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SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE

Estimates

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SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE

Friday, 2 March 2018

Members in attendance: Senators Brockman, Colbeck, Gallacher, Hanson, O'Sullivan, Patrick.

CROSS-PORTFOLIO MURRAY-DARLING BASIN PLAN MATTERS**In Attendance**

Senator Ruston, Assistant Minister for Agriculture and Water Resources

Department of Agriculture and Water Resources

Mr Daryl Quinlivan, Secretary

Water Division

Mr Malcolm Thompson, Deputy Secretary

Mr Paul Morris, First Assistant Secretary

Ms Mary Colreavy, Assistant Secretary, Water Recovery Branch

Mr Tim Fisher, Assistant Secretary, Murray-Darling Basin Policy Branch

Mr Richard McLoughlin, Assistant Secretary, Water Resources Branch

Mr John Robertson, Assistant Secretary, Sustainable Water Branch

Ms Andrea Wilson, Acting Assistant Secretary, National Water Policy Branch

Murray-Darling Basin Authority

Mr Phillip Glyde, Chief Executive

Mr Carl Binning, Executive Director, Environmental Management

Ms Annette Blyton, Executive Director, Corporate Services

Mr Matthew Coleman, Director, Eco-hydrology, Environmental Management

Dr Peta-Joanne Derham, General Manager, Environmental Management

Mr Marcus Finn, General Manager, Policy and Planning

Mr Russell James, Executive Director, Office of Compliance

Ms Jo Kneebone, General Manager, Environmental Management

Mr Harish Madan, Chief Finance Officer, Corporate Services

Mr Tony McLeod, General Manager, Policy and Planning

Mr Colin Mues, Executive Director, Policy and Planning

Mr Andrew Reynolds, Executive Director, River Management

Mr Phil Townsend, Chief Economist General Manager, Policy and Planning

Mr Paul Sureda, General Manager, River Management

Ms Vicki Woodburn, General Manager, The Office of the Chief Executive

Mr Brent Williams, General Manager, Office of Compliance

Commonwealth Environmental Water Office

Mr Dean Knudson, Deputy Secretary

Ms Jody Swirepik, Commonwealth Environmental Water Holder

Mr Hilton Taylor, Assistant Secretary, Southern Water Use, Aquatic Science and Community Engagement Branch

Mr Mark Taylor, Assistant Secretary Wetlands, Policy and Northern Water Use Branch

undertaking. All of those I think—we're hoping—will shine more of a light. As Mr James has said, our issue is we're actually not the on-the-ground regulator under the Constitution. That's the states' role. We have a few things ourselves to make sure that the SDLs are being adhered to—that is our regulatory responsibility—but part of our role is to be the light that shines on the various states to make sure that they're doing what they have committed to do.

Senator PATRICK: I will read to you something that's been provided to me for the purposes of these proceedings. It's from CEWH, or it's a letter with a CEWH letterhead.

Senator Ruston: Is it signed?

Senator PATRICK: It's not signed.

Senator Ruston: Could you—

Senator PATRICK: What I'll do is read a portion of it, and you can then say that's actually not the case.

CHAIR: Normally in these circumstances, particularly if you're going to interrogate your statement, it's somewhat beneficial for someone on the other end to be able to know what the content is. Does anyone have any objection to this being tabled and, while we're at it, the tabling of the compliance and enforcement issues? There are no objections. We'll quickly make one copy for the witnesses to share. That way they'll have the benefit of context.

Mr Quinlivan: Chair, could we have two? I think the Commonwealth Environmental Water Holder's got an interest.

CHAIR: All right. It's so they've got it in context when you refer to it. Are you able to dance around it?

Senator PATRICK: Yes. I will move, then, to another issue related to transparency, and that is the—in fact, I might just ask how that order for production is going? I'm not sure whether that should go to the minister; to you, Mr Thompson; or MDBA. There is an order for production for the government to provide the Senate the 27 projects, is it? The SDL, 26, is it?

Senator Ruston: The SDL adjustment projects?

Senator PATRICK: It's 36. The order is late. I understand it's a substantive document. In the spirit of transparency, I would have thought we hopefully would have got those in full.

Mr Glyde: This is Senate order 685?

Senator PATRICK: It's the one in relation to the 36 plans that you've sent off. It's basically your assessment of those.

Mr Glyde: Yes, our assessment of the SDL projects in the various stages. My understanding is that we're still pulling that—we've pulled that information together and it's still being considered. It is a very large amount of documents. My understanding is that it's with the minister.

Senator PATRICK: It's my understanding that CEWH asked for a copy of those reports.

Mr Glyde: The Commonwealth Environmental Water Holder has asked for a copy of those reports?

Senator PATRICK: Yes. That's essentially what the letter that I've tabled suggests—it's about two-thirds the way down the page. If you want to question the providence of that

document, you should do so—it may well just be a draft—but there are certainly some concerns inside that document that the Commonwealth Environmental Water Holder had not been provided with those assessments and that he absolutely considered it necessary for him to do his statutory job to receive those.

Senator Ruston: I might ask Ms Swirepik to make a comment in relation to that.

Ms Swirepik: If I could make the first comment. The document you have tabled is one that is unsigned and unsent, as you probably realise.

Senator PATRICK: Yes.

Ms Swirepik: I think David Papps has been in contact with the office of the minister for agriculture and said that the document does not express his views. It may have been drafted at some point but it is not something that he has signed off and sent on its way. He's also added his commentary around the Basin Plan being sound, as far as he's concerned. The other thing I would suggest is that—

CHAIR: Senator Patrick, is there any prospect that this document is not—is there any contest that this document was even a draft within the department? I mean, simply because it's got a letterhead—I'm not trying to bring you to answer this question, but do you have any direct knowledge about the provenance of this document?

Ms Swirepik: Yes.

CHAIR: You do?

Ms Swirepik: The document has been drafted within the office of the Commonwealth Environmental Water Holder, but it has never got to the point of reaching the previous Commonwealth Environmental Water Holder and being sent.

CHAIR: That's fine. It was important to get the provenance of it so we didn't spend—

Senator PATRICK: I agree, Chair. Can you tell me who drafted this document?

Ms Swirepik: I believe it was drafted by our policy section, but I can't tell you a particular name.

Senator PATRICK: What level of seniority?

Ms Swirepik: Probably an Executive Level 2 or below.

Senator PATRICK: Can you take on notice who actually drafted this? Obviously, when you put together a draft—and it looks relatively polished—you base the draft on something. Maybe the committee might need to call that person to find out what they were thinking when they drafted that. Because what it says is, 'Transparency of the MDBA's assessment of water resources plans and associated modelling tools is critical to not only assuring myself but also other stakeholders across the Basin.' He then—

Mr Thompson: It forms part of draft advice within the organisation. In my experience, it would be very unusual to call that officer to talk to that issue. It was not a signed letter.

Senator PATRICK: That's a decision for the committee.

Mr Thompson: It is a decision for the committee. I'm making a comment.

Senator PATRICK: If you could provide the name, that might be useful.

CHAIR: Do we have any knowledge of whether this letter then entered life in an adjusted form or an amended form and was actually signed and sent?

Ms Swirepik: No. On Mr Papps' departure, the letter was looked at, and it was never sent. Really, it's now an artefact of history. I would add that it predated a lot of additional focus now coming back onto water resource plans through the events of late last year. I have no doubt that the provenance was that we were looking at the development of water resource plans. As you probably appreciate, it is going to be a big challenge to get those delivered by June next year. There are a lot of complicated matters that need to be taken into consideration, and there simply may not have been the appropriate transparency for us to see what was happening in the state drafting of those.

Senator GALLACHER: We did take evidence from Dr Papps late last year. Do we know the date?

CHAIR: It would be last estimates.

Senator GALLACHER: I don't think anybody disagrees with the statement about transparency being critical to assuring themselves—

Ms Swirepik: These are matters that are relevant to our operation, so it's not surprising—

Senator GALLACHER: We took evidence from Dr Papps and I think we congratulated him on his career and retirement.

Mr Glyde: That would have been October.

Senator GALLACHER: And this was drafted in November. I think it is quite insightful. I'd like to review Dr Papps' evidence to the committee at the time to see whether he did allude to any of these issues, if they were under advisement in his department.

CHAIR: It is critical that we understand this. This can't be left hanging on a limb here. Did Dr Papps correspond, for example, with anybody to indicate, first of all, that he didn't agree with the letter or he just did not share the weight of the issues raised and was intending to do nothing about it?

Ms Swirepik: He hasn't corresponded. I believe he's talked to various officers, in both my organisation and the department of—

CHAIR: Without any communications, you think, Ms Swirepik?

Ms Swirepik: Without any written communications, but the fact that the letter is unsigned—often a letter may be drafted to actually surface some issues within an agency to create a conversation. Now, my understanding is that it didn't even get to that conversation level where officers have sat around with Mr Papps and debated whether this is the right framing, and Mr Papps never signed the letter. So—

Senator PATRICK: Chair, I'm happy that we could just put that on hold, look at the transcript and maybe consider the advice as to who wrote it. We also have the option of calling Mr Papps to the references committee inquiry on the Murray-Darling as well.

CHAIR: You're assuming the inquiry—

Senator PATRICK: If it proceeds!

Senator Ruston: Could I perhaps just reinforce what Ms Swirepik said before. Mr Papps contacted Minister Littleproud's office when this became a matter of public debate. He

advised that he had neither written nor signed the letter that was leaked to Fairfax Media. He also indicated that it did not reflect his view or the view of the CEWH.

CHAIR: That's what I was—

Senator Ruston: He also that indicated he viewed the Murray-Darling Basin Plan as sound. So he quite clearly, when he was advised of this, made the minister and, subsequently, me aware that this was not his view or the view of the CEWH. I think that needs to be very clearly stated here—this is not the view of the Commonwealth Environmental Water Holder.

Senator PATRICK: So you don't think he or anyone at this table would think that transparency of the assessment of the water resource plans and associated modelling tools is critical to stakeholders across the basin?

Senator Ruston: You are taking a selective statement out of a letter—

Senator PATRICK: No, I'm just—

Senator Ruston: I'm sure there is much in the letter that Mr Papps and the broader community would agree with.

Senator PATRICK: Sure. I'm just asking if people would agree with that proposition.

CHAIR: I think Mr Glyde has something to contribute, when the minister is finished.

Mr Glyde: I just wanted to complete the circle. Ms Swirepik's talked about the drafting of the letter. I just wanted to confirm, given that I was the one who the letter was directed towards, I certainly didn't receive a signed version of this letter and, contrary to David's normal practice, he did not raise any of these issues with me. His normal practice, as for most people, is to talk and then send a letter. I can confirm that I had no discussions with David around the specifics of a letter like this.

During the course of the last six to 12 months, I think all people involved in the Basin Plan were concerned about progress with water resource plans and still are. They're really at a significant point at which the legal obligations for the sustainable level of take commence. They've got to be done by the middle of 2019. So it's really important. I think we all share the worry that we might not be able to get them done.

However, the point that people are talking about in relation to transparency is also really critical. It's absolutely essential that everyone's involved in the production of these water-sharing plans. The way it works is that the states bring forward those plans. We would expect—and, to date, it's been the case—that the CEWH is involved, as a lot of other stakeholders are, in the production of those plans which come forward to us for accreditation. So I think, Senator Patrick, going to the substance of your concern about transparency, I can simply say it's critical to have transparency around these plans, and I believe that that's happening.

Senator GALLACHER: I have two questions on this before we move on. I accept that the letter wasn't signed and the rest of it. I can speak from my experience that no-one in my office ever drafts a letter without discussing it with me first. So the fact that someone in that organisation saw fit to put these thoughts under a letterhead indicates there was at least a divergence of views within the authority. I accept that Mr Papps is the ultimate responsible officer, but there's clearly a divergence of view which is of interest to the committee.

The second thing is in terms of transparency. Most of these irrigators would be using 21st century technology. What is unclear to me is why there is not a prevalence of telemetering, which is real-time monitoring of water extraction, use and leakage and real-time visibility in respect of transparency and the closure to irrigators adjacent, up and down the river. We've seen footage of people taking a boat up the river to listen for someone's pump. These are 21st century organisations, some of these large irrigators, and I'm sure they're using that technology on all aspects of their agriculture endeavour. But, when it comes to metering, why are we not using telemetry, which is automatic metre reading, groundwater monitoring and leak detection available in almost real time? It allows quick reactions in the field. Why are we not using that?

Mr Glyde: That's one of the questions we addressed in our compliance review. There are a number of commitments in there to raise the level of metering and monitoring for the northern basin to be more like what you'd be experiencing in the south. The history is long distances, poor telecommunications and significant cost for repairing instruments when they don't work. They have been factors. This is by no means an excuse, but they have all been factors that have made it harder to roll out those methods. Indeed, one of the recommendations from both Ken Matthews and our own compliance report is, colloquially, 'No meter, no pump.' We need to lift the game across the board in Queensland and New South Wales to improve metering. That's why the Queensland government are undertaking their own review into metering as well. So I don't think anyone disputes that. But there is significant cost, and the circumstances in the north and the nature of the way in which water works is quite different from the south. There is much more overland flow, which is, by definition, harder to measure than in the south. So, yes, we agree with the point you make.

Senator Ruston: I will also ask Mr Thompson to respond, because New South Wales have also responded quite robustly to this situation.

Mr Thompson: It is probably worth spending a little bit more time expanding on the differences between the northern basin and the system there and the regulated system in the south, which is much more closely managed. It's characterised by channels and clear delivery of water from large storages. The overland flow that Mr Glyde referred to in the north is the typical circumstance there. I am aware that the Murray-Darling Basin Authority, in their initial discussions—and Mr James might add to this—with the jurisdictions have focused on the technology that is available, especially in the northern basin, for metering of this kind. I think that has identified that there are some significant technological challenges to having metering which meets the same sort of standards, accuracy and real-time data that would be available in the southern regulated system. I don't know if Mr James wants to add to that.

Senator GALLACHER: You actually provoked this discussion, because you said you didn't have a thousand policemen. You don't need them; you just need the internet!

Mr James: As others have mentioned, there is a clear set of recommendations in our review about lifting the game on metering and including the telemetry that you're talking about. For some of the very large off-takes in the northern basin, where you've got pipes that are a metre or so in diameter, the technology is not quite as well developed as one might expect. It's very hard to accurately meter water going through a very large-diameter pipe. But that's not to say there isn't any technology; I'm simply saying it's not perhaps as advanced as in the south. There is also a contrast in the south where you have regulated networks and quite

a scale in terms of lots of meters doing the same sort of thing. The economics works a bit differently in the north, where you've got numerically far fewer off-takes. They still take a significant amount of water. So there is an economic thing there as well. I'm not defending any of that. I absolutely agree with you that the game needs to be lifted in terms of accuracy of metering and telemetry, and that's really the recommendation in our review. In the discussions we're having with the states at the moment in terms of this compliance compact we're hoping—

Senator GALLACHER: I accept all of the matters you raise as being genuine. But what I don't understand is how we, the government or the taxpayer, created an enormously valuable resource without a proper due diligence process for making sure that the taxpayer got its return. We made water very valuable, but we don't have a very clear guidance system for measuring that people take their entitlement and no more. To me, that's a failure. There is no incentive. If I were an irrigator up there, I wouldn't be rushing out and getting a 21st century monitoring system that reduced the amount of water that I used because I'd have no skin in the game there. You have to do that. The Murray-Darling Basin Authority has to do it. The taxpayer has to—

Senator Ruston: There are two points here. One is that this is an integrated, intergovernmental responsibility. When we signed the Basin Plan, as you would well know, it didn't sign full responsibility for delivery of the plan to the federal government. We still operate in a situation where we work with the states. But, notwithstanding that, the Matthews report, as Mr Glyde said, along with the Murray-Darling Basin Authority raised that this was a serious concern. In response to that, the New South Wales government have already come out and said that, within 12 months, all of their major irrigators in the northern basin will be appropriately metered. We've had an immediate response. So, everyone accepts what you've just said, but they have responded to it. By year's end, they will be metered.

CHAIR: To the extent you can, discuss this with colleagues at the table. I think that we will probably contemplate calling Mr Papps to illuminate what he might know about the evolution of this letter. Going back to your observations, Mr Thompson, I think we probably will call the officer or officers involved in the preparation of it. But you need to know that they will have to come if we ask them—there's no choice—but they can be well accompanied by senior officers, to whom they can defer questions and who can provide them with whatever protective experience might come from that.

Mr Quinlivan: Chair, of course that's the committee's prerogative to do that, but, in organisations like mine—Senator Gallacher is right—you do have a wide diversity of opinions, and that's why documents that represent the views of an organisation go through an appropriate quality assurance process before they're expressed as the view of the organisation. So I think there is scope here for confusion about the views of the organisation and the status of the views of individuals in the organisation. So that's just a cautionary note.

CHAIR: I appreciate it. I suspect that's where it will lead to, eventually. But it's very hard for us to have a discussion about transparency without transparency, and I really think that this is left hanging. No-one's been able to really satisfactorily indicate that it is as you suspect and as I suspect, and I think we can probably tidy it up in five minutes. If some departmental person got excited and prepared something that was never going to see light, then that's probably what it is, and we need to know that.

Ms Swirepik: Can I just make one additional comment. I think that what the letter was calling for, really, was to ensure that the CEWH could see the water resource plans and the assessment of those before they were accredited.

Senator PATRICK: Were they given that opportunity?

Ms Swirepik: Well, they're not coming forward yet, so they're only just starting now. This is a process that's ending in 2019. There's a short runway. I think the anxiety, if there's any in the office, is just to ensure that we actually get to see the plans as they come out. The importance of that is because how states write their water resource plans interfaces with how the Commonwealth can use its water. It sets some of the rules around how the river system is managed. It will set the rules if there's any environmental water planned or held by that state as well in that catchment and how that might be able to interface with our water. So, we do have a very keen interest in seeing these. And I'm not sure—

CHAIR: Miss Swirepik, I don't want to make a big deal of this. This can be dealt with with one answer from one witness. But it does raise matters of concern and importance. You've got at least two people in your organisation, and perhaps more, who don't agree with you. That is the person or people who drafted the letter in the first instance and whoever leaked it to the media. And they may well be one and the same, and we may be dealing with one person—

Ms Swirepik: The drafting is a point-in-time proposition, though, I guess, where—

CHAIR: They'll be able to tell us that.

Ms Swirepik: since then the Matthews report has been published, the MDBA's own report has been published, we've been assured that we will have this transparency, and the MDBA is assuring, in fact, the whole community that they'll have that transparency.

CHAIR: We'll be able to deal with it in that fashion.

Ms Swirepik: It seems largely overtaken by events, to me.

Senator COLBECK: So the effects of what's in the letter, effectively, have been overtaken by what's happening—

Ms Swirepik: That's right. It's being delivered.

Senator COLBECK: So what potentially were concerns are mitigated by the passing of time and events. But also we're still in a prospective circumstance where it's not as if the documents have been and gone past and the opportunity doesn't exist. The documents are still being prepared and the opportunity does exist.

Ms Swirepik: Correct.

Mr Glyde: If I can confirm too that, in Queensland, the Commonwealth Environmental Water Holder was involved in the development of water sharing plans. We've got another 34 or 35 to go. The states and ourselves will be doing our best to involve the CEWH in that work. They're the ones that actually get to use the water, at the end of the day. The whole basis of the water resource planning is to provide water to improve the environment. It's absolutely essential that the CEWH be involved.

Senator COLBECK: So, Ms Swirepik, you are satisfied that the process that's in place now, in the prospective preparation and finalisation of these plans, hopefully by July 2019, which is the key date, does appropriately include the scrutiny of your organisation?

Ms Swirepik: Yes. I have no doubt that those documents will be made available to us, and I think, given the extra focus that has come on to these, in fact, in the last six months, it means the states will interact with us a lot more in their development of them. I think the challenge here is the short runway. Thirty-four plans by June 2019 is a very short runway. They take years to develop. There's a lot of complexity in what's codified in a plan. And so really it's just about making sure that there's that coordination. But I've certainly had that assurance—and the interaction that we've had and the level of focus that is now on this issue.

Senator COLBECK: And the key impediment to finalising those things is the disallowance motion? That means that some of the allocations can't be finalised in the preparation of the documentation?

Mr Glyde: The extent that officers in the states will be distracted from the work on the water resource plans—that would be the only consequence.

Senator COLBECK: What part does the disallowance play in the development of that documentation?

Mr Glyde: In terms of the water resource plans? It simply sets a number for each of the different valleys in northern New South Wales and Queensland, and so that number is different—

CHAIR: Yes, but I'm with my colleague. I thought someone gave evidence earlier that that would impede the ability for these plans to be completed.

Senator RUSTON: Well, they're two different numbers.

Senator COLBECK: That's why I'm asking the question, because my impression from earlier evidence is that it is an issue because it is a different number, and so there are different effects.

Mr Glyde: Essentially, the sustainable diversion limit number changes, so therefore there's a lot of extra work that has to be done for the department to go out and acquire more water. But, in terms of the actual writing of the plans, it's really just changing that number and having the basic mechanics that you need in order to be able to know that that number is the right number, that they've got a way of making sure—

Senator COLBECK: That comes back to the implementation of those documents when you get to the appropriate date. It is the issue that is impeded by the—

Mr Glyde: Yes.

CHAIR: I imagine these plans still have to meet the tests of social, environmental and economic impacts. Are you telling us that a variation in—

Mr Glyde: No. The plans simply lock in the sustainable diversion limit that's been set through that process of balancing economic, social, environmental together to come up with—

CHAIR: You're saying the volume of that won't impact on the content of their plan?

Mr Glyde: Other than changing the number. That's it.

CHAIR: That's all?

Mr Glyde: That's it. They just have to change the number.

Mr Quinlivan: I think the point being made earlier was more about the uncertainty and additional purchases and activity and so on that would follow from that, which might turn out not to be the final plan. So, as Mr Glyde said, the number will change; therefore, that sets a task for us through our purchasing program and so on, which might turn out not to be the final target for that catchment. So it certainly sets in train a series of events and processes which create a lot of additional activity and potentially uncertainty, but possibly for no good reason.

CHAIR: We're not going to spend a lot more time on this. Thank you for your contribution. The committee will take that into account when it contemplates whether it wants these witnesses or not.

Ms Swirepik: I would be happy to come back to the committee with a statement, just saying that we're assured—

CHAIR: That may be of assistance. If you want to do that and give it to the secretariat, that would be good. Before I go to you, Senator Hanson, I will just remind you of the guidelines of this committee. Have you been monitoring the events today?

Senator HANSON: I have been here for the last half an hour.

CHAIR: Then you've been monitoring the last half an hour. Were you doing the two hours before that? If you visit on questions that have been asked and comprehensively answered, I'm going to ask you to withdraw them and refer to the *Hansard*. You may be on a whole new tangent here.

Senator HANSON: I probably am.

CHAIR: Alright. Good work. You have the call, Senator Hanson.

Senator HANSON: Thank you. Mr Glyde, do you know Berrigan farmer Mr Graeme Pyle?

Mr Glyde: Yes.

Senator HANSON: I believe that you were in receipt of maps of the south-east of South Australia and of the entire area?

Mr Glyde: Yes.

Senator HANSON: Can you confirm that you're aware of the area that I may be talking about in relation to those maps?

Mr Glyde: In very broad terms.

Senator HANSON: The area is about half the size of Tasmania—it's quite large?

Mr Glyde: I don't know if that's accurate. Sorry. Keep going. I'm aware of the existence of the maps. I don't know the size of the area.

Senator HANSON: I have a map here if you wish to refer to it.

Mr Glyde: No, I'm happy to keep going.

Senator Ruston: Chair, I would be keen to have a look at the map that Senator Hanson is referring to.

CHAIR: Could we get a copy of the map distributed if you're going to refer to it? Are you able to touch on other matters until we get that circulated, so that the witnesses will get the benefit of it?