

REPORT ON PROCEEDINGS BEFORE

**SELECT COMMITTEE ON THE STATUS OF WATER
TRADING IN NEW SOUTH WALES**

STATUS OF WATER TRADING IN NEW SOUTH WALES

CORRECTED

At Macquarie Room, Parliament House, Sydney on Monday 21 November 2022

The Committee met at 10:00.

PRESENT

The Hon. Wes Fang
The Hon. Rose Jackson

PRESENT VIA VIDEOCONFERENCE

Ms Cate Faehrmann (Acting Chair)

The Hon. Lou Amato
The Hon. Robert Borsak
The Hon. Peter Poulos

* Please note:

[inaudible] is used when audio words cannot be deciphered.

[audio malfunction] is used when words are lost due to a technical malfunction.

[disorder] is used when members or witnesses speak over one another.

The ACTING CHAIR: Welcome, everybody, to the third hearing of the inquiry into the status of water trading in New South Wales. The inquiry is examining the origins, purpose, regulation and abuse of the water trading market. The Committee will also examine the effects of water trading on the economy, communities and the environment. I acknowledge the Gadigal people of the Eora nation, the traditional custodians on the lands on which we are meeting today. I pay my respects to Elders past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today. Today we'll be hearing from a number of stakeholders, including representatives of irrigation companies. While we have some witnesses with us in person, others will be appearing via videoconference. I thank everyone for making the time to give evidence to this important inquiry.

Before we commence, I'd like to make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, the House has authorised the filming, broadcasting and photography of committee proceedings by representatives of media organisations from any position in the room and by any member of the public from any position in the audience. Any person filming or photographing proceedings must take responsibility for the proper use of that material. This is detailed in the broadcasting resolution, a copy of which is available from the secretariat.

While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses may say outside of their evidence at the hearing. I, therefore, urge witnesses to be careful about comments they may make to the media or to others after they complete their evidence. Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. In that regard, it is important that witnesses focus on the issues raised by the inquiry terms of reference and avoid naming individuals unnecessarily. All witnesses have a right to procedural fairness, according to the procedural fairness resolution adopted by the House in 2018. If witnesses are unable to answer a question today and want more time to respond, they can take a question on notice. Written answers to questions taken on notice are to be provided by Tuesday 29 November. Finally, everyone should turn their mobile phones to silent for the duration of the hearing.

Mr RON McCALMAN, Chief Executive Officer, Murray Irrigation, sworn and examined

The ACTING CHAIR: I welcome our first witness. Do you have a short opening statement?

RON McCALMAN: Good morning, everyone. I would like to reaffirm the apologies of our chair, Noel Baxter, who is unable to attend today. Our community and company is facing the worst flood crisis in over 50 years. The community and company have been dealing with this crisis for over six weeks. Today our home town of Deniliquin has been advised that selected evacuations will be required. It would be inappropriate for two senior officers to be away from the region in the current circumstances.

The ACTING CHAIR: Is that it, Mr McCalman?

RON McCALMAN: That's correct.

The ACTING CHAIR: We will proceed to questions from members. I state from the outset that the member in the room is Mr Fang. Everybody else is participating remotely for this inquiry.

The Hon. ROSE JACKSON: I am in the room, Cate, but I asked all of my questions of Mr McCalman when he appeared in Griffith, so I have no additional questions.

The ACTING CHAIR: Thanks, Ms Jackson.

The Hon. WES FANG: Thank you, Mr McCalman, for appearing today. The thoughts of myself and the Committee are with your shareholders and directors who are impacted by the flooding—not only today but also over the past six weeks. We trust that everyone is safe and well. It's interesting that you have started by talking about the flooding and obviously the issues there and dealing with what is a crisis. It has come to the Committee's attention that it's probably not the first crisis that MIL has had to deal with. We have been made aware that the organisation itself has had a report commissioned and delivered that identified a number of failings. There were failures with directorships, there were failures with governance and there were issues with insider information. Can you tell this Committee what your organisation has done to refer that information to corporate authorities, to governance authorities, and what steps they have taken to action the recommendations of the report?

RON McCALMAN: Certainly. Thank you for your question. When I appeared in Griffith, I'd been in the role for two months, so I am very short tenure in the role. But in terms of the report you refer to, which I assume is the Deloitte report, I'm really going to focus on what I've done since I joined. Post the hearing, I commissioned Deloitte to come back into the business and undertake a review of the recommendations from the initial report and also to provide an update of recommendations around governance because it had been five years since the initial report was done. One of the main resolutions from that is going to our AGM this Thursday. Post the AGM, the additional resolutions will be considered by our board; that is a main item for discussion at our board meeting on Thursday afternoon. As a company and certainly as a new CEO, I have taken the recommendations seriously and so has our board. I believe we've taken the appropriate steps to ensure that the recommendations that require shareholder approval are put to our AGM and those that require board consideration are going through that process.

The Hon. WES FANG: There have obviously been numerous leaks out of your organisation about this report, but the report has never been made public. Can you talk to the report that was delivered in 2017, as to what the recommendations were? What actions were taken by your organisation to correct the governance and oversight issues?

RON McCALMAN: Certainly. I can cover off some of the recommendations and, certainly, what we've done from the 2022 report, which—as I said—for me, that is the critical report.

The Hon. WES FANG: I will come to the 2022 report. What I'm talking about now is the report that was provided in 2017, which for some reason hasn't been provided to this Committee yet. In fact, while I'm on that issue, are you able to provide a copy of that report to the Committee so that we can better inform ourselves when we're writing the recommendations?

RON McCALMAN: Well, that report is covered by privilege.

The Hon. WES FANG: Yes. In the circumstance that this Committee has parliamentary privilege, we're seeking that the organisation tables a copy of that report.

RON McCALMAN: I will take that on notice.

The Hon. WES FANG: Okay.

RON McCALMAN: In relation to, as I said, the recommendations that were tabled, a number of those have been actioned and completed.

The Hon. WES FANG: We're talking about the 2017 report now?

RON McCALMAN: Yes. As I said, I have one set of recommendations which relate to the 2022 report.

The Hon. WES FANG: I'll come to the 2022 report. I need to focus on—

RON McCALMAN: I understand that, but the 2017 report was not commissioned by myself. It's not my focus. I'm focused on if any recommendations weren't considered and actioned, that's what I've asked Deloitte to—

The Hon. WES FANG: Mr McCalman, I appreciate that you've made yourself available today in what are very difficult circumstances. However, we sought to have other representatives from your organisation appear, and in circumstances—

RON McCALMAN: Sorry, we had a request on Wednesday of last week for our Chair to appear. That's not a lot of notice and, as I said, we are dealing with a genuine—

The Hon. WES FANG: I believe there were a number of invitations circulated prior to that.

RON McCALMAN: Not—

The Hon. WES FANG: We can delve into the brass tacks of that. I need to first establish historic governance issues with the organisation. While I understand you didn't seek to have the 2017 report commissioned, you would be very well aware of its contents, you are well aware of what your organisation did to address the concerns and you would be aware why that report has not been passed on to corporate regulators. Those are the questions that I'm asking you now about the 2017 report.

RON McCALMAN: As I stated, I have not focused on the 2017 report. I specifically asked Deloitte to update me on the recommendations which I was given on 10 October this year, which I'm having going to our AGM. In six weeks we have gone through the recommendations, and I've taken those up to our shareholders for their consideration. I'm sorry, but I have been very specific on what I've needed to focus on.

The Hon. WES FANG: I understand that. However, there appears to have been a failure of MIL to address concerns that were raised in a report that it commissioned that identified issues of governance, directorships and information flow. I appreciate that perhaps you weren't in the chair at the time. But this Committee is seeking to understand what actions were taken by your organisation when that report was given to it, why it was not referred on to corporate regulators, why it was not actioned and why it has not been provided to its shareholders.

RON McCALMAN: I'm going to step you through the recommendations and the updates from 2022. They are linked, and that will deal with each of the recommendations. I think that's the best way. Otherwise we're going to continue to go round in circles because I am not party to the 2017 report and I have not focused on it. The first recommendation was around new training and processes. The status of that is that it's been partially implemented. The recommendation from the 2022 report was that we complete that. That matter in relation to training and processes deals with the directors handbook, and the key recommendation is that it has mandatory training attached to it. That has yet, as I said, to be considered by the board, but that will be occurring this week at our November board meeting.

Compliance with codes—again, it's been partially implemented. Our code of conduct was amended such that consequences for failure to comply with code and MIL policies and procedures may result in termination of employment engagement with MIL. Directors are required to sign off on the MIL code of conduct. The next one relates to code of conduct investigation sanction procedures. The code of conduct investigations and sanctions procedures have not been updated since March 2017. That one is also under review as part of the 2022 update. Independent review of the board—what we're looking at here is that MIL is to determine board performance and ensure that there is a review process in place. We've also appointed an external firm to undertake our internal audits, and the risk management has approved bringing the internal audit of the board functions through to 2023—so, first quarter next year.

The Hon. WES FANG: In relation to the declaration of conflicts, how has MIL dealt with it historically? Was that identified at all as a concern? Has it been addressed?

RON McCALMAN: Yes, it has. It was identified as a concern. Now each director is required to state and update at each board meeting any conflicts of interest.

The Hon. WES FANG: What are considered conflicts? How do you define what a conflict is?

RON McCALMAN: It is where there is an interest that a director may hold that in some way may conflict with their decision-making process.

The Hon. WES FANG: Are the directors' conflicts published?

RON McCALMAN: They're certainly minuted so that they sit within our board papers.

The Hon. WES FANG: If a director was to, say, have an involvement in a dispute with another organisation or another entity that was involved with MIL, would that trigger the conflict declaration, in your opinion?

RON McCALMAN: Yes, if there was a matter that was placing conflict on that director, it should be disclosed. There is a very long list of potential conflicts because, as you'd imagine, our member-directors are also irrigators, so they have water licences. All of that is disclosed in the conflict of interest register.

The Hon. WES FANG: Right. Would this conflict also expand to interests and involvement with advocacy agencies that Murray Irrigation Limited might have involvement with?

RON McCALMAN: If a director was to sit on an advocacy body—which, as you'd be aware, there are many of them—that would need to be disclosed.

The Hon. WES FANG: Where there is a conflict, how do you manage the conflict when issues related to an advocacy agency or another organisation or body have direct involvement in a matter that's being discussed? Does the person leave the room? Are they excluded from the discussion? How is it managed within MIL?

RON McCALMAN: All of the above. As I've said, I've been here a short time, but I have seen an issue that required a director, because of their involvement with an advocacy group, to actually recuse themselves from the meeting and any decision that was taken. That was also minuted.

The Hon. WES FANG: When was that implemented? That's probably the first question I should ask.

RON McCALMAN: From memory, I think in 2020—at the same time that a very rigorous conflict of interest register came in.

The Hon. WES FANG: Could you provide us with some insight as to what occurred within the organisation prior?

RON McCALMAN: No, I cannot, I'm sorry.

The Hon. WES FANG: Is it fair to say it wasn't—there was no action?

RON McCALMAN: I'm sorry, I could not comment.

The Hon. WES FANG: Could you provide some insight into the relationship between your organisation and some of the other stakeholder advocacy organisations—groups like SRI? Can you talk about the formal arrangements, the relationships that might exist?

RON McCALMAN: Certainly. As I said, there are a number of advocacy groups that MIL interacts with, SRI being one of them. Those groups are primarily focused on advocating in the area of water policy, and certainly representing irrigators in that regard. There are a significant number of groups that cover that. MIL has relationships and contact with a number of different bodies, including irrigation councils, SRI, MRSG and other entities that are—

The Hon. WES FANG: RGA?

RON McCALMAN: Sorry?

The Hon. WES FANG: Ricegrowers?

RON McCALMAN: Yes.

The Hon. WES FANG: Okay. In relation to SRI, though, do you have a formalised agreement? Do you provide funding for any of their activities?

RON McCALMAN: Currently there is a memorandum of understanding in place, which covers SRI and our local landholder associations that represent irrigators, to ensure that the companies understand the issues that are topical for irrigators. Historically we have provided funding in different amounts over different years.

The Hon. WES FANG: How much have you provided?

RON McCALMAN: Last year, approximately \$350,000. We have a funding arrangement this year, but I have advised SRI that we will no longer fund that organisation from 1 July next year. That relationship, whilst

it's an important relationship to ensure that the company understands the advocacy, is changing as we no longer will be providing the level of funding.

The Hon. WES FANG: For the funding that you have provided, what oversight do you have in relation to the expenditure of that funding?

RON McCALMAN: As part of that we were provided their accounts, and also we signed off by project for the allocation of the money before we paid it. Again, before my time, but I have seen the types of projects that were involved in covering things such as advocacy, travel costs and issues around supporting and ensuring that the voices of irrigation farmers were able to be heard in both Canberra and here in Macquarie Street.

The Hon. WES FANG: In relation to that last point, how did they expend that money?

RON McCALMAN: Again, before my time, but the company signed off against submitted projects. They spent that money against those projects.

The Hon. WES FANG: I'll come back to that. I believe the report identified a number of failures in 2017 of then directors to meet their directorships. Is that a fair assessment of what is contained within the Deloitte report of 2017?

RON McCALMAN: I understand that questions were raised and that was part of why Deloitte was commissioned. Out of that, you've seen a number of recommendations that Deloitte have put forward. I can't speak to the veracity or not of allegations.

The Hon. WES FANG: That was a very diplomatic answer but probably didn't touch on what I was asking, which is: Did Deloitte identify that some of the directors had failed in their directorships?

RON McCALMAN: As I've tried to be quite consistent, I have not fully read the Deloitte report. I have not changed my position from when I went to Griffith. You continue to ask me questions when I've been very straightforward. I have not concerned myself with that type of report; I've been focused on the recommendations.

The Hon. WES FANG: Mr McCalman, are you telling this Committee that as the person responsible for MIL, when your own organisation has commissioned a report that has been well publicised and has identified governance issues and other issues within your organisation, you have not read the report? You cannot seriously believe this Committee would believe that.

RON McCALMAN: Can I just circle back on that? I was very clear coming in, and certainly after the meeting I attended with this Committee in Griffith, that I was very keen to ensure that the company had fully understood all of the recommendations and that I could be updated on any new recommendations that would come forward. To me, the past, I cannot do anything about. What I'm focused on is the future and making sure that this company has the correct governance in place. That's why Deloitte were engaged; that's why I'm focused on 2022. I have not focused on hearsay and allegations when I don't know the veracity of them.

The Hon. WES FANG: Mr McCalman, you are under oath. Are you saying you have not read the 2017 report? You actually said that you have not read it in its entirety.

RON McCALMAN: No. I was asked in Griffith if I had read it and I said I had read parts of it. Since the meeting in Griffith, I have not returned to the report. It was not my focus. What was I focused on was ensuring that the company had considered all of the recommendations and that's why I wanted Deloitte to update the report.

The Hon. WES FANG: Mr McCalman, I put it to you that you have read the report because I do not—

RON McCALMAN: I'm under oath. I said to you that I had read parts, which I said to this Committee at Griffith. I have not gone back and completely re-read the report—

The Hon. WES FANG: Could I ask for a percentage of how much?

RON McCALMAN: —because why would I?

The Hon. WES FANG: Well, because you are in charge of an organisation now that has—

The ACTING CHAIR: Mr Fang—

The Hon. WES FANG: Yes?

The ACTING CHAIR: Order! In the first instance, if we could allow the witness to at least answer and finish his response before you jump in, that would be good. Mr McCalman, if you could just finish what you were saying and, Mr Fang, just please be reminded not to badger the witness and treat the witness respectfully. He is able to answer our questions as he sees fit. Please proceed, Mr McCalman.

RON McCALMAN: Thank you. So as I said, my focus was on making sure that the lessons taken from the recommendations were the focus of our company. We had a very limited time window before our AGM and if I didn't get the recommendations and the ones that needed to go back to our shareholders for approval, I would have to wait until the AGM next year. So my focus, with very limited time, has been ensuring that the recommendations that needed to go to our AGM were in a position to go through our board for approval to submit them, and then meet the time lines required within the window of the AGM. So I'm—exactly as I've said to you, that has been my focus.

The Hon. WES FANG: Mr McCalman, how can you, as a chief executive officer—given you've just stated that your focus was to make sure that the recommendations were implemented—say that if you have not read the report that previously identified the recommendations before you asked for an updated one from Deloitte?

RON McCALMAN: I can because we have a completely new board to what was in place in 2017 and the thing that I need to focus on is ensuring that the governance recommendations have been implemented, or at least put through to our AGM for shareholder consideration. That has been my focus. It is my only focus. Me going—

The Hon. WES FANG: I hope your shareholders are able to understand that you, as the CEO, have not sought to read a report that provided a very detailed analysis of your company's governance structure and provided recommendations. I'll leave that and I will move on to some other things. Let's make the assumption—I'm saying "assumption" here because you've clearly said that you haven't read it, although I believe that there may be circumstances where it did—that it did identify a number of governance failures, did the organisation seek to refer those failures to an external agency, i.e., ASIC, or to any regulator with which the governance aspects may have been looked at in more detail?

RON McCALMAN: Are you referencing the 2017 report?

The Hon. WES FANG: Yes.

RON McCALMAN: I would need to take that on notice. I'm unaware whether—

The Hon. WES FANG: Okay. Since you're taking that part of the question on notice, if you could also take on notice whether, if they didn't, it was discussed at the board level to do so, and if it wasn't, why not? Are you happy to take that on notice as well?

RON McCALMAN: Yes.

The Hon. WES FANG: Thank you. In relation to the issues around the flow of information that's been provided from the board out, there have been concerns raised in the media around things like the Snowy Hydro deals and whether there were conflicts there. Can you provide some insight to the Committee as to how they occurred and what actions the organisation is taking to tighten that? It has been framed as "insider trading", but I'm seeking to put to you how those governance issues have been tightened up.

RON McCALMAN: I'll speak to the recommendations and the things the company has done to ensure that our systems and also our directors are reminded of their obligations relating to confidentiality. In 2020 we introduced Diligent, which is a board management system, to ensure that documents can't be printed, copied or forwarded from the system. We ensure that all directors are utilising company-provided email accounts with instructions around the movement between private email and company email. We've reminded directors of confidentiality and the importance of it. They are informed of their obligation in relation to confidentiality at the induction process for directors. We are also currently reviewing additional training around that.

As I said, we have a new board. I would like to make the point that you're talking around a board previously. The board currently is very focused on governance. They have been very supportive of myself in seeking to bring Deloitte back in. The board, as I said, is new but very focused on ensuring that we are operating within best practice. We've also implemented that all emails from myself are bound as clearly that this is for board information and it's confidential. There is a big focus, because I am well aware that if you don't have confidentiality it becomes very hard for the decision-making process to be as is required. The company and the board are very focused on reaffirming confidentiality so I am comfortable that we are progressing in that. A few of the additional recommendations from Deloitte will also strengthen that.

The Hon. WES FANG: So the new board members that you've got that are seeking to implement a lot of these new recommendations from the updated 2022 report, is it fair to say that the board is unanimous in its support of the new disclosures, the new governance models and the new codes with which they are operating?

RON McCALMAN: As I said, in our October board meeting I submitted the resolutions that needed to go to the AGM. This Thursday the board will consider all of the Deloitte recommendations. The decision-making

process for implementation sits at board, it doesn't require shareholder—I don't want to say that they have unanimous support but there has been a strong focus in support, as I said, to bring in Deloitte to undertake an updated review.

The Hon. WES FANG: Would you say that the current board has a much stronger focus on transparency and accountability?

RON McCALMAN: I believe this board—and I look at other boards I've reported through—is very focused on the accountability that it has in the process.

The Hon. WES FANG: Would you say that if there was a failure to adopt the recommendations in the whole that the organisation would be deficient in some of the governance structures compared to what would be considered best practice?

RON McCALMAN: I think some of the recommendations may not be adopted. One is, for example, around should independent directors have tertiary qualifications. We work in the agricultural industry and some of the best people may not have necessarily gone to university but bring a very lived experience that can actually add real value to our board. Those types of initiatives may not be adopted. Do I think that in any way stops us achieving a very strong governance culture? No, I do not.

The Hon. WES FANG: It's fair to say that you believe that the directors, as they are currently on the board, have been open to the reform of MIL in relation to some of the governance concerns that have been raised. Have they provided feedback to you as to how they view the current Deloitte recommendations?

RON McCALMAN: I haven't had any negative feedback and given we're in the week prior to our board meeting, if I had directors having particular concerns I think I would have started having phone calls in that regard. I have not had that.

The Hon. WES FANG: Given that it's fair to say the current board is open to transparency, surely they must be prepared to release the Deloitte report from 2017?

RON McCALMAN: I'm not going to speak on behalf of the board in that matter. As I said, I've taken your question on notice about what decisions were made previously. That will be a matter for the board.

The ACTING CHAIR: Mr Fang, can I just interrupt there. The witness has agreed to take that request on notice. If you could direct your questions in a different direction. You have asked the witness that multiple times now. He's taking it on notice in terms of that report. If the questions could focus on a different area that would be wise. Thank you.

The Hon. WES FANG: I appreciate that, Chair. It's just that many of the stakeholders that I've spoken to have raised genuine concerns about the failure of that report to be made public.

The ACTING CHAIR: Yes, Mr Fang, I'm telling you that the witness has said that he will take that on notice in terms of a request by the Committee to provide that report. There's not really anything more you can do in terms of your line of questioning in that regard.

The Hon. WES FANG: I move now to the 2022 report. Is it to be made public? Is it to be provided to your shareholders?

RON McCALMAN: I'll be honest, I haven't discussed that with the board as yet. Again, our board needs to go through the deliberation process of looking at all of the recommendations. The resolution that needed to go to our shareholders about the minimum number of independent directors, we obviously have explained why we believe that that should be supported. Again, the feedback on that will come out of our board deliberations.

The Hon. WES FANG: Is it your expectation that you would recommend to the board that they make that report public to the shareholders?

RON McCALMAN: I'm very focused on transparency. I haven't considered that yet but that particular updated Deloitte 2022 report, and a high-level overview of why we've taken the resolutions and how they've been actioned would be of merit.

The Hon. WES FANG: Moving to future election of directors, has there been any discussion within the organisation around the declaration of interests and engagement with conflicts prior to nomination?

RON McCALMAN: Not that I'm aware of.

The Hon. WES FANG: Where there are shareholder-elected directors and there is the provision of things like CVs and experience references that are usually circulated so that the people can make informed choices, has there been any discussion at all around there being a requirement to have possible conflicts or engagement

with other external agencies with which MIL has formalised and informal arrangements declared prior to their nomination?

RON McCALMAN: What I can share with the Committee is that, prior to the last member elections, the company engaged AICD to come down and run a workshop for all prospective directors who were seeking to stand. In doing that, we're trying to ensure that all potential directors understand their obligations under the corporations law.

The ACTING CHAIR: There's a couple of minutes left. Wes, are you done with your questions?

The Hon. WES FANG: I think I've had a good opportunity to seek some further elucidation. There may be some other matters that I'll put to Mr McCalman and the directors in writing as questions on notice. Before I do hand over, I just wanted to say thank you again for appearing today. It's been most insightful. Again, can I reaffirm my earlier comments, and I believe I speak for the rest of the Committee, to say that our thoughts are with the shareholders and the community which you are in, with the recent events and the flooding. I trust that everyone stays safe and well.

RON McCALMAN: Thank you very much.

The ACTING CHAIR: Thank you very much for appearing, Mr McCalman. That's the end of this session with you today so, again, from all Committee members, thank you. You have agreed to take questions on notice. The Committee secretariat will be in touch with you about that.

(The witness withdrew.)

(Short adjournment)

Mr BRETT JONES, Chief Executive Officer and Managing Director, Murrumbidgee Irrigation, before the Committee via videoconference, affirmed and examined

Mr MICHAEL CARTER, Deputy Chair and Chair, Audit and Risk Sub Committee, Murrumbidgee Irrigation, before the Committee via videoconference, affirmed and examined

Mr MICHAEL TURNELL, Company Secretary, Murrumbidgee Irrigation, before the Committee via videoconference, sworn and examined

The ACTING CHAIR: Welcome back, everybody. We'll now commence our next session with our next witnesses.

MICHAEL TURNELL: For transparency, I am also the legal advisor for Murrumbidgee Irrigation, but for the purposes of today I'm appearing in my role as company secretary.

The ACTING CHAIR: Thank you very much. Do any of you have a short opening statement to make for the Committee?

BRETT JONES: Yes, I would like to do a short opening statement. Just for the panel, Murrumbidgee Irrigation is a water delivery company. We deliver water to farmers throughout the Murrumbidgee Irrigation Area, commonly known as the MIA. The MIA covers over 378,000 hectares and water is delivered to over 3,000 properties using 1,700 kilometres of supply system, including earthen channels, concrete-lined channels, gravity pipelines and pump stations with pressurised pipelines. The MIA farmers produce a range of permanent horticultural and annual cropping products, including but not limited to wine grapes, prunes, nuts, citrus, vegetables, cotton, rice, wheat, maize, canola and other cereals. The two main towns of the MIA are Griffith and Leeton. We have extensive secondary processing for many commodities, including wineries, chicken processing, nut processing, juicing and packaging facilities.

In addition to the delivery system, Murrumbidgee Irrigation manages over 1,500 kilometres of drainage network, primarily for farm drainage needs. However, this network also supports local councils during times of high rainfall and flooding. To that end, we have been in flood mode for nearly four months, with it lifting to local emergency management level on 11 October and regional emergency management on 4 November. Whilst not impacted as badly as some areas, we have been in flood mode for some time now. We continue to be in that emergency mode as the event continues for the foreseeable future, requiring ongoing extensive resources and effort throughout the company.

In regard to water trading and the maturing needs of the market, we participate in the wideranging ACCC review through submissions and providing significant amounts of information, including all customer internal-external temporary trade, permanent irrigation rights ownership and trade, our trade processing manuals and processes, and water ordering deliveries and conveyance data. We also provide the full details of MIA's own water transactions, including a list of intermediaries we use, board and management policies and processes for MIA's water transactions, and all related documents.

In addition, we work with several groups as part of the Quinlivan review, which saw the Federal water Minister and MinCo support all 23 recommendations in that review. Likewise, Murrumbidgee Irrigation also supports the 23 recommendations and, where required, will continue to work with the relevant groups to implement them as required. Murrumbidgee Irrigation supports a strong and transparent water market which enables our farmers to best manage their water needs to grow the crops they choose for the best value for irrigated agriculture. We appreciate the market has grown quickly over the last few years and that, to keep pace with this growth, the governance oversight structure and support needs to be strengthened. To that end, we believe the ACCC and Quinlivan work have identified clear and deliverable actions that will strengthen the market for all participants. Thank you.

The ACTING CHAIR: That's your statement on behalf of Murrumbidgee Irrigation? Nobody else is doing an opening statement?

BRETT JONES: No.

The Hon. WES FANG: Thank you very much for making yourselves available today. Much like the previous witness, I'm sure that there are people who have been affected by recent flooding in your areas. I speak on behalf of the Committee, I'm sure, to say that we would pass our thoughts on to anybody who has been impacted by the recent heavy rains and flooding. I would just like to turn to the organisation itself, and the way that you seek to manage training and experience with the directors. Do you have a formalised training process? Do you perhaps provide guidance around what roles and responsibilities exist in the organisation when somebody becomes involved as a director?

BRETT JONES: Yes, thank you for that question. We do have a range of needs for training. One of the first things that we do is we have a quite extensive board charter which, when a new director joins, the company secretary takes the new director through that particular charter. That charter covers off on the normal sort of director's responsibilities and duties of any director and then the specific needs of Murrumbidgee Irrigation. We also have a requirement for all directors to undertake the AICD five-day directors course to lift their knowledge of being a director, especially our member-elected directors.

We then have a regular program of updating skills and that with our directors. A new chair will do the chair course; the company secretary will do the company secretary course. It's a requirement for all directors to continue their education from year to year, as well, with the AICD, with their updates. We also undertake a process every two years where we bring in an external reviewer to do an assessment of the board and the board performance and identify how the board's performing and any gaps and opportunities for improvement, which we then create action plans around and administer.

One thing that we've started at Murrumbidgee Irrigation, a bit unique to boards, is that we do a lot of team development exercises at the leadership team level and management team level with an external expert in that area. We actually run the board through the same process, in terms of team development, as what we do for the leadership team. Our board has done a range of different exercises with the Lencioni working genius model and lots of—

MICHAEL CARTER: DISC profiles

BRETT JONES: That's it, DISC profiles. Sorry, I couldn't remember. We actually run the board through a lot of leadership development as well, and working as a team, which really provides a lot of added performance for the board to work together. I think we have a pretty comprehensive range of training and ongoing training needs for the board and all board members.

The Hon. WES FANG: Thank you for that. In relation to the way that you manage the requirements for disclosures, things like conflicts of interest where you might have an involvement with an agency or an organisation which has a formalised agreement with your organisation, how do you manage those? How do you ensure that they are declared? Have you had historic issues around those declarations, and how were they managed?

BRETT JONES: I think conflicts of interest for any board are pretty key. We have quite an extensive part on conflicts of interest within our board charter. Basically, we have an annual disclosure—a formal disclosure—of all conflicts that every director submits and signs. Then, basically, before every meeting, the first point of order is discussing potential conflicts of interest that may arise out of those papers, and also for directors to update if they have recently joined a different board or some other organisation. Mainly our directors, as soon as they are doing that—and even before they do—they will let us know and have a discussion to see whether, from the management level, we consider there may be a conflict or not. I think we have a pretty robust system there.

In terms of managing the conflicts, we undertook a series of training courses with AICD a few years ago. The first step is that when management prepares board papers, if we think that there may be a conflict, then at that first standing point we will raise it, that, we think there may be an issue here. The board members will discuss that at the start of the meeting. If there is a conflict, that particular board member will be asked to leave the room. The rest of the board will discuss what the conflict is and then decide the best course of action, whether it be that that person stays out for that discussion or, because of their expertise, they can contribute but they're not part of the vote et cetera, if it gets to that level.

They will discuss the range of measures for how best to manage that conflict within the board. Looking back—I have been here seven years—and I can't really recall where we've had a problem, Mr Fang. I haven't seen an area where we've had an issue with non-disclosure of conflicts et cetera. We have managed conflicts on different bases at regular times throughout my seven years, but I don't have a situation that I can recall where there was a problem or a problem with disclosure or anything like that.

The Hon. WES FANG: I will turn to the organisation itself and the way that it interacts with stakeholders and other bodies. In relation to things like advocacy and lobbying, does your organisation have any formalised agreements with other stakeholders? Where you seek to influence or encourage areas of development or policy, do you do that on your own or do you rely on an external group or agency?

BRETT JONES: We do a range of options there. We are a member of the National Irrigators' Council, which is the peak body for irrigation corporations like ourselves. We are fairly active in that group in terms of, as I say, advocacy and irrigation and irrigated agriculture. We also do our own for our own contacts and networks, of course. Occasionally, if it's an issue that is focused on the Southern Connected Basin, we will join up with our

neighbours—Murray Irrigation and Coleambally Irrigation—and we may put out a joint media statement or release over a common issue. They are the main ways that we advocate for the industry, for our farmers and for our stakeholders.

The Hon. WES FANG: Do you have any engagement with landholder organisations that may advocate for the clients that you deliver to? For example, prior to this session we heard from Murray Irrigation and the funding that they provide to SRI. Do you have a similar arrangement?

BRETT JONES: No, we don't have the same arrangement as what Murray has with SRI. I think the key difference for us is that we have such an extensive range of products. As I said at the start, there is a wide range of diversity in crop types here. There are multiple groups—citrus, and Wine Grapes Marketing Board, NSW Farmers, there's food and fibre, and Leeton citrus. We do occasionally interact with those, if we're invited to attend, but we don't on a formal basis. They more focus on their commodities, commodity prices and issues within their industry. We more focus on the water delivery side and the irrigation corporation and productivity. The other group, we occasionally talk to them and they will contact us. There's also the ricegrowers' association, but we don't have any formalised system like Murray does with SRI.

The Hon. WES FANG: And you don't provide funding to any of those organisations? You don't provide funding to the ricegrowers' association?

BRETT JONES: Apart from being a member and paying our member duties, no, we don't provide any funding for any organisation like that.

The Hon. WES FANG: In the circumstance where you don't have those relationships with an advocacy group, do you feel as if your members have suffered because of a lack of advocacy?

BRETT JONES: I don't believe so. I think, the last seven years here—Murrumbidgee Irrigation, over its history, has developed a very good reputation in terms of advocacy, in terms of being quite fair-minded, and has more of a working relationship with the relevant Ministers and different groups. We've built strong relationships with our main regulator, the ACCC, and the intergovernment groups et cetera. We often get asked to participate and provide advice on our position. There are different ways to do advocacy. I think ours is much more of a gentler, partnership way to do that. In saying that—and the company hasn't had to do it since I've been here—the company was pretty strong in the early days of the Basin plan, advocating pretty strongly at that time and creating a reasonable amount of noise at that time. We still have the capability in house to step up if that's required.

The Hon. WES FANG: I'm just trying to get a view as to the value to stakeholders where an organisation that is similar to yours—in fact, as you said, the locality and the similar circumstances are such that sometimes you do joint press releases. I'm trying to work out what benefit the membership of a company like Murray Irrigation would get from funding SRI to the tune of \$350,000 and why that organisation feels the need to have that engagement, yet your organisation does not.

BRETT JONES: I can't speak on behalf of Murray Irrigation and the benefits they think they achieve through that relationship. We put our funding into being a very active member of the National Irrigators' Council. We have an in-house policy person, who is a very strong policy person who has been with us for more than 10 years now. We also are funding a particular website in terms of the big river, or the Murrumbidgee, to advocate for all of the great things that are happening on the Murrumbidgee. We've put money into that. We have external support through a local company called Sauce Communications that assists us with all of our communications, our press releases and the use of that website to advocate for the Murrumbidgee River.

We have a reasonable budget for advocacy and policy position; we just pull it in through different means and believe that better suits and represents the diverse range of farmers here. I think that's one of the key differences, which I mentioned before. We have rice growers, cotton growers, grape growers and nut growers. They all have slightly different views and they all want to do something slightly different. We're not just a rice-growing company. We're very careful not to get in a position where you talk about one benefit for one type of industry, and that might not be the best for another. So we're very careful to stay out of that area and let their own organisations do that advocacy for themselves, whether it be the nut growers, the wine grape growers or the cotton growers.

The Hon. WES FANG: And that approach seems eminently sensible, I would think, given the variety of crops that your members produce.

BRETT JONES: Yes.

The Hon. WES FANG: But has it been the case that SRI has approached you to partner or to provide services to you? Has your organisation ever had a formalised arrangement with or provided funding to SRI?

BRETT JONES: To my knowledge we never have. In the seven years I've been here, we've never had a formal relationship with SRI. I don't think we've ever been formally approached in that regard. We did have a situation where SRI—through other local groups here, being a collective of groups under SRI's umbrella—wanted to speak on behalf of both the Murray and the Murrumbidgee. At that time, I remember we sent emails to the Hon. Robert Borsak and others saying that SRI doesn't really speak on behalf of the whole of Murrumbidgee, and encouraged him to speak to all those different commodity groups that I mentioned before—and ourselves and Coleambally Irrigation et cetera—to get the real view of Murrumbidgee Irrigation farmers.

The Hon. WES FANG: In writing to members of Parliament, did you also write to the local member?

BRETT JONES: I'm just trying to recall. I'm sure I would have because at that time she was a member of the shooters party. I did have several meetings with her during that time. I can't recall specifically. Sorry, Wes.

The Hon. WES FANG: That's okay. Do you recall if she had a view as to the relationship with SRI and yourselves and whether she would fall one way or the other on the ability for SRI to speak for that collective within your organisation?

BRETT JONES: I don't recall specifically having those discussions with her. Most of our discussions were more around the issues of transparency and local individual issues that I used to deal directly with our local member on.

The Hon. WES FANG: Turning now to the well-publicised and I'd say documented, but it has not been provided to us yet, issue of the Deloitte report that was commissioned by Murray Irrigation and that was I will use the word "suppressed" or "not released" or any other descriptor, have you turned your mind to those concerns that were raised about Murray Irrigation and whether they would perhaps exist in your organisation, and how you best look at those issues?

BRETT JONES: Firstly, like yourself, we've never seen the Deloitte report and do not know specifically what's in it. But of course you always take the opportunity when other companies, and especially close companies, have problems to recheck your own systems and everything. To that end, on our conflicts of interests and our board governance, especially around our own water transactions that have been very strong, we further reinforced them with the development of our insider trading protocols and water transaction protocols. We set up what's known as the investment working group—that is headed by Michael Carter as an independent and has another independent, myself and the chief financial officer or general manager, finance, on that team—to make sure that the types of things that we heard and heard rumours about was happening at Murray wouldn't happen here. Whilst we didn't know specifically, yes, you always have a look and you always further strengthen, and it's an ongoing development in all these sorts of areas. I think the company has always had a pretty robust governance structure and we just continue to improve on that.

The Hon. WES FANG: I'm keen to know how you would tackle an issue like the Deloitte report if one was given to your organisation. It's been widely reported that there's been issues around directorship roles and responsibilities and the provision of insider information and what has occurred there. If you were given a report that outlined issues of directorships and of insider information, do you feel that you would be compelled to refer that report to regulators or corporate bodies for further investigation? Or would you feel that you didn't have a requirement or responsibility to do so?

BRETT JONES: I think that's an interesting hypothetical, depending on the individual issues. But as the CEO I'd definitely be taking legal counsel, and we would also be getting external legal advice on any report such as that, what we needed to do and where we needed to disclose to specific regulators if there was any disclosures required. I'd definitely be getting pretty comprehensive legal assessment and review and advice on any report such as that.

The Hon. WES FANG: Helpfully, the company secretary made an interesting disclosure at the start of the hearing. I'm just wondering if Mr Turnell might want to put any views forward.

MICHAEL TURNELL: I think one of the main things is, again, directors as individuals. Obviously, there's quite a stringent and comprehensive set of directors' duties/obligations under the Corporations Act. Brett mentioned too, depending on the types of issues that are raised, there's the part of the directors themselves, whether they carry on in that position. But it really depends on the types of disclosures that are in the report: firstly, whether it goes on to a regulator for notification; and, secondly, the type of regulator or type of regulators that you would be disclosing to.

The Hon. WES FANG: I'm just putting the question to you and you can put a range of views, depending on how you feel the evidence may sit. In the circumstance that there was a significant and persistent failure of directors to discharge their duties under the requirements of that role, what would be the legal obligations of an

organisation to forward those on to regulators? If it wasn't done, what would be the consequences to that organisation? Are you able to provide some guidance on that?

MICHAEL TURNELL: Yes. In terms of a self-disclosure, particularly to ASIC—Australian Securities and Investments Commission—for corporations, there isn't necessarily to that extent a self-declaration of these particular sections or rules or laws being broken. I guess the danger of continuing on a path when issues have been identified is that you would then make the issue much worse by not acting on it at a certain point in time or, putting it another way, taking a course of action which, without the right professional advice, could further complicate the issue.

BRETT JONES: Just to add to that, Wes, as I said, it's very hard to do a hypothetical on what may or may not be in there. But I can assure you that, firstly, from Murrumbidgee Irrigation's viewpoint, we would hope never to have such a report because of the strength of our governance, our processes and our systems. If anything did come up like that, the first thing is obviously that the board at that stage would be becoming dysfunctional and you'd already have signs to start working with the board on code of conduct issues and that anyway. And then, if it then went to the next step, definitely we'd be getting a lot more deeper legal counsel, as I've already mentioned, to make sure that we did everything in the right way. Murrumbidgee Irrigation's general approach to most of this is to be open and transparent. We do find things that we think are minor issues, and we have a very good relationship with the different regulators. We self-disclose and have those discussions because it is definitely the best way to do business.

The Hon. WES FANG: Yes. It is interesting to be able to compare and contrast the approaches of organisations in relation to governance and the approaches that they take. I note the time and I know that I have been afforded much opportunity to ask questions. I have one more question. In relation to that wider question of advocacy and how your organisation views that, would it be appropriate that your members' money is spent in order to not only advocate with government but to advocate for political change—that is, perhaps for a candidate or political organisation—to further their prospects at an election or at a time when there are issues arising? Would you feel that your members' money is well spent in order to campaign for political change as opposed to policy change?

BRETT JONES: I think the board has sent a very strong position that we are apolitical and we stay out of that particular area, Wes. Obviously we will work with whoever is in government at the time for the best of irrigator agriculture, from a policy viewpoint. We don't think it's in the company's interest to become political in any way.

The Hon. WES FANG: If you were to discover that you were perhaps, through third parties, funding election campaigns that were not relevant to your members' interests, you'd have some concerns about that?

BRETT JONES: Yes, we would.

MICHAEL TURNELL: Yes.

BRETT JONES: Yes, absolutely. Sorry, my mind was thinking, "Jeez". Yes, absolutely. It is absolutely not who we are or what we do.

The Hon. WES FANG: I am not suggesting they are. It's just one of those questions. It's interesting to know where organisations like yourself or another irrigation organisation feel that their members' money is best directed and whether it's to third parties that may spend it on issues that are advocating away from policy and into the political sphere and whether that would be considered an appropriate or good way to spend your money. But I think you have answered that and I very much appreciate it. With that, again, I thank you for making yourselves available.

The ACTING CHAIR: Thank you very much. We have reached the end of your time with us. We really appreciate you making yourselves available for this hearing. If you did take any questions on notice, the secretariat will be in touch with you. We have a slightly reduced time frame for getting those back because of the end of the year. The deadline will be 29 November. The secretariat will be in touch with you, similarly, in relation to any supplementary questions members may have for you. Thank you, again. That is the end of our hearing today.

(The witnesses withdrew.)

The Committee adjourned at 11:36.