

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 Preston Stanley Room, Parliament House, Sydney, on Tuesday 14 July 2020

The Committee met at 10:00.

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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The CHAIR: Welcome to the second 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 second of two hearings for this inquiry. We will hear today from the Ricegrowers' Association of Australia, several councils and a panel of organisations representing irrigators. We will conclude the day by taking evidence from the water Minister, Melinda Pavey, MP, along with representatives from the Department of Planning, Industry and Environment. 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.

All 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 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.

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RACHEL KELLY, Policy Manager, Ricegrowers' Association of Australia, before the Committee via teleconference, affirmed and examined

The CHAIR: Welcome to the hearing. If you are talking specifically about one bill, could you please make it quite clear that you are talking specifically about one bill so that the committee secretariat and Hansard staff can get the details right. I invite you to start by making a short statement.

Ms KELLY: I am the policy manager of the Ricegrowers' Association of Australia. Apologies—we have a board meeting that is happening this morning so our president and executive director are both busy today with that board meeting. The Ricegrowers' Association of Australia [RGA] represents around 1,200 voluntary ricegrower members. They are located predominantly within the New South Wales Murray and Murrumbidgee catchments or valleys, where 98 per cent of Australia's rice is produced. The rice industry is a significant economic contributor to this region. The farm gate value of rice production on average is worth about \$400 million to the Australian economy but all rice produced in Australia is a value-added product, so the total economic contribution of that rice production is more around \$1 billion to the New South Wales economy.

The RGA is made up of eight branches. Representatives are elected to those branches each year. Those branches collectively form our policy positions, which guide our advocacy. With respect to water policy our key objective is to maximise water availability for our growers and to minimise the impacts of water reform. To give you some background around our current situation as of the rice industry, in the Murray and Murrumbidgee we have had two years of low or no water allocations and we have had two of the three lowest rice producing years in terms of volume in the past two years. At the moment there is a very real risk that we will run out of Australian produced rice by November this year so that we will not have any Australian produced rice on the supermarket shelves. I am informed that this is one of the first times that that has happened since rice production commenced back in 1930, so it is a significant concern for our industry.

Our key risk as an industry is water availability and water reform. We have identified that the general security water product that our growers rely upon has been diminishing for some time now, both due to a reduction in inflows in the system and due to water reform and changes that have been made through government decision-making at both a State and Federal level that have had unintended consequences on water availability for general security water users. Where we currently stand and what we are trying to achieve as an industry organisation and as a collective industry group, because we work closely with SunRice, rice research and development and other irrigation based water user groups, is to maximise production using the limited water that we have available. Over the past 20 years water reform has very much been focused on rebalancing water use between irrigation production, the environment, cultural uses and other uses.

We think now that we have in effect recovered the 2,750 gegalitres that are required under the basin plan that that balance has now been achieved and that the focus of water reform both now and into the future should be about maximising the outcomes that can be achieved by all water users, not just irrigation, but maximising irrigation use using the limits of water now available, maximising environmental outcomes, maximising cultural outcomes, maximising outcomes for recreational and town water users and other water users in the system. To that end we think there is a number of policy changes that could occur, in particular for the irrigation sector and in particular noting that as a sector we are using on average well less than our sustainable water use limit that was set by the basin plan. That is all. Thank you.

Mr JUSTIN FIELD: Thank you, Ms Kelly, for your submission and your opening statement. I want to confirm that you would accept as an association that there is already a drought of record provision in your water sharing plans for the southern basin.

Ms KELLY: Yes, there is.

Mr JUSTIN FIELD: So we are talking about simply changing the reference point for that drought of record—and I am specifically dealing with the Water Management Amendment (Water Allocations - Drought Information) Bill. But the point here is about shifting the baseline to reflect the actual worst case drought rather than effectively backdated drought of record which is in the current water sharing plans.

Ms KELLY: Yes, I understand that is what is being proposed by the legislation.

Mr JUSTIN FIELD: So I guess I just want to understand why the Ricegrowers' Association would be so concerned about using the scientific facts about the current status of the worst case drought, given that you yourself identified in your opening statement that inflows are reducing in the southern basin.

Ms KELLY: My understanding is that the bill that is being proposed—so we are talking about the Water Management Amendment (Water Allocations - Drought Information) Bill—is proposing to change the modelling

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that is used for the purpose of allocation announcements, in effect to allow more water to be reserved to meet town, stock and domestic water supplies. What we are effectively trying to do by doing that is shift the inflows—the volume of water that is received from one use to another use. We are not changing the overall inflows that come into the system. As you all understand, we have no ability to manage rainfall and inflows. But what we are doing is we are shifting where those water inflows are attributed to. By changing the modelling that is used, we are attributing less inflows to the productive sector and attributing more inflows to those higher priority users, so towns, stock and domestic uses.

Within our valleys, however, since the millennium drought, which is our worst drought of record, governments and stakeholders have initiated a number of policy changes that have allowed for that particular objective to occur to ensure that we do not have a situation where we run out of water supply for town, stock and domestic uses. In particular, in our valleys we now have at least three drought accounts or reserve accounts that reserve water for stock, domestic and town supplies in anticipation of a period of drought. We also have recently seen the implementation of the New South Wales department of industry Extreme Events Policy and underneath that piece of legislation the incident response guides. Their primary focus is managing water during extreme events to secure critical human needs.

In addition to that, in the River Murray system in particular, for the River Murray agreement we have a tiered accounting system or provision of the River Murray agreement which maintains resource when conditions turn dry for the purpose of meeting critical human needs. So we have that system already in place to shift water from productive use to other higher priority uses and protect those water supplies for those higher priority uses during periods of drought. Initiating this particular policy change as proposed in the bill will not give any additional protection. It will not go any further in terms of maintaining water supply for those town, stock and domestic uses—that is already secure. All it will do is just limit the amount of water that is made available to the productive sector.

Mr JUSTIN FIELD: I do want to ask you about those three measures and I think that is very constructive but I want to confirm. The bill as I read it instead of using a backdated and, I guess, arbitrary drought of record figure simply requires that the drought of record be based on the current actual scientific evidence of inflows. So it is not about changing the modelling or changing the allocations—all of that is effectively dealt with within your individuals plans. You highlight that there are additional measures which are implemented at your local level. So why do you think that those three additional measures that you identified in your submission would be somehow overridden by this particular bill? It seems to me that at worst this bill may not have any actual practical effect in your valley other than to just ensure decisions are made on the actual inflows rather than a preset arbitrary date.

Ms KELLY: Firstly, I am not proposing that system will override those other provisions. I am just suggesting that the objective that the bill is trying to achieve has already been achieved through other mechanisms. But what I am suggesting is that what currently happens, in effect, is that we limit the amount of water we allocate based on modelling about the worst period of inflow. So we assume that we are going to have a drought every year and we allocate water on that basis. That is the current situation. If we reduce the volume, if we resume a worse scenario, then we will have less water available to allocate earlier in a season. What that means is that predominantly in our valleys we have summer cropping occur, so that is the main use for irrigation water.

If we limit the volume of water that can be allocated, in particular, earlier in the season, then we will see a significant reduction in the amount of summer cropping that can occur. In our example it is right but there is also cotton, corn, maize and other summer crops that are produced. By updating the modelling we are then assuming the worst case scenario in every single year and planning essentially for the worst case scenario every single year. That will mean we can only produce the minimum amount of production in every year rather than trying to maximise production when water is available. And we are doing it to achieve an objective that has already been met by other policy mechanisms.

Mr JUSTIN FIELD: That is my point though, Ms Kelly. Effectively those inflow models are already in your valleys overridden by these additional measures. So in actual fact in some years additional water is held back, other than what might be demonstrated by the modelling, based on these drought accounts, based on the Extreme Events Policy. You have already in effect come up with a different way of managing inappropriate or insufficient information coming into water modelling to ensure that critical human needs are effectively preserved. You have just come up with a different model of trying to achieve what this bill does. It already effectively overrides those models.

Ms KELLY: No, I disagree with that. What I think actually happens now is a volume of water is set aside in those reserve accounts. What this bill is proposing to do is then look at the remaining inflows and then reserve aside another volume of water based on the drought of record modelling.

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Mr JUSTIN FIELD: That would be dependent on the sharing plans themselves and how they actually operate.

The Hon. TREVOR KHAN: Just let her answer.

Mr JUSTIN FIELD: I think that is useful for you to consider in your answer, Ms Kelly.

The Hon. TREVOR KHAN: I will take the point of order. The witness was answering your question. You may not agree with the proposition that she puts but she is responding to what you assert.

Mr JUSTIN FIELD: I am happy for the witness to answer the question, Chair.

The CHAIR: I will just rule on the note that, given the situation we are in in terms of having people attend via teleconference, it is very hard for Hansard and the committee secretariat to take notes and get the to and fro of conversation. Can everyone allow each other a few seconds space to make sure that they have finished asking or answering questions? Ms Kelly, would you like to finish the point you were making and then Mr Field can counter.

Ms KELLY: I think there are two things I want to address there. The first was about the impact of this change to the bill on the water sharing plans. So you are correct in terms of the fact that our water sharing plans control the allocation framework for our two valleys. However, what this bill is proposing to do is change the basis used for the water sharing plans. The whole purpose of this change that is being proposed within this bill is to change the allocation framework used for the purpose of our two water sharing plans. So there is a very strong link between those two things, so they are not two separate things.

The second point—I am just trying to think how to describe this best—the current system for reserving water is that we set aside reserves as the first point, in terms of managing the resource. So those reserves are set aside and then we look at the remaining inflows and then allocate them according to the allocation framework. What this bill proposes to do is look at those remaining inflows—so we have already got the reserves set aside—look at those remaining inflows and say we are actually going to assume that those remaining inflows are less than we are currently assuming, so then we will have less water on paper to therefore allocate; not in effect, in real life, just on paper. So those two things operate side by side but they are not overriding one another.

So the first one occurs, we set aside the reserve, and that is a set volume based on a formula that the department uses. Then we look at the future inflows and we determine how much of those future inflows we are then going to allocate to the remaining water users, being predominantly the productive sector. And the model that we are looking at here in this situation will factor in an assumption about those inflows. So they are two separate things, if that makes sense?

Mr JUSTIN FIELD: Okay, I appreciate that. I have one other question before I hand over to others. Yesterday we heard some evidence, and this is not specifically addressed in the bill but the suggestion was that it might be relevant to improving this area of water management and potentially to amendments to the bill or a future bill. It seems that for valleys that have a high proportion of high security licence holders, the general security holders in those valleys would be disproportionately affected by changing the drought of record to reflect the actual science. Obviously the south has a higher proportion of high security licences. Would your organisation be open to reviewing the total shares between high security licence holders and general security licence holders to reflect the changing inflow patterns and the increasing risks associated with climate change?

Ms KELLY: Yes, our organisation is always open to reviewing that. However, at the same time we stand by the position that there should be no real impact on people's water property rights. People have a lot of money invested in water entitlements, so they are worth thousands of dollars per entitlement, and for people, they could own millions of dollars if not multiple lots of millions of dollars of water in their business. So any policy decision that seeks to change the water made available against the licence needs to factor in the potential impact that could have on the value of those entitlements and therefore the value of people's businesses.

Mr JUSTIN FIELD: Sure, but if climate change inflows mean that less and less general security licence water is available year on year, obviously that is going to hit a point of unsustainability for your industry.

Ms KELLY: Yes, and so, definitely, that is why we think it is important to look at it from that point of view but we think there needs to be some detailed analysis of what the likely impacts of any proposed changes are before we make any decisions.

The Hon. PETER PRIMROSE: Do you have any comments on the other two bills that this inquiry is considering in relation to the transparency of water rights and water accountability and transparency?

Ms KELLY: Yes, we do, and I might address both with the same comments, if that is okay?

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The Hon. PETER PRIMROSE: Please do, thank you.

Ms KELLY: We have just provided some high-level commentary on those two bills. In particular, we think that members of Parliament should be subject to the same disclosure requirements with respect to their water holdings as they are subject to with respect to their other assets that they own. In addition, we think that transparency around water ownership and trade is important at a valley-based level or at a system level. We have long advocated for a public register of water trade and, in particular, the disclosure of information around water movement and trade across valleys and zones, including trade between zones that are not in New South Wales. We think this information is very important for future policy decision-making but also provides water users with a level footing in terms of making decisions about how to manage their water resource and the broader public with confidence about how the water market is operating and whether or not there are speculators within the system.

We do not support the disclosure of general water users' individual water holdings or trade decisions. We think that, all in all, that information is private and confidential and could be used against individual businesses or individuals and that that information should remain private and confidential. However, we have discussed, and we would consider, some requirement for larger trades to be disclosed, similar to what happens with the Australian Stock Exchange. If an individual or organisation purchases more than a particular percentage holding in a company, then there is a requirement that they be disclosed. We would consider provisions similar to that, so if someone holds or trades more than 5 per cent or 10 per cent of entitlement or allocation in a particular zone or valley, then possibly they should be subject to particular disclosure requirements. So that kind of thing we would be willing to consider. That is a brief summary of our high-level position with respect to disclosure requirements.

The Hon. PETER PRIMROSE: Okay. I will move on to the other bill. The Environmental Defenders Office [EDO] states on page 2 of its submission:

... good water governance and risk management require drought reserves to be based on best available evidence regarding lowest inflows. Deliberately omitting this information from water sharing plans in order to maintain historic levels of reliability for certain licences is not sustainable, and invariably diminishes the volume of water set aside for use during periods of drought.

I know that you have addressed some of that but I ask for your comments on whether you agree with that statement by the EDO.

Ms KELLY: We do not necessarily agree. We believe that, as I said before, there is sufficient water held back in the system to maintain water availability for those other licences and that by updating the modelling what we are effectively doing is just shifting water from one water use to another water use. We are not in any way protecting the reliability of different licences within the system. So the same volume of water is still going to flow into the system, regardless of whether we use the proposed model or the current model. All we are doing is we are just, in effect, shifting water from one use to another. So on that basis we think that—

The Hon. PETER PRIMROSE: I do not mean to interrupt but, just to clarify, I will read again the first sentence of that quote from the EDO's submission. It states:

... good water governance and risk management require drought reserves to be based on best available evidence regarding lowest inflows.

I am wondering whether you agree or disagree with that part?

Ms KELLY: Yes, I agree, but I think at the same time we are not necessarily proposing with this proposal to—it depends on the objective that we are trying to achieve with the proposed policy decision as well. Yes, we should base our decision-making in order to protect critical human needs and high priority water users based on the best available information, and the best available information that we have seen, that has been disclosed by the department and through the water sharing plan review process, is that the policy mechanisms currently in place to protect those high priority water needs are sufficient to ensure water availability during the worst period of drought, or of the expected drought.

The Hon. PETER PRIMROSE: I am trying to understand your concerns so I will read out the second part of the quote again. It states:

Deliberately omitting this information from water sharing plans in order to maintain historic levels of reliability for certain licences is not sustainable, and invariably diminishes the volume of water set aside for use during periods of drought.

Do you agree or disagree with that?

Ms KELLY: I disagree. I do not understand how it invariably diminishes the water available to be set aside—sorry, "made available". No, I do understand that this policy and that—sorry, to my point—this policy change that is being proposed does seek to set aside more water, so that is what it is effectively trying to do; to set aside more water for those higher priority users, as was said. And yes, that is the purpose that this bill is trying to

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achieve. My question then is: Why are we trying to set aside more water for those higher priority users if those higher priority water users have sufficient water reserves to meet their needs?

The Hon. PETER PRIMROSE: Do they have sufficient water resources to meet their needs? Would you like me to repeat the question? Do they have sufficient water resources to meet their needs?

Ms KELLY: Sorry, it is cutting out.

The Hon. CATHERINE CUSACK: I can hear the witness's answers very clearly because I am on the teleconference system. It is almost impossible to hear the members and none of what Mr Primrose just said was audible on the teleconference system.

The CHAIR: Okay. I will try to relay that question to the witness. Mr Primrose asked: Do they have sufficient water to meet their needs?

Ms KELLY: Yes.

The CHAIR: You are saying yes?

Ms KELLY: From my understanding and some of the information that was provided to the department through the stakeholder advisory panel process for the purpose of reviewing the water sharing plans, my understanding is they do have sufficient water to meet their needs and, I think, through the three mechanisms that were described earlier. The first one sets aside reserves, and they are quite substantial reserves, for critical human needs, and there are actually three different ones—one which is stored up in the Snowy Hydro system, so that is sort of away from the system dam. In addition, how those other two mechanisms work that were described, one being the New South Wales Department of Planning, Industry and Environment's NSW Extreme Events Policy and the other being the River Murray agreement tiered accounting system, is that as we progress into a period of drought they start limiting the volume of water allocated and start, therefore, putting more water aside.

So they progressively manage water as we move into a dry period to ensure that there is sufficient water to maintain, to get us through that period of drought. Our systems down in the south, and I think it is important to note that our systems down in the south are regulated systems with large storages which means—and in many ways very different to some of the systems in the northern basin, my understanding is, so it is much easier to maintain reserves of water for periods of drought in our system. A large portion of our inflows occur above those dams and so the water can be held in the large storages for long periods of time.

The CHAIR: Ms Kelly, I have a few questions about the other two bills. You say that you support a public register but you do not support a public register that delves into a bit more detail in terms of names. My concern is that the National Water Initiative [NWI] of 2004 was quite clear in stating that water access entitlements:

... be recorded in publicly-accessible reliable water registers that foster public confidence and state unambiguously who owns the entitlement.

It then goes into being quite prescriptive about how that register would look and work. Is it the position of the Ricegrowers' Association that it does not support what was set out in the National Water Initiative of 2004, which this State Government has subsequently failed to deliver on?

Ms KELLY: If that is what is said in the National Water Initiative then, yes, we do not support that. We think that someone's ownership of water should be treated in the same manner as someone's ownership of land or their management of their bank account—it is their asset and it should be subject to the same level of disclosure. I understand that currently for water licenses there is a register that is maintained by Land and Property Information similar to your titles and lands. That information can be accessed on payment of a fee of \$10 or \$20 but similar to the title register you need to understand the title details or the name of the owner to do the search.

The CHAIR: You would agree that in its present form it is a little bit clunky if you are trying to ascertain who specifically owns or, as you said, to identify speculators. It is quite clunky if you do not know or if you cannot delve deeper behind the water access licence number to find out who is attached to that WAL number.

Ms KELLY: I was not necessarily suggesting it was clunky. I think that the system serves the purpose. What we said earlier was that if there are significant—I think the reason for wanting to identify particular trades would be concerns around the fact that those trades are having a significant impact upon the market. We think there are other ways that we could get around managing significant trades of that volume. Ways of doing that might be disclosure requirements for trades that are above a certain volume or a percentage of the volume of the zone if that makes sense.

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The CHAIR: We will see. Given your group's position that you do not necessarily support the commitment that was detailed in the National Water Initiative of 2004, do you think it would be worthwhile revisiting that National Water Initiative as a whole given that you as one stakeholder—and quite a large stakeholder—do not necessarily think that National Water Initiative best suits your needs? Given that this initiative gave a commitment to have a publicly accessible water register that goes down to those details that I guess you are opposed to? Do we need to take a deeper dive and make sure that there are not other commitments that have been put in that initiative that stakeholder groups would be concerned about?

Ms KELLY: I think a number of the provisions of the National Water Initiative are subject to interpretation. I am not across what that particular provision says so I am taking your word that that is what it says. However, the National Water Initiative is currently being reviewed right now by the Productivity Commission and we are a participant in that review process. The National Water Initiative has been around now for nearly two decades and we think it is a good time to review and determine whether some of those provisions in there have been delivered on, are still fit for purpose and required, or where they can be updated to take into account the current context?

The CHAIR: Okay, and did you just say that your association would be putting a submission into that Productivity Commission review? Is that correct?

Ms KELLY: Yes.

The CHAIR: Okay, excellent. Thank you very much for your answers, Ms Kelly. Thank you very much for your time.

(The witness withdrew.)

(Short adjournment)

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JOHN MEDCALF, Mayor, Lachlan Shire Council, before the Committee via teleconference, sworn and examined

JOHN DAL BROI, Mayor, Griffith City Council, before the Committee via teleconference, sworn and examined

BRETT STONESTREET, General Manager, Griffith City Council, before the Committee via teleconference, sworn and examined

The CHAIR: Welcome back to the second session of our second day of hearings. Would any of you three like to start with an opening statement?

Mr MEDCALF: Thank you very much for allowing me to be a part of this today. I really appreciate it because it is certainly an issue very close to our hearts, especially on the New South Wales table because the main issue was to do with potable water and urban water for our towns. Since the millennium drought we have certainly had issues to try to make sure that we are guaranteed that water. Through these dry periods that we have had I do not think there has been enough communication with the local government areas when it comes to working out what potable is to be, whether it is for urban water agriculture or mining or whatever it might be. I think we need to address some of these issues but I think this hearing goes a long way and I might be able to come up with a few thoughtful ideas.

Mr DAL BROI: Thank you for the opportunity to participate in the inquiry. A bit of background about myself, I am in irrigator and I utilise high security water to vineyards. I farm a property with my wife and with my sons who all have an interest in the business. We basically as a community support transparency of any contractual arrangements to do with water. Our area has suffered badly through the lack of water, particularly through the drought. We have seen some of our farmers, particularly rice farmers, suffer seriously in reduced income. Cotton growers also have reduced income and whilst they have all and continue to improve their farming procedures, how they go about improving on their land by using less water, basically we support the transparency of members of Parliament identifying their water holdings. We support basically the issue of instead of being a number it should be a name. Also, we support the concept of water trading and that members of Parliament should identify their trades within 14 days.

As one who has had to purchase temporary water to finish off crops, usually traders hold back. Water brokers can make it extremely expensive to purchase water to finish a crop whether that crop be vineyards, citrus, rice, corn or cotton. It certainly creates an embarrassing situation to one particular cash flow. Going forward, anything that can improve the accountability of everyone involved but I can see in these two bills it refers to members of Parliament and we would support that. We probably would not support the issue of retrospectivity because where do you stop and start? In terms of me personally, if I use ourselves as an example, my wife does hold water to so does my son, so why only pick on the spouse and not the rest of the family members that are involved in the farming operation? I will leave it there for now. I will ask Mr Stonestreet to make comment if he so wishes to.

Mr STONESTREET: Thank you. I will not make any further comment at this point.

The CHAIR: Okay, we will go to questions. When we are asking questions we will state our names so that you know who is asking. We also ask that if you are making specific comments about a specific bill that you make it clear that is the bill you are talking about so that Hansard and the Committee Secretariat can accurately record your comments if they are attributed to a specific bill. Mr Medcalf, in your submission in terms of the Water Management Amendment (Transparency of Water Rights) Bill 2020, you are opposed to going into that sort of detail in terms of it being a public register and being able to search by names, is that a correct summation?

Mr MEDCALF: I would have thought that the transparency from what I read, I thought I read it that there seems to be a lot more transparency so people know who has got what and where and that sort of thing [inaudible] water trading.

The CHAIR: I think we had better try that again because you were a little bit unclear. Do you support a public accessible water register where you can search by name rather than a water access licence number?

Mr MEDCALF: Yes. We definitely do. I think that transparency is a pretty important thing when it comes down to actually knowing exactly where the water is going and what area it is going into. We do definitely support that it is by name and anyone who is actually doing water trading and that sort of thing should be able to follow who is doing what. When it comes to actually buying and selling water [inaudible]—

The CHAIR: Excellent. Just to see if Griffith supports that as well given Mr Dal Broi's comments, in some of your other comments you talk about your concerns about spouse's interests and where to stop and start.

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As you said, your son's water entitlements or your daughter's water entitlements? What you think is an appropriate level to delve into in terms of disclosure of water entitlements? Are you suggesting that spouse is not far enough or that if you do go to spouse then you need to also incorporate family members?

Mr DAL BROI: No, sorry. I would not support a spouse being involved. Certainly in today's age, a spouse has a right to have interests in businesses without having to declare it. I think the member of Parliament should have the interest, not the spouse, nor the sons and daughters. Surely they are individuals and should not be subjected to having to declare interests just because the father—sorry, the member of Parliament is having to declare. I do not support that at all.

The CHAIR: Where does Griffith City Council sit in terms of trusts? Obviously we have learned from the second reading speech that a lot of parliamentary members have set up trusts to manage assets, which is perfectly legal, but it does shield any form of scrutiny. Where do you sit in terms of if a Parliamentary member who has a trust that holds water licenses? Do you think that trust should be declared on their disclosure?

Mr DAL BROI: I certainly do declare it on mine. I declare the trusts and I think yes, they should be declared. I am not suggesting anything should be hidden away. I think it should be certainly fully transparent. I might add—and I meant to say that earlier—the issue of transparency and also having your water rate and water entitlement claim to the individuals. We already get phone calls from brokers asking if we have water to sell and you have got to ask, "Well, the only way that they know is that I am in irrigator." But if I was to have my name plastered all over disclosures then I am sure that we would be contacted by people wishing to (a) either sell us water or (b) purchase water from us and I would like some privacy. But again, I cannot have it both ways, I understand that, there has got to be a section of transparency. I might ask the general manager also to comment because he did assist in putting this submission together.

Mr STONESTREET: Thank you, Mr Mayor. There is a comment in our submission which does make an assumption. The assumption that we make is that the parliamentarian's current primary and ordinary returns that they are required to complete, council would support the same standard of declaration with respect to water interests as that required under parliamentarian's primary and ordinary returns. So if those returns were required to include trusts, then council would support that standard because it would be consistent with the current returns that parliamentarians are required to put in.

The CHAIR: Mr Dal Broi, you talked about your own disclosures. Part of this process is to look at the deficiencies of bills but also look at areas of improvement. I wonder if you could talk us through how the council makes its disclosures. I know you said you disclose your trusts on your interest forms, but is it a requirement under the Local Government Act or do you just do it voluntarily as you see it as the correct thing to do? We will start there if you could talk us through the process at a local government level and how it differs to the State system.

Mr STONESTREET: The councillors should be making declarations of interest that they have a financial interest in when they are making their declarations. Councillors should include interests in trusts in the declarations that they make.

Mr DAL BROI: When I fill my declaration—and I have just filled it in a few days ago because it is due at the end of the month—I always take the position to over declare. I have nothing to hide so I do not think that it is an issue. I do know that over the years there have been individuals that have come in and asked for a copy of my pecuniary interest returns; it has certainly been given to them. I have never had any issues with any of my returns over quite a number of years.

The CHAIR: I respect the fact that you over declare but I am just wondering whether there is a specific requirement with council and local government that states that you have to declare water interests? I am wondering whether it is State government that is falling behind what local government has already had in place or perhaps there is areas for improvement at the local government level as well? Ignoring the fact that you are doing the right thing and over declaring, being quite cautious, we cannot necessarily say that that is being replicated across the whole State.

Mr DAL BROI: In the declaration forms there is a section there that certainly indicates that you should declare your trusts, which we do. In terms of water, we do not declare our specific number of megalitres of water that we hold but I certainly declare the interest in the Murrumbidgee Irrigation, which is a private company that distributes water for this region. I declare an interest in Murrumbidgee Irrigation but I do not declare the number of water entitlements that I hold or my family holds.

The CHAIR: Mr Stonestreet, does the actual council own water at all?

Mr STONESTREET: Yes, council does own water in its own right.

The CHAIR: And obviously you have the ability to buy and sell that water to local users?

CORRECTED

Mr STONESTREET: Yes, we do have the authority to trade water on the open market, yes.

The CHAIR: And do you do that through a broker? How does that work? How do you manage that process?

Mr STONESTREET: We use several brokers, not just one. We deliberately use more than one broker so that there is a spread of transparency in the community. As a matter of principle we do not deal with particular purchasers or sellers. We deal through a broker so that there is that arms-length between the council and the, if you like, the purchaser of the water.

The CHAIR: To put it hypothetically: Mr Dal Broi is a farmer. He is an irrigator and he talked about sometimes needing to buy water to finish off a crop. If he wanted to buy water from council he would have to go through a broker and obviously that is a sound decision in terms of putting an arms-length. Is that the case?

Mr STONESTREET: Yes, that is the case.

The CHAIR: Is it still you that sets the price or is it the broker that sets the price?

Mr STONESTREET: The council sets the price at which it is prepared to sell the water. At council officer level we indicate to the broker or brokers the level at which we are prepared to sell. Then the broker scans the market in terms of willing purchasers and completes the transaction based on the price that the council is prepared to accept

The CHAIR: Has that ever had to occur, Mr Dal Broi—

The Hon. TREVOR KHAN: Point of order: How does this relate to the three bills that are before the Committee? The operations of the council are not the subject of this inquiry. I would suggest it goes beyond any issue of transparency.

The CHAIR: To the point of order: We are looking at two bills on water transparency. As I prefaced some of these questions, part of this is to look at whether there is deficiencies or whether there is areas of improvement. If neither of the bills tackle the issue of how local council and local government manage water or maybe local government is doing it better than what these bills are proposing, I think it is worthy of exploring. I will leave it to the Deputy Chair—

The Hon. TREVOR KHAN: The only further observation I would make is that I do not argue against the proposition that there may be areas of improvement of some of these bills—that has clearly been the tenor. But what, with respect, you are doing now is going beyond the general issue of transparency and enquiring as to matters relating to a particular council. I think that is not particularly efficacious in assisting us coming to a conclusion as to whether there needs to be an improvement to the bills.

The Hon. PETER PRIMROSE: Given the time available I would ask that the questions be well within the confines of the reasons for this inquiry. However, I would point out that the witnesses themselves raised comparisons between local government and the State system so I believe they are in order. I would ask that the honourable member bear that in mind when he is asking further questions.

The CHAIR: Just one final question: In terms of the trades that you do, would you have any concerns about them being disclosed on the public register? Do you disclose them already somewhere on the council website or is included in your annual financial statements somewhere? There are two parts this question: Do you disclose the income you get from those water trades somewhere within the council document? And would you be happy for those trades to be on a public searchable register by name?

Mr STONESTREET: The council includes the revenue on the income statement that council is required to under the Australian Accounting Standards. We declare the revenue under the appropriate section of that annual statement. At present we do not declare the specifics of each trade.

The CHAIR: You would not be opposed to those trades or for that information to be on a searchable register if this bill gets up and that register is established?

Mr STONESTREET: I do not believe that is a relevant question to the submission that we put to this Committee.

The CHAIR: The submission is talking about a public register; you said you support a public register. I am wondering whether you support council—

Mr STONESTREET: As far as I know this meeting today is to discuss the Constitution Amendment (Water Accountability and Transparency) Bill and the Water Management Amendment (Transparency of Water Rights) Bill 2020.

CORRECTED

The CHAIR: Yes, and in that second bill you mentioned, one of its purposes or objectives is to establish a public searchable water register, not just of members of Parliament but of everybody. I am asking whether the council has concerns about if its details were to be included in that public searchable register?

Mr DAL BROI: Whilst I do not object to a public register of the people who hold water entitlements, there are people who when they purchase the water do not wish that to be broadcast all over the place. That is a business transaction between a broker and a third person who purchases water—temporary water I am referring to, not permanent water.

The CHAIR: Okay, so you still obviously have privacy concerns about how that register will be managed?

Mr DAL BROI: Well, absolutely. I thought that we were discussing water entitlements. We concede that should be transparent but then once I hand it to a broker if I trade water—I do not sell. I have to purchase—but I certainly would not like my purchase details to be publicly made available to one and sundry. My entitlements? Absolutely. Where I purchased my water? Certainly. The person I am purchasing the water from, he or she has an entitlement and that will be public. And the trade will be public if it is done according to these bills by members of Parliament.

The CHAIR: Thank you for the clarification.

Mr MEDCALF: Can I just say something on that? On the register you are talking about, we support that there is a public register of entitlements, but when it comes to a local government or council sort of thing when they do their returns, they are two separate things altogether. If someone wants to get to local government [inaudible] to see that but you will be also on the public register of what entitlements you have got to water and everything else at the same time so there is transparency and I do support that. You do not want your trading going all over the countryside to what money you are making and that sort of thing, but I thought the idea of this was just to have a public register to let people know who has got what when it comes to entitlements.

Mr JUSTIN FIELD: Thank you gentlemen for your attendance today and your submissions. My questions primarily relate to the Water Management Amendment (Water Allocations - Drought Information) Bill 2020. In the first instance I might ask this question of Councillor Metcalf but if others want to jump in that is fine.

The Hon. TREVOR KHAN: Does that include me?

Mr JUSTIN FIELD: I think in the interest of transparency, truth and logic that Mr Khan will stay quiet for the moment. Councillor Metcalf, would you agree that effectively there are already a drought of record provision within the water sharing plan for your valley, it is just that it is set—arbitrarily to some degree but I understand the reason—at 2004?

Mr MEDCALF: I missed the last part of that.

Mr JUSTIN FIELD: Just to confirm, you accept that there is already a drought of record provision in your water sharing plan, it is just that it is set at 2004.

Mr MEDCALF: Yes, I think we are looking at 16 years for a start and a lot of things, not only the millennium drought but these last four years have certainly shown what can happen especially the way things have developed when it comes to the Lachlan valley. The main issue was this last one because not only in the millennium drought when we had the urban water/potable water situation that was also exposed again this past four years of drought. We are not actually keeping up with the times of what is actually happening when it comes to development and putting security on when it comes to water, especially on urban water. I just feel that there is neither the transparency of what is happening to water in New South Wales but also that there is not enough collaboration and management and triggers to secure the water to all and sundry down in Lachlan valley.

Mr JUSTIN FIELD: And of course if the current draft remake of your plan, which will be likely approved this year or next year, lasts for another 10 years that arbitrary 2004 drought of record would be maintained for another decade, which would amount to 26 years would be the delay of incorporating up-to-date drought information.

Mr MEDCALF: Yes, and I think you have just hit that on the head. The fact is that we need to have this collaboration and that looking at and working together instead of trying to keep things isolated and working back on 2004 because time is moving faster and faster [inaudible]. We talk about unprecedented droughts. I do not know whether we have had an unprecedented drought yet. We keep on saying that but I think we need to look at these things very seriously and make sure that we have better security of water.

Mr JUSTIN FIELD: You say in your submission on page 2:

CORRECTED

Arguably the management of the Lachlan during the Millennium drought failed the communities of Lake Cargelligo and Condobolin.

Could you confirm and give us a very quick overview of how you think it failed and what the outcomes for those communities were?

Mr MEDCALF: [Inaudible] through the millennium drought when they would fly us down the Lachlan River because if you go down to Lake Cargelligo [inaudible] we had dead fish from the [inaudible] that made it very difficult for us to supply water to the Lake Cargelligo area. Also when it comes down to [inaudible] in Condobolin the river was that low that we found it very hard to keep the water supply up. Even though now we have these contingencies and the fact that Lake Cargelligo now has got water coming from the artesian basin which is 20 kilometres out and Condobolin now has a backup supply from bores down [inaudible] during that particular drought they pulsed the river, which I felt was a knee-jerk reaction to actually supplying water down through the Lachlan Shire for water whether it was for irrigation or whether it was water for urban [inaudible]. I do not think the communication was there to actually work with the local government [inaudible]. We are making progress and we are working together [inaudible].

Mr JUSTIN FIELD: On the fourth dot point of that page, you outline, "A rapid response including the following is the bigger issue." I want to go to the first three points in particular. Just to confirm, they are suggestions from the council in regards to how potential future droughts could be managed. They are not things that are currently done, is that correct?

Mr MEDCALF: Yes, that is very correct. That is why they have made those suggestions. I would like to think, like with the raising of the Wyangala Dam, it is not how much water we were actually holding back. I believe what they are trying to do there is to create security and better management of water right down through the whole Lachlan valley to try for a level playing field when it comes to not only pricing but also the amount of water that has actually pushed down through that river. At the moment we have got Gum Bend Lake there, which is a recreation area that is also for the birdlife [inaudible]. The idea when that lake went in was that we could take water off the high flows which we cannot do.

We are looking at that this summer we might not see any water in that again, which will be quite devastating when it comes especially under our present climate of COVID et cetera for the mental health of people. I think we did learn our lesson at Lake Cargelligo with the water that low during the millennium drought. The flow at Lake Cargelligo is approximately 93 per cent. I think we need to be able to keep that water up not only for urban water, not only for storage of water, but also for the community to socially get out and work. Also the amount of work that is going on in Lake Cargelligo when it comes to control of fish and that sort of thing, especially the one that [inaudible] the bank. I think we need to be able to work together with those people to make sure it is a good clean water that is coming down that flow.

Mr JUSTIN FIELD: So, effectively, instead of making a change to the drought of record you are suggesting a different series of measures?

The Hon. TREVOR KHAN: More dynamic.

Mr JUSTIN FIELD: A more dynamic workaround to potential future droughts?

Mr MEDCALF: Definitely. We need that collaboration and especially [inaudible] I think we need to use a lot more of that circulation that we have put together and worked together for the benefit of all of the communities but also for the Lachlan valley.

Mr JUSTIN FIELD: It would seem that would be beneficial for that sort of approach, those monthly assessments you mentioned to change and potentially the forward-looking period and on making dynamic judgements if we saw inflows reducing quickly. Those sorts of things should be incorporated into the water sharing plan, shouldn't they? Instead of just being left as—

Mr MEDCALF: Absolutely. I think the way they are trying to use it in the water sharing plan is called triggers at what situation we are out and certain times. That is a thing whether it is in drought or whether it is even in when we have high flows to what the allocation is [inaudible]. Those triggers are not there. I think most of the triggers at the moment are knee-jerk reactions and people are really not sure and that is when the communication comes in. Not only have you got the town or local government areas but also the agriculture and the mining so people know exactly where they are before the event happens, not halfway through it or when it is certainly too late.

Mr JUSTIN FIELD: And just to confirm, none of this has been included in the redrafted water sharing plan for the Lachlan that has recently been submitted to the Murray-Darling Basin Authority [MDBA] for accreditation?

CORRECTED

Mr MEDCALF: Are you saying it has not been?

Mr JUSTIN FIELD: Yes, it has not been. I was just getting you to confirm that on the record but if you do not know that for a fact, that is okay. My understanding is that none of this has been incorporated in the redraft plan.

Mr MEDCALF: I would take that one on notice because [inaudible]. There is definitely work going into the water sharing plan, that is for sure.

Mr JUSTIN FIELD: I appreciate the answers.

The CHAIR: Just for reference, because of the short time turnaround in terms of this inquiry we cannot take questions on notice so you will not be required to come back to us with that answer.

The Hon. SAM FARRAWAY: In your submission page 2.3:

If the worst ever drought up to 2020 was used in the resource assessment ... therefore GS licences would have less access to water and lower reliability.

I wanted you to touch on the flow-on effect to the Lachlan valley—less production, less economic benefit for your community—because you touch on that that would be the consequence but I wanted to find out, as the local mayor, in your view, the consequences of this Labor bill being put forward without any modelling and how it would impact the valley?

Mr MEDCALF: [Inaudible] no consultation I think which is a very, very important part. I have not been told anything going to a bill and it all comes back to how much water we are going to play with in the first place. And then the general security at the moment is so reliant on what mother nature actually puts forward as to how far we can go. I would have thought that was one of the ideas of raising the wall at Wyangala so we can create that better general security of water.

The Hon. SAM FARRAWAY: Regarding the Constitution Amendment (Water Accountability and Transparency) Bill 2020, you have made it pretty clear that from Lachlan Shire Council's point of view that members of Parliament declaring their water access licences, trades and interest and declaring that activity within 14 days is reasonable?

Mr MEDCALF: Yes.

The Hon. SAM FARRAWAY: You do not have any issue with that?

Mr MEDCALF: No, I think that is pretty important.

The Hon. SAM FARRAWAY: You have covered off—and I think my colleague may questions on it regarding spouses a bit more—but I just wanted to touch on your comment in the submission that proposed amendments to the legislation should not be retrospective. I wanted to see whether you had any more comment on why they should not be retrospective?

Mr DAL BROI: If we start going down the track of retrospectivity, where do you stop and start? I take the view in this particular case of these particular bills, if we are going to be retrospective what are you going to achieve? If people did trade water, if members of Parliament did trade water I put it to you, did they break any rules? They were quite permitted within all of the rules and regulations that exist—they traded water. If they have broken the rules, different story, but I do not think they have. If we are now going to change the rules so that they have to declare, that is fine. I do not believe in retrospectivity. To me if we are going down the track it is a very, very dangerous path to take in my opinion.

The Hon. TREVOR KHAN: It was you who was speaking earlier about the rights of spouses to operate their own businesses et cetera. I think you also referred to your children having interests. Let me put this proposition to you: Instead of it being your children if you went into council politics, it was your father who held the interests. How do you think your father would react to being told, "You have got to tell me the details of your water entitlements so I can declare what you have because I have decided to enter politics"? Would you see that as being a viable proposition?

Mr DAL BROI: No, it is not and I could quietly tell you that my father would tell me where to go if I was to put the question to him. If I entered politics that is my decision not his.

The Hon. TREVOR KHAN: Could I quietly tell you that if I went to my wife and asked her for some details of her financial affairs should probably give me a similar answer as well. I think one and all understands this difficulty as to where you draw the line but I think your essential point is that there is an obligation that falls on the individual who exposes themselves to politics, not others who have not actually been in any way involved in that decision-making process, that would be about right?

CORRECTED

Mr DAL BROI: That is correct. When you are in politics you get subjected to enough criticism, I do not think that criticism should flow down to your wife or your children, particularly in this region where we have family farms. I chose to go into politics locally, and that is fine, but I do not think my whole family should be dragged out and held to account and held up to criticism or ridicule. They are entitled to have an interest in their own business and I do not support having to declare spouses or children.

The Hon. TREVOR KHAN: Let me put this scenario to you: You have actually been in politics and been required to make a disclosure of a spousal interest. What would be the circumstance if the marriage that you had been in for some time then broke down? Would you in those circumstances be obliged to make a public disclosure on a register of the breakdown of your marriage in order to meet the financial obligations that have been created?

Mr DAL BROI: It is an interesting question and I do not know how to answer it. No, I think you have got to draw the line somewhere. If there is a marriage breakdown obviously there is going to be a parting of the ways and usually there is also a split in property and assets, in shares and what have you—water would be the same. Once you have split, you are split. That is it. You are separated. I do not think then that I should be declaring if my wife decides to separate from me. That is her affairs, not mine.

The Hon. TREVOR KHAN: Out of courtesy, Mr Primrose I think has a further question.

The Hon. Peter PRIMROSE: Thank you, Mr Khan. I know we only have a very short time. Quickly to Mayor Medcalf, just two quick questions. For the Lachlan, what do you understand as the worst drought of record for you? Is it pre-2004, the millennium, or the most recent drought, 2016 to the present?

Mr MEDCALF: I would say the millennium drought, because of the length of it, but I think this last drought, because of what happened in 2016 when we had the floods and the next three years we basically had some of the worst years when it comes to agriculture and also water supply, I think that this drought has actually brought out some of the deficiencies of how we supply water. I think that is something we have to address.

The Hon. Peter PRIMROSE: Thank you. My other quick question is that we heard yesterday in evidence from the New South Wales irrigators that research that was done in the Lachlan was the case study used as the modelling for the 2014 amendment to the Act. Does the council have access to that modelling?

Mr MEDCALF: I would say we would have if we needed to, but most of our work is done through the joint organisation [JO] and I would presume that had access to that.

The Hon. Peter PRIMROSE: But I would have expected that before the joint organisation was formed, that is when all of this took place. If you are not aware then I perfectly understand, it is just that it was cited as a model yesterday that was used to actually develop this 2014 amendment.

Mr MEDCALF: Yes, I would need further information on that.

The Hon. Peter PRIMROSE: Okay, thank you.

The CHAIR: That concludes our questioning of you, gentlemen, so thank you very much for your time and your candour and for talking to us today.

Mr MEDCALF: Thank you for the opportunity.

(The witnesses withdrew.)

CORRECTED

BRUCE LOGAN, Director—Water and Waste, Tamworth Regional Council, before the Committee via teleconference, affirmed and examined

The CHAIR: We now welcome our next witness, Mr Bruce Logan. Given that we are looking at three bills, please make clear which bill you are referring to so that Hansard and the Committee secretariat can record your comments accurately. Would you like to make a short opening statement before we ask questions?

Mr LOGAN: Thank you. I will try to keep this brief. For the Committee's information, Tamworth Regional Council is responsible for supplying treated water to six centres across the council area. In November 2016, Chaffey Dam on Peel River, which is our main source of water for the city of Tamworth and adjacent towns and villages of Moonbi and Kootingal, with a combined population of around 50,000 people, was at 100 per cent of storage, so 102,000 megalitres. Since then, the area has experienced the worst drought on record in terms of inflow into Chaffey Dam, seeing the level in the dam fall to 12.85 per cent of storage on 23 January 2020. Today, despite widespread rain, the situation has not greatly improved, with Chaffey Dam sitting at 15.3 per cent and we are still faced with running out of water in these centres within two years, should levels of inflow not improve.

In light of falling levels, in accordance with council's drought management plan, Tamworth Moonbi Kootingal moved to level 1 restrictions in January 2019. Those restrictions were increased and we now, since 23 September 2019, have moved to level 5 restrictions, when the dam was at 20 per cent. Level 5 is the highest level of restrictions and it bans the use of treated water for any outdoor activity, asks residents to limit indoor water use to 150 litres per person per day and asks businesses to target a 25 per cent reduction in water use. We are still on level 5 restrictions, so that is 10 months after they were first introduced.

Council believes that the water sharing plans need to improve the level of security and reliability provided by the water sharing plan for Tamworth and Moonbi Kootingal, because it is not sufficient and we need to provide greater security and reliability of water supply for those centres. It is not in anyone's interest, in the council's view, to have the largest centre in the New England north-west on severe levels of water restrictions for long periods. We have raised this with the Government previously. One of the changes to the water sharing plans that we asked the Government to make was to consider the arbitrary decision to only consider historical inflow records, in the case of the Peel water sharing plan prior to 30 June 2010. The Government, at this stage, has not agreed to change that.

According to the council, this decision means that, according to the Government, the inflow into Chaffey over the last three years or lack thereof never happened, it will not happen again and if it did then applying exactly the same rules would somehow see a different result. I do not believe any of these arguments can be reasonably sustained and, what happens if there is a worse level of inflow for the city of Tamworth? It is a worse situation in the upper Namoi, where council supplies water to two of its towns, Manilla and Barraba under the upper Namoi water sharing plan. This plan's inflow record stopped at 30 June 2004, so all inflows, including those in the 2006-07 drought and the current drought, not be considered. The current water sharing plans, or at least the ones for Peel and upper Namoi as publicly exhibited, continue to nominate these dates, so the council supports the proposed Water Management Amendment (Water Allocations—Drought Information) Bill. That is the end of my opening comments.

Mr JUSTIN FIELD: Thank you, Mr Logan, for your attendance today. I will be limiting my questions to the topic that you raise in your introduction, which is the drought of record or the water allocation—drought information bill. Just to confirm, the council wrote to the Minister or made direct request to the Minister to change the drought-of-record provision in the Peel valley regulated water sharing plan to reflect the current drought of record rather than the backdating that is currently in the plan.

Mr LOGAN: Yes, that is correct. We have written to the Minister and we have met with the Minister and raised that issue as well as some other issues in relation to the water sharing plan. We asked the Minister to agree to at least to up to 30 June 2020 for the next water sharing plan in the Peel.

Mr JUSTIN FIELD: Just to confirm, have you had a response to say that the Minister will not be doing that, or is it just that you have seen in the redrafted plans that it continues to have the backdated date in it?

Mr LOGAN: We have not had a formal response from the Minister to say that they will not be doing that. As I say, the plan that was publicly exhibited did not have that in there, but no, we do not have formal advice that any new plan will have it changed or it is going to stay that way.

Mr JUSTIN FIELD: Just to be clear, Tamworth council would support the water allocations—drought information bill, which seeks to update the drought of record information water sharing plans across the State.

Mr LOGAN: That is correct.

CORRECTED

Mr JUSTIN FIELD: We have heard evidence from other witnesses that there are other measures that the Government has available to them, which can help ameliorate risks of extreme droughts, including the extreme events policy and the regional water strategies that are being developed. Can you speak to whether or not those offer you any comfort that you can manage drought risks for your communities?

Mr LOGAN: I am involved in the regional water strategy and I am not sure what that is going to deliver so I cannot really speak with any authority about whether that will provide any greater security for Tamworth Moonbi Kootingal. In relation to infrastructure, the Government has already constructed the Chaffey Dam pipeline and has undertaken to build the new Dungowan Dam and a new Dungowan pipeline. Both of those pieces of infrastructure should improve, depending on the rules that are applied to them, the security of supply for Tamworth Moonbi Kootingal. From the council's perspective, that infrastructure is welcome, but we also think that changing the rules in the water sharing plan just to reflect what is actually happening on the ground in terms of inflow is also required.

Mr JUSTIN FIELD: If I could just go to the regional water strategies, only because so many of the stakeholders have put those forward as an alternative option, what is your understanding about how climate risks will be incorporated into the development of regional water strategies?

Mr LOGAN: I have not been made aware of that. I cannot answer that.

Mr JUSTIN FIELD: What involvement do councils have or does your council have in the development of your regional water strategy? Have you been invited by government to be on a working group, make submissions? Are you providing evidence to support the development of them?

Mr LOGAN: The council, indeed both the Tamworth Regional Council and the member councils of the Namoi JO have been invited. I think we have had two discussions with the government agency responsible for preparing the regional water strategy. Those discussions, I assume, will be ongoing. They are more about advising us about what the process will be and what is going to be looked at. But we have not reached any great discussion about potential ways that we can improve the reliability of town water supply, for instance.

Mr JUSTIN FIELD: Could you let the Committee know when the first discussion that you had with, I assume, DPI Water who are developing it happened?

Mr LOGAN: I would have to take that on notice. I cannot remember off the top of my head.

The CHAIR: We cannot take questions on notice due to the quick turnaround. If you do not have the answer to hand, we will move on.

The Hon. Trevor KHAN: First off, I will make the declaration that I know Bruce and I am a resident of Tamworth. I am not going into a to and fro, but the overwhelming evidence that we have received from various irrigator groups was that an adjustment to the drought of record, if we call it that, or the implantation of the proposal contained in the Labor bill would be essentially at the expense at least of general security water holders. Do you, on behalf of the council, accept that that proposition, that what you are asking for, will result in less water being available to general security water holders in the Peel valley?

Mr LOGAN: Yes, that is true. We think that the way the water is shared between all of the customers or users in the Peel valley needs to be looked at. We think that the security and reliability of supply for Tamworth city and Moonbi Kootingal needs to be improved. One way to do that is to change the drought of record or to include the most recent inflow figures into that. We understand that that will mean that there is less water to share around for everyone and so everyone is going to suffer, general security as well.

The Hon. Trevor KHAN: I do not want to labour the point, but it would seem to me, on the basis of the evidence from the various irrigator groups, that is not everyone who suffers. The pointy end of this adjustment will be the general security licence holders—that is, in the Peel valley the lucerne farmers will be the loser, the environmental flows, perhaps, the high-security licence holders, probably not. So what we are talking about is the defined group of farmers in the Peel valley who will be the loser. Do you accept that that is the likely outcome?

Mr LOGAN: My answer to that would be yes, I do, but I would ask the Committee to also understand that when the augmentation of the Chaffey Dam was completed, all users and in particular general security users received a huge boost in reliability and security of supply. It is the council's view that a rebalancing of where the security and reliability of supply, if that is undertaken, which sees a reduction in the general security reliability is appropriate, given the increase that we all benefitted from when the augmentation of Chaffey Dam was undertaken.

The Hon. Trevor KHAN: Indeed, general security holders in the Peel valley are getting what percentage of their allocation presently? Nil?

CORRECTED

Mr LOGAN: Nil, at the moment.

The Hon. Trevor KHAN: So the augmentation has not necessarily worked out as, I think, everyone hoped. Let me ask you—

Mr JUSTIN FIELD: And how much less—

The Hon. Trevor KHAN: No, let me ask you this: Is the other proposal from Tamworth Regional Council that environmental flows are to be also truncated as well as the general security water entitlements?

Mr LOGAN: Yes, we have asked for the water sharing plan to be changed. At the moment, the water sharing plan asks for three megalitres of water a day to be released from Chaffey Dam regardless of the state of the environment downstream. We have asked for that to be changed so that the water is actually held in the storage and sufficient of that water is used when the environment requires it and to achieve the outcome that the environment is after.

The Hon. Trevor KHAN: It is the case, is it not, that various of the councillors are really saying that, for instance, at levels beneath 20 per cent there should not be environmental flows? That is really the position that some of the councillors are taking, is it not? I am saying this in part for Mr Justin Field, who is so enthusiastic about your evidence. I think he should be alive to some of the dynamics in the Peel valley at the moment.

Mr JUSTIN FIELD: Point of order I think for the record Mr Khan should inform the Committee about how much under his 150 litres a day he is using in Tamworth, if he is so concerned about the environment.

The Hon. Trevor KHAN: It depends when I am home.

Mr LOGAN: Sorry, I did not understand the question.

The Hon. Trevor KHAN: No-one did.

The CHAIR: To the point of order, given Mr Khan's lack of hair, I think he is making considerable savings in water use.

Mr JUSTIN FIELD: I take from the questions and the answer that there is obviously a very live discussion on council up there, but there—

The Hon. Trevor KHAN: There is a very live discussion in the community.

Mr JUSTIN FIELD: —in the community more broadly, but it seems to me that with a draft plan having just been developed and going for accreditation, some of these broader issues around drought of record, environmental flows and how future potential drought are managed have not been adequately addressed in the water sharing plan and perhaps there needs to be a more holistic assessment of how that plan needs to fit with the needs of the community. Is that something that is being discussed within council?

Mr LOGAN: Representatives of the council have been involved in the stakeholder advisory panels, which have been looking at the water resource plans for the Namoi and the Peel for some time. These issues, including changes to the water sharing plan, have been raised throughout that stakeholder advisory process. It is not new; we have been talking about the new water sharing plan for a number of years. These are not new issues. We have certainly raised them before and, to this point, we have not received support from the Government to change the water sharing plan rules in the Peel or Namoi at this stage.

The Hon. Peter PRIMROSE: Can I ask on exactly the same point and I have asked this question in relation to a couple of other locations: Do you regard the Peel River water sharing plan as the previous plan and current plan being extended or is it being remade?

Mr LOGAN: Our information is that the current plan has been extended, but it has to be remade within that extension period. Our understanding is the draft amended plan does not have any changes, or these changes that the council has asked for in there.

The Hon. Peter PRIMROSE: If it was to be remade, is it the position of council that drought-of-record data should be included and updated?

Mr LOGAN: That is correct.

The Hon. Peter PRIMROSE: Okay, thank you. I again ask: Is it the council's understanding that all emergency waterworks, and I include pipelines, dams et cetera, that have occurred are a direct consequence of the water sharing plan that does not assure town water supply?

Mr LOGAN: No, I could not say that. No, I do not believe that is an accurate statement. I assume the reason why the Government has undertaken these works is because Tamworth was, as were several other centres,

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in danger of running out of water. What the council is talking about is trying to prevent us getting back into the same situation in the future. One of the ways of doing that is to look at historical flows up to the most accurate and recent events and include that in the water sharing plan.

The Hon. Peter PRIMROSE: If that is included then what would be the next project that Tamworth council would be looking at to assure the Tamworth water supply?

Mr LOGAN: There are some other issues in the water sharing plan that we would also be looking to change—that is, the rules base—and then we are obviously keen to see the Dungowan dam project finished and how that water that is in the Dungowan Dam will be shared downstream amongst the Peel valley. We are also looking at other options for groundwater and perhaps for pipelines to Keepit and/or Split Rock dams to try to further secure Tamworth's water supply in the future.

The Hon. Peter PRIMROSE: Given that Dungowan will probably take years to fill, is there a high-priority project that the council is looking at to assure town water prior to that occurring?

Mr LOGAN: Yes, the highest priority for us is we have some drift wells here in town, which we rehabilitated during the 2006-07 drought. At the moment we are in discussion with the Government about how we can maximise our extraction from those wells. We think the quickest way for us to have significant gains in our water security is by doing that.

The Hon. Trevor KHAN: My recollection is it was post the 2006 period when what I think is tertiary treated water was used for irrigation of some lucerne paddocks near the airport. Is that the time frame that is involved, around about 2006?

Mr LOGAN: No, the council developed the Tamworth effluent reuse farm and it started operation in 2010-11. That takes all of the effluent from the Westdale wastewater treatment plant and sends it out to that effluent reuse farm.

The Hon. Trevor KHAN: How much water is used on that reuse farm?

Mr LOGAN: Around 4,000 megalitres a year.

The Hon. Trevor KHAN: We were presented with an interesting presentation yesterday by Kevin Humphries. Has there been some talk of returning that water to the Peel River, which I think was one of his suggestions?

Mr LOGAN: Not of recent times. When we looked at re-upgrading the Westdale wastewater treatment plant, there was the option of continuing to put effluent in the Peel River or taking it out of the Peel River and trying to make use of it in some other way. A couple of the issues that we had to consider at that stage were the quality of the water, because the quality of the effluent to put it back in the Peel River has to be greater than it needs to be to be irrigated, and the capital cost and ongoing operating cost of treating the water to that standard to be able to put it back in the river was an issue. We have to pay load base licensing to the Government to put the water back in the river and at the time—

The Hon. Trevor KHAN: That was an Environment Protection Authority charge, if I recollect. Is that correct?

Mr LOGAN: That is right, yes, and at the time we were not sure how those charges might change over the life the project, 50 years or whatever it is. We felt there were some sustainability benefits from making use of that water for a lucerne farm or farming and this was the course the council went down and developed the effluent reuse farm.

The Hon. Trevor KHAN: I think I am straying a fair way from the bill so I will leave it there, although I think it is an interesting issue.

Mr JUSTIN FIELD: This question goes to something that you raised before, Mr Logan. With regard to the council's position on environmental water, you suggested that there was a view that under a certain volume the dam environmental flows should be stopped. I understand that council may have come to agreement with government over environmental flows. Are you able to elaborate on what that is?

Mr LOGAN: I do not think that council has come to an agreement with the Government. We understand that the rules at the moment for the next four months are that once the dam gets below 20 per cent, environmental releases into the Peel will stop and they will be stored in the storage for possible use to address the environmental issues downstream. At between 15 and 20 per cent that will be three megalitres a day, between 15 and 10 per cent it will be 1.5 megalitres a day and once storage gets below 10 per cent then all environmental water will cease to be stored or released. We understand that is the current position and that is in place for four months. The Minister

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will then review that. It is the council's view that we will be talking to the Government about what will happen long term, but that is certainly a better proposition that three megalitres a day regardless of downstream conditions.

The CHAIR: Thank you, Mr Logan, for your time. That concludes our questions.

(The witness withdrew.)

(Luncheon adjournment)

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DARCY HARE, Vice Chair, Southern Riverina Irrigators, before the Committee via teleconference, sworn and examined

LOUISE BURGE, Executive Officer, Murray Valley Private Diverters, before the Committee via teleconference, affirmed and examined

The CHAIR: If when answering questions or in making a statement you make reference to a specific bill, we ask that you make clear which bill you are referencing so Hansard and the Committee secretariat can get down your points accurately. Mr Hare, would you like to make an opening statement?

Mr HARE: Yes. Firstly, this particular part is in reference to the Constitutional Amendment (Water Accountability and Transparency) Bill and provisions of the Water Management Amendment (Transparency of Water Rights) Bill. On those two particular pieces, they are obviously endeavouring to deliver water transparency and an online register in a way that fosters public confidence, where we know who owns the water entitlement and whether they be a public entity or a private entity, either a company or an individual. All of this stems back to the National Water Initiative of 2004 and the fact that several different parameters of it, ones that protect irrigators, have been left idle whilst they have still endured for the last 16 years through various changes to the Water Management Act. Obviously, various reviews of the NWI that has not caught up to date have failed to implement these particular things, such as having a public transparent water registry. They have even gone into Federal pieces of legislation like the Water Act, the basin plan, and they are still yet undelivered. I wanted to make that particular point.

As far as the drought of records bill and setting aside more water for critical human needs as far as the Murray valley goes, we have not had a case-to-flow event since Hume has been built in 1936. We have provided for conveyance and critical human needs from Hume and Dartmouth all the way down to the lower lakes every single year since then. Putting aside more water and impacting the reliability of the general security irrigators, who will be the ones that will pay for this extra water that is set aside, actually goes against several parts of the legislation of the Water Act and the Water Management Amendment Act. I cannot see how we can look at New South Wales as a blanket issue with drought of records when we have different mechanisms and triggers and publicly regulated licensed storages and trying to compare them with an event that happened in the Peel valley with Tamworth and then critical human needs not being delivered to places like Bourke and Wilcannia. It is a completely separate system, completely different rainfall and management and we need to look at those very differently.

The CHAIR: Ms Burge, do you want to make an opening statement?

Ms BURGE: Yes, thank you. The Federal and State government policy under COAG in the 1990s was set to move water to a theoretical notion of a high-value crop. While that in itself is a misnomer, it does create major social and economic risks for regional businesses and communities. But it also introduces political risk and policy interference risks and that is why we need transparency of decisions and full disclosure of pecuniary interests and any potential personal benefits derived. It is important not to look at this only through issues around politicians, but it should also include government personnel, government contractors as well as the private sector where benefits can be derived and are non-transparent. We have to ask ourselves why, when government has created a water product now of such value, there is no accompaniment of regulatory or transparency processes that should and would be required with any other form of business including political process.

It is not just the value of water, but we are talking about enormous sums of money—taxpayers' money, payments to governments, payments from governments and related contracts. One of the major aspects of that, of course, is the Murray-Darling Basin Plan. We need full disclosure and transparency to protect and ensure that any influences are not undue in terms of government processes and also where stakeholder parties can be treated inequitably. There are examples of that.

In relation to transparency, I think we need full transparency on entitlements owned, full transparency on entitlements transferred, full disclosure by politicians, families, personal or public superannuation entities attached. We need to really understand any risks around insider trading. We need the activities of speculators and any associated potential risk to trade markets including how water is parked on entitlements. We also need disclosure of that on temporary transfers. But there is one aspect that I think the privacy of water should be maintained, and that is in relation to farmers holding a water licence entitlement and where there are government regulatory conditions that oversee individual water accounting and its use. This is important to avoid any personal harassment that may occur where the public can obtain incorrect data or make public nuisance with incorrect data and/or other commercial entities harass individual farmers. The point on that is the actual water accounting balance annually should remain private.

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If we look at the drought of record, as in this submission, there needs to be clear differentiation between understanding water management in the southern basin and that of water management in the northern basin. In the submissions and the attachments that we have forwarded, you will see that there are enormous reserves, there is a system of water accounting that protects town water supply and a number of other drought security measures, so much so now that other States, such as South Australia, are being protected. High security is even being more protected and the Murray general security entitlements are becoming almost valueless. The risks to businesses because of government decisions have put this community in serious jeopardy. I am happy to go through that and thank you very much for the Committee's invitation to provide some further information—my sincere appreciation.

Mr JUSTIN FIELD: Thank you, Ms Burge and Mr Hare, for your attendance today and your submissions. My questions will primarily relate to the water allocations—drought information bill. Mr Hare, I might start with you. Firstly, do you agree and accept that the water sharing plans for your region already include a drought-of-record provision?

Mr HARE: Yes, absolutely they do. When we had our water sharing plans suspended in 2006 to 2011, we actually looked at several different reductions in diversions. One of them was including the millennium drought, which was looking at that low inflow period, and did we have enough to fill up conveyance to get it to the SA border. Did we have enough for critical human needs for New South Wales and SA, including Adelaide, along the Murray system? We looked at a conveyance reserve as well on top of that and all of that, which is actually a considerable volume of water, up to as much as 2,163 gigalitres or two-thirds of Hume, is set aside before we even move off zero. Before there is even any allocation for high security, obviously part of that is provisions for carryover. Yes, in our view—and this was from an MDBA document—yes, the millennium drought is already included in the New South Wales Murray water resource and water sharing plans.

Mr JUSTIN FIELD: In your submission, in the paragraph immediately under the title "Water Management Amendment (Water Allocations—Transparency of Information) Bill 2020", the third sentence says, "Allocation determinations and a tiered approach go above and beyond millennium drought factors, which are already included in the Murray River's resource assessment." That is pretty much what you just said. Would you not agree that effectively you already have a workaround to implement the drought-of-record provisions in your water sharing plans for the southern rivers?

Mr HARE: Yes, we do but at the same time every single time that we have trusted State and Federal governments to deliver a triple-bottom line change to these water resource plans, water sharing plans, Water Management Act, basin plan, Water Act, it has gone against New South Wales Murray general security reliability. Even though there are several objectives within these Acts that always deal with that we should not look at reducing the reliability of entitlements. We would be of the opinion, given that we have had that continued flow and ability to meet critical human needs, that we would look for no change because of the successive 2 to 3 per cent of the time changes that have impacted our reliability. If we can argue that it is already in there, why open it up and look at changing it for our valley?

Mr JUSTIN FIELD: I totally understand the point, but if you put aside conveyance water, critical human water needs and conveyance reserves, why would you think specifically identifying the drought of record or the lowest period of inflows in the water sharing plan would ultimately change the way your plan operates? Effectively the additional provisions already incorporate that. My sense is the worst you could say about this bill, from a southern rivers perspective, is that it will not really affect us. Why do you think this would further reduce reliability of general security water?

Mr HARE: Because it has in the past. There have been at least 30 different changes that have impacted our reliability in the past. Every time we open up a piece of legislation to deliver X, Y, Z it comes from us, no matter what. We do not want the conveyance reserve or critical human water needs or conveyance water changed to set aside more water. The argument is that it is already there. If you are looking at the issues happening in the northern rivers, why are we even discussing it as a blanket approach? Let us talk about the issue, the critical water resource plan areas that are not delivering baseline flows, before we discuss any other regions. We just did not want to have a blanket approach to an issue we do not see as being as a current one in our valley.

Mr JUSTIN FIELD: Can I put it to you it is not so much a blanket approach. The inflows in your river valley are obviously different to the north. It is a valley-by-valley approach because it talks about the lowest period of inflows for that particular valley. Would you agree it is not a blanket approach but it still is a valley-by-valley approach?

Mr HARE: I guess I would have to see how it rolls out.

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Mr JUSTIN FIELD: In your opening statement you said that the proposal goes against parts of the legislation. Could you clarify what you mean by that? Are you talking about the water sharing plans themselves or the Water Act?

Mr HARE: I am talking about when we are setting aside more water that is coming out of the general security irrigators' bucket to service whatever the Government deems necessary, like this extra conveyance reserve. I mean if we are going to look at any provisions for critical human needs, they are already well and truly catered for with the inflows that are coming into the system and the reserves that are already set aside. That is what I mean. I do not want more water to be taken out of the general security bucket.

Mr JUSTIN FIELD: I understand. Obviously, nearly all of the regulated river water sharing plans have just been redrafted and submitted to the Murray-Darling Basin Authority for accreditation with the water resource plans. Were issues relating to drought of record or the conveyance reserves and conveyance water and critical human needs changed in the recent remake?

Mr HARE: No, they were not. We lobbied for change because of the socialised losses for conveyance. We argued that there has been a lot more water delivered downstream on behalf of the productive sector and on behalf of the environment and they should be paying extra losses for those extra overbank transfers. But no, essentially they were not changed.

Mr JUSTIN FIELD: One of the concerns raised by other witnesses has been that for regions where there is a higher percentage of high-security over general security water, changing the drought of record would have a disproportionate impact on general security water licence holders. Do you agree with that?

Mr HARE: Yes, absolutely it would because we would be the first ones that would have it taken out of our resource allocation.

Mr JUSTIN FIELD: Given you have identified that over the last 20 years you have seen a pretty significant reduction in general security allocations, do you think it is time to revisit the general share arrangements between high-security licence holders and general security holders?

Mr HARE: Potentially, but I think there are a lot bigger issues that will have a lot bigger windfalls, like gigalitres per change, that we can look at, like attributing those conveyance losses to downstream demand that could see as much as 200 or 300 or 400 gigalitres, depending on what loss factor you apply. Yes, potentially, but I think there are at least 10 or so other changes we could look at before we look at going to that one. There is 1,674 gigalitres of general security licences in the New South Wales Murray and there is only 185 gigalitres of high security in the New South Wales Murray. It is a massive volume of water versus not a very big amount of water.

Mr JUSTIN FIELD: I understand. Ms Burge, I am sorry, I understand your submission goes to most of these issues as well. I do not have any specific additional questions. I am just wondering if you had any responses to any of those questions that I asked Mr Hare. Ms Burge, did you hear that?

Ms BURGE: Yes, sorry. Yes, I would like to state that I support everything that Mr Hare has said. I think if you look at the rules and the complexities of rules in the New South Wales Murray it is very, very clear that there has been sufficient protection for critical human needs and the environmental flows provisions required for the Murray River, from Hume downstream to the Wentworth junction and then on to South Australia. I think if there is any further change over and above what existed, over and above what has now been implemented in cumulative changes, both pre- and part of the Basin plan, general security has no future.

Mr JUSTIN FIELD: Did you just say that general security has no—you mean if there are additional changes, that it just creates—

Ms BURGE: Yes.

Mr JUSTIN FIELD: —too much uncertainty? I understand.

Ms BURGE: Because it is on a knife edge. It has gone past the point of viability now, because general security reliability or property rights are being eroded by various government policy, both Federal and State. Those cumulative changes have now pushed this region beyond the tipping point. I do not think Government really understands what is happening. It is not just farmers: it is businesses, it is industries, et cetera, and it is towns and communities. It is not emotional; it is factual. If you look at the number of dairy farms that have shut in this region and are still facing voluntary closure or foreclosure—dairy is only one component, but it is very evident that the change in reliability of general security has had huge detrimental impacts on dairy. You look at the number of shop closures—and this is all pre-COVID—in Deniliquin and it is quite astounding. The number

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of empty shops in the main streets of Finley, Deniliquin, let alone other areas such as Barham and a number of other—

Mr HARE: Wakool.

Ms BURGE: Wakool. It is just pretty shocking, really.

The CHAIR: Mr Hare, I just want to focus on the two water transparency bills, if I may. You have given some extended commentary on it, so I just wanted to get some clarification on some of those comments you have made. Where you are talking about the Constitution Amendment (Water Accountability and Transparency) Bill 2020 you talk about section 71H posing a multitude of inconsistencies with the NWI, the Water Act 2007, the Murray-Darling plan, water resource plans and even the Privacy and Personal Information Protection Act 1998. It seems that you are stipulating that the inclusion of this section would be inconsistent with the Commonwealth legislation and, therefore, the Commonwealth legislation would take precedence and would make that section essentially invalid. Am I correct in that summation?

Mr HARE: Yes, absolutely. In 2004 the NWI has come in and all the States and the Commonwealth Government at that point in time agreed to a set of directives that they were going to achieve. Obviously they are deliverables, but then that got legislated by the Commonwealth with the Water Act 2007. If you go to schedule 3, which is water market and trading principles, it talks about developing these infant markets back in 2007 consistent with the NWI. The NWI is referenced in many other parts of the Water Act as well—some 32 times—so it has endured the 26 other renditions of the Water Act and amendments that have been made to that legislation.

If we start talking about not disclosing companies or private individuals who own water you will be inconsistent with the Water Act 2007. You are even inconsistent with the—and I think this was an attempt to defend not disclosing these individuals that own the permanent water entitlements, and it did not even make sense, because that Act actually says that its purpose is to foster public confidence, which is mentioned in the NWI and in the Water Act. Then it says it is okay for this information to be publicly disclosed. We are not asking for addresses of individuals. We are asking for transparency on who is owning this country's most precious resource and what they are doing with it.

The CHAIR: On the page over, you go into a bit of detail about the National Water Initiative and you quote in terms of what the water register should look like. Your submission states:

- 1) "31. Water access entitlements will:
 - vii) Be recorded in a publicly accessible reliable water registers that foster public confidence and state unambiguously who owns the entitlement ...

Over the page it goes into a lot more detail about what that looks like. In your opinion—I am guessing you are someone who has looked at these current water registers that some of the submissions have spoken about—do the current water registers, in terms of the two forms, satisfy the National Water Initiative in your mind?

Mr HARE: Not even remotely. You cannot get a WAL number and access without first of all having an account. You have got to pay for that information inquiry to start with. You have got to know the individual WAL number. To me, that does not foster any public confidence. It is ambiguous, not unambiguous. You need to be really critical on the move, and it needs to be retrospective as well. There are several different Ministers and their spouses and advisers and departments that have moved on to potentially bigger and better things that have had an influence on how this has developed over the past 16 years, if you go back to the NWI, or 13 years if you go back to the Water Act 2007, and eight years if you go back to the Basin plan. There are a lot of massive impacts, like Ms Burge was talking about before: how we have only got about 30 per cent of the water available to the New South Wales Murray in 2000 to 2020, compared to what our communities and towns and schools were built on from 1980 to 2000.

These people need to be held accountable at some point. The only way to hold these people to account—if there is anybody to hold to account, or potentially they did not know they were doing anything wrong or what have you—the only way to do that is to make it transparent. The current water registries existing in New South Wales, Victoria, South Australia—and then federally there is some form of registry with the Bureau of Meteorology and also with the Commonwealth Environmental Water Office—do not do that. They do not satisfy, as far as my reading and Southern Rivers Irrigators' [SRI] reading goes, this legislation as it stands today.

The CHAIR: You go on further to state that you think the current water register is "deliberately opaque", and you give the example that you can have 1,800 customers under one water access licence. Do you see that as a possible way of people or entities exploiting, or that it could be used to exploit, that opaqueness? Do you see that as a potential consequence?

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Mr HARE: Yes, absolutely. I think if you have got public scrutiny for something as a private individual or a company then people are going to hold you to account, to say, "Does this pass the pub test on what you are doing with these water entitlements?" For example, Duxton is open in the fact of saying, "Hey, we are making a long-term weather play here. We think in the next 15 years these water markets are going to get even more scarce, so we are going to eventually sort of weigh in and buy up X percentage of water entitlements and then leverage that for financial gain". That is okay, but (a) do we know how many other people are doing this and (b) is that really going back to the objectives of the Water Act 2007? Is that really in the national interest? Is that really going to have a positive triple bottom-line impact? Is that going to impact general security irrigators? Is it going to impact communities? Is it using the best available science, when we have got the Barmah Choke being breached and having a channel capacity reduction of 21 per cent, having ecological impacts? I think a lot of those questions—well, the answers are firmly "no".

The CHAIR: We had a submission from witnesses from the Griffith City Council before lunch. On the issue of retrospectivity they posed the question of where you draw the line in the sand. They also gave the analogy that a politician owning that water or trading in that water has not necessarily done anything illegal. I guess in my mind I agree on one hand, but then I say, "Well, they might not have done anything illegal, but the fact that they were trading water: Did that influence decisions that they were making around water?" I think that is where the problem comes: not in the act of them owning the water or trading the water, but the decisions that they subsequently make around water management. How would you respond to those comments?

Mr HARE: I completely agree with all of what you have said there 100 per cent. For me, the line in the sand is very clear, because it was mandated by each individual government in that intergovernmental agreement of the NWI. Schedule A clearly sets out a timeline of actions—even down to the month, sometimes, and years. Each government, whether it is an individual government, whether it is the Federal Government, whether it is all governments—this is not wishy-washy. This is clear cut. They have mandated themselves, they have put timelines on it and they are obligated to deliver. If they are not going to deliver then they need to get back in there and prosecute it and change it so that it falls back in line with this half-cooked piece of legislation that we have now, which is impacting communities. It is impacting livelihoods and it does not need to be, because the protective parameters are in the legislation as it currently stands.

The CHAIR: One final question for you, Mr Hare, on the two transparency bills. No bill is perfect, and we could always make improvements but, out of the two, which one goes closest to achieving the objectives of a public accessible water register as outlined in that National Water Initiative?

Mr HARE: There is no question that the provisions of the Water Management Amendment (Transparency of Water Rights) Bill 2020 do that, hands down. There is no question.

The CHAIR: Okay, thank you. Ms Burge, you talked about almost going further, in terms of required disclosures and including government workers or bureaucrats and contractors. How would you see that working, given that at the moment there is no pecuniary interests register, to my knowledge, for those types of people? We have one for members of Parliament and we now know that local government councils have a similar framework, but in terms of government bureaucrats and contractors who are performing work for the Government there is to my knowledge no current pecuniary interests register. Are you proposing that one be set up in some form?

Ms BURGE: Absolutely. I think it is important both for departmental staff working on policy areas and also, importantly, any government-engaged private contractor who is either engaging with Government in advising on policy or being an external contractor on government processes and/or beneficiaries of the implementation of government decisions. I personally have seen—how would I describe it?—a level of closeness that should not have occurred and that has severely disadvantaged regions, people, stakeholders and individual people in that process. I think it has been appalling that it has got to this stage where those sort of events can occur without transparency, without disclosure and with no checks and balances to even ask the question in the first place.

The CHAIR: I am treading very carefully here when I ask for clarification, but you talk about "a level of closeness" and we were talking about government bureaucrats and contractors. Was the level of closeness between government workers and political players? Who was this level of closeness that you were referring to between, as an example?

Ms BURGE: I think you can look at it from a couple of perspectives. It is about people, either pre-engagement by government or post-engagement by government, who have water entitlements that benefit when there is water scarcity because of government policy positions. Then there is the other part of government processes, where individuals maybe have relationships with water traders. They may be directors of an organisation in another valley that are then put on as government-appointed facilitators or contractors to run

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government's stakeholder engagements process to deliver on an outcome, and that disclosure of pecuniary interests—of conflicts of interest—has not occurred.

Ultimately, as part of that process one region is disadvantaged and one region might be advantaged. Equally, the disadvantaged and advantaged can be states or can go both into valleys, decisions on water, but it also can be very personal in terms of what is the end result of water scarcity. If you are an owner of water entitlements in one valley as compared to another—or, indeed, in any valley—that all should be fully transparent and have full disclosure before that contractor is engaged, particularly if there is a connection between policy positions, water ownership and government processes where inequity as occurred—and very identifiable inequities.

The CHAIR: Thank you. I am just looking across the room for other Committee members to give questions to you both, but they are all shaking their head and saying no. That must mean you have been very comprehensive and convincing. I thank you both for your time. It is much appreciated. That concludes your questioning for this afternoon.

Mr HARE: Given that we have got seven minutes left, can I just make one comment on what Ms Burge was saying about persons of interest who have had influence in the direction of policy as it has evolved over this time frame? I did make this point—

The CHAIR: I am just looking at one of my Committee members who is raising his eyebrows at me. I would just be careful not to make any adverse mentions.

The Hon. TREVOR KHAN: Yes.

The CHAIR: If you could do it without potentially naming names and all that sort of stuff—

Mr HARE: No, I was not going to do any of that at all, Mr Chairman. What I was going to do was refer back to schedule A, where it gives that timeline. Obviously the signatories to this National Water Initiative 2004 had the foresight to see what Ms Burge referred to was a potential conflict of interest area, or where things could get potentially distorted when personal interest is applied. If the governments that have been dealing with this water reform in this time frame had actually adhered to their own legislation to deliver this by the end of 2004 we would not be having this discussion about, "Hey, we think this guy is conflicted because of X, Y, Z", because it all would have been publicly available and we would have been able to make that call and call people to account on potential interests they had on this public register we were promised.

I would not go into naming individuals at all, but I am saying this would have cleared the air from day dot if we had adhered to this schedule A of timelines for New South Wales and all States, which was the end of 2004, and then schedule F, where it goes into public disclosure of the ownership of these entitlements. A lot of this conjecture about all this sort of stuff could have been avoided if we had been delivered what we had been promised. I just cannot stress that enough. There is so much in these pieces of legislation that remains idle and not implemented.

Ms BURGE: Mr Chair, could I add one other point following what Mr Hare said? Over and above what he just said, I think it is absolutely essential that government processes themselves reflect public norms in transparency and disclosure for contractors and/or people involved within government influencing policy. Part of, say, the appointment of an external government contract should be a disclosure clause, and that should help governments make decisions as to whether that contract is valid, not valid or has potential risks. There is protection, as Mr Hare said—or there should have been—in the NWI and also the water Act, but in fact it is not done and does not have public transparency.

But, equally, there is another component: what are government processes? Have they taken into account the need for full transparency on ownership? It goes back to this long line of movement of water to a notional high-value crop and all the risks that should be fairly obvious when that public policy is being implemented. I would have thought that there should have been very, very strict parameters of disclosure at the start of any process of government around the implementation of policy. That has not occurred. Thank you.

The CHAIR: Thank you both once again for your time.

(The witnesses withdrew.)

CORRECTED

The Hon. MELINDA PAVEY, Minister for Water, Property and Housing, before the Committee

JIM BENTLEY, Chief Executive Officer, NSW Water Sector and Deputy Secretary—Water, Department of Planning, Industry and Environment, sworn and examined

MITCHELL ISAACS, Director, Office of the Deputy and Strategic Relations, Department of Planning, Industry and Environment, affirmed and examined

The CHAIR: I welcome our next witnesses. Would any of you like to make an opening statement?

Mrs MELINDA PAVEY: I would like to take about 30 seconds of the opening statement time, which I understand is around four minutes, and then I am going to hand over to Mr Isaacs. Please forgive his moustache—a COVID moustache.

The CHAIR: It is very impressive.

Mrs MELINDA PAVEY: He asked me to make sure we got that in *Hansard* for his girlfriend. Back to serious matters: It is pretty evident over the past two days that there are a lot of misconceptions around water policy and drought of record and how we come to that. There have been some delicious headlines created off the back of a very complicated policy area. Water literacy is a challenge, understanding a very complicated portfolio in relation to the management and the pressures on the management of that through the river systems—the regulated systems, the unregulated systems, the coastal systems—and the town and city-country water supplies. All of them do talk to each other and all are considered at all times when decisions are made. But I think it is a challenge and a balancing act that actually deals with the data of over a hundred years in coming to those decisions on water sharing plans.

I do make the point that this drought is not over in certain parts of New South Wales—not by a long way. But I think it is better that I yield the floor to Mr Isaacs in particular, who has been a policy specialist in this area now for over a decade. I think it is a good way to improve all our literacy in terms of water management and why we have come to the decisions that we have as we move our way through this drought and good operations of water in New South Wales.

Mr ISAACS: Bujari gamarruwa or good afternoon in the language of the traditional custodians of the land. I would like to provide a brief explanation to the Committee on what the relevant provisions on drought of record relate to, how they are used, why this requirement was changed in 2014 and what this means. I table as well for the Committee's information a document published earlier this month and I draw your attention to pages 14 and 15, which provide some explanation and detail on this issue.

The bill that is being considered by the Committee relates to the flow data that is used by the department when calculating the period of worst inflows, which is also referred to as a drought of record, when calculating available water determinations in regulated river valleys. This means that we are talking about the data that is used for one very specific purpose only in regulated river valleys, which are those valleys where water is stored in large dams and can be ordered and released on demand by downstream water users such as irrigators, towns and environmental water holders. It does not affect the department's ability to use all available data for every other purpose, such as planning, drought preparedness and drought management.

When making water allocations, the department first assesses the available supply, then it assesses existing commitments and then it calculates how much water can be allocated to licences and accounts. A drought of record—a period of lowest minimum inflows—is used in assessing the available supply to calculate how much water we can reasonably expect to flow into the dams during a water year. An assumption is made about how much water will flow into the dam during a water year, and a calculated risk is taken at the beginning of the water year that those inflows will occur during the year to supply the allocations.

The 2014 amendment bill included a series of amendments to regulated river water sharing plans. These amendments changed how the department is required to calculate the minimum inflows when calculating available water determinations. Specifically, it changed the requirement for calculating the worst period of low inflows from historical information held by the department to the historical information held by the department when this plan commenced. The bill currently being considered by the inquiry overrides any provisions in the water sharing plans and requires the consideration of all flow information held by the department when determining the lowest inflows.

Our highest priority remains securing the water for critical needs, such as towns, communities, stock and domestic use and critical environmental needs. The major impact the change in the drought of record would lead to is how the risk of water shortage is experienced by general security water users. In most years under current

CORRECTED

arrangements—that is, years that are not extreme drought—water that is allocated to a user's account will be able to be delivered. In extreme drought, in order to protect critical water supplies our extreme events policy kicks in and we start taking measures like suspending access to water in general security accounts that have been carried over from previous years. We may also cease delivering water to the bottom and end of large river systems to avoid significant losses associated with delivery over large distances, and to conserve water for high-priority critical needs.

This may have serious negative impacts on some water users, as it may mean crops fail and investments are lost. However, it also means that in the majority of years those same users will receive the benefit of additional water allocations and greater agricultural production. The community also benefits through increased economic activity in most years. In effect, it is a trade-off: Do we make an up-front impact on water users by reducing their water availability in most years, or do we take water away in extreme years? The private member's bill would immediately make a significant reduction in allocations made to general security licence holders in the Murray, Murrumbidgee and Lachlan valleys. In the north, the 2014 amendments did not change the drought of record as it predated the water sharing plan, so up until now it would not have been a change in the north. The benefit of these reduced allocations would primarily accrue to those same general security licence holders in years of rare and extreme drought, but would come at the expense of greater water availability in other years.

The balance is not about whether or not we use the best science. It is about consulting with the community and water users on how we manage water to address risks of water shortage. Any change in the allocation framework needs to be carefully analysed and both the technical and policy aspects considered. This will need to be a detailed, nuanced and transparent discussion with potentially affected stakeholders and the broader community. Complex issues of the appetite for risk and risk sharing need to be explored. This discussion will be conducted in the development of the New South Wales regional water strategies. The regional water strategies will include more detailed analysis of drought and water security risks and include modelling to examine the severity and duration of drought beyond the current period of record.

Mr JUSTIN FIELD: Minister, thank you for your attendance today. Feel free to pass these questions to whomever you think is most appropriate. Obviously you accept that there was a drought of record provision in the original water sharing plan first drafted for the inland regulated rivers?

Mrs MELINDA PAVEY: For example, for the Peel River the worst drought on record besides this previous one was in the 1940s. This one is probably twice as bad as that one. We have not seen anything like this in that river system, yet we still have water and we have still made incredible investment to that region. But I would expect that not even that region would want us to manage water to the level of this drought that we are currently in, which is not finished. Yes, the worst drought on record in that river system was previously the 1940s and it was in the water sharing plan considerations—that is right, Mr Isaacs.

Mr JUSTIN FIELD: When the first ones were drafted there was a drought of record provision. I was just wanting confirmation that at that point it was the drought of record, as it was—

Mrs MELINDA PAVEY: The drought of record for the Peel is the 1940s.

Mr JUSTIN FIELD: I think you are agreeing with the proposition I was putting, but in the original water sharing plans for inland regulated rivers the drought of record provision was the drought of record. It did not arbitrarily determine a period of lowest inflows; it was just simply the drought of record when those first plans were drafted. Correct?

Mrs MELINDA PAVEY: What year are you talking about?

Mr JUSTIN FIELD: Most of them were drafted in the sort of 2002, 2004, 2006 period. Before the changes were made in 2014 it was just the drought of record, correct?

Mrs MELINDA PAVEY: I will take some advice on that, but my understanding is that the drought of record in the Peel was in the 1940s and that was incorporated into the figures.

Mr JUSTIN FIELD: Okay. I will leave it there. I think this is a matter of fact; I was just looking for a confirmation. Changes were made in 2014 to not make it the drought of record but to select a—

Mrs MELINDA PAVEY: To not make what not the drought of record? The millennium drought?

Mr JUSTIN FIELD: In each of the water sharing plans, instead of it being the actual drought of record "a period of low inflows" was the language that was used and a fixed date was made, which essentially arbitrarily set a period at which future droughts would not be considered. Do you agree that that was the application or the outcome as a result of the 2014 legislative changes?

CORRECTED

Mrs MELINDA PAVEY: I accept that we did take into account droughts of record in each of the valleys, depending on when they were, and they were incorporated, because we looked at 80 years to 100 years of historical data.

Mr JUSTIN FIELD: Okay. I guess the point being that up until the 2014 changes there was a matter of fact—it was just the drought of record for that valley—but after the 2014 changes—

Mrs MELINDA PAVEY: Which valley are we talking about?

Mr JUSTIN FIELD: Whichever valley; it did not matter. It just simply meant that it was the drought of record for that particular valley. That was the language that was used in the water sharing plans. After that, it was an arbitrary date that was set. In some instances it was the time at which those water sharing plans had been created. In other instances a specified date was given. That is correct?

Mrs MELINDA PAVEY: I was not the Minister at the time of the creation of those water sharing plans. I will have Mr Isaacs further clarify or speak to your question.

Mr ISAACS: Prior to the amendments in 2014 the water sharing plans required the calculation for the purpose of setting available water determinations to be "the worst period of low inflows" from historical "flow information held by the department". The addition to the water sharing plans made in 2014 was to add "when this plan commenced" at the end of that statement.

Mr JUSTIN FIELD: I think that clarifies all my initial lead-up questions. I guess my follow-up question then is why, given all of those plans for inland regulated systems have just been redrafted, have you kept the 2014 changes effectively in place and maintained those relatively arbitrary dates—the point at which the plans originally commenced? Why have you not made changes to reflect the more severe drought since then?

Mrs MELINDA PAVEY: Because we work on water sharing plans based on historical data, which is important to contextualise and give a fair median outlook to what is happening. You do not make decisions made on the worst drought. You do not say, "This is the worst drought and we are going to make our water allocations based on those figures". You have a look at the total period of time, and it is up between 80 years and 100 years for each of the 50 or so water sharing plans across the State. We look at it on its totality and on an average.

Mr JUSTIN FIELD: But that is not what was done when these plans were originally drafted in 2002-04. It was actually the worst case at that point. It was not the average; it was the worst case at that point. Why have things changed now, I think is the point?

Mrs MELINDA PAVEY: We believe that we have got the balance right. It will be further strengthened by the work that we are doing in our regional water strategies to ensure that we look at paleo modelling and we also look at climate change modelling and the impacts that that may have. It is interesting to note, in particular in relation to the Peel, that the worst on record that we had was the 1940s, and this is probably twice as bad as that drought, yet we still have a situation where we are supporting that community through this drought with very limited inflows into Chaffey Dam, into Dungowan Dam. It has been particularly challenging, but we still have water there. I was pleased to read on the weekend that Chaffey is up to 15 per cent. It is heading in a better direction than what it has been for the last couple of years. It is a complicated process, but we do look at the best information, the best models that we have to be able to provide security and ensure that we protect the interests of those communities.

Mr JUSTIN FIELD: Minister, it is interesting that you mention the Peel, because we had a representative of Tamworth council before the Committee earlier today and it was made clear that the council supports the Labor bill to change the drought of record provisions in the water sharing plans, and that it has specifically written to you and asked for you to make changes to its water sharing plan to that effect. That representative told us that they had not received a response from you about that.

Mrs MELINDA PAVEY: We met with them a couple of weeks ago. We continue to have conversations. We have financially supported the community, and they are an important stakeholder in that valley. There are many important stakeholders in that valley. Mr Field, you probably are not supportive of us building Dungowan Dam, but we are going to do that to give extra supply and support to that community.

Mr JUSTIN FIELD: But you are not going to change the water sharing plan to—

Mrs MELINDA PAVEY: I did not say that. We will have to change the water sharing plan once Dungowan is built.

Mr JUSTIN FIELD: But it will not change the drought of record provisions in the water sharing plan, I assume?

CORRECTED

Mrs MELINDA PAVEY: We will ensure that we will continue to stand by the communities of the Peel valley, of that very important productive region of New South Wales. Bruce Logan, who gave evidence to the Committee today, knows that, as does the Mayor, as does the local member. There are lots of different views about how water should be managed in that valley and we do not just listen to one stakeholder; we listen to a variety of stakeholders including, most importantly, the data and the information that we have.

Mr JUSTIN FIELD: Did your office provide any information or advice to Mr Kevin Humphries before he gave evidence before the inquiry yesterday?

Mrs MELINDA PAVEY: Not that I am aware of.

Mr JUSTIN FIELD: It was interesting to me that a number of stakeholders have provided very similar responses with regards to how the regional water strategies might be able to consider climatic changes. Can you explain how these regional water strategies will respond to climate change and potentially extreme droughts?

Mrs MELINDA PAVEY: I will ask my officials to add some further information, but my understanding is that in the three draft strategies that we are in the process of finalising the climate change modelling in those strategies has a range of up to 45 per cent of an extreme event. More importantly, we have also been looking at some palaeontology work, which we started in the Hunter, which gives us a historic account of what the inflows of water into the valleys have been. But I will refer to Mr Bentley to talk more to those climate change scenarios within the regional water strategies. They are an important component of it, as is a better understanding of the historical inflows.

Mr JUSTIN FIELD: Mr Bentley, just while you do, could you also outline what legislative standing these regional water strategies will have? Given the water sharing plans determine allocations, including how drought of record is considered, how will the regional strategies ensure that climate change is factored in to water planning?

Mr BENTLEY: As the Minister said, the three regional water strategies that are in advanced draft form are based on the paleo-climate data that we have gathered through our university colleagues. That goes back 10,000 years. There is also the climate modelling that those strategies are based upon. The work for that climate modelling was overseen by the Office of the NSW Chief Scientist & Engineer for the State, which is clearly independent of me and my team. Given the extensive consultation that takes place in the regional water strategies, that work will enable us to review whether there is anything that that is telling us that means that the regional water strategy considerations should be opened up again.

Mr JUSTIN FIELD: In the water sharing plans, you mean?

Mr BENTLEY: In the water sharing plans, yes. It does not say, "If the answer is X, we need to do Y". But the regional water strategies being based so far back in time—10,000 years—and based on quite well-acclaimed climate modelling going forward will tell us whether there is anything we need to reconsider in those water sharing plans.

Mr JUSTIN FIELD: When would you expect the regional water strategies would be finalised and you would be able to make a determination that you need to open up the water sharing plans?

Mr BENTLEY: We are hoping that the first three will be finalised by Christmas of this year—sorry, I should say that is Nos 2, 3 and 4; the first one was the Greater Hunter, which is already there. They are in advanced draft, approaching the stage of being ready to go to public engagement. They should be available around about the end of this calendar year—

Mrs MELINDA PAVEY: The second stage of the public engagement, because we have done the first stage.

Mr BENTLEY: Second stage of—indeed, Minister. The others will follow something like 12 months or so after that. It is an awful lot of work to actually get them done.

Mr JUSTIN FIELD: And their legal standing?

Mrs MELINDA PAVEY: I am not sure how that relates to the provisions of the bill and the Committee hearing here today.

Mr JUSTIN FIELD: It is just that the bill deals will how we incorporate changing climate and extreme droughts into water sharing planning. You and other witnesses have put the regional water strategies at the forefront of that exercise, so I think it is quite valid.

CORRECTED

Mrs MELINDA PAVEY: And it is valid to be able to answer the questions on the bill that is being proposed by the Labor Party and, I am sure, supported by The Greens and independently elected Greens members—

Mr JUSTIN FIELD: But your response was that the regional water strategies are where that will be dealt with—

Mrs MELINDA PAVEY: Sorry, could I finish? Are you just going to talk over me?

Mr JUSTIN FIELD: It seems like you are bringing up entirely spurious issues instead of answering the question—

Mrs MELINDA PAVEY: No, that you are an elected member—

The Hon. TREVOR KHAN: Point of order: This is becoming somewhat argumentative. The witnesses are entitled to answer without interruption.

Mr JUSTIN FIELD: Says the chief interrupter.

The CHAIR: The witnesses are responding, but we did get into a bit of to and fro about whether it was relevant to the provisions of what we are looking at here. Then we sort of delved off into another area of argument before I even got to make a ruling as to whether it was relevant or not.

Mr JUSTIN FIELD: Things move quickly around here.

The CHAIR: They do move quickly around here. In my view, it is kind of relevant, Minister, because you are proposing the regional water strategies as an alternative mechanism to what the Labor bill is proposing, potentially.

Mrs MELINDA PAVEY: No, it is not an alternative mechanism. We do not support the mechanism proposed by the Labor Party and supported by The Greens—and originally supported by the Shooters.

The CHAIR: You are suggesting that those regional water strategies will actually negate—

Mr JUSTIN FIELD: Actually, you do: You have got a drought of record provision in your water sharing plans.

The Hon. TREVOR KHAN: Mr Justin Field is even interrupting you now, Chair.

The CHAIR: I know he is. Minister, you are saying that these regional water strategies will incorporate all the data that we need to make sound decisions around water sharing plans, so we would—

Mrs MELINDA PAVEY: No, I am saying—

The CHAIR: —never need to go to what Labor is proposing. The Committee wants to know, obviously, whether there is actually any legal standing or enforceability in these regional water strategies. Where do they sit in the legislative or regulation, planning instruments—

Mrs MELINDA PAVEY: They will sit as another important piece of information that will give us historical context and future context around water. Water sharing plans can be amended. If we do get data and information that points to changes that need to be made we will take those under advisement and consideration, as we would do. We have got nothing to hide here. We want water to be transparent. We want people to understand what is going on. We do not necessarily want to continue this great conspiracy theory that some sections of this Parliament want to perpetuate. We are happy with what we are doing. We have got \$2.5 million invested with our Safe and Secure Water Program for local councils to understand better their own water. One of the challenges we have is we have got 92 water authorities delivering water to towns across New South Wales; Victoria has 16.

Mr JUSTIN FIELD: It does seem we have strayed away from the bill now, Chair.

Mrs MELINDA PAVEY: Sorry? Are you just making comment—

Mr JUSTIN FIELD: Point of order: It seems we have strayed somewhat away from the bill.

The CHAIR: We have.

Mrs MELINDA PAVEY: Is that a point of order or just a running statement?

The Hon. TREVOR KHAN: That is outrageous! Like, pot and kettle—come on!

The CHAIR: Can we maybe just go back to question and answer?

CORRECTED

Mr JUSTIN FIELD: So they are advisory then, Minister? They will inform your considerations for potential future changes to water sharing plans?

Mrs MELINDA PAVEY: Yes.

Mr JUSTIN FIELD: Thank you. Thank you, Chair.

The Hon. PETER PRIMROSE: Minister, I have just got a couple of—

Mrs MELINDA PAVEY: Where is the Hon. Mick Veitch?

Mr JUSTIN FIELD: He is missing all the fun.

The Hon. PETER PRIMROSE: Mr Veitch is just away. How many of the current water sharing plans have been extended, as opposed to having been remade?

Mrs MELINDA PAVEY: Do we have an answer to that or will we take that on notice?

The CHAIR: We cannot have questions taken on notice. If you do not have it to hand then we will just have to leave it aside.

The Hon. PETER PRIMROSE: If it is not to hand, if you can just give me a rough idea.

Mrs MELINDA PAVEY: Mr Isaacs will talk to it.

Mr ISAACS: All of the regulated river water sharing plans in the Murray-Darling Basin—when we are talking about drought of record in this context it only refers to regulated rivers—all of the regulated river water sharing plans in the Murray-Darling Basin, apart from the Belubula, will be remade as 2020 plans once we get an indication from the Murray-Darling Basin Authority that they will be accredited under the basin plan.

Mrs MELINDA PAVEY: Just explain that because it gets complicated. You have got the water resource plans—that is like the Federal arm of the rules—and then our water sharing plans sit under that. Under the water resource plans we submitted all those by end of June, which was our commitment to the Commonwealth, and a regulated river means it is where you have got a dam. So aside from the Belubula we should have all the water sharing plans that fit under the Federal Government's water resource plans done by this year.

The Hon. PETER PRIMROSE: So in doing that, will that oblige you to use up-to-date data? My understanding is that, if I use the term simply extended, extended would presumably mean you could do them on the basis of existing data. If you remake it you would need to use, presumably, new and up-to-date data. Is that correct?

Mr ISAACS: I think it is important to consider the drought of record in this case and how we calculate minimum inflows. It is not about who has got the best science or is this the best science. What it is actually about is how you balance the risk of water shortage. It mostly impacts general security licence holders, so do you hold water back in the dams so that if you allocate water to those users you will be able to deliver it even in extreme droughts? But the trade-off to that is that in most years they will have less water and there is water sitting in the dam. So if you do use an older drought of record what it means is that in most years those users will have more water, but in an extreme drought or when you are then surpassing the previous drought of record you cannot deliver water to those users. So it is how do you balance the risk? That is why when the Minister was speaking about, and a number of witnesses, regional water strategies, we can have that conversation with the stakeholders who are impacted by that. Do you impact them up-front or do you impact them at the end, because one way or another the resource is limited and you have to make risk-based decisions on who gets water and how they get it?

Mrs MELINDA PAVEY: And our modelling shows that if we were to take the last droughts of record as part of the decisions we would have 5 per cent less general security water and you would, though, increase the amount for high-security water allocations by 0.2 per cent.

Mr JUSTIN FIELD: How recent is that modelling and what valleys are we talking about?

The Hon. PETER PRIMROSE: That is pleasing; that was the question I was going to ask, thank you.

The Hon. TREVOR KHAN: Interrupted again.

The Hon. PETER PRIMROSE: I am delighted for the interjection. My question also, and if I can just add something to the interjection, is: Is that information, that modelling, available to the Committee?

Mr ISAACS: I believe that modelling was 2014 modelling and it was undertaken in the Lachlan.

The Hon. PETER PRIMROSE: The Lachlan, yes.

CORRECTED

Mr ISAACS: I do not know if that modelling is publicly available. However, what I can advise the Committee is that modelling is being undertaken as part of the [inaudible] of the regional water strategies and the intent of the department is to be as open and transparent with data as it can with those strategies.

The Hon. PETER PRIMROSE: If I can use the term, the Lachlan modelling that informed the 2014 amendment was effectively modelling of record because it has been used extensively elsewhere. I asked the question this morning of the council, the mayor, had they seen the modelling and he was not able to answer that directly because he just could not recall, and we cannot take items on notice here. So my question simply is: Again, is that information available to the Committee given how important it is?

Mr ISAACS: And my answer is I do not know the answer to that. I know that I cannot take things on notice but I will undertake to the Committee if it is able to be provided that I will provide it, but I will not take it on notice.

The Hon. PETER PRIMROSE: How about, given there are three of you, is it possible for whoever is listening to this in your agency to simply send you an email now and tell you?

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

The Hon. PETER PRIMROSE: That would be a valuable thing.

Mrs MELINDA PAVEY: They are doing work.

Mr JUSTIN FIELD: Was it government modelling? Was it departmental modelling?

Mr ISAACS: That is my understanding.

Mr BENTLEY: We manage the modelling. I obviously was not here at that time, whether we were actually physically doing the maths behind the modelling I cannot speak to, but we were managing that work.

Mr JUSTIN FIELD: So the question of release is one whether you are prepared to release it or not, not one whether it is available or not?

Mr BENTLEY: As we were requested, I will text my colleagues and say is there a reason—

The Hon. PETER PRIMROSE: I would refer to the ephemeral people listening and watching this in your agency—

Mr BENTLEY: If there is anybody out there listening to this.

The Hon. PETER PRIMROSE: —to please email you the response. It would be useful. We have got another three-quarters of an hour. If I may turn to another topic and then perhaps return to this. If I can refer to page three of the submission we received from the Clerk of the Parliaments in relation to your—

Mrs MELINDA PAVEY: The water transparency bill.

The Hon. PETER PRIMROSE: Yes. The Constitution Amendment (Water Accountability and Transparency) Bill. Obviously, your agency and yourself, Minister, would have read it, but can I just refer to the three technical drafting issues that the Clerk has raised and seek your response? The first one is:

... there appears to be no new form to assist with preparation of disclosures under the new Register of Water Trading Returns, while there are detailed forms in both bills for the existing register including amendments to reflect the new disclosure requirements.

I am wondering if you could comment on that?

Mrs MELINDA PAVEY: I have not seen that correspondence but is it suggesting that there is not a clear enough form for them as a Parliament to be able to fill out with both transparency bills? Is that what they are saying?

The Hon. PETER PRIMROSE: Maybe if I could read out all three of them—your officers may have a response as well. The second is:

Likewise, there is no indication in the Government bill as to whether the new Register of Water Trading Returns is to be tabled in the House.

Thirdly:

There may be scope for confusion as to whether income from water interests still needs to be disclosed as a source of income, and whether dispositions of property now defined to include water licenses and rights are to be separately disclosed as dispositions.

So effectively the Clerk of the Parliaments is raising a number of technical issues. I personally think they are reasonable because what they are all about, as he finally says, is that he envisages that in relation to all of these new disclosure requirements "I will almost always need to advise Members to seek their own legal advice", which

CORRECTED

would seem to me something you could clear up easily, subject to the will of the House, of course, by way of simple amendments that overcome these issues.

Mrs MELINDA PAVEY: Well, a simple amendment to deal with the first point would be a new form to assist—I do not see an issue with that. "Likewise, there is no indication in the Government bill as to whether the new Register of Water Trading Returns is to be tabled in the House"—our declarations form part of information to the House, so that would be included in that, I would think.

The Hon. PETER PRIMROSE: With due respect, these are not my points; they are being raised by someone who knows—

Mrs MELINDA PAVEY: I am just making the point. I am just dealing with the question that you put at me and I am just reading these three paragraphs. "There may be scope for confusion as to whether income from water interests still needs to be disclosed as a source of income"—I think our bill is pretty clear on that; whether it is in trust or in a member of Parliament's name—"and whether dispositions of property now defined to include water licenses and rights are to be separately disclosed as dispositions." That would, again, fall within the current arrangements that if we do sell a property, as a member of Parliament it has to be disclosed. I am not sure why they are not clear in the bill and why they have been singled out because our bill is actually meant to be done in tandem with the current rules of disclosure. Maybe a conversation with the Clerk will sort that out.

The Hon. PETER PRIMROSE: Okay. I suspect your final comment that in discussion with the Clerk they will be sorted out, that would be a positive outcome.

Mrs MELINDA PAVEY: Sensible, yes, absolutely.

The CHAIR: We might as well stick with those bills now. Before we do, the regional water strategies, you numbered them 2, 3 and 4. Obviously 1 was Hunter but what do the 2, 3 and 4 represent in terms of regions or areas?

Mrs MELINDA PAVEY: They are not at public disclosure yet, as the secretary said, working towards Christmas, but we have had some consultations within those communities, and that is the Lachlan Water Strategy, the Macquarie Water Strategy and the Gwydir Water Strategy. So there are how many in total?

Mr BENTLEY: Twelve in total.

Mrs MELINDA PAVEY: Twelve in total.

The CHAIR: Just going back to—

The Hon. SAM FARRAWAY: Mr Chair, are you going to come back to the record?

The CHAIR: No, I was not planning to.

The Hon. SAM FARRAWAY: I might ask a question whilst we keep going. A question for Minister Pavey: I think yesterday my colleague Mr Field was asking some questions around the 2013 report *Assuring Future Urban Water Security*. I just wanted to know how did the Government respond to that report?

Mrs MELINDA PAVEY: We offered up \$2.5 million to councils across New South Wales and some 55 councils have taken up that opportunity to create their integrated water cycle management strategies. It is actually a complicated process. I have spoken to a number of councils that have been struggling with that because these strategies are designed for those towns and communities and council areas to make plans for the next 30 years for their water requirements. So to the suggestion nothing has happened, that is not right. Thanks for the opportunity to correct the record.

The Hon. SAM FARRAWAY: Thank you, Minister.

The Hon. TREVOR KHAN: Perhaps this goes to Mr Isaacs but it really relates to a comment that Mr Isaacs made earlier with regards to—

Mrs MELINDA PAVEY: Well, it would go to Mr Isaacs then, would it not?

The Hon. TREVOR KHAN: It might, but, again, it is a matter for you. Mr Isaacs made the observation that essentially, depending upon how one does it under, for instance, the Labor bill, it is a question of whether general security licence holders get the water essentially up-front or get it a bit later on. If they get it up-front they are not going to get it later on. My point is that a number of the irrigators who have made submissions have essentially said there is a more nuanced approach than that. If the Labor bill went through it would affect the timing in any season as to when access to water would occur; that is, if one is taking a more conservative approach it will mean that water will not be available in many of the valleys in the spring when plantings are going on, but rather may become available later on in the season when it is less productive. I am wondering if you or Mr Isaacs

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would like to comment on that analysis, that it has an ongoing effect not just in the bad season but, indeed, in every season by reducing the utility of the water that would become available to irrigators.

Mrs MELINDA PAVEY: I have not, to be honest, gone through every clause of the Labor bill and understanding what it would do to those spring allocations, which you quite rightly identify are vital to our productive sector, to our farms and our communities. I am not sure whether you have put your head towards that, Mr Isaacs?

Mr ISAACS: It would in many instances delay allocations because when you make an allocation you look at what you have available, you look at what you can reasonably expect to flow into your storage, then you take away your existing commitments and then what is left is what you can allocate. If you have got a smaller resource or you are assuming less is going to flow in you will have a smaller resource to allocate. That will mean in many circumstances it will delay allocations. It might mean early in the water year, for example, that irrigators will get a smaller allocation. In some cases that may be made up through the water year and in other cases it may not, it just depends on the system and the specific—

Mrs MELINDA PAVEY: And when it rains, whether it is winter rain or spring rain.

Mr JUSTIN FIELD: Just to clarify, if I could.

The Hon. TREVOR KHAN: Yes. I knew you would interrupt.

Mr JUSTIN FIELD: I think this is a very legitimate question: That would be dependent upon the rainfall pattern for the lowest period of inflows, what had happened in that lowest period according to that plan, where in the period of the year those falls came. That would be the assumptions that you were using for the potential inflow. So it would be somewhat different valley to valley.

Mr ISAACS: As I have mentioned, it would depend on the specific circumstances—the valleys, the flows, the circumstances through the year.

Mr JUSTIN FIELD: You would have that anomaly regardless of what period of low inflows you chose. It could change things throughout the water year, depending.

Mr ISAACS: I am not sure on the nuance; if we just take the period as a lump or if we do it month by month, I do not know the answer to that.

The Hon. TREVOR KHAN: Also, in terms of some of the evidence yesterday there was a suggestion that—and I think the Namoi and Gwydir valleys were used and were compared with what I think was the Lachlan and Macquarie valleys in terms of how water was allocated in any particular year, and I cannot remember which witness but my recollection was the suggestion was put that in the Namoi and Gwydir water allocations are based upon the water that is actually already held in the dams—Mr Clayton Barr is nodding in the background; it may well have been him, but I could be wrong—whereas in the Lachlan and Macquarie valleys the model is based not only on what is in the dam but also on the basis of what is predicted is going to be received into the dams during the year.

Mrs MELINDA PAVEY: Normal.

The Hon. SAM FARRAWAY: Burrendong.

The Hon. TREVOR KHAN: Burrendong, right. Is that in fact the case, that there is a difference in the method of allocation between what I will describe as, in my context, the northern valleys as opposed to what I would describe as the central valleys?

The Hon. SAM FARRAWAY: Macquarie Food and Fibre.

The Hon. TREVOR KHAN: Macquarie Food and Fibre, there we go.

Mr ISAACS: There is a difference in the allocation framework. In some of the northern valleys they use a system called continuous allocation and in the other valleys they use a system called the annual allocation. That is a level of technical expertise that I would not feel confident explaining to the Committee.

Mrs MELINDA PAVEY: But it sounds like it is predicated on the size of the storages and what may be in those, because those northern do not have the level of storage that the Burrendong and the southern have.

Mr ISAACS: I could not answer that. I do know that with the continuous allocation as water comes in they allocate it and in the southern they do it on an annual basis, but the specific technicalities I would not feel confident in explaining to the Committee today.

The Hon. TREVOR KHAN: Is it that you are not confident in us understanding it or—

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Mrs MELINDA PAVEY: It is just an honest answer.

The Hon. TREVOR KHAN: That would be fair too, I have got to say.

The CHAIR: One more from Mr Farraway.

The Hon. SAM FARRAWAY: Just to follow on from the Minister, some of the feedback that I have received, and we have heard it in some of the evidence—in particular, I would reference Councillor John Medcalf from the Lachlan Shire Council and acknowledge the shadow water Minister here today, because we went through this questioning yesterday with him—but some of the concerns that certainly were raised with me and through evidence was presenting the drought of record bill as the later bill, as it is referred to as it is, without any modelling certainly has given a lot of angst and anxiety to communities.

The Hon. TREVOR KHAN: Indeed there was a suggestion of no consultation, in fact.

The Hon. SAM FARRAWAY: Yes, that too.

The Hon. PETER PRIMROSE: It sounds like the 2014 modelling we are still waiting for.

The Hon. SAM FARRAWAY: In particular, John Medcalf, who is also the chair of the joint organisation out there, talking about the issues that they face with less production, less economic benefits for the broader Lachlan community and region. In your view as the Minister—I am sure that you would come across this as well, some of this angst and anxiety—in presenting a bill like this, if it was passed without any modelling would bring uncertainty for some of these valleys and communities.

Mrs MELINDA PAVEY: Certainly that is a concern. At lunchtime I did a conference call with leaders of the trans-Tasman business communities and I put a call out to the members of that forum that I was talking to and asked: in full allocation, when the rivers are full and everyone has got their general security entitlements and their high-security entitlements, what would be the general view of the amount of water that is taken out of the river system for irrigation? Only one person was prepared to actually put a number to it, and this poor fellow said 60 per cent, which is so way off the mark it is not funny. But I think that is a challenge that we in regional communities have: the absolute disconnect between the reality of what is being taken and what we have also given back to restore the health of some over-extracted rivers. The simple answer to that question is that actually around 14 to 25 per cent of river flows goes to the productive sector in full-allocation season.

Yet there is just this demand and disrespect to the way the regulated river system works. If we did not have the dams that we have and our regulated river system we would have had no inflows to have had any rivers running up until probably February of this year; they would have stopped running two years ago. So there is a challenge for us and regional communities and good mayors like Mayor Medcalf and Mayor Dal Broi, who also gave evidence. It is a challenge for us to be proud of what we do and to manage it in a way that is sensible. It is not a choice between the environment and the towns; we can do both. We are doing that, yet there is just a demand to create a crisis-type situation and take more and more and more.

There has been a lot of debate, a lot of discussion here today about the Peel and, as I pointed out, 1940s was the worst drought before this one and this one is much worse than that drought. But this drought that we are in is not as bad for some other parts of the State, like the south on the Murray, but their general security allocations have been hammered. So it is a difficult time and those communities do not want further uncertainty. The Labor bill, supported by The Greens and The Greens' elected independent members here of this Committee—

Mr JUSTIN FIELD: That is just me.

Mrs MELINDA PAVEY: —does create concerns in communities. Yes, you got here on a green platform—good luck to you—and then you left them.

Mr JUSTIN FIELD: I like to think I am living up to it there, Minister.

Mrs MELINDA PAVEY: The Labor Party and your support, further hurting the blue-collar workers of those communities, hurting those towns, and I do not support that, but we also have a proper system which is complicated and that is why I have Mr Bentley and Mr Isaacs with me here today to say that it is not as simple as a headline in the *Northern Daily Leader*; this is complicated. I also remind Committee members we have stood beside a lot of our communities that have done it tough through this drought. We are getting better at respecting water as a precious resource, whether it is in Sydney—in the millennium drought we were consuming 250 litres per day per person in this city; we are now down to about 190 litres per person per day. And what did Orange get down to, Sam Farraway? About 120 litres per person per day. That is what we are capable of.

Not everything is set in stone. We can learn, we can look at data, we can look at history, we can predict the future, we can manage things with the best available information, but please be assured our data and

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information in creating our water sharing plans is sound and is historic and looks across many decades of water allocation and water use and inflows into our regulated river system.

The CHAIR: Have you finished?

The Hon. TREVOR KHAN: I thought we were wrapping it up now.

The CHAIR: Just going to the other two bills, it has been described to me in terms of this issue with disclosures about land and property and water being separated and a searchable water register, it all started around 2004 when what can be described as a bureaucratic turf war between Land and Water Conservation and Land and Property in terms of who had the rights to manage land registers and water registers, and eventually what was the Department of Land and Water Conservation won out in terms of maintaining the water register. But it would seem to me that separating land and water as two separate assets has probably added to this confusion about what to disclose and what not to disclose as a member of Parliament. Would you agree with that sentiment?

Mrs MELINDA PAVEY: No.

The CHAIR: Any elaboration or are you just being defiant in saying no?

Mrs MELINDA PAVEY: I think it is really important to remember the way we ended up with our water system and the trading of water. It was actually a decision of farmers. Farmers made that decision in their own individual valleys, they went to meetings, they voted on it, and there were good reasons for it. If you are a dry land farmer and you just wanted to run sheep and you did not want to irrigate, then the rights to the water that was allocated to your property could be sold to your next-door neighbour or somewhere else down the valley. I am not saying it has not caused us some policy concerns, and I do worry about the choke and the water that we have to get beyond the choke down to high-security users and, particularly—we have not had a lot of almond farms going in the past 12 months or so but there has been an exponential growth of it, particularly in Victoria, which has got I think 70 per cent of almond farms, South Australia 15 per cent and New South Wales about 10 per cent.

So it has caused some issues. But if you undo that trading system that has helped improve productivity, improve efficiency and improve the wealth of some farmers, and some farmers have missed out—some probably look at what they sold their water for 15 years ago and regret it every day of their life, and that is the reality. But there is good information available and I think of all the States we have got more information available on water licences for the general public, but what our bill does is certainly try and create some confidence back in the system. Our political opponents have enjoyed creating a perception that those in my party own bucketloads of water—we simply do not, by the returns that are available for us to look at. The irony is someone from your own party has been an incredibly good farmer, has done very well in trading water, and I do not begrudge that person that at all; it is part of a system that we have created, and I mean that very genuinely—a family of very good farmers. But the issue is that the hysteria and the conspiracies and the wedging that has happened through this suggestion that parliamentarians are all water barons has done us all a disservice, and that is why our bill has been important to help restore confidence.

I was pleased to hear that the mayor of Griffith and the mayor of Lachlan are supportive also of acknowledging when the trades take place, because it is important to understand if we have peculiarities in the market with constraint of water that is available and who is making water and where, if we are going to level the criticisms it is important that if any of us are trading in water that we are able to provide that evidence and that information within a 14-day period.

The CHAIR: When you introduced your bill you noted that we already have a searchable water register maintained by WaterNSW, but why is it that we can only search by a water access licence number, not by a person or company name, considering that runs contrary to the National Water Initiative of 2004, which quite prescriptively sets out what State water registers should look like?

Mrs MELINDA PAVEY: There is quite a lot in that question and some very important elements to that question.

The CHAIR: Did you want me to split it up, break it down?

Mrs MELINDA PAVEY: No, I am giving you credit for the fact that there are some very important elements to that question. In our bill now the Government has the capacity to adopt some more flexibility around what we have in a public register and we are waiting on the Australian Competition and Consumer Commission [ACCC] to come back to us, which is meant to happen by the end of this month, so we can incorporate changes, and I think the best way that that can happen is by a national approach across all States and jurisdictions. But there is another very important part of this. We have seen our farmers very concerned—with Aussie Farms, the

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aggressive nature in the way that people went onto properties; I have dairy farmer Julie Moore in my own electorate, who had activists go on and accuse her and her husband of the most terrible things that were not true. Small business-type family farmers are very private people; they do not want their neighbour, let alone someone 10 kilometres up the road or 100 kilometres across the river, knowing exactly what they have because that can create some peculiarities.

Even a survey by the Victorian Government showed that the small family farms do not want to be part of that. But I do agree that there is a component in relation to international interests that need to be declared and, quite similarly to the Australian Stock Exchange, if you have and own 5 per cent of shares in any Australian company you are registered. So in terms of the big corporate entities, the international corporates that have water holdings in Australia, I do believe that we need to have some better transparency around that, and my bill leaves provision for that to happen when we can take a national approach for that. But I will, and my party and our Government will defend the rights of the small family farm from having their names, their water allocations available to the general community and to the public because that is not what they want, but they do want some better water transparency for the bigger players and the corporations.

The CHAIR: That sounds great in theory but how would you make that work and apply to only the big people, considering also that—

Mrs MELINDA PAVEY: Like it does on the Australian Stock Exchange.

The CHAIR: But we have also learnt that a water access licence number can apply to one entity but underneath that entity there could be 1,800, I guess for a better word, sub-entities or companies or individual owners.

The Hon. TREVOR KHAN: That is really two questions: one is how would you identify—

The CHAIR: Which she has answered. I am providing context. How would you then deal with a water access licence holder that has 1,200 or 1,500 individual people under them, but collectively may equate to that 5 per cent figure that you are talking about, or a foreign entity parking it under such a group? I am throwing up loopholes potentially that people could drive through and trying to see your suggestions on how we navigate them.

Mrs MELINDA PAVEY: As I have pointed out, we have been able to do it with a public register within the Australian Stock Exchange; if you have more than 5 per cent ownership in any Australian company you are listed on a public disclosure. We will work through those issues. We will also consult with the communities. Whilst the latest foreign investment disclosure showed that around 10 per cent of water is held by international companies—I think the US or the UK was the highest of those—within the Australian market, it is something that does cause concern, but, ironically, the concern of using our water to export 70 per cent of what we grow, which is the general trend, is also supported by Australian communities. We do play within the international markets; that is a hallmark of the foundation of our economy—70 per cent of what we grow on our farms is exported. We do need to be able to participate in the international marketplace, but our communities are demanding some more transparency around who owns that water and how it is traded and we will be happy to participate in that but also keep the privacy of our small family farm operations just that—private.

The CHAIR: I saw a figure that around 16.5 per cent of water owned in New South Wales is owned by foreign companies. I think I saw that a couple of days ago. Does that ring a bell? I know you said the overall—

Mrs MELINDA PAVEY: The last figure I said, 10 per cent, was across Australia. I have not seen that figure that you are referring to in the last couple of days.

The CHAIR: It concerns me that, while we are staying on the topic of foreign ownership, that yes a lot of it is handled by the Commonwealth but it is actually the States that issue the water access licences. I am interested as to why we are waiting for the ACCC to put mechanisms around foreign ownership and trading when we as a State already have the power to monitor and through the issuing of access licences to foreign-owned companies we already have the data there. Why are we not compiling that into a register, including it in a register while we are waiting for the ACCC?

Mrs MELINDA PAVEY: Because it is on that basis that we need to include a register that has information relevant to Victoria, South Australia and Queensland and for whatever the ACT may trade. That is important to a register that has the confidence of the Australian community. It needs to be all in and in that way we get a register that tells the whole truth.

The CHAIR: We had some submissions from the Southern Riverina Irrigators and they posed that section 71H—

Mrs MELINDA PAVEY: They did not support the drought of record bill, did they?

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The CHAIR: No, I do not think so. But section 71H they said posed "a multitude of inconsistencies with the National Water Initiative 2004, the Water Act 2007, the MDB Plan and Water Resource Plans" and even the Privacy and Personal Information Protection Act. I was just wanting to get your comments about that submission.

Mrs MELINDA PAVEY: About the SRI submission?

The CHAIR: Yes, in the fact that they are saying that a particular part of your bill, section 71H—which I think deals with public access to information and I think it grants the Minister the power to decide whether certain information is released or not—is inconsistent with a whole raft of legislative instruments and they list a few: the Water Act 2007, the Murray-Darling Basin Plan, water resource plans and the National Water Initiative 2004. I wanted to get your opinion or comment on that assessment.

Mrs MELINDA PAVEY: I think I would be happy to take our advice on how we have worked up a piece of legislation over what the SRI are saying.

The CHAIR: One of the other submissions posed a proposal that it should not only be MPs that disclose water interests on a pecuniary interest form but also government bureaucrats and contractors that are performing work around policy development around issues that they should also have to disclose their interests if they have any. I was wanting to gauge the view of yourself and, obviously, the bureaucrats you have in front of you and maybe you could talk us through in terms of what conflict disclosures you already have in place within departments to alleviate those concerns.

Mrs MELINDA PAVEY: In terms of our legislation, on elected public officials I think there is, quite rightly, greater scrutiny on what we have. Whilst we did have a ruling from the Clerk of the Legislative Assembly that water held within trusts and/or individually was picked up in the original pecuniary interest, we wanted to be very clear, which is why we brought in training. I believe that we have got the right balance with what we have. In relation to public servants, Mr Bentley might be able to further clarify in relation to requirements that already exist for declaration.

Mr BENTLEY: Senior executives have to declare property and investments and so on. My declaration regarding any water holdings would be a relatively brief one, I have to tell you, as I do not have any. But, Mr Isaacs, do you have anything further?

Mr ISAACS: Public servants will have codes of conduct they are required to comply with within departments. I can only speak to the department we are in, which is the Department of Planning, Industry and Environment; senior executives there have mandatory annual disclosures whether or not we have anything to declare. All other staff are required to declare if there are any potential or perceived conflicts of interest. So for anybody working in or around a water space they would be required to declare and manage that conflict.

The CHAIR: How regularly is that done? Is it just a once-off once they are engaged or is it—

Mrs MELINDA PAVEY: If it changed it would have to be updated.

Mr ISAACS: It is a continuous disclosure requirement for senior executives. Whether or not anything changed we have to confirm that on an annual basis. For other staff in the department it is on an as-required basis. Certainly in my teams I usually ask my staff to confirm, even though that is beyond a specific requirement of the code of conduct, and then we have a number of investigative bodies in the New South Wales government—ICAC and the Ombudsman, for example—that would be responsible for checking; if there are any concerns that people have raised they would be charged with investigating any specific breaches. I think if you looked at the corruption definition under the ICAC Act, it's quite broad.

The Hon. TREVOR KHAN: And there is an obligation to report to ICAC by senior executives, or at least specific senior executives?

The CHAIR: I imagine if you were recruiting an external consultant for a particular job—say, the modelling on the Lachlan River in 2014, if that was done externally—you would have made them go through a similar process in terms of disclosing any conflicts.

Mrs MELINDA PAVEY: We do it internally anyway.

Mr ISAACS: I couldn't speak to exactly what was done in 2014, but there are standard form contracts and vetting for conflicts of interest.

The CHAIR: Does that allay your fears, Mr Khan?

The Hon. TREVOR KHAN: I had none.

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The CHAIR: No, you raised a few eyebrows when those comments were being made.

The Hon. TREVOR KHAN: I just wondered where it was going to go.

The CHAIR: I think we all did.

Mr ISAACS: To be clear: my disclosure would be as brief as Mr Bentley's, I believe.

The CHAIR: As I said, I just wanted to get those departmental processes on the record, which I assumed existed, to counter previous submissions.

The Hon. TREVOR KHAN: Indeed, where there was a breach around Circular Quay, that ended up in a full ICAC inquiry where there was an allegation of a—

Mrs MELINDA PAVEY: Who was that involving again?

The Hon. TREVOR KHAN: Let's not go into names—on anyone's part.

Mr BENTLEY: Chair, it may help to note that there is also an audit and risk committee for the department. This isn't just the bureaucracy measuring itself. We are answerable through the secretary to an audit and risk committee, so the normal kind of processes and declarations—I see the declarations that Mr Isaacs makes about whether he has briefed his team about conflicts of interest and all those sorts of things. There are the sorts of processes you would expect of a corporation in place around these sorts of things.

Mr JUSTIN FIELD: Minister, I wanted to try to drill down on what will happen under the new draft plans in terms of addressing a severe drought. You've pointed to alternative mechanisms of the regional water strategies. There's been commentary in the other submissions about how alternative measures actually enable you to make decisions and adapt to extreme events. To use the Macquarie River as an example, the State Infrastructure Strategy 2018-2038 identified climate modelling, which I'm sure will be in the regional water strategy, that suggested in the absence of a material response, reliability is forecast to continue to decrease in the face of a changing climate.

You've just redrafted that water sharing plan. It's gone to the MDBA for accreditation under the resource plan process. I note it hasn't got concurrence yet from the State environment Minister. That will set in place those water sharing plans with the backdated drought of record for another 10 years. What happens if we have a drought that is as bad, or worse, than the lowest period of inflow identified in that plan between now and 2030? What actions are available to you?

Mrs MELINDA PAVEY: What's your question? What if there is a worse drought than the current one?

Mr JUSTIN FIELD: That's right. Whilst these plans are in place for the next decade, what actions are available to you to ameliorate risks to Dubbo's water supply?

Mrs MELINDA PAVEY: We went through some of those issues in Mr Isaacs' evidence. We suspend water sharing plans completely if we are at risk. We can build extra infrastructure, which is what we have done on Burrendong Dam so we have got a deeper outlet to be able to get water. We deal with council and council has taken some of Dubbo's recycled water to put on pasture and property. Some of the farmers have given back to Dubbo city council water that was good for drinking, and they've swapped those around. They are some of the measures we can take into account in an emergency situation, which we've done. Similarly, there could be a period of large inflows over the next few years. With La Niña seeming to be the topic of conversation with the Bureau of Meteorology and other experts in the water space, sustained periods of drought are often followed by sustained periods of wet weather events. We will manage our way through, which is what we can do when you do an average over 80, 90 or 100 years of data that is available to us, and that is what the agency does.

Mr JUSTIN FIELD: To confirm, you are not doing an average, though. You have picked the lowest period of inflows at the point specified in the plan, which I think for the Macquarie is 2004. So you haven't got an average. It's the lowest inflow to that point.

Mrs MELINDA PAVEY: And measured with the highest inflows over 80 or 90 years, that's how you get to the data that develops your water sharing plan.

Mr JUSTIN FIELD: To confirm, your response is that things were available to you, including suspending the plan and investing in infrastructure, which is what you are doing. That goes to my point. We heard from Southern Riverina Irrigators today that we don't need drought of record because there are a range of approaches that go beyond the millennium drought factors. They specifically identified the protection of conveyance water, conveyance reserves and critical human need reserves. They've got a plan down there which is really a workaroud in the event of the worst-case scenario. You've just said that in the Macquarie our workaroud is, "Well, I can just suspend the plan."

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Mrs MELINDA PAVEY: I said a couple of other things. You oversimplify things, Mr Field. You are unfair.

Mr JUSTIN FIELD: You can suspend the plan or you can invest in infrastructure. Doesn't it say something about the failure of climate and drought planning if the answer to an extreme drought is to suspend the plan or just put more money into infrastructure? That's not a plan at all. All the valleys have got workarounds to deal with a changing climate and risk to critical human needs. Shouldn't our plans be adaptable to climate change and the response shouldn't just be, "We'll suspend the plan"? That's no plan at all.

Mrs MELINDA PAVEY: We are adaptive to the changes within the weather patterns in the valleys over periods of time. As we further outlined, we will have further information to the history of rainfall and inflows into our valleys through our regional water strategies, along with our predictive work in terms of climate change. We are comfortable with the balances that are being struck—I know you're not. I know you would prefer that irrigators and general security allocations were less than what they are. We believe we are getting that balance right and we will continue to learn and take our learnings and look at evidence and continue to support our regional and inland communities.

Mr JUSTIN FIELD: The logical question that flows from that is: Why have a drought of record clause at all? Why identify a period of low inflow at all? Why not just adaptively manage the plan based on year-to-year flows? You have got a drought of record provision in all your water sharing plans—why do you have that?

Mrs MELINDA PAVEY: As I just explained, we look at inflows into our regulated water systems over a period of 80, 90, 100 years, and that is how we adapt those water sharing plans to be able to manage that. I know that's not what you would do if you were in control.

Mr JUSTIN FIELD: You don't do that, Minister. You don't pick an average.

The Hon. TREVOR KHAN: I'll take a point of order. You ask a question and as the Minister answers, you don't like the answer so you jump in.

Mr JUSTIN FIELD: I'm inviting the Minister to be accurate and truthful as to how the plans are managed.

The Hon. TREVOR KHAN: You're now doing it again with me.

Mr JUSTIN FIELD: Trevor, you know that's not how the plans are managed.

The Hon. TREVOR KHAN: Chair, I would ask—

Mr JUSTIN FIELD: I'm finished, Chair. I'm happy to cede the floor to the Opposition—the real Opposition in this State.

The Hon. PETER PRIMROSE: Minister, as we're finishing up, I'm again not seeking paleo-historical information dating back 10,000 years. I was wondering whether your gnomes who are listening to this have been able to identify whether the information that former Minister Humphries indicated was used in terms of drafting his 2014 amendments that related to that modelling in the Lachlan is available publicly, please?

Mrs MELINDA PAVEY: I haven't heard from my agency. As I said, they're busy working.

The Hon. PETER PRIMROSE: Minister, what can I say? I would have thought someone in your agency, and particularly your office, may have actually been watching this.

Mrs MELINDA PAVEY: As I said, we've got a lot on the go.

The Hon. PETER PRIMROSE: I also would have thought your chief executive officer, and maybe the director of the Office of the Deputy and Strategic Relations in the Department of Planning, Industry and Environment may have known about this prior to me asking.

Mrs MELINDA PAVEY: Is that right?

Mr BENTLEY: We may have known about what, sir?

The CHAIR: About the modelling for the Lachlan.

Mr BENTLEY: We knew about the modelling, yes, because we answered that as one of the questions.

The Hon. PETER PRIMROSE: Is it available publicly—the matter your Minister previously indicated she would seek to find out before the end of our discussion today.

Mrs MELINDA PAVEY: I will see what is available and see what I can present to the Committee.

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The Hon. PETER PRIMROSE: You would be aware that we can't take matters on notice, Minister.

Mrs MELINDA PAVEY: But I can send it to you, Peter.

The Hon. PETER PRIMROSE: No need, Minister. I will use other parliamentary avenues to attain it.

Mrs MELINDA PAVEY: Let's not waste everyone's time. Once we've got it, we'll send it to you.

The Hon. PETER PRIMROSE: Minister, I appreciate your offer to make it available to me and I look forward to receiving it. Then I'll make it available obviously—either you directly to the Committee or directly to me and I'll make it available to the Committee, but I appreciate the offer, Minister.

The CHAIR: We thank the Minister and Mr Bentley and Mr Isaacs for their testimony today.

(The witnesses withdrew.)

The Committee adjourned at 15:45.