



Murray Darling Association Inc.

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Region 4 Ordinary Meeting

Tuesday 8 September 2020 – 1:00pm EST

Venue: The Midway Centre, 6 Midway Drive, Buronga, NSW or
Via Video Conference

AGENDA

1. ATTENDANCE
2. APOLOGIES
3. DECLARATIONS OF INTEREST
4. CONFIRMATION OF PREVIOUS MINUTES

Minutes of the previous meeting held on 9 June 2020 (Attachment 1)

5. BUSINESS ARISING
6. REPORTS

The following verbal reports to be provided:

- 6.1 Chairman's Report – Cr MacAllister
- 6.2 Council Reports – each Council to provide a verbal update of activities from their region
- 6.3 Water Meetings Attended

7. GENERAL BUSINESS

- 7.1 Motions for MDA National Conference
- 7.2 Menindee Lakes SDLAM (attachments)
- 7.3 Australia Institute document – Analysis of Unredacted Condamine-Balonne water valuation documents (attached)
- 7.4 Volume of water extracted from the February floods and how little made it to Menindee Lakes & the Wentworth Junction. Could the MDA support a scientific paper in how this affects the Health of the individual streams and over all system as well as birds flora and fauna?
- 7.5 Update on the Barkandji native title claim over the Darling Barka and how that may be used to help bring historic flows back to the system.

8. DATE OF NEXT MEETING Proposed 8 December 2020

9. CLOSE

*The Murray Darling Association acknowledges and thanks
Wentworth Shire Council for their support in
hosting this meeting of Region 4.*



Region 4 Ordinary Meeting

Tuesday 9 June 2020 – 1:00pm EST

Venue: The Midway Centre, 6 Midway Drive, Buronga, NSW

MINUTES

1. ATTENDANCE Meeting opened at 1pm

In Person	By Teleconference
Cr Jane MacAllister (Wentworth Shire Council)	Cr Darriea Turley (Broken Hill City Council)
Cr Jason Modica (Mildura Rural City Council)	Emma Bradbury (CEO – MDA)
Ken Ross (Wentworth Shire Council)	Greg Hill (Central Darling Shire Council)

2. APOLOGIES

Cr Marion Browne (Broken Hill City Council)
Cr Tim Elstone (Wentworth Shire Council)
Cr Anthony Cirillo (Mildura Rural City Council)

3. DECLARATIONS OF INTEREST

Nil

4. WELCOME

Cr MacAllister – Chair advised a reshuffle of the meeting and that the Emma Bradbury will present the MDA CEO report first.

CEO Report – Murray Darling Association – Emma Bradbury

Key focus is on the National Conference and a revised model is being considered for the Conference to be delivered by virtual hybrid due to Covid-19.

Good investment in virtual module being mindful that the risk of virtual fatigue is plaguing us all but keen to tap into the opportunity to attract a broader audience.

Good ideas have been expressed in regards to speakers, Cr Jane MacAllister has contributed with this and a number of her recommendations made have made their way into the funding framework.

The Community Leadership Program is at a pivotal point with the commencement of the launch and MDA are very pleased to announce that we are partnering with the Peter Cullan Trust in the delivery of the Program. The design and development has now largely been finalised and the launch is again in the “current space” with some revised timelines and deliveries due to Covid. Feedback from participants is they are very keen to maintain face to face workshops and not a virtual model.

MDA are in the final stages of completion of the primary draft Strategic Plan 2020. The plan has gone to our Strategic Advisory Group for review and comment before being finalised as a draft for presentation and consultation of the Board. It’s a compilation of almost two years of consultation work across our regions and it will be a strong statement that will position us well into the future to look to engage in a range of criteria that we have been focusing on in recent years and it is very future focused.

Cr Jane MacAllister asked if Emma Bradbury could elaborate further on the MDA and CSIRO and what MDA is looking for from Regions in regards to input.

Emma Bradbury responded advising that MDA now have a legally binding Relationship Agreement with the CSIRO which is the foundation point from which we can pursue projects together and strengthen initiatives

and formalise funding initiatives.

The MBA strategic planning group workshop identified three priorities:

- The Local Centre for Excellence
- Combine concept and elevation
- Invest in a bricks and mortar asset

Question raised by Cr Jane MacAllister in regards to the Conference to be held in Wentworth in 2021.

Emma Bradbury responded.

They will be guided by the Board, but a hybrid conference would be preferred - not a wholly virtual conference and she will recommend to the Board the hybrid model.

Cr Jason Modica supports a face to face conference based on his previous conference attendances as it builds stronger relationships and promotes difficult conversations, but possibly not three days due to the expense.

Ken Ross commented that the Conference is an opportunity to showcase our district, but the content of the Conference is up to the Board. The Wentworth Shire Council would be happy to accept responsibility and resource it accordingly.

Cr Jane MacAllister commented that on the third day the Conference has a reduced crowd which is unfortunate because the AGM is on the third day. She suggested that the Board get together face to face beforehand and that day one be the normal format and have the AGM on day two when there is more numbers and day three be a study tour.

Final two points:

Confirm Bob Stuart from Central Darling Administrator is now duly appointed to Strategic Advisory Committee.

The AGM is due and the guidelines for the Conduct of the AGM will be sent to Cr Jane MacAllister to be distributed accordingly.

Cr Jane MacAllister raised that she had heard MDA are sitting at a "round table" meeting on Wednesday 10 June 2020.

Emma Bradbury confirmed the MDA are hosting the First Preliminary "round table" meeting with the Wentworth Group of Concerned Scientists and that it was an invitation event.

Emma Bradbury advised that Cr David Thurley received an OAM.

Resolution

That congratulations be passed on to Cr David Thurley on receiving the OAM.

Moved: Cr Darriea Turley

Seconded: Cr Jane MacAllister

Emma Bradbury and Greg Hill exited meeting at 1.32pm

5. MINUTES

Resolution

That the Minutes of the previous meeting held on 10 March 2020 be amended to state that Cubbie Station can hold 459 gegalitres not 1.3 megalitres as stated in the Business Arising report and they then be accepted.

Moved: Cr Jason Modica

Seconded: Cr Jane MacAllister

6. BUSINESS ARISING

- Cr MacAllister advised that she had spoken to Central Darling and Balranald Councils. They do not have a Climate Plan or Water Statement and neither does Wentworth Shire Council.
- MDA trying to formalise a clear policy on climate and water. The MDA has sought policies from the Region 4 Group and the MRCC advised they have a Water Allocation and Environmental Policy. Broken Hill have a Sustainable Environmental Policy which has been provided.

Resolution

That Region 4 continue to support calls for a Royal Commission into management of the Murray Darling Basin.

Moved: Cr Jason Modica

Seconded: Cr Darriea Turley

Resolution

That we recommend the MDA create a Climate Policy.

Moved: Cr Darriea Turley

Seconded: Cr Jane MacAllister

7. REPORTS

7.1 Chairs Report – Cr MacAllister

Verbal report

8. DATE OF NEXT MEETING Proposed AGM 8 September 2020

9. CLOSE 2.15pm

*The Murray Darling Association acknowledges and thanks
Wentworth Shire Council for their support in
hosting this meeting of Region 4.*

Council Resolution

That Wentworth Shire Council rejects all options put forward by consultants GHD and strongly questions the integrity of the process in relation to the Menindee Lakes Water Savings Project.

Further, that Wentworth Shire Council write to the NSW Premier and Federal Minister for Water, the Hon. Keith Pitt, advising that the process of engagement is deliberately divisive, lacks factual content and is therefore unsatisfactory and that numerous valid community concerns have not been addressed and continue to be avoided, putting water recovery under the Basin Plan in jeopardy.

Moved Cr. MacAllister, Seconded Cr. Heywood

CARRIED

From: [Bartlett, Leisa](#)
To: [Mark Forbes](#); [Executive Assistant General Manager](#); [Ken Ross](#); [Bob Stewart](#); [Greg Hill](#)
Cc: [Roncon, James](#)
Subject: Broken Hill City Council resolution - Menindee Lakes Water Saving Proposals
Date: Thursday, 27 August 2020 5:09:02 PM
Attachments: [image002.png](#)

Good afternoon,

For your information, please see below Council's resolution (Minute Number 46327) from the Ordinary Meeting held 26 August 2020 in relation to the Menindee Lakes.

Resolved

1. That Motions of Which Notice has been Given No. 12/20 dated August 14, 2020, be received.
2. That Broken Hill City Council supports those that were in attendance at a public meeting held in Menindee on 18 July 2020 and attended by 85 people. At that public meeting it was unanimously voted to oppose the 12 Menindee Lake water saving proposals that have been pushed by NSW bureaucracy to save/return 106GL to the environment.
3. That Broken Hill City Council oppose all of the 12 proposals within the Menindee Lakes Water Saving Project that are part of the agenda that is being pushed on key stakeholders by NSW Water and other bureaucratic departments.
4.
 - (i) That Broken Hill City Council write to the Local Member Roy Butler and the Minister for NSW Water Melinda Pavey explaining that the 12 proposals that have been highlighted and pushed at all Menindee Lake Stakeholder Advisory Group (SAG) Meetings are not supported within the community, the Broken Hill City Council or by a majority of members of organisation represented by stakeholders.
 - (ii) That Broken Hill City Council does not believe that the SAG process has been at all transparent and the vast majority of the community and the Broken Hill City Council have not been part of the development of a plan. Input from stakeholders has been limited to proposals already chosen from Water NSW.
 - (iii) The proposed 106GL of savings from the Menindee Lakes for the environment relies on reducing water kept in the Menindee Lakes to an unsustainable level (as low as 80GL) and if implemented will have significant effects on the Menindee Lakes environment and also the communities that rely on it.
 - (iv) It is unacceptable to destroy the Menindee Lakes environment, effectively reducing a storage and ecosystem that can hold up to 200GL under the guise of environmental savings to be used to improve the environment.
5.
 - (i) That Broken Hill City Council asks that the Minister indefinitely delay the October date for reconfiguration of the Menindee Lakes System and that key stakeholders be given the opportunity to have input into a Menindee Lakes reconfiguration that benefits all.
 - (ii) The proposed 106GL savings target needs to be withdrawn and replaced with a water savings figure that is identified by key stakeholders after accurate data is provided and community input engaged. The group needs to be supplied with up-to-date data that reflects current situations so any plan and savings identified are based on fact not political spin.
 - (iii) This is an opportunity for you as the NSW Minister for Water to lead and create a truly community based approach to water saving within the Menindee Lakes that has the support of the community and protects the interests of NSW and an important environmental asset.
 - (iv) Ensure the critical supply of water for the environment, cultural and human needs along the Darling at Menindee and within the Lower Darling/Anabranch system in dry or low flow years.
 - (v) Provide for the critical human needs for towns cultural stock and domestic users and the needs of riparian land owners to be met before access to irrigation is allowed in the Barwon Darling and Northern tributaries.
 - (vi) Determine critical flow triggers in the Barwon Darling and Lower Darling and storage volumes in the Menindee Lakes (minimum 2 years) that will ensure that the protection of the health of the river is made a priority before access to water for irrigation is allowed.

Regards,

Leisa Bartlett

Governance Officer
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CENTRAL DARLING SHIRE COUNCIL

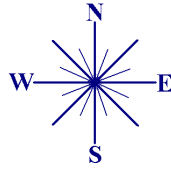
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COUNCIL CHAMBERS
21 REID STREET
WILCANNIA NSW 2836

Our Reference: GD20/28862

5 August 2020

Deputy Premier
Hon John Barilaro MP,
Suite R1 44
Parliament House Sydney
Email: monaro@parliament.nsw.gov.au

Dear Deputy Premier,

Menindee Lakes SDLAM Project Stakeholder Advisory Group

Central Darling Shire Council covers 52,000 km²'s in the Far West of NSW, population of 2000 residents and has the largest portion of river/lake systems in the state. Council has been proactively promoting water security for the Lower Darling River and the Menindee Lakes system for some time.

The formation of the Menindee Lakes Sustainable Diversion Limit Adjustment Mechanism (SDLAM) Project Stakeholder Advisory Group began in mid-2019 and was orchestrated mostly by the former NSW Land and Water Commissioner, with help from MDBA community engagement officers and staff from DPIE (water).

Central Darling Shire Council is a member of the Stakeholder Advisory Group (SAG). The group consists of 25 peers, selected representatives from community groups that represent Indigenous nations, irrigators, pastoralists, stock and domestic water users and Local Government. There are representatives from the Menindee Lakes, the Great Darling Anabranch and along the Darling River from Wilcannia to Wentworth, an estimated 1100 kilometres of river.

From the very first meeting of the group and every subsequent meeting, the single main issue that has been raised: **is giving priority to fresh water through-out the Darling River system, from the Queensland border to Wentworth.** Maintaining water supply for towns, the environment, Indigenous Nations cultural requirements, domestic and stock use has been a failure under current operational protocols.

Council supports and agrees with the SAG, under existing water sharing plan rules, reduced amounts of water will make it to Menindee Lakes, from flow events in dry periods because of extraction for irrigation. This ensures that proposed water savings targets for the Basin Plan, will not be met regardless of any amount of new infrastructure commissioned in the Menindee Lakes system.

Since changes to NSW water rules in the Northern Basin in 2012, the Menindee Lakes and the Lower Darling River have faced critical water shortages for more than 50% of the time. During this period, there has been 3 extended cease flow events in the Lower Darling River, there were 3 fish kill events in the Menindee weir pool (a scale which has never been recorded in either European history, or Indigenous culture) and the Darling Anabranch has only flowed once.

All these events have been followed by countless reviews, such as Vertessy, NRC, Academy of Science and now the First Flush review. Each of these reviews recommended: **“Water Management must provide for and promote connectivity between water sources and identify access for irrigation during first flush events”**. Irrigation during first flush events should not be allowed until certain triggers have been provided for stock and domestic watering, native title rights, town water supply for 2 years and critical environmental needs for specific water sources have been met. Council has made representation to several State/Federal Ministers and Bureaucrats during this time, without prevail to increase flows to Menindee Lakes and the Lower Darling. Furthermore, DPIE (water) continually refuse to consider including flow and storage targets within the respective Water Sharing Plans. This is becoming increasingly troubling for Council and the members of the Menindee SAG, as we represent the community.

Council and SAG acknowledge that the current consultation process is an improvement on what has occurred in the past. The process, however, still lacks appropriate rigour, required to enable the community to make an informed decision on changes that will affect families, culture and businesses within the Shire for many generations to come. Without serious and meaningful changes to the current NSW operational rules and Water Sharing Plans, “providing for whole of river connectivity”, further consultation is going to be continually frustrated by this issue.

On behalf of constituents within the Shire, Central Darling Shire Council requests that you ensure that Flow Management arrangements for: **flow and duration targets in the Barwon-Darling/Lower Darling and volumetric targets within the Menindee Lakes, be included in the NSW Policy and Legislative framework and in all relevant Water Sharing Plans**. This will be necessary to enable the Menindee Lakes SDLAM project to be supported by Council, Menindee SAG and the broader community.

The community within the Shire and neighbouring communities, have had enough and is now seeking water security for the environment, cultural, town water supply and stock and domestic. This security is needed to be provided over irrigation before any decision about Operational Management of the Menindee Lakes and Lower Darling River before any consideration of support by the community.

The Community has three main concerns that must be addressed as a matter of urgency as itemised below:

1. ***Whole of system connectivity including from the Northern Basin and the Lower Darling to the confluence with the Murray River.***
2. ***Protection of drought reserve storage targets for the Menindee Lakes and Lower Darling.***
3. ***Protection of first flush events to ensure flows reach the Menindee Lake system and provide flows into the lower Darling River system.***

I would like to request a meeting with you in person as Deputy Premier, to discuss the matters raised in this letter and how to progress the actions as outlined above.

Yours sincerely,

A handwritten signature in black ink that reads "R. K. Stewart". The signature is written in a cursive style with a large initial "R" and "K".

Robert Keith Stewart
Administrator

CC

Member for Barwon, Roy Butler MP
Member for Parkes, Mark Coulton MP
Mayor Broken Hill City Council, Darriea Turley AM
Mayor Wentworth Shire Council, Melissa Hederics

Terry Smith
Menindee Lakes SDLAM SAG Chairmman
scarsdalestation@bigpond.com
0427919408

The Hon Melinda Pavey MP
Minister for Water, Property and housing
GPO Box 5341
SYDNEY NSW 2001

Monday, 27 July 2020

Dear Minister Pavey

The formation of the Menindee Lakes SDLAM Project Stakeholder Advisory Group began in mid-2019 and was orchestrated mostly by the former NSW Land and Water Commissioner with help from MDBA community engagement officers and staff from DPIE (water).

The Stakeholder Group consists of 25 peer selected representatives from community groups that represent Indigenous nations, irrigators, pastoralists, stock and domestic water users, townships and local government. There are representatives from the Menindee Lakes, the Great Darling Anabranch and along the Darling River from Wilcannia to Wentworth, an estimated 1100 kilometres of river.

From the very first meeting of the group and every subsequent meeting, the single main issue that has been raised is giving priority to fresh water through-out the Darling River system in NSW from the Queensland border to Wentworth. Maintaining water supply for towns, the environment, Indigenous nations cultural requirements, domestic and stock use has been a failure under current operational protocols.

The Stakeholder Group is of the view that under existing water sharing plan rules, reduced amounts of water will make it to Menindee, from flow events in dry periods because of extraction for irrigation. This ensures that proposed water savings targets for the Basin Plan will not be met regardless of any amount of new infrastructure commissioned in Menindee. The group has three main concerns that must be addressed as a matter of urgency as listed below.

- Whole of system connectivity including from the northern basin and the Lower Darling to the confluence with the Murray River.
- Protection of drought reserve storage targets for the Menindee Lakes and Lower Darling.
- Protection of first flush events.

Since changes to NSW water rules in the Northern Basin in 2012 the Menindee Lakes and the Lower Darling have faced critical water shortages for more than 50% of the time. There has been 3 extended cease to flow events in the Lower Darling, there were 3 fish kill events in the Menindee weir pool of a scale which have never been recorded in either European history, or indigenous culture and the Darling Anabranch has only flowed once.

All of these events have been followed by countless reviews such as Vertessy, NRC, Academy of Science and now the First Flush review. Each of these reviews recommend that water management must provide for and promote connectivity between water sources, and identify that access for irrigation during first flush events should not be allowed until triggers that provide for stock and domestic watering, native title rights, town water supply for 2 years and critical environmental needs in specific water sources have been met. Throughout all of the SAG discussions, DPIE (water) continually refuse to consider including flow and storage targets within the respective Water Sharing Plans. This is becoming increasingly troubling for the members of the Menindee Stakeholder Advisory Group and the constituents and communities that they represent.

The Menindee Lakes Stakeholder Group requests that you ensure that flow management arrangements that include flow and duration targets in the Barwon-Darling and Lower Darling water sources, and volumetric targets within the Menindee Lakes be included in the NSW policy and legislative framework, specifically in all relevant Water Sharing Plans. This will be necessary to enable the Menindee Lakes SDLAM project to be supported by Menindee Lakes Stakeholder Advisory Group.

The stakeholder group acknowledge that the current consultation process is an improvement on what has occurred in the past. The process, however, still lacks appropriate rigour required to enable this community to make an informed decision on changes that will affect our families, our culture and our businesses for many generations to come. Without serious and meaningful changes to the current NSW operational rules and Water Sharing Plans that provide for whole of river connectivity further consultation is going to be continually frustrated by this issue.

The community has had enough and is now seeking water security for the environment, cultural, town water supply and stock and domestic be provided over irrigation before any decision about operational management of the Menindee Lakes and Lower Darling river system can be supported.

Yours Sincerely

Terry Smith

Menindee Lakes Stakeholder Advisory Group Chairman

A little more valuation, a little less redaction, please

Analysis of unredacted Condamine-Balonne water valuation documents

Senator Rex Patrick has obtained an unredacted version of a key valuation document for to the Commonwealth's \$80 million 'Watergate' purchase. The document contradicts claims by the Department of Agriculture and Water Resources and the Australian National Audit Office that the \$2,745/ML price paid was within the valuer's recommended range. The valuer's central estimate was \$1,500/ML within a range of \$1,100 to \$2,300/ML. Other research by the same valuer shows that the properties in question would not attract any premium above this range.

Discussion paper

Maryanne Slattery

Roderick Campbell

August 2020

ABOUT SLATTERY & JOHNSON

Slattery & Johnson is an independent advisory that helps clients understand the rules, regulations and politics of the Murray Darling Basin. Directors Maryanne Slattery and William Johnson have decades of water policy experience and a passion for the Basin's rivers and people.

ABOUT THE AUSTRALIA INSTITUTE

The Australia Institute is an independent public policy think tank based in Canberra. It is funded by donations from philanthropic trusts and individuals and commissioned research. We barrack for ideas, not political parties or candidates. Since its launch in 1994, the Institute has carried out highly influential research on a broad range of economic, social and environmental issues.

OUR PHILOSOPHY

As we begin the 21st century, new dilemmas confront our society and our planet. Unprecedented levels of consumption co-exist with extreme poverty. Through new technology we are more connected than we have ever been, yet civic engagement is declining. Environmental neglect continues despite heightened ecological awareness. A better balance is urgently needed.

OUR PURPOSE - 'RESEARCH THAT MATTERS'

The Institute publishes research that contributes to a more just, sustainable and peaceful society. Our goal is to gather, interpret and communicate evidence in order to both diagnose the problems we face and propose new solutions to tackle them.

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ISSN: 1836-9014

Summary

In 2017 the Commonwealth Department of Agriculture and Water Resources paid almost \$80 million for water rights in the Condamine-Balonne valley. In per megalitre terms, the price paid (\$2,745/megalitre) was far higher than any previous purchase of 'overland flow' licences, well above levels that had previously been rejected as "not value for money". The vendor company, Eastern Australia Agriculture (EAA) has links to the Cayman Islands tax haven and has high-profile political links, resulting in a long running scandal dubbed, perhaps uncreatively, 'Watergate'.

Adding to the controversy has been the refusal of the Department to release the valuation of overland flow licences in the Lower Balonne that it had commissioned and relied on in the negotiations. Key parts of the document had been redacted, on the dubious grounds of commercial in confidence, even though unredacted parts of the document emphasised that the valuation was valid for only 90 days.

Senator Rex Patrick has taken a close interest in these issues, obtaining many key documents through Senate processes. He has recently obtained an unredacted version of the main valuation document following a freedom of information request.

The unredacted document shows a valuation range of \$1,100 to \$2,300/ML, with a central estimate of \$1,500/ML. The price paid by the Commonwealth, \$2,745/ML, is nearly double the valuer's central estimate and 19% higher than the top of the valuation range.

In an answer to a 2020 question on notice, prior to the release of the unredacted document, the Department selectively quoted the redacted sections to suggest that:

The valuation advice stated that the department should be prepared to pay 10 to 30 percent above the standard market rate for 'properties of a high standard that have achieved above average levels of water use efficiency' in this region.

This is untrue and a clear misrepresentation of the valuation document. The term 'standard market value range' does not appear in the valuation document. In fact, the valuation emphasises that "there is no true market" for overland flow licences in the Lower Balonne region, as they are not traded easily or often, with the only buyer being the Commonwealth. The valuation does not state that the Commonwealth "should expect to pay" anything outside of the \$1,100 to \$2,300/ML range, on the contrary, the valuer states that "the majority of [overland flow] licences would be considered to be in the lower end of this range." Indeed, the Commonwealth's earlier purchase of

A little more valuation

overland flow licences was \$800/ML in the same valley and the vendor appears to have valued the licences at around \$952/ML.

The valuation document does discuss a 10% to 30% premium potentially being paid in relation to two properties that are not in the same region as the EAA properties, but are hundreds of kilometres away, in different valleys. Properties that could potentially attract this premium “would be individual properties of a high standard that have achieved above average levels of water use efficiency, in which case would be in the higher end of the value range.”

It is clear that the EAA properties are not examples of such high standard properties. In other valuations by the same valuer, these properties are considered the worst performing comparable properties with measures of efficiency just 39 - 47% of the highest performers. Far from being high performers, EAA was operating at a considerable loss prior to the sale, with net liabilities in 2017 of \$28,570,000, up from \$15,383,000 in 2016.

Unusually, the unredacted valuation of comparable property sales includes only two other properties in the Balonne valley, using instead mainly properties in the Border Rivers and Barwon areas, even though other Balonne data was available and used in valuations elsewhere. It is unclear why this data was excluded and unclear how the Department determined that the EAA properties were regional high performers on this basis.

Three separate valuations obtained by The Australia Institute, including two by the same valuer, value Lower Balonne overland flow licences at zero. Another estimated a \$1,400/ML value, but argued that the Commonwealth should purchase at a 30% discount due to the nature of the licence and the complicated processes involved in ensuring it can be used for environmental purposes. The Department’s valuer has elsewhere emphasised the “most inferior” status of overland flow water due to the difficulty of trading it and the legal difficulty the Commonwealth would have in using it for environmental purposes as other users can extract the water. These points have long been made by The Australia Institute.

The unredacted document contradicts findings by the Australian National Audit Office that prices paid in Commonwealth strategic water purchases were less than the maximum price recommended by valuers. It appears that either the ANAO did not have access to the unredacted version of the valuation document, or it misunderstood and misrepresented it. This should be clarified by the ANAO as soon as possible.

A little more valuation

Introduction

A little less conversation, a little more action, please
All this aggravation ain't satisfactioning me

- Elvis Presley, A little less conversation, 1968

Aggravation has surrounded the \$80 million purchase of water in the Condamine Balonne valley in 2017 and very few people have been satisfactioned by the information provided to the public as to why the Commonwealth paid so much money for water rights it had rejected eight times as “not value for money” at lower prices.¹ The purchase was from Eastern Australia Agriculture (EAA), a company with links to the Cayman Islands tax haven and co-founded by Energy Minister Angus Taylor, who says he has long since cut ties with the company. Under water minister Barnaby Joyce, the Commonwealth Department of Agriculture and Water Resources (DAWR)² paid record prices for ‘overland flow licences’, water rights that have low reliability and no legal status outside of the property that owns them.

The purchase first attracted attention because the price paid per megalitre (\$2,745) was above EAA’s original asking price. DAWR appeared to have ‘haggled up’ the price.³ EAA immediately booked a \$52m profit on the transaction, suggesting the Commonwealth had paid tens of millions too much. Further problems emerged around when the licences were created, whether they can count towards water recovery and the fact that the modelling to support the licence values had been done by EAA, or a consultant closely linked to the company.⁴

Throughout this “Watergate” scandal, a key valuation document has been unavailable to the public in unredacted form. DAWR’s main defence of the seemingly indefensible purchase has been that the price paid was in line with recommendations in this valuation document. This document has now been released and is examined below.

¹ Slattery and Campbell (2020) *Rough Estimates: Analysis of Senate Estimates documents on Australia’s most controversial water*, <https://www.tai.org.au/content/rough-estimates-analysis-senate-estimates-documents-australia-s-most-controversial-water>

² Note that the name has now changed to Department of Agriculture, Water and the Environment. The previous name is used here as most of the events predate the change of name.

³ Slattery and Campbell (2018) *That’s not how you haggle: Commonwealth water purchasing in the Condamine Balonne*, <https://www.tai.org.au/content/thats-not-how-you-haggle>

⁴ Slattery and Campbell (2019) *#Watermates: The buyers and sellers of Australia’s most controversial water*, <https://www.tai.org.au/content/watergate-s-water-mates-buyers-and-sellers-australia-s-most-controversial-water>

A little more valuation

Valuations

HIDDEN VALUES

Many of the Watergate documents have been made public through the efforts of Independent Senator Rex Patrick. Senator Patrick requested documents relating to Commonwealth “strategic” water purchases in November 2017, which were tabled in parliament in February 2018.⁵ The documents were heavily redacted, particularly in relation to the independent valuation of water licences.

Senator Patrick has attempted to have the unredacted valuations released ever since. The reason given for the redactions was that the Commonwealth may seek to undertake further purchases and the disclosure of the valuation may compromise the Commonwealth’s ability to negotiate with future sellers.

Senator Patrick pointed out that an unredacted part of the valuation document was a disclaimer stating that the valuation was only relevant for 90 days. Senator Patrick told Senate Estimates:

The initial valuation is dated within three months of the assignment confirmation reissue or other acts. The documentation itself refers to the Australian standards on valuation and says you cannot use this information beyond that three-month period; it has no use. So I find it very disingenuous to suggest that there is a commercial-in-confidence or commercial value to this information when the Australian standard says there is not; indeed, when the valuer says that there is not; and, indeed, when you stand here at estimates and say the price changes all the time.⁶

Senator Patrick pursued the removal of redactions through the Senate for two years, before seeking the valuation information through a Freedom of Information request.

⁵ Canavan (2018) *Senate orders for production of documents – Murray-Darling Basin Plan – Water purchases*, https://parlinfo.aph.gov.au/parlInfo/download/publications/tables/papers/59682649-2fa2-43b1-955f-ae16caecef45/upload_pdf/opd_murray-darling%20basin%20plan.pdf;fileType=application%2Fpdf#search=%22publications/tables/papers/59682649-2fa2-43b1-955f-ae16caecef45%22

⁶ Senator Rex Patrick (2020) *Rural & Regional Affairs & Transport Legislation Committee Senate Estimates - 6/3/2020*, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Festimate%2Feb1d2142-07fd-42f0-9e75-fe90254141cd%2F0000%22>

When that was refused, he referred the matter to the Information Commissioner, with the following warning to water officials at estimates:

I think, in some sense, you are withholding information from the Senate and I foreshadow, if the Information Commissioner agrees with me—I'm pretty sure I'm on fairly solid ground—I will seek a referral to the Privileges Committee for contempt, because I think you are being overly secret on information which should be in the public domain. By the valuer's very own words, by the Australian standard and by what Ms Colreavy has just said, this ought not to be held secret from the public.⁷

The Department of Agriculture and Water Resources provided the unredacted valuations on 13 August 2020 in response to Senator Patrick's Freedom of Information request.⁸ Of note, this was shortly before the Information Commissioner was expected to hand down her findings.

VALUATION

The valuation for DAWR was prepared by Shaun Hendy for Colliers International Valuation & Advisory Services. It included a single valuation of \$1,500 per megalitre and a range between \$1,100 to \$2,300 per megalitre, as shown in Figure 1 below:

Figure 1: Extract from Condamine Balonne Overland Flow Licence Valuation

Having regard to the sales evidence outlined in this report and our experience with water markets and irrigation properties, we consider that the value range for Overland Flow Licence (nominal volume) within the Lower Balonne can be assessed as follows:

Water Type	Valuation \$ /ML of Nominal Volume	Valuation Range
Overland Flow Licence	\$1,500/ML	\$1,100 to \$2,300 per ML

Source: Hendy (2017) *Valuation of Overland Flow Water Entitlements*, obtained under FoI

As shown in Figure 1, the price paid by the Commonwealth, \$2,745 per megalitre, is nearly double the valuer's central estimate and 19% higher than the top of the

⁷ Senator Rex Patrick (2020) *Rural & Regional Affairs & Transport Legislation Committee Senate Estimates - 6/3/2020*, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Festimate%2Feb1d2142-07fd-42f0-9e75-fe90254141cd%2F0000%22>

⁸ Dadswell (2020) *Letter to Rex Patrick: Reconsidered Decision on your Freedom of Information request*

valuation range. This appears to contradict claims by DAWR that the final price paid was in line with the valuation.

In this context, it is worth examining DAWR's 2020 response to a question on notice about this matter in detail:

In August 2017, the price paid for 28.7 GL of overland flow entitlements in the Condamine-Balonne (QLD) was \$2,745 per megalitre. This price was consistent with the market valuation. In this case the price paid by the department was above an estimated 'standard market value range', but below the maximum price the independent valuer advised we should expect to pay. The valuation advice stated that the department should be prepared to pay 10 to 30 percent above the standard market rate for 'properties of a high standard that have achieved above average levels of water use efficiency' in this region. The agreed price was in this wider range, which reflects the well-developed nature of the property from which it was purchased.⁹

The term 'standard market value range' does not appear in the valuation document. In fact, the valuation emphasises that there is no market for overland flow (OLF) licences in the Lower Balonne region:

The Lower Balonne region as a water market does not have a mature trading market as the water rights are predominantly unsupplemented allocations, which are not traded as often or as easily as supplemented allocations. Secondly the volume of water (nominal volume) in the system is not large enough to see a reasonable turnover within the 'market'. With regards to the OLF water licences there is no true market as trading is limited to sales only to the Commonwealth.¹⁰

Whether a market exists or not, the only value range in the valuation is the \$1,100/ML to \$2,300/ML range shown in Figure 1 above. The valuation does not state that the Commonwealth, or any other buyer, "should expect to pay" anything outside of that range for OLF licences in the Lower Balonne. On the contrary, the valuer states:

The majority of OLF licences would be considered to be in the lower end of this range.¹¹ It appears that EAA themselves valued the licences slightly lower. Having

⁹ Department of Agriculture and Water Resources (2020) *Rural and Regional Affairs and Transport Committee, Question on Notice 197, 2018-19 Budget estimates*

¹⁰ Colliers International Valuation & Advisory Services (2016) *Valuation of Overland Flow licences: Condamine Balonne Water Resource Plan*, Available under FOI LEX 3189

¹¹ Colliers International Valuation & Advisory Services (2016) *Valuation of Overland Flow licences: Condamine Balonne Water Resource Plan*, Available under FOI LEX 3189

booked a profit of \$52 million on an \$80 million sale of 29 gigalitres, their valuation appears to have been \$952/ML.

The Department's answer ignores these issues and instead refers selectively to part of the valuation text:

The market sentiment is considered to be improving and, for many of the above properties, if offered on the market today an improvement in value could be anticipated. By our estimate, this may range from only 10 percent to as high as 30 percent.¹²

The valuer is referring here particularly to a still-redacted list of properties, and two unredacted properties, Boongargil and Yattlewondi, more than 150 kilometres away in different valleys (Border Rivers and Barwon). These are not in the Lower Balonne area where the EAA properties are located. It describes these distant properties as "good quality irrigation holdings. The report goes on to state:

We have provided a value and a value range. The majority of OLF licences would be considered to be in the lower end of this range. The exception to this would be individual properties of a high standard that have achieved above average levels of water use efficiency, in which case would be in the higher end of the value range.¹³

DAWR justified paying \$2,745/ML, or 119% of \$2,300 – the highest price in the valuer's range – on the basis that the EAA properties, Kia Ora and Clyde, were considered to be 'properties of a high standard that have achieved above average levels of water use efficiency' in this region. No documentation around such an assessment was provided with the original order for production of documents (OPD) tabled in the Senate and it appears that the Department did not seek Mr Hendy's opinion on this matter.

Other assessments performed by Mr Hendy do not support the Department's position. Previously, Mr Hendy had prepared valuations for the properties 'Kilcummin' and 'Cawildi', which are located in the Lower Balonne, between Kia Ora and Clyde stations.¹⁴ In those valuations, Mr Hendy provides estimates of operational efficiency,

¹² Colliers International Valuation & Advisory Services (2016) *Valuation of Overland Flow licences: Condamine Balonne Water Resource Plan*, Available under FOI LEX 3189

¹³ Colliers International Valuation & Advisory Services (2016) *Valuation of Overland Flow licences: Condamine Balonne Water Resource Plan*, Available under FOI LEX 3189

¹⁴ CBRE (Hendy) (2010) *Valuation Report: "Kilcummin" and "Cawildi"*. Valuation, Sydney: Supreme Court of NSW, obtained by The Australia Institute; Herron Todd White (Hendy) (2010) *"Kilcummin" and "Cawaldi" Aggregation*, obtained by The Australia Institute

and values of an average cotton hectare, for a number of properties within the Balonne valley, including EAA's Kia Ora and Clyde, shown below in Table 1:

Table 1: Comparable properties in the Kilcummin and Cawildi valuation

Property	Area	Value of average cotton hectare
Property 1	Balonne River	13,612
Property 2	Balonne River	18,457
Property 3	Border Rivers	14,408
Clyde	Lower Balonne	7,179
Kia Ora	Lower Balonne	8,783
Property 4	Balonne River	18,586
Kilcummin and Cawildi	Lower Balonne	9,000
Property 5	Border Rivers	14,400
Property 6	Border Rivers	15,360

Sources: "Kilcummin" and "Cawildi" valuation reports by Shaun Hendy

Table 1 shows that Mr Hendy considers Clyde and Kia Ora to be the worst performing comparable properties, with average cotton hectares to be \$7,179 and \$8,783. This is only 39 - 47% of the highest valued average cotton hectare of \$18,586 at Property 4. This contradicts the DAWR claim that these properties should be considered high standard properties that attract a higher price for OLF water.

Eastern Australia Agriculture Pty Ltd, the company that owned Kia Ora and Clyde, was actually operating at considerable losses, with a balance sheet in significant deficit. For the 2017 financial year, the company had accumulated net liabilities (liabilities exceed assets) of \$28,570,000, up from \$15,383,000 in 2016.¹⁵ That is far from *'properties of a high standard that have achieved above average levels of water use efficiency' in this region.*

COMPARABLE PROPERTIES IN THE REGION

Mr Hendy's two valuations of Kilcummin and Cawildi used nine comparable property sales in the Condamine-Balonne. Including the Kilcummin and Cawildi, Mr Hendy had at least eleven properties by which he could have used as comparable properties in the Balonne valley. However, for the Commonwealth valuation, he did not use any of those properties as comparable and instead used ten different properties, only two of

¹⁵ EAA (2017) *Eastern Australia Agriculture Pty Limited ABN 96 126 388 163 Annual Report For the Year Ended 30 June 2017*, Obtained by The Guardian

which were located in the Balonne valley. The properties used in the DAWR valuation are shown in Table 2 below.

Table 2: Comparable properties in DAWR valuation

Property	Valley
Cubbie Station	Lower Balonne
Mooramanna	Balonne
Undabri Aggregation	Border Rivers
McIntyre Downs	Border Rivers
Gubbergunya	Border Rivers
Tundunna	Barwon
Rugby	Border Rivers
Yarrowee	Barwon
Boongargil	Border Rivers
Yattlewondi	Barwon

In an earlier valuation of Kilcummin and Caliwindi, Mr Hendy said:

The sales of ‘Kia-Ora’, ‘Clyde’, ‘Macintyre Downs’ and ‘Moolabah’ offer the greatest comparability in consideration of the irrigation development, and mix of water rights. On a \$/hectare basis, ‘Kia-Ora’ and ‘Clyde’ are considered comparable, in that they are reliant on a high percentage of overland flow, which is an inferior source of water rights.¹⁶

It is unclear why Mr Hendy excluded Kia Ora, Clyde, Kilcummin, Caliwindi or Property 1 from the comparable properties for the DAWR valuation, despite having used them in his two earlier valuations.

It is unclear how DAWR can determine that Kia Ora and Clyde are *‘properties of a high standard that have achieved above average levels of water use efficiency’* in this region, when the valuation excluded properties in their region (Balonne) and used instead properties in other regions (Border Rivers and Barwon).

¹⁶ Herron Todd White (Hendy) (2010) "Kilcummin" and "Cawaldi" Aggregation, obtained by The Australia Institute

OTHER VALUATIONS

A recent answer to Questions on Notice in the Senate in December 2019 shows that Eastern Australia Agriculture had unsuccessfully offered water to the Commonwealth many times before this purchase, and the reasons why these offers were rejected by the Government. Those offers are shown in Table 1 below:

Table 3: Offers to sell Eastern Australia Agriculture water to the Commonwealth

Year	Volume (megalitres)	Licence type	Price (\$/ML)	Reason offer declined
2008/09	6,241	Unsupplemented	1,495	Not value for money
	5,155	Unsupplemented		
	19,035	Overland flow		
	18,885	Overland flow		
	6,722	Unsupplemented		
2008/09	2,090	Unsupplemented	2,744	Tender oversubscribed
	9,840	Unsupplemented		
2010/11	9,765	Unsupplemented	2,550	Not value for money
	1,980	Unsupplemented		
2010/11	9,765	Unsupplemented	2,495	Not value for money
	1,980	Unsupplemented		
2013/14	14,190	Overland flow	1,565	Not value for money
2014/15	7,095	Overland flow	1,555	Not value for money
2014/15	976	Unsupplemented	2,305	Not value for money
2014/15	989	Unsupplemented	1,955	Not value for money

Source: Department of Agriculture (2019) 2019-2020 Supplementary Budget Estimates Friday 25 October 2019 Cross Portfolio Matters Portfolio Question Number 208,

The Commonwealth also purchased 10,016 megalitres of overland flow licence for \$8,012,800 in June 2014 from a property called Ballandool in the Lower Balonne, to the south of Kia Ora and Clyde.¹⁷ That is, for \$800 a megalitre.

There were six valuations of Kilcummin and Cawildi in total by four different valuers between 2008 and 2010. Two of those valuations, including one by Mr Hendy, valued the Lower Balonne OLF licences at zero.^{18,19} A valuation by Key Property Group valued

¹⁷ Minister for Agriculture and Water Resources (2017) *Senate Question No 646*

¹⁸ Herron Todd White (Hendy) (2010) *"Kilcummin" and "Cawildi" Aggregation*, obtained by The Australia Institute

¹⁹ Harrison (2010) *"Kilcummin" & "Cawildi"*, obtained by The Australia Institute

A little more valuation

overland flow licences in the Condamine-Balonne at \$1,400 and rather than advocating for a premium, determined the Commonwealth should argue for a discount:

I consider the value of the Water Licence 602026 (Overland flow licence) to be \$1,400 per megalitre, based on reported Allocation transfers

On deliberating my opinion of possible transfer of the Licence to the Commonwealth, I considered that the Commonwealth would have applied a discount to the Licence as it was not a tradeable licence and it was attached to the Lands.

The Commonwealth, to secure the licence would have to negotiate with the owner, with DNRM and involve itself in a complicated and bureaucratic process & procedure to enable it to secure the Licence & then, hypothetically surrender the Licence to achieve the Commonwealths published objectives.

I have subjectively nominated the Commonwealth would have applied a discount rate of 30% to the "market price" to undertake the process to surrender the licence. Hence Residual price \$980, rounded to \$1,000.²⁰

INFERIOR WATER

One of The Australia Institute's criticism of the EAA purchase was that the water has no legal recognition once it leaves the property from where it was purchased. Mr Hendy highlighted this in the valuation of Kilcummin and Cawildi:

The (overland flow) license does not comprise a tradeable component and has been correctly identified by Mr Harrison as being attached to the land and as not having a value separate to the land.²¹

The Australia Institute also criticised the purchase of overland flow water, because the water can be legally extracted by other users downstream. Mr Hendy warned the DAWR of this issue in his valuation to them:

Depending on the location of a licence within the catchment the acquisition of these rights to restrict the taking of water with the intent of providing more

²⁰ Key Property Group (2013) *Opinion of Probable Transfer Value*, obtained by The Australia Institute

²¹ Herron Todd White (Hendy) (2010) "*Kilcummin*" and "*Cawaldi*" *Aggregation*, obtained by The Australia Institute

water for environmental purposes may only increase the opportunity for a water harvester downstream to increase their take.

Mr Hendy considered overland flow water to be the least valuable kind of water right and highlighted this in the valuation of Kilcummin and Cawildi:

This class of water (overland flow) is considered by the market to be the most inferior.²²

AUSTRALIAN NATIONAL AUDIT OFFICE AUDIT OF STRATEGIC PURCHASES

The Australian National Audit Office (ANAO) recently completed a performance audit on the Commonwealth's strategic purchases, including the purchase from Eastern Australia Agriculture. Senator Patrick requested the audit in April 2018, and that request was signed by senators and members of parliament across the political spectrum: Sarah Hanson-Young, Stirling Griff, Rebekha Sharkie, Cory Bernardi and Tony Burke.²³

One of the ANAO findings was that DAWR did not develop processes to determine value for money. This seems obvious in the case of the Condamine Balonne purchase:

The department did not develop a framework designed to maximise the value for money of strategic water entitlements purchased through limited tender arrangements. Rather, the department relied on a methodology of valuations where gap-bridging water was required.²⁴

The ANAO was not explicit whether value for money was or was not achieved. It did, however, state that the prices paid were within the range given by valuers:

The price the department paid for water entitlements was equal to or less than the maximum price determined by valuations.²⁵

This finding by the ANAO is not consistent with what has been revealed in the valuation by Mr Hendy. The price paid by DAWR was well above the maximum price

²² Herron Todd White (Hendy) (2010) *"Kilcummin" and "Cawaldi" Aggregation*, obtained by The Australia Institute

²³ Patrick (2018) *Allegations concerning the Murray-Darling Basin Plan*, <https://www.anao.gov.au/work/request/allegations-concerning-the-purchases-water-environmental-flows-the-murray-darling-basin>

²⁴ ANAO (2020) https://www.anao.gov.au/sites/default/files/Auditor-General_Report_2020-21_2.pdf

²⁵ ANAO (2020) https://www.anao.gov.au/sites/default/files/Auditor-General_Report_2020-21_2.pdf

determined by Mr Hendy's valuation. As discussed above, the only justification of a further premium would be if Kia Ora and Clyde are *'properties of a high standard that have achieved above average levels of water use efficiency'* in the Lower Balonne region.

The ANAO is silent on this issue. So it is unclear whether the ANAO had evidence to support DAWR's assertions of both 'properties of high standard' and 'this region' and therefore whether the highest price with a premium can be justified.

It appears that either the ANAO did not have access to the unredacted version of the valuation document, or it misunderstood and misrepresented it. Both these matters should be clarified by the ANAO as soon as possible.

Conclusion

Elvis Presley's song *A little less conversation* was a minor hit when first released in 1968, but achieved worldwide fame decades after The King's apparent 'death', when it was remixed by other musicians in 2003.

Similarly, interest in the EAA water purchase was modest in 2018 when The Australia Institute first highlighted that the prices paid were far too high, that they had been 'haggled' upward, and that the legal status of the water was very uncertain. None of these issues have ever been seriously contested, while other new and concerning details have emerged about the transaction with every subsequent remix.

The authors just hope they are still alive when this research achieves its goal of transparency and accountability around this transaction.