

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION**

**INQUIRY INTO THE GOVERNANCE OF WESTERN AUSTRALIA'S  
WATER RESOURCES**

**TRANSCRIPT OF EVIDENCE TAKEN  
AT PERTH  
WEDNESDAY, 9 APRIL 2008**

**SESSION TWO**

**Members**

**Hon Barry House (Chairman)  
Hon Ed Dermer (Deputy Chairman)  
Hon Matthew Benson-Lidholm  
Hon Vincent Catania  
Hon Nigel Hallett**

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**Hearing commenced at 12.22 pm**

**SEARES, MR PATRICK**

**Program Manager, Water Allocation Planning, Department of Water, sworn and examined:**

**LONEY, MR JOHN**

**Acting Director General, Department of Water, sworn and examined:**

**ROWE, MR MICHAEL**

**Manager, Policy Coordination and Reform, Department of Water, sworn and examined:**

**ROBERTS, MR EDWARD JOHN**

**Project Director, Water Law Reform, Department of Water, sworn and examined:**

**The CHAIRMAN:** Let us make a start and, once again, sorry we are running a little late.

On behalf of the committee I would like to welcome you to the meeting. Before we begin, I must ask you to take either the oath or affirmation, and Jan will administer that. You can choose the oath or the affirmation.

[Witnesses took the oath.]

**The CHAIRMAN:** Could you please state your full name, contact address and the capacity in which you appear before the committee?

**Mr Seares:** Patrick Andrew Seares from the Department of Water, 168 St Georges Terrace, Perth, 6000; I am here as program manager for water allocation planning.

**Mr Loney:** John Loney, acting as the Director General of the Department of Water at 168 St Georges Terrace.

**Mr Rowe:** Michael Charles Rowe, I am the manager of policy coordination and reform at Department of Water, 168 St Georges Terrace, Perth.

**Mr Roberts:** Edward John Roberts, I am the project director for water law reform at Department of Water, 168 St Georges Terrace.

**The CHAIRMAN:** Okay, bear with me, I have to go through these formalities because it is a public hearing.

You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

**The Witnesses:** Yes.

**The CHAIRMAN:** These proceedings are being recorded by Hansard, as you can see. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record. Please be aware of the microphones and try to speak into them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that premature publication or disclosure of public evidence

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may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Welcome once again. Would you like to make an opening statement to the committee, bearing in mind we have spoken to you before, as the committee, and you are aware of our overarching terms of reference involving water governance. I think you are aware of the members of the committee, too.

**Mr Loney:** Thank you, Mr Chair. Yes, we would appreciate the opportunity for an opening statement. You have kindly provided us with a list of questions, which we appreciate are a guide. However, in our preparation for this hearing, we have gone through and analysed who will answer which question. If you are in agreement, we are happy to essentially work through those questions and, obviously, make any clarifications as we go through. Depending on the time, we are advised about half an hour, which may extend a bit, but with your agreement we would be happy to go through the 17 questions and try to limit it to no more than two or three minutes per question, if that suited the way you want to do it today.

**The CHAIRMAN:** Yes, that would be a good framework from our point of view. Okay, we will launch straight into it. Perhaps, if you read the question at the beginning, so Hansard can record that.

**Mr Loney:** Question 1 asked for an overview of the Department of Water's water reform program. All our authority to act in water reform and the policy directions are set down in the documents we have brought with us today. I appreciate members may have seen copies of these documents, but we have sufficient copies with us to distribute. The main documents include the "Intergovernmental Agreement on a National Water Initiative", which is the document signed by the Premier in April 2006. The next document is the "State Water Plan 2007", which sets out the high-level policies and guidelines by which we will manage our state water resources. The next two documents are: "A Blueprint for Water Reform in Western Australia"—that is the document prepared by the independent committee chaired by Ross Kelly, which reported to government; and the key document in terms of the policy, which we work with is the "Government Response to A Blueprint for Water Reform in Western Australia", so we brought both documents with us this morning. The other document that sets out our priorities and commitments is "Western Australia's Implementation Plan for the National Water Initiative". Having signed the National Water Initiative, you are required to complete a plan as to how you will actually do everything that you promised to do. Therefore, that is essentially what the implementation plan is. That was completed in little less than a year, having signed the NWI, and has been endorsed by the National Water Commission on behalf of the commonwealth government. They are the documents that we work to; they set our policy directions and they give us the authority to proceed down the water reform path, if you like.

In terms of what we are doing, a lot of it will be answered by the questions as we go through, but some of the key elements are very much the planning process. A lot of planning is done already under the current legislative regime, but in terms of the new requirements under the NWI, Patrick Seares will cover that in terms of some of your specific questions about what is happening with statutory water planning as that is one of the key elements of the National Water Initiative. There is also a planning framework set out in the state water plan, which covers the state water plan itself and regional water plans—we are progressing with three of those at the moment in the Pilbara, south west, and Perth-Peel. They are the first few regional plans we have and there will be nine in all and they will be carried out or done over the next few years.

[12.30 pm]

The other key elements of the NWI are the facilitation of water trading, which can occur under the current regime but will be facilitated by a new licensing system and water accounting system. We have currently obtained some additional funding to put those systems in place, so over the next

couple of years we will be building up systems that will enable us to comply with the requirements of the NWI. All this is contingent on the legislation going through, which brings me to the second question —

Regarding the three water bills, can the Department of Water advise when the three water bills are likely to be tabled in Parliament?

As you say, there are three water bills, two focussing on the services side and one on the resources side. The two on the water services side—the Water Corporation amendment bill and the water services bill—are progressing a little more quickly than the resources one, but still much slower than we had anticipated. Minister Kobelke's original time frame asked us to get them into Parliament by the end of last year—November 2007—but the drafting is taking much longer than we had anticipated. Without wishing to go into too much detail, the complexity and the breadth of the issues is simply taking much longer to draft than we anticipated and, I think, longer than Parliamentary Counsel anticipated. At this stage, we are working towards getting all bills introduced into Parliament by the end of this calendar year. However, we are much more confident on the services than the resources side. The call as to when they will be introduced will clearly be the minister's call. He will make that call as soon as he gets the final draft of the bills from Parliamentary Counsel because he then has to take them cabinet for approval to print them. The final call on when they will be introduced to Parliament will clearly be the minister's call. Those are the answers to the first two questions. I will ask my colleague John Roberts to take over at question 3.

**The CHAIRMAN:** If any member has any specific points as we go, we will butt in.

**Mr Loney:** Certainly.

**Mr Roberts:** Question 3 reads —

Please provide an overview of the provisions and intended effect of each of the three water bills. In particular, what changes to the governance of water supply and services do the Water Services Bill and the Water Corporation Act Amendment Bill intend to legislate.

The answer I am going to give is probably quite summarised because it could take half a day to step through it. The water services bill will consolidate and streamline the existing water services legislation, which currently is found in about nine acts. A lot of those acts are now very old and are heavily amended, so it is quite a complex matter for a water service provider to carry out its function. The bill aims to simplify that. It will cover the regulations and powers of water service providers, including the licensing of those providers. It will deal with rules about water supply, sewerage, drainage and irrigation services. It will cover the regulation of charges and the powers and duties of those service providers. Among the new initiatives that will be found in that bill is the creation of a water ombudsman. At this stage it will probably reside within the state ombudsman's office. Those discussions are still proceeding with the state ombudsman. That is where it is likely to reside and its responsibility will be to investigate customer complaints.

The bill will also enable the appointment of a supplier of last resort to cover the situation in which an existing service provider is at risk of failing or fails; in other words, another provider can step in so there is no loss of service. The third initiative will be the ability for the government to set water service policy through the development of codes. That will apply to service providers and will be enforced by the Economic Regulation Authority. A good example might be a code for levels of customer service and so on. That is the water services bill in a nutshell. As I said, it is obviously more complex than that.

The Water Corporation amendment bill, which is the other part of the services legislation, is principally going to bring the Bunbury and Busselton water boards under the same legislative and governance framework that the Water Corporation operates under. The boards at the moment operate under a very old piece of legislation, the Water Boards Act 1904. It is very restrictive on the

way the boards can operate. It was a recommendation of a national competition review of that Water Boards Act in about 2005 that the boards be brought under the same legislative umbrella as the Water Corporation. Essentially, it will mean that the Water Corporation Act will become the water corporations act. It will not apply simply to those three corporations, but any other water corporation that might be established in the future will come under that legislation. With regard to what it will enable the boards to do, firstly, it will enable them to participate in joint ventures and acquire subsidiaries, provide consultative and advisory services and make a profit. That means that it will spread their commercial activities more widely than they are. It will also make them eligible to receive community service obligations where it is deemed applicable and appropriate to provide them. It will enable them to provide services anywhere in the state, not just in a water area as outlined in the Water Boards Act. The whole bill will enhance competition among service providers. It will allow them to perhaps expand on the range of water services they offer, including sewerage, drainage and irrigation if they want to enter into those. As I mentioned earlier, it will provide the boards with an opportunity to make a profit. As is the case with the Water Corporation, the boards will have to prepare statements of corporate intent and strategic development plans for their operations. This is the method by which the minister can have oversight of their operations. That is the Water Corporation amendment bill, which, in a nutshell, will amend the Water Corporation Act.

**The CHAIRMAN:** Will it provide the opportunity for new players in the market if necessary; for instance, there may be a brand-new town developed around a mine site or something? It could be the Widgiemooltha water board or something.

**Mr Roberts:** Yes. It will allow that water service provider to be established as a water corporation, as a statutory corporation, if it is deemed that that is a good idea. That could occur across the state.

**The CHAIRMAN:** Will it enable the Water Corporation to sell some of the infrastructure to another independent body, for instance, centred around a new development or whatever?

**Mr Roberts:** Yes; it will make it a lot easier than it is at the moment.

Question 4 reads —

Further to the above, please detail what the Water Resources Management Bill proposed to legislate with respect to water resource governance, water resources assessment and planning, water resources management charges, water entitlements, including different types of entitlement, water trading and trading registers.

Again, this is a very big question. This will be just a very broad overview. In terms of water resources governance, it will define the state's rights to water resources and the authorisations that are required to conduct water resource activities. That is the real crux of this legislation. In doing that, it will define the minister's functions. As you are aware, the Water Resources Legislation Amendment Bill, which was passed last year and is now an act, transferred the functions of the Water and Rivers Commission to the minister and the Department of Water. This act will continue that arrangement.

**The CHAIRMAN:** It made your department legitimate, in effect.

**Mr Roberts:** That is right. It will set out the framework for governance. Like most legislation, it will have a set of objectives that will underpin water resource management in this state and will define those persons who have administrative functions under the act. That will include the proposed water resources council, which is proposed as an amendment to the Water Agencies (Powers) Act, which just got through; similarly, a water resources ministerial body, which will enable the minister to conduct commercial activities. It will allow for the establishment of advisory committees on water resource management and it will create an environmental water manager, who will be responsible for the ongoing management of environmental water around the state. That is broadly the governance aspect of it.

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Another component is water resources assessment and planning. This is one of the new initiatives that we are working towards in this legislation; that is, to greatly enhance our water resources assessment and planning activities. It will provide for a continuous assessment program. It will provide for the long-term assessment of water resources and that will give us a better understanding of the condition and availability of the water resources. It will also implement the water planning arrangements that are set out in the state water plan, which was provided to the committee just a little while ago. John Loney talked about a raft of plans — the state water plan, regional plans, water allocation plans and others that I will mention. Just briefly, the linchpin of a lot of this is the statutory water allocation plans that will define the availability of water in certain areas. These plans will have the force of subsidiary legislation and will therefore bind all persons so they are a very important part of the planning process. They are also an important component of the proposed change to our water licensing entitlements regime, because they will set, in some sense, whether we can define a consumptive pool and offer shares in that consumptive pool as water access entitlements. There will also be plans for drainage, waterways, wetlands and drinking water source protection. These plans will not be subsidiary legislation. They will be non-legally binding, but they will certainly be a relevant consideration for decision makers. There is that two-tier arrangement for planning.

The legislation will also contain provision for a much stronger integration of land and water planning. As we move forward, we are continuing to talk to the Department for Planning and Infrastructure to ensure there is consistency of approach and that our legislation is consistent with the planning legislation. That is the planning part.

There was a question about water resource management charges. The legislation will provide a head of power to make regulations to set and recover fees and charges. These will include licence administration fees, water resources management charges and annual metering charges. It will provide the head of power. Whether they are proceeded with is a matter for government policy. However, the legislation will allow it, if it is determined that that is the way to go. That will avoid having to amend the legislation later if we do not cover it.

With regard to water entitlements, the legislation at the moment will provide for an extension of crown vesting to cover springs, private wetlands and overland flow. Those three sources of water at the moment are not covered in the Crown vesting provision, so it will broaden that. That is really designed to bring all natural waters that, as I said, is defined under the one definition, into the Crown vesting, so that they are all considered. In assessing the water resource, it will allow us to cover all the bases. At the moment those springs and wetlands and overland flow are outside of the legislation, so this is a way of dealing with it. It will provide for all the usual basic statutory rights for stock and domestic purposes, and Indigenous rights to water will be covered under those basic statutory rights. There will also be some miscellaneous rights to cover other things that people might need water for.

[12.45 pm]

**The CHAIRMAN:** Will it deal with the status of rainfall on a particular area?

**Mr Roberts:** Do you mean overland flow? I am not sure what you mean by the status of rainfall.

**The CHAIRMAN:** I mean the rainfall that happens to fall on a title. Will it deal with that?

**Mr Roberts:** That will be deemed as overland flow, so it will be covered. The way the bill is being drafted in terms of overland flow in particular, because in a lot of areas overland flow as a water resource issue is not important, is that it will be vested in the Crown but there will be a statutory right for land holders to manage as they like any overland flow collected, unless it is decreed in a statutory water allocation plan that there should be closer management of that as a water resource management issue. In terms of things like wheatbelt dams and the like, they will probably be of no interest to us. We will not be seeking licences for wheatbelt dams and for a lot of other uses of

overland flow. There may be areas—I am not suggesting that there are—where overland flow is an issue and we need to manage it for some reason. We then have the power under the legislation to do that.

**The CHAIRMAN:** I am sorry to be asking questions, but you mentioned an environmental water manager. Will that be a unit within the Department of Water, or will it be a separate agency or independent body? What is the structure of that?

**Mr Roberts:** At the moment it is proposed that the environmental water manager will be the minister. On that basis, the Department of Water would be the manager as such. That is the way the legislation has been drafted at the moment.

We were talking about water entitlements. At the moment we are developing a dual system of licensing and entitlements. The reason for that is that at the moment our licensing regime is based upon the Rights in Water and Irrigation Act. To move to a regime of water access entitlements requires us to first complete the statutory water allocation plans so that we can understand and if need be estimate the consumptive pool. We are in a situation in which there may be parts of the state where the consumptive pool arrangement is not practicable. In that situation we would retain a RIWI-style licensing regime.

**Hon ED DERMER:** Would that be a local plan for that particular part of the state?

**Mr Roberts:** It is not necessarily a local plan; it is under a statutory water allocation plan for an area, so in that sense it might be decided that a specific area retain a RIWI-style licensing regime. In other areas we might decide that we can define a consumptive pool. If we can do that, then we can issue shares in that consumptive pool as water access entitlements and moved down that path. The legislation will cater for both of those regimes. It makes it a little more complex, but it is the best way for us to deal with it rather than trying to shoehorn a one-size-fits-all regime into certain areas. That is the way that is proceeding.

**The CHAIRMAN:** What are the words you use to define “consumptive pool”?

**Mr Roberts:** I might ask Patrick to answer that.

**Mr Seares:** At the moment we manage with an allocation limit for a certain area, a certain aquifer or stream. It is the amount of water you can take out of that stream and that provides the boundaries within which you can license. Licences give you a certain amount of water you can take. Licences usually last for 10 years; it is a temporary licensing arrangement. A consumptive pool is more about establishing a certain body of water that can be used and issuing shares within that water resource in recognition that the resource, because of variability or climate change, may change. Instead of having a permanent fixed amount that you can take annually for 10 years or something along those lines, it basically suggests that if you are in a very flashing environment where you may have lot of rainfall in one year and not a lot the following year the amount that can be taken out, to be environmentally sustainable, would have to change in response to that. A lot of this is also in relation to eastern states arrangements, where you have large catchments managed by irrigation cooperatives and you are talking about a certain amount that can go to their customers within those arrangements. This is why we are talking about having our style, because a certain amount that comes into the larger catchment would dictate the level of water that could be irrigated or provided to irrigation for that year. One of the reasons we are retaining a dual system is that that does not necessarily work in terms of the hydrogeological complications applying in the ground water setting or, in some instances, in unregulated rivers. By unregulated I mean without a big water supply feeding off to a number of people like you may have in Harvey Water’s irrigation system, but if you look at the south west and you have got lots of on-stream and off-stream dams, the consumptive pool may not be applied there. It is something we need to work through as part of the actual allocation planning process with the community in that area to decide what is actually feasible hydrologically and hydrogeologically. If it warrants, we can go to a consumptive pool and people

would get permanent entitlements so that they would have a higher level of security, but then they would also be recognising that the licence would have to recognise the hydrogeological and climate conditions. With the permanence of an entitlement, trading becomes a lot more effective because you are not trading something that may be curtailed after a few years.

**Hon VINCENT CATANIA:** Would this affect the Carnarvon irrigators and the Gascoyne water co-op there?

**Mr Seares:** It may do. To be honest, as the legislation is developed, and as we recognise the NWI, we need to adapt the NWI to Western Australian conditions. Carnarvon is one of the areas where we are looking at working through a case study of whether a consumptive pool would work in that area. I do not think we are in a position to say yes it would work here and not there at the moment. It is part of the process of working out how to apply it to regulated surface water, as in Carnarvon, and how to apply it to ground water.

**Mr Roberts:** The next heading is transfer and trading. The legislation will continue to provide for the ability to transfer a RIWI-type licence or an entitlement within that licence. It will maintain that. In terms of water access entitlements, we will certainly be providing for the ability to trade those, because one of the tenets of the water access entitlement regime is that they are freely tradable. We will be ensuring that that is possible. One of the other things legislation will need to do in a situation where we move from a RIWI regime to a water access entitlement regime is provide for transitional arrangements for going from a licence to a water access entitlement. The legislation will set out the steps that will be required to achieve that. The legislation will also deal with anti-competitive behaviour that might emerge. We will continue to implement, and the legislation will give effect to, greater metering and measuring of water resources. There will also be provisions, if people object to entitlement applications and so on, for review by the State Administrative Tribunal. In support of all that, the legislation will establish the ability to create a water register, or a register of water access entitlements. This is likely to be a Torrens-style register, and there will be an office of registration. At this stage, it is contemplated that Landgate would become the manager of the register, but that is still under discussion, and there are several bodies of opinion about it.

**The CHAIRMAN:** We could call it Watergate, but I think that has already been used!

**Mr Roberts:** There will also be a register for all other permits and approvals that will be issued, because under a water access entitlement regime, before you can actually do something with the water, you still need a works approval, an extraction approval and a use approval. They will need to register those. We will also maintain a register of RIWI licences that exist. In addition to all of that, the legislation will cover all the stuff that we need, including our agency powers for enforcement and so on, and it covers financial arrangements that we need to deal with. It will be quite a significant piece of legislation. What you have just heard is me skating over the surface. I have just given you an overview of what is in the legislation.

Question 5 asked whether we are able to provide the committee with copies of issues papers or other documents relating to the three bills. An issues paper was prepared in October 2006 dealing with the water services bill, and then in early 2007 there was what we called a recommended legislative framework for water resource management under the water resource management bill. These were prepared as discussion documents and were also used in the formal development of drafting instructions. Because of the changes that occurred in policy positions, especially as parliamentary counsel came back to us and quizzed us about what we meant in some of our instructions, we have had cause to revisit things. We are just a little concerned that if we give you copies of those papers, they may be a little misleading. We are happy to do so, but we have not brought them with us. As I said, we are a little concerned that they are out of date.

**Hon ED DERMER:** They could be overtaken by policy changes?

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**Mr Roberts:** They have already been overtaken. We do not release copies of them to anybody, although we occasionally receive requests, because they could be misleading. I should add that, in the case of the water resource management bill, the documents that John Loney listed and provided copies of really contain the policy positions that underpin the water resource management bill. The recommended legislative framework just worked those around and added a few bits and pieces. That is where we are at on that issue. If you really want to see copies, we could provide them, but they could be very misleading.

**The CHAIRMAN:** Perhaps the committee might talk about that at some later date. We do have a provision under which we can maintain the private status of documents such as those, but we will talk about it later.

**Mr Loney:** I will ask Patrick Seares to speak to question 6, Mr Chairman, and with your permission, as question 12 is very similar to question 6, Patrick will cover both those issues. I spoke briefly about the planning agenda, and Patrick will concentrate very much on the allocation plans, which are the key issues in determining water availability and management.

[1.00 pm]

**Mr Seares:** Question 6 states that the committee understands that a number of water plans will be introduced as part of the water reform program, and asks how the plans are progressing. As John indicated to begin with, we already do water planning in Western Australia. We produce allocation plans under the Rights in Water and Irrigation Act. The department had not produced a great amount until about a year ago, when there were only 14 in existence for surface and ground water areas. We have redesigned the processes and approach about how we go about planning to improve the efficiency of how we do it. Now there are five final plans out there and four drafts, including the Gngangara, south west ground water including Yarragadee, and two other draft plans. There are about three just around the corner as well. So in terms of the delivery of plans and the agenda of delivering against the targets we have set ourselves, it has improved significantly, and we are actually hitting the targets at the moment. So that is what we are doing with the current RIWI plan under the RIWI act. But what we have also done in the last year is recognise that we are now signatories to the National Water Initiative and that we have actually needed to adjust how we do things to make sure that when the new bill does come into effect, the work that we are doing now, because it is two-year, often three-year process of doing the water allocation plans, that they are actually in a position to be rolled out as statutory plans under the new act. So, again, the process and content of our plans is changing slightly to align itself more with the National Water Initiative. So, in terms of the delivery of the planning agenda against water etc and our allocation plans, it is progressing well, and certainly meeting the deadlines. One of the things that we are going to be doing as the legislation becomes firmer, is actually produce a public document about the process of how we actually do allocation plans and the opportunities for people to get involved in those plans. So it is a much more open and transparent process, but we just want to make sure that the legislation is fairly firm because there are some specific —

**The CHAIRMAN:** How many of these statutory plans will there be across the state?

**Mr Seares:** I guess when we start, one of the processes of going into the statutory plan is, first of all, you go into the area and there is an issue, that is one of the priority areas for management. Part of the work maybe a hydrogeological assessment, and that assessment may improve your knowledge of where the boundaries of that plan needs to cover. So in terms of exactly where they would be and how many there would be, we want to be certain. There are 44 groundwater areas in this state and ideally we would end up with something across each one of those, but my thought is we will end up with more than that because some of these groundwater areas are very large. If we are talking about plans, they are designed to manage particular uses, like Carnarvon, for example, which is a relatively small patch. We may have a larger groundwater area but we may want to have

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a focus-led plan to address a certain range of issues there. But we are talking about a fairly long agenda to do those 44-plus plans.

**The CHAIRMAN:** So would you define the boundaries pretty much in terms of underground water and then deal with what is on the surface over that geographical area?

**Mr Seares:** The NWI or one of the key components of it is integrating surface and groundwater. In the eastern states, again, they have a lot of surface water plans under the NWI and they have some groundwater ones for the superficial, which is the very shallow groundwater table aquifers and how those two things relate. When we are dealing with such things as the Yarragadee, the Gngangara and the south west, we are dealing with something several hundred metres underground; and getting the models and information together when it costs you half a million dollars to drill a bore to understand where it is, to actually properly integrate the surface and groundwater is actually a very difficult process. We are leading the country in that, and I think it has been recognised by some of the bodies that we have taken on board to help us design the process of what we do. But at the moment our surface water planning and our groundwater planning have reference to each other and they do not conflict. They complement each other in terms of the values that are trying to be protected, but they are not a completely integrated surface and groundwater management plan outside of Collie. The upper Collie plan is an integrated one because the surface and groundwater are so interrelated and very clearly interrelated. So, in terms of question 6, the water reform program, and of course the input into the legislative process, there is quite a reliance on statutory plans for implementing some of the new reforms. So, some of them, access to entitlements and other regimes, cannot be implemented in an area until a statutory plan has been delivered. So, the input into that is going well as well in line with the legislation.

Following on from that, question 12 —

The Committee understands that an objective of the NWI is implementing transparent, statutory-based water planning. Please detail what statutory water management plans are, the different types of statutory water management plans and their anticipated role in water management in Western Australia.

As indicated, yes, we are looking towards actually having statutory management plans. As John indicated, there is a state water plan and nine regional water plans that sit underneath that, and underneath that there is a raft of four different plans, being the statutory allocation plans, drainage, flood plain and water source drinking protection. The water allocation plans, because they are actually dealing with and can have an impact on people's legal rights to take water, are being given a high level of statutory authority and will become subsidiary legislation for a local area each time. Because of that, the consultation process and the transparency and how we do it is incredibly important. The new act currently—the preliminary drafts—identifies a much greater opportunity for the community to be involved in the development and to comment on these plans, building on from the RIWI Act and, of course, our internal processes will build on that as well. So, we are fairly dedicated to having a fairly transparent and open process because otherwise the ability to get them done will be quite compromised, I imagine.

That is the water allocation plans. The water allocation plans deal with the actual access of water, the taking of water, the use of water, the impact and managing the impacts of all those and also significantly to finding an adaptive management approach where we recognise that things are changing just in terms of the rainfall produced in some areas, it is increasing in other areas, and the variability going on all over the shop depending where you are. So, really, they need to be about adapting to what is going on in the ground, and that is one of the improvements that we have got in this new round of plans, and also about providing a much greater level of security to existing licensees. While I commented about reliability, there is still a factor, at least through this planning process, that people will have a much better idea of what the allocation limit is, or consumptive

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pool in some areas, will be able to review that process for changing climatic conditions and a better understanding of the resource through planning and through the associated —

**Hon VINCENT CATANIA:** What are these time frames that you are looking at? I know from Carnarvon's point of view that we are looking at getting some funding from the federal government to upgrade the irrigation.

**Mr Seares:** Yes.

**Hon VINCENT CATANIA:** But I understand that we have to go through this process of reviewing perhaps the allocation of water. What does it mean to Carnarvon if we upgrade the irrigation system? Does that mean that there is going to be perhaps more opportunity for people to tap into that system, if that makes sense, which will put pressure on the actual aquifer itself? Would that be right in explaining that?

**Mr Rowe:** I think the negotiations, as I understand it, that are taking place right now with the commonwealth are exactly the sorts of conditions that might apply to the money that will hopefully come from the commonwealth. The Rudd government made a pre-election commitment to support that particular initiative in Carnarvon, and obviously the Department of Environment, Water, Heritage and the Arts is the lead agency, and the commonwealth government is managing the negotiations of those funding conditions. The intent of the project, as I understand it, is to significantly improve the irrigation structure in Carnarvon, which will lead to water savings. The commonwealth's interest is partly about, again perhaps coming from the Murray-Darling basin perspective where water is perhaps chronically over-allocated in many areas, how can some of the water that is saved through that process be seen to be allocated to the environment? In Western Australia we have a sort of set of unique circumstances which are not necessarily like the National Water Initiative, and so when it comes to questions of how we set aside water for the environment, we need to be flexible and creative to meet the commonwealth's intent. So I would say that those negotiations are active right now with the Gascoyne cooperative and with the state, because we seem to be a joint potential funder as well for that initiative. So those issues are on the table right now but they are well advanced, and I think people are confident that the project will get up and everybody recognises that it is a very good initiative for Carnarvon. How that contributes to the longer term planning process, I guess, we will have to see. There is a plan already in place for Carnarvon, as I understand it, and the future of that planning is something that Patrick can probably comment on.

**Mr Seares:** Yes, I would like to. In terms of Carnarvon, it is one of the priority areas for the work going on there and also the commitments we are looking for there. So the department has been developing a quarter of a million dollar groundwater model for that area for the last six months, which is due to complete at the end of this year, for example; and we are initiating a review of the previous plan, which is committed to in the plan. We are initiating that probably in the first quarter of next year. So that will be a process that Bill has information on and obviously Bill has done some of the arrangements to come out of the piping arrangements as well into what that plan actually contains. But in terms of the actual ongoing process, it is a priority basis. Planning is not an easy or cheap exercise, particularly if we are going to statutory plans where we need to have a sufficient amount of information to justify the potential impact on people's licences. We need to have that process done and we are prioritising by potential demand and existing pressure on the resource as far as possible; and we secured an additional \$15 million from the federal government to help us in some priority areas under WaterSmart as well, so we are actually sort of recognising the potential impact on our business of increasing our allocation planning program and responding to it.

**The CHAIRMAN:** We have put ourselves under the pump time-wise, so it is our problem because we are running a bit late, but we probably have only five more minutes because the parliamentary sitting time has been brought forward actually. We have meetings and things that we have to be

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involved in. What you cannot provide for us today, we are happy if you can sort of add any of the other areas in writing.

**Mr Rowe:** In writing?

**The CHAIRMAN:** In writing, yes, please, if you would not mind.

**Mr Loney:** Perhaps, if you have a series of questions here, on the National Water Initiative, would it be easier to spend five minutes trying to cover those?

**The CHAIRMAN:** Yes, I think so.

**Mr Loney:** I will ask Mike Rowe to basically address questions 8, 9 and 10, and over the page as well.

**Mr Rowe:** Question 13, I think.

**Mr Loney:** Yes, and 13, and that would be a complete set, if you like, on the NWI.

**The CHAIRMAN:** Yes, thanks John.

**Mr Rowe:** I will try to truncate the answers to this. Obviously you would be familiar with the intergovernmental agreement on the National Water Initiative; we tabled that today. The first question, 8, is about an overview of the history, objectives and provisions. Apart from the history, much of the objectives and provisions of the NWI are contained in that document. So, apart from a general reference, I will not elaborate on that. However, the history is important to understand. The National Water Initiative does build on previous Council of Australian Governments' agreements dating back to 1994. So, in other words, this water reform agenda did not just drop out of the sky in the last few years; it has been a continual process of evolution and reform committed since that time. The processes agreed in 1994 were largely around institutional arrangements, separation of water service providers from regulators and policymakers. Increasingly, I guess, in response to reduced rainfall and climate pressures and evidence of over-allocation, particularly in the eastern states, the focus has shifted to much tighter water planning allocations; and so work commenced, as I understand it, in earnest with the states and territories in around 2003 for this intergovernmental agreement, which was signed in April 2004 by all jurisdictions except Western Australia and Tasmania. Tasmania joined in 2005 and we joined in April 2006. So those national reform agreements have been very important at guiding the way that water reform has happened across the nation, and giving impetus to the sorts of priorities that have been undertaken in each of the jurisdictions. It is probably just worth noting quickly that notwithstanding the National Water Initiative this state was already heading down the path of a water reform agenda since around the time of the state water strategy in 2003, and that became a very important document for the state government to embark on its own reform program. Three things, like the irrigation review that was originally conducted by Ross Kelly, the government's response to that irrigation review which, in turn begat the blueprint process in this government's response. I just want to make the point that while the National Water Initiative was in play, the state was already moving down the path of a reform agenda anyway. They were brought together, in essence, when the Premier signed the National Water Initiative in 2006. So we now have a much tighter fit with the requirements of the National Water Initiative.

So the overall objective of the National Water Initiative is already stated there, but it is about achieving a nationally compatible market and a regulatory and planning basis to manage and service groundwater resources for rural and urban use and optimising economic, social and environmental outcomes. It contains 108 paragraphs, and for Western Australia that means about 68 discrete actions with many subactions, and I will come back to that briefly. The eight interrelated areas of action, though, which is probably worth touching on, which the agreement provides for, are areas that we have touched on today in some way, shape or form. So they deal with things like, for example, water access entitlements and planning, the two topics that were discussed a fair bit today; the whole question of how water markets and trading will operate into the future; the question of

best practice water pricing—and that is both pricing in an urban or metropolitan context as well as the concept of cost recovery for water resources management and planning; integrated management of water for environmental and public benefit outcomes, which has been raised; and the question of resource accounting, which is a new and emerging discipline in order to better understand where water goes in the system. Urban water reform has its own set of commitments. Knowledge and capacity building is obviously something of interest to this committee, and the whole question of community partnership and adjustment.

[1.15 pm]

Question 8 is: how is Western Australia progressing in implementing the National Water Initiative? What has been done and will be done to meet the National Water Initiative requirements? John has mentioned that all jurisdictions are required to prepare an implementation plan within 12 months of signing. Western Australia has done that. This implementation plan is very important because, for us, it puts down the context in which the NWI will be applied in Western Australia and the time frames to which the state is committed. Many of the time frames are influenced actually by what the commonwealth and other jurisdictions are able to agree on. There are time frames in here that rely on national processes and national guidance. There is reference to 68 key actions. This contains the 68 key actions against those eight key areas. In summary, a lot of the effort thus far has been directed at assisting the legislative reform process, getting the policy right and the processes well understood. The point has already been made that we cannot achieve much of what the National Water Initiative requires without that new legislation. Much of our work has gone to making sure that our policy settings are going to be right.

I just mention that one of the commitments in here was to review this plan this year, because we knew that our legislation process was happening. We have an obligation as a state to review that plan this year and to take into account developments that have been made thus far. I would also make the comment that the new COAG process that is going on is looking at elements of the National Water Initiative. Hopefully, by the end of this year any changes to the National Water Initiative will be clearer and we will have to take those into account in our new plan.

Question 10 is: is it important that Western Australia legislates to implement the National Water Initiative as soon as possible? I would suggest that our department's position would be yes. Clearly, legislative reform is already a prerequisite for achieving much of what the National Water Initiative requires. We cannot achieve things like a new water access entitlement regime without that. Having said that, as an agency we are not waiting for the legislation to come into effect. As I said, we are doing a lot of work in understanding what the new policy settings might be. We are looking quite earnestly at new systems; for example, new trading registers, new ways of recording entitlements and all the things that will make us comply with the National Water Initiative into the future. We cannot wait until the legislation is "flicked on" and then just assume that everything will be operational the day after. We have to try to manage this process, which is obviously difficult because things may change in the Parliament, but to the extent we can, we need to be able to manage these processes in parallel. I do not think our clients would be particularly happy if we had a new act that was not able to be serviced soon after it was enacted. We are trying to move on these processes.

Question 13 is: does the National Water Initiative prescribe what must be legislated and implemented in Western Australia? The short answer, which may not be particularly helpful, is up to a point or sort of. There are 108 paragraphs. In some ways it is quite descriptive about the nature of water access entitlements; that is, they will be permanent in nature, tradable and so on and so forth. For example, paragraph 27 of the National Water Initiative reads —

... States and Territories ... agree to modify existing legislation and administrative regimes where necessary to ensure that water access entitlement and planning frameworks incorporate the features identified in paragraphs 28-57 ...

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In other words, they are saying to us, “You need to look at this National Water Initiative and go away and make any necessary changes to your legislation”, which is exactly what we are doing. We are trying to understand what schedule E of this means in relation to new water plans. We are trying to make sure that our new entitlements regime is consistent with the National Water Initiative as far as possible.

**The CHAIRMAN:** I hate to cut this off because it is really interesting, but I think I probably have to. The last couple of points relate to the Economics and Industry Standing Committee report and your views on certain aspects of that and the skills shortage. If you are able to provide anything in writing to provide us with some information on those two areas, it would be very helpful.

**Mr Loney:** I am sure we would be happy to do that. The other question that we have not covered is question 7 about the comparison between states. We will be happy to provide you with the information on that.

**The CHAIRMAN:** That would be terrific. Hopefully, there will be a subcommittee of this committee gathering some information itself in the next week or so. Thank you very much, John, Michael, Patrick and Edward. We appreciate your time.

**Hearing concluded at 1.19 pm**

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