons the former Minister, which would then have to happen at the end of this hearing. So I need to seek from you—

Mr JUSTIN FIELD: Can I offer a way forward then? Potentially we continue in the public version. I will not ask any other questions regarding ICAC. And if we could have that conversation after today's hearing, we can proceed.

The CHAIR: It would need to be—

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The Hon. TREVOR KHAN: We will have to address whether any of this falls within the terms of reference of the inquiry as well.

The CHAIR: That was going to be my second point. You would need to be very careful in your questioning as to how you draw it back to these three bills in terms of what we are looking at. In listening to see whether a question is in order or out of order, I would be wanting to hear some sort of clear link as to how that referral to ICAC or any undergoings in ICAC relate to these three bills. So in the first instance—

Mr JUSTIN FIELD: I am comfortable with that ruling and for us to take it offline for discussion afterwards.

The CHAIR: It would need to be done in a formal deliberative if that is the way we are going to move.

Mr JUSTIN FIELD: I have a follow-up question which I think goes to some degree to my point, Mr Humphries, my concern is in your second reading speech you made clear that the decision to backdate, effectively, the drought of record was to improve general security access between 8 per cent to 20 per cent—that would be the effect of it. So there is a clear benefit to general security holders, not taking away that some of that is irrigation and some of that is environmental, for sure, so it is not just about town water security. There is a broader question about the sustainability of the plans generally, given climate change. I am trying to understand on what basis and on what modelling you made a decision as Minister, just a month into the role, to backdate those records.

The Hon. TREVOR KHAN: I am going to take the point of order again. We are dealing with three bills. Even though I have been surprisingly tolerant up to this stage with regard to historical materials, we have three bills. Two of them deal with transparency and clearly this relates to the water allocation issue, but it does not actually matter what the background to the current law is. The question is whether the bill that the Hon. Mick Veitch has introduced into the upper House should go through and that is not dependent upon historical material. It is a question about what the facts are on the ground now and whether that bill will make it better or worse.

Mr JUSTIN FIELD: Chair, to the point of order: The drought of record bill—that is not the way the bill is named but that is what it is about—essentially seeks to reverse the 2014 bill that this witness has carriage of as Minister. We have heard from nearly all of the witnesses talking about the need for more modelling, more information and more understanding of the impacts. I am trying to understand the modelling on which that decision then was based. I think that is highly related to the suitability of this new bill to address the issues that have been caused.

The Hon. TREVOR KHAN: To the point of order: Actually, what he is seeking is information that if we had held an inquiry back in 2014 may well have been relevant or at least they may well have been relevant to Mr Justin Field. But they are not relevant to this bill. They would have been relevant to the argument then. So whilst it plays into a narrative that my colleague wishes to develop, it does not actually play into the considerations that we have now. We have certain facts on the ground now and, rightly or wrongly, the Veitch bill, if I describe it that way, deals with those facts on the ground now, not what led to those facts. There are facts on the ground. The question is: Does that bill adequately deal with it or is it that, as many of the submitters say, there needs to be more modelling done now to deal with what should be a way forward?

Mr JUSTIN FIELD: I do not want to take up anyone else's time. I am happy to move on and ask one last question, otherwise we are just going to go back and forth here.

The CHAIR: Unless the witness is willing to offer insight as to why that decision was taken, I think we are going to go round in circles. So—

Mr HUMPHRIES: Well, the insight that I am aware of—and I am only going on historical experience—there was no line in the sand that said, "I have seen this modelling." That work had been going on for years. But you have got to be cognisant of the fact that in between that time you had some quite significant interface with the Commonwealth Government and buying up of licences all over the State, all over the basin, that were occurring. Basically what everybody wanted—it did not matter whether you were a general security, a high security or an environmental flow licence holder, because there is a third category—was security and assurity.

For some of these plans that were just dragging on, there needed to be a line drawn in the sand. In some cases I suspect some of the information probably was not even there historically. I do not know that for a fact but all I know is that the inclusions of what went into the 2014 amendment bill were quite well known at the time, pretty much agreed to by everybody because everyone needed to get on with defining that first generation of plans. Nothing is ever perfect in water because of exactly the changes you have alluded to over time, particularly climate change. Hence the need to get on with reviews. If you want to have 50 views on water, go and ask 50 different people.

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You can agree to disagree on just about everything in terms of water. I think what you are finding out is that it is quite a complex issue. But generally the water sharing plans work. The Murray-Darling Basin Plan generally works. Read my speech on that in opposition where we supported Mr Phil Costa, I think, when he put up the bill for us to sign up to. Adrian Piccoli and I spoke on supporting the plan. So you have had general consensus from all levels of government and politics, I have to say, on that way forward. The plans generally work but there is a tweaking every now and then that you can make and you have to make.

But also, in terms of the bigger picture, let us get our water strategies right, review our plans when they are due, do not keep kicking them down the road because a bunch of new people have come in, whether they be politicians or bureaucrats. The poor old people on the ground do not leave—they stay there. They are the ones that have to deal with this so they need security. They are the ones we are really trying to back. We are not trying to overcomplicate the issue. Whilst I understand the word "narrative" is a good term of where you are going, that is not the intention of why I am here and I do not think it is the intention of this Committee.

The Hon. PETER PRIMROSE: Could I just ask, at the risk of sounding boring by not seeking to take a point of order or introduce a privilege issue, you mentioned tweaking of the water sharing plans. I am just trying to understand. Are those plans remade or are they extended—I am trying to understand what actually happens when you tweak them—or both?

Mr HUMPHRIES: Under the Water Management Act 2000, which is the overriding Act, the water sharing plans were set up for 10 years. They all had common goals but the basic tenet was to recover water for rivers. So there was a very strong push for environmental outcomes but there were also quite clear objectives in meeting economic outcomes, cultural objectives, particularly for Indigenous people, and also meeting the expectations, to an extent, of communities, particularly town water suppliers and riparian landholders—a very heavy emphasis on the environmental side of things. That is fine. That all fed up into the Commonwealth Water Act 2007, which we all signed up to eventually, which basically said, "As a basin we are going to manage this from a higher order. States, you've got your part. You stick to your water sharing plans. We are going to stick to the bigger connectivity issues between the States and try to manage that." That has been a to and fro interesting exercise in itself.

The Hon. PETER PRIMROSE: Mr Humphries, I—

Mr HUMPHRIES: But every 10 years, to your question, those plans had to be reviewed—yes.

The Hon. PETER PRIMROSE: You mentioned the tweaking. It would seem to me that if something is remade then it requires additional data, reviews and information. If it is extended then that does not necessarily require new information, new reviews or new plans. So I am trying to work out when this tweaking takes place.

Mr HUMPHRIES: Well, you have answered my opening statement to say that in the case of, say, the Peel River plan, where it has been extended—that review was due in, I think, June of this year or it might have been late last year—for two years without amending some of that historical information that could be helpful even though it does not necessarily have to be taken on board in terms of the actual operational issues of the dam. That is the real crux of the matter, I suppose. That should be addressed then. So that schedule, that clause 37, I think it is, should be dealt with on the review of that plan. And that specific issue, which I think is clause 37 (1) (a), only sits in one plan or it might be two out of all of the State plans. So it is not that huge an issue but it is an issue for that community. One of the ways that they can address it is by reviewing the plan and getting that focus—that more consistency of priorities—back imbedded in the plan, particularly on the—

The Hon. PETER PRIMROSE: Extending it simply means that you do not put that information.

Mr HUMPHRIES: No, you are kicking it down the road. That is right.

The Hon. PETER PRIMROSE: Okay. Thank you.

Mr HUMPHRIES: I agree with you.

Mr JUSTIN FIELD: There has been absolutely broad consistency from most of the witnesses today, including yourself, about the role that the regional water strategies can plan here in the future. I have asked this question of others: How do you think that will make a difference given that ultimately the decisions made around allocations are made in the water sharing plans? They have just been redrafted. They still have the old drought of record information in there. So how do you think that is going to make a difference in the next decade?

Mr HUMPHRIES: It is called infrastructure. Water sharing plans really deal with largely regulated river systems and storages. The big push for some communities is either through piping water and therefore making the savings to pass back on either to general security or high security holders, so you can improve water efficiency and storages that actually leg up your water sharing plans through better storage and better transfer of

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water and infrastructure. That was alluded to by Mr Quigley. To get, say, 4,000 or 5,000 megalitres of water from Burrendong Dam, from, say, Warren to Nyngan, into that weir pool and then on to Cobar by pipeline you have to send down nearly three times that amount of water. So you can make savings that cannot be made currently in the plans because the infrastructure is not there to support it.

There is a whole lot more we can do in terms of groundwater sourcing as backup, which is what this Government has done previously in some quite remote communities, even though they are not necessarily linked to the water sharing plans—and not every town is. The infrastructure issue and resolving that will give you a better outcome. Griffith is a good example. Griffith gets water now from the Murrumbidgee River. That channel that was opening in, I think, 2017 took out the whole issue of drought in terms of water for that city off the page because they were now sitting under Burrinjuck. For the southern part of the State this is really not an issue. There is no community I am aware of that is now under water threat and indeed the same with Broken Hill. It is really one or two communities in the central west, some of them large, and one in the north-west.

The issue is around the tableland communities that are largely localised water storages or on eastern fall—Armidale, for instance. Malpas Dam is on the eastern fall and therefore does not fall under the water sharing regime with the Murray-Darling Basin Authority [MDBA]. The channel or the pipeline to Guyra will fix that. Stuff is happening outside of the plan in terms of the MDBA but there are some communities—a couple of communities—I think are at risk and you will hear from one of them tomorrow. This is not an issue for irrigators. It is not an issue for the environmental water holders. We can all do a bit better by working together better. That, I suppose, is the whole aim of the water resource plan—the Commonwealth view—and indeed ourselves with the next stage of the reviews. But I would not be hitting a chestnut with a sledgehammer on this one.

The CHAIR: I know you said you did not want to delve too much into the other two bills but you mentioned in your opening statement that it was your belief that MPs already have to make disclosures about water ownership—is that correct?

Mr HUMPHRIES: Sorry. I would clarify that in saying certainly Ministers would, I would have thought, in terms of your entitlements. Or that is my experience from the past, anyway. Members I am not sure of but if members had to register entitlements on a whole lot of things, we just have to wear that—or you have to wear that.

The CHAIR: You do not see any issue with extending the pecuniary interest form to include water ownership.

Mr HUMPHRIES: No, not at all.

The CHAIR: One last one, and I will try not to get Mr Khan's blood pressure up. Given cases of poor decisions, poor behaviour or alleged poor behaviour by people around water, do you think that has impacted or affected the need or call for greater water transparency?

Mr HUMPHRIES: In short, probably no. But at times when there are shortages of things and you have something that somebody else wants, that becomes a problem. I do not think the transparency issue, from my experience, anyway, has ever been an issue. I think if you want to find out information you can. I do not really see it as a problem. I think it is good that people know who owns what—I do not have an issue with that—and certainly people who are in a decision-making capacity. But it just has not been my experience that there have been any issues. Even trading—it is pretty transparent what you can and cannot do. You can only trade and move water within a pretty definable area anyway. So I can guarantee you nothing goes past your neighbour so it is all pretty accountable. But to say there has not been some consolidation in the industry—no, that has certainly happened, for sure. Water is owned by fewer and fewer people but they are largely big family farming operations or affiliates.

The CHAIR: Any questions from you, Mr Khan?

The Hon. TREVOR KHAN: No, I am fine.

The CHAIR: Mr Farraway?

The Hon. SAM FARRAWAY: We are fine.

The CHAIR: Mr Field?

The Hon. TREVOR KHAN: You have done enough.

Mr JUSTIN FIELD: I feel like I have. Again, without trying to exacerbate Mr Khan's stress for the afternoon, he was very happy to allow commentary from one of the other witnesses about modelling and information. The NSW Irrigators' Council in its submission made clear that it had reached out to the department

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to find out what modelling had been done around the drought of record issues. It said modelling had been done but only for the Lachlan. That is after the Millennium Drought. The Council tried to get access to this information but was told the documents were not yet publicly available. I wanted to raise that specifically with you to see if you had a recollection of that particular modelling type. Questions have been raised about the modelling for this bill. I am going to seek that information from the government witnesses tomorrow. It would be useful if you can recall what might have been done so I can ask specific questions.

Mr HUMPHRIES: Let me answer it this way: I was aware of an issue, I am just not sure of the year, certainly in the Lachlan where water was released for irrigators who planted a crop based on those initial releases and then the department came to the conclusion that there was no longer any water available to deliver to those irrigators. There was a significant case made against the department at the time. There is probably one other case but that is probably the main one where I think compensation was due. That was definitely in the Lachlan at that time. Again, you can have the best laid plans and intention—and certainly there were not too many faux pas during that first period of water sharing plan implementation by both sides of government. But again I do not know why that was a specific issue. Something went wrong, obviously, with the modelling and the releases at that time that needed rectifying. But apart from that I could not give you any more information really.

Mr JUSTIN FIELD: You mentioned earlier that we should be cautious about kicking the can down the road with these sorts of things. We are learning as we go.

Mr HUMPHRIES: Yes.

Mr JUSTIN FIELD: We have just seen all the regulated water sharing plans are being remade at the moment and they will be in force for another decade out to about 2030. If all of those still contain the backdated drought of record information, and you have heard—you were listening to the previous witnesses who talked about the need to look at different ways of being able to prepare for climate risks in the valleys. You made recommendations before. I am just wondering if you think with the water sharing plans that are now being made that time should be given to go back more holistically look at how climate has been implemented.

Mr HUMPHRIES: Yes. I do not have a problem with that and I think they need to be in conjunction with the regional water strategies, not just in isolation, because sometimes you can fix things, as I say, with infrastructure, better service delivery, better management and working together—for instance, irrigators, environmental water holders and town water consumers working together on bundle flows. We are doing that now but we can work better, I suspect, at times, in making those savings and efficiencies. Environmental flows can also be off the back of town water releases, for instance. Just by cutting off an environmental water flow in, say, the Peel does not mean you are not getting an environmental flow through a town water release to, say, the local new storage facility that has been built there at Turkeys Nest.

There is probably still more work to do on the water sharing plans, I believe, more so from the community town and water human critical need perspective, not so much from the general security holder or the high licence holder number or the environmental holder as well. I will give you an example. Tamworth has an allocation of 16,000 megalitres in that supply of 100,000. They never get to use it. The rolling average is about 10,000 megalitres. They have just put in a water treatment plant—well, not "just"; it would be five years old—that treats about 4,000 megalitres of water that is capable of going back into the river and all downstream water users. For them to get an entitlement and to use that 4,000 megalitres to put back into the river for an end of system flow requirement should be banked back up in the dam. That 4,000 megalitres should be in Chaffey Dam as a credit, which is nearly half a year's water supply. But the current rules do not allow them to do that.

Under the water strategies, if we are looking at stormwater, recycling water, dealing with climate change, doing better with what we have got, all those considerations need to be given. Part of what the 2014 water plan did was put an emphasis on recycling stormwater. Places like Orange would be in big trouble if we did not do that. Certainly city councils, building, developers are all doing that now. So we can do better. That is what I am saying. There is a little bit of catch-up that needs to be played there on a handful of plans that really have left the community sitting on the side in difficult times.

Mr JUSTIN FIELD: Thank you, Chair.

The CHAIR: Thank you. That concludes today's hearing. Thank you, Mr Humphries, for coming in—

Mr HUMPHRIES: Thank you, Mr Chair.

The CHAIR: —and being the only one to actually sit in the hot seat. Everyone else did it vicariously.

Mr HUMPHRIES: I had an inkling, Mr Chair.

The CHAIR: I thought you might. Thank you for your answering of questions and comments.

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Mr HUMPHRIES: Yes. Good luck. I table those documents.

(The witness withdrew.)

The Committee adjourned at 16:18.