

# Strategic failure

## Submission on procurement of strategic water entitlements

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*The Australian National Audit Office is investigating so-called strategic water purchases in the Murray Darling Basin. These purchases were counter to government policy on reducing consumptive use, have not brought balance to the Commonwealth's water portfolio, were not value for money and did not meet guidelines on transparency, accountability and ethical procurement.*

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# Summary

The Australia Institute welcomes the opportunity to make a submission on the procurement of strategic water entitlements. This submission relates to four “strategic” purchases of water by the Department of Agriculture and Water Resources in 2017, in the Murrumbidgee, Warrego, Condamine-Balonne and Lower Darling/Barka.

This submission addresses the Australian National Audit Office’s audit objectives and includes considerable detail on the Murrumbidgee purchase. The other purchases are discussed here, but are covered in more detail in previous Australia Institute research. Links are provided through this submission.

All the strategic purchases share some common flaws:

- Questionable and overstated reliability of water.
- Will either not return the stated volume to the environment or will increase productive use.
- Lack of transparency and accountability, including information withheld from the Senate.
- Procurement without open tender.
- High prices paid.

None of these purchases are consistent with stated government policy:

- They will not reduce consumptive take.
- They do not contribute to a balanced portfolio of water holdings.
- Processes were counter to accountability and transparency guidelines.
- Purchases were counter to ethical procurement guidelines.

The Murrumbidgee purchase was of water that was already “underutilised” and the vendor’s stated intention was to use the money from the sale “to fund increased irrigation on another property”. The purchase of Lowbidgee Supplementary water exacerbates an unbalanced Commonwealth portfolio in the Murrumbidgee, which is already 43% based on this type of entitlement.

New dams funded under the efficiency program will reduce the reliability of Lowbidgee Supplementary water. That is, the government has bought an asset, then subsidised private infrastructure that erodes that asset, then purchased more of the original asset despite it being devalued. Worse still, the prices paid were roughly

double those of earlier purchases. Other potential vendors appear to have been ignored, breaching ethical procurement guidelines.

The so-called strategic purchases of water in 2017 represent some of the lowest points of water management in the Murray Darling Basin. Huge benefits have flowed to powerful, well-connected parties, while taxpayers, communities and the health of our rivers have been sacrificed. We urge the ANAO to dedicate considerable resources and time to this important investigation and we would be happy to provide further assistance.

# Introduction

The Australia Institute welcomes the opportunity to make a submission on the procurement of strategic water entitlements. We understand that the objective of this audit is to assess whether the strategic water purchases by the Department of Agriculture and Water Resources (DAWR) were conducted in a manner consistent with government policy, supported by appropriate program design, planned and executed appropriately, and, achieved value for money.

This submission addresses four strategic water purchases made in 2017:

- 12.117 gigalitres for \$4,483,290 in the Murrumbidgee valley in March 2017;
- 10.611 gigalitres for \$16,977,600 in the Warrego valley in March 2017;
- 29,159 gigalitres for \$78,891,300 in the Condamine-Balonne in May 2017;
- 21,901 gigalitres for 38,001,118 plus \$39,988,884 compensation, plus the following year's water allocation in the Lower Darling/Barka in June 2017.

Senator Rex Patrick requested documents relating to these purchases through two Senate Orders for the Production of Documents (OPDs).<sup>1,2</sup> Guardian Australia has also received information on some of these projects through a Freedom of Information (FOI) request.

The Australia Institute has written extensively on these purchases, based on these OPDs and FOIs. In addition to this submission, we hope the Australian National Audit Office (ANAO) team will consider the following reports:

- *Moving Targets* (Warrego)<sup>3</sup>
- *That's not how you haggle* (Condamine-Balonne)<sup>4</sup>

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<sup>1</sup> Nash (2017) *Senate orders for the production of documents – Barwon-Darling Unregulated River*, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22publications/tables/papers/588a4b32-df56-4a7f-98d4-688922e9c30a%22>

<sup>2</sup> DAWR (2017) *Senate orders for production of documents: Murray-darling Basin Plan – Water purchases*, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22publications/tables/papers/59682649-2fa2-43b1-955f-ae16caecef45%22>

<sup>3</sup> Slattery and Campbell (2018) *moving Targets*, <https://www.tai.org.au/sites/default/files/P495%20Moving%20Targets.pdf>

<sup>4</sup> Slattery and Campbell (2018) *That's not how you haggle*, <https://www.tai.org.au/sites/default/files/P502%20That%27s%20not%20how%20you%20haggle.pdf>

- *#Watermates* (Condamine-Balonne)<sup>5</sup>
- *Trickle Out Effect* (Lower Darling/Barka)<sup>6</sup>
- *I'll have what they're having* (Lower Darling/Barka)<sup>7</sup>

This submission and these previous reports show that all the strategic purchases share some similar, and undesirable, features:

- the reliability of the water is highly questionable and less than stated;
- the transaction was undertaken secretly;
- procurement via limited tender was not justified;
- key information about the transactions and valuations has been withheld from the Senate;
- the price paid was excessively expensive;

None of these strategic purchases are consistent with government policy. They were not supported by appropriate program design and they did not achieve value for money.

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<sup>5</sup> Slattery and Campbell (2019) *#Watermates*,

[https://www.tai.org.au/sites/default/files/P740%20%23%20WaterMates%20-%20\[WEB\]\\_0.pdf](https://www.tai.org.au/sites/default/files/P740%20%23%20WaterMates%20-%20[WEB]_0.pdf)

<sup>6</sup> Slattery and Campbell (2018) *Trickle Out Effect*,

<https://www.tai.org.au/sites/default/files/P584%20Trickle%20Out%20Effect.pdf>

<sup>7</sup> Slattery and Campbell (2018) *I'll have what they're having*,

<https://www.tai.org.au/sites/default/files/P584a%20III%20have%20what%20theyre%20having%20%5BWEB%5D.pdf>

# Government policy & program design

## Reducing water for irrigation

The policy intent of purchasing water from the productive pool for the environment is to reduce irrigation and return that water to the environment. This is explained by John Howard when he announced the Water Act, and Basin Plan in 2007:

As well as improving water efficiency, we need to confront head on and in a comprehensive way, the over-allocation of water in the Murray-Darling Basin. We must strike a sustainable balance between the demands of agriculture, industry and towns on the one hand and the needs of the environment on the other. Therefore I announce that the Government will allocate up to \$3 billion to adjust water entitlements in the Murray-Darling Basin. This is the Commonwealth assuming responsibility for a problem created by the states. We are willing to address the chronic over-allocation of water in the Basin and to carry the entire cost of doing so.<sup>8</sup>

Initially, most water was recovered through direct purchases from water holders (buy-backs). That was changed to acquiring water through projects that are intended to save water by making irrigation more efficient (efficiency projects) in 2015. The water recovery strategy explains that this was to:

enable environmental outcomes to be achieved with less environmental water without economic detriment.<sup>9</sup>

While recovery through infrastructure was intended to buffer the economy of regional communities, government policy was still to remove water from productive use:

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<sup>8</sup> Howard (2007) *Transcript of the Prime Minister the Hon John Howard MP address to the National Press Club*, [https://www.mdbrc.sa.gov.au/sites/default/files/rce\\_1027\\_-\\_john\\_howard\\_speech\\_25\\_january\\_2007.pdf?v=1547691065](https://www.mdbrc.sa.gov.au/sites/default/files/rce_1027_-_john_howard_speech_25_january_2007.pdf?v=1547691065)

<sup>9</sup> Department of the Environment (2014) *Water Recovery Strategy for the Murray-Darling Basin*, <http://www.agriculture.gov.au/water/markets/commonwealth-water-mdb>

The underlying objective of the reform, as expressed in the Howard Government's National Plan for Water Security, is to ensure water use is placed on a sustainable footing.<sup>10</sup>

The policy change still permitted "strategic" purchases, where:

they are consistent with the Government's stated priorities, clearly contribute to bridging the gap and represent value for money. Specifically, these will occur in the Queensland Condamine-Balonne and southern New South Wales catchments, where a larger requirement to bridge the gap remains.<sup>11</sup>

Importantly,

The Australian Government will focus on strategically important water purchases, which will occur either in areas where there is a remaining gap to be bridged to the SDLs, or where aligned with irrigation delivery system reconfiguration or rationalisation.<sup>12</sup>

In other words, to achieve sustainable levels, water needs to be taken away from consumptive use - irrigation. Bridging the gap is about reducing consumptive use, not creative accounting and rebranding of water to achieve SDLs on paper but without real water recovery. The strategic purchases discussed here do not achieve this policy goal.

## Balanced portfolio

There are different types of water entitlement in the Murray Darling Basin. As with investment in any class of assets, investors look to reduce risk and increase opportunities by owning different kinds of assets. Water is no different and the Commonwealth rightly aims to have a balanced portfolio of water entitlements.

The Commonwealth Environmental Water Holder (CEWH) sometimes advises DAWR on the acquisition of water entitlements in order to balance its portfolio:

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<sup>10</sup> Department of the Environment (2014) *Water Recovery Strategy for the Murray-Darling Basin*, <http://www.agriculture.gov.au/water/markets/commonwealth-water-mdb>

<sup>11</sup> Department of the Environment (2014) *Water Recovery Strategy for the Murray-Darling Basin*, <http://www.agriculture.gov.au/water/markets/commonwealth-water-mdb>

<sup>12</sup> Department of the Environment (2014) *Water Recovery Strategy for the Murray-Darling Basin*, <http://www.agriculture.gov.au/water/markets/commonwealth-water-mdb>



Except where specific advice has been provided to indicate otherwise, a balanced portfolio is preferred without excessive reliance on a particular class of entitlement in any particular jurisdiction or catchment.<sup>13</sup>

As discussed below, several strategic purchases do not achieve the policy goal of a balanced portfolio.

## Transparency

The Australian government has a policy of undertaking procurement accountability and transparently.

The Australian Government is committed to ensuring accountability and transparency in its procurement activities. Accountability means that *officials* are responsible for the actions and decisions that they take in relation to *procurement* and for the resulting outcomes. Transparency involves *relevant entities* taking steps to enable appropriate scrutiny of their procurement activity.<sup>14</sup>

The need to maintain the confidentiality of information should always be balanced against the public accountability and transparency requirements of the Australian Government. It is therefore important for *officials* to plan for, and facilitate, appropriate disclosure of procurement information. In particular, *officials* should:

- a. include provisions in *request documentation* and *contracts* that alert *potential suppliers* to the public accountability requirements of the Australian Government, including disclosure to the Parliament and its committees;
- b. when relevant, include a provision in *contracts* to enable the Australian National Audit Office to access contractors' records and premises to carry out appropriate audits; and
- c. consider, on a case-by-case basis, any request by a *supplier* for material to be treated confidentially after the award of a *contract*,

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<sup>13</sup> CEWH (2018) *Commonwealth Environmental Water Holder Submission to the Productivity Commission's Murray-Darling Basin Plan: Five-year assessment*[https://www.pc.gov.au/\\_\\_data/assets/pdf\\_file/0009/227637/sub075-basin-plan.pdf](https://www.pc.gov.au/__data/assets/pdf_file/0009/227637/sub075-basin-plan.pdf)

<sup>14</sup> Department of Finance (2019) *Accountability and Transparency*, <https://www.finance.gov.au/procurement/procurement-policy-and-guidance/commonwealth-procurement-rules/accountability-and-transparency/>

and enter into commitments to maintain confidentiality only when such commitments are appropriate.<sup>15</sup>

These guidelines and recommendations are not met by most of these purchases. Indeed, accountability and transparency are sorely lacking around most aspects of the Murray Darling Basin's management. The South Australian Royal Commission described water authorities as having "an unfathomable predilection for secrecy":

The habitual behaviour of the Murray-Darling Basin Authority (MDBA), and to a lesser but alarming extent the CSIRO, is marked by an unfathomable predilection for secrecy. That is the bane of good science — and an obstacle to the democratic and informed design and improvement of public policy that must be based on science. A sea change is required to remove this aspect of the general constraints on beneficial change.<sup>16</sup>

## Ethical Procurement

The Australian government has a policy of undertaking procurement ethically.

In particular, *officials* undertaking *procurement* **must** act ethically throughout the *procurement*. Ethical behaviour includes:

- a. recognising and dealing with actual, potential and perceived conflicts of interest;
- b. dealing with *potential suppliers, tenderers* and *suppliers* equitably.<sup>17</sup>

Particularly in regard to treating potential suppliers equitably, these purchases have not met this policy. Favoured suppliers are given opportunity for extensive contact and negotiation, while potential alternate suppliers are frozen out of such processes altogether. This is particularly the case in the Lower Darling/Barka.

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<sup>15</sup> Department of Finance (2019) *Accountability and Transparency*, <https://www.finance.gov.au/procurement/procurement-policy-and-guidance/commonwealth-procurement-rules/accountability-and-transparency/>. Italics in original

<sup>16</sup> Walker (2019) *Murray-Darling Basin Royal Commission Report*, p16, <https://www.mdbrc.sa.gov.au/sites/default/files/murray-darling-basin-royal-commission-report.pdf?v=1548898371>

<sup>17</sup> Department of Finance (2019) *Efficient, Effective, Economical and Ethical Procurement*, <https://www.finance.gov.au/procurement/procurement-policy-and-guidance/commonwealth-procurement-rules/efficient-effective-economical-and-ethical-procurement/>

# Murrumbidgee purchase

In March 2017, DAWR purchased 12,117 megalitres of Lowbidgee supplementary water for \$4,483,290, known as the Redbank purchase. The Long-Term Average Annual Yield (LTAAY) is recorded at 5,453 megalitres.

This purchase was in addition to the 2014 purchase in the Lowbidgee of 381 gegalitres (173 LTAAY), known as the Nimmie-Caira purchase. That purchase was subject to a lot of criticism that generated an ANAO performance audit.<sup>18,19</sup> MDBA later undertook a review of whether that water was already going to the environment and therefore if it should count towards the water recovery target.<sup>20</sup> This is discussed further below.

The Redbank purchase does not meet the government's policies of reducing water for irrigation, balancing its portfolio, ethical procurement or ensuring value for money.

## REDUCING WATER FOR IRRIGATION

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This purchase does not reduce irrigation, because this water was not being fully used for irrigation. The agent that brokered the deal explained to a DAWR officer:

Further to our conversation from yesterday, I can confirm that the vendor has used small amounts of this licence, however due to the change in his farming focus, that is shift to dryland, he does not require the volume of water that they have. They will continue to dryland farm on that property, however with the monies they are looking to increase production and water efficiency on their (redacted) property. They have livestock there along with annual and permanent pastures and are wanting to put in another pivot to increase the intensity of their production down there.<sup>21</sup>

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<sup>18</sup> Farr (2012) *Greens call NSW Water to bare all*,

<https://www.farmonline.com.au/story/3602374/greens-call-nsw-water-to-bare-all/>

<sup>19</sup> ANAO, (2015), *Funding and Management of the Nimmie-Caira System Enhanced Environmental Water Delivery Project* <https://www.anao.gov.au/work/performance-audit/funding-and-management-nimmie-caira-system-enhanced-environmental-water>

<sup>20</sup> MDBA (2019) *review of the contribution of the Nimmie-Caira purchase to Basin Plan water recovery*, <https://www.mdba.gov.au/sites/default/files/pubs/Review-contribution-Nimmie-Caira-purchase-Basin-Plan-Feb-19.pdf>

<sup>21</sup> Williams (2016) *Email to DAWR officer: Lowbidgee*,

<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22publications/tables/papers/59682649-2fa2-43b1-955f-ae16caecef45%22>

DAWR advised the former Water Minister, Barnaby Joyce, that the water purchase would fund increased irrigation at another property.

The proponent intends to sell Lowbidgee entitlements associated with one property on the Murrumbidgee River to fund increased irrigation on another property on the [redacted].....The entitlements on offer are currently underutilised.<sup>22</sup>

The Baseline Diversion Limit (BDL) represents the level of extraction prior to the development of the Basin Plan. Water recovery is intended to reduce that level of extraction to a Sustainable Diversion Limit (SDL). If the Commonwealth purchases water that was not included in the BDL, then the recovery will not reduce extractions to meet the SDL.

The ANAO audited the Nimmie-Caira purchase and stated:

While the LTAAY from the 381 GL to be obtained under the project equated to 173 GL, only 133 GL was assessed by Environment as counting towards 'bridging the gap' targets as it considered that 40 GL was already committed to pre-existing environmental watering purposes.<sup>23, 24</sup> This assessment has been contested by the NSW Government and is subject to further consideration in 2016.<sup>25</sup>

That is, 40 GL of the 173 GL had not been included in the BDL as an extraction and so could not count towards water recovery. The ANAO made this conclusion based on advice from MDBA during the audit.<sup>26</sup> NSW disagreed with MDBA and the ANAO and governments agreed that MDBA would undertake a review of the Murrumbidgee BDL.

The MDBA concluded this review in February 2019 and reversed their previous advice and increased the BDL for the Murrumbidgee by 64 GL to not only recognise the 40GL

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<sup>22</sup> Slatyer (2016) *Minute to Minister: Unsolicited proposal to sell water: NSDW Murrumbidgee (Lowbidgee) – further advice*,  
<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22publications/tables/papers/59682649-2fa2-43b1-955f-ae16caecef45%22>

<sup>23</sup> The LTAAY is another acronym for Cap Factors

<sup>24</sup> 'Environment' refers to the Department of Environment

<sup>25</sup> ANAO, (2015), *Funding and Management of the Nimmie-Caira System Enhanced Environmental Water Delivery Project* <https://www.anao.gov.au/work/performance-audit/funding-and-management-nimmie-caira-system-enhanced-environmental-water>

<sup>26</sup> ANAO, (2015), *Funding and Management of the Nimmie-Caira System Enhanced Environmental Water Delivery Project* <https://www.anao.gov.au/work/performance-audit/funding-and-management-nimmie-caira-system-enhanced-environmental-water>

of the Nimmie-Caira water in contention, but to include another 24 GL.<sup>27</sup> There was no explanation of why this 24 GL was included and the BDL put up by 64 GL, rather than 40 GL, but appears to be designed to accommodate further purchases of Lowbidgee water to count towards the water recovery target.

The Redbank sale was finalised in January 2017, more than two years before MDBA finalised its review into the Murrumbidgee BDL. The purchase seems high risk based on MDBA's earlier advice to the ANAO. That is, the Commonwealth purchased the Redbank water, knowing that it was not in the BDL and should not count towards water recovery.

If instead MDBA had remained consistent with their original advice, the Redbank purchase would not have counted towards the water recovery target, because it was not included in the BDL. There was no discussion about this eventuality in the documents made available in the Senate's OPD. This suggests that the increase in the BDL was a forgone conclusion, which should be a line of inquiry by the ANAO.

## BALANCED PORTFOLIO

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Prior to the Redbank purchase, CEWH was holding 171,664 megalitres, or 42% of their total Murrumbidgee water recovery in Lowbidgee supplementary licences. Having such a high portion of one type of licence is against the CEWH's strategy to hold a balanced portfolio. The Commonwealth Environmental Water Office (CEWO) advised DAWR that acquiring additional Lowbidgee supplementary water was not preferred, because they already had substantial holdings of that class of entitlement.

As a general principle the CEWH seeks a balanced portfolio without over-reliance on a particular class of entitlement. Murrumbidgee Supplementary (Lowbidgee) are not a priority for further acquisition because we already have substantial holding of this class of entitlement, primarily from the Nimmie Caira acquisition. The CEWO wishes to avoid, if possible, situations where it holds all of the entitlements in a particular category.<sup>28</sup>

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<sup>27</sup> MDBA (2019) *review of the contribution of the Nimmie-Caira purchase to Basin Plan water recovery*, <https://www.mdba.gov.au/sites/default/files/pubs/Review-contribution-Nimmie-Caira-purchase-Basin-Plan-Feb-19.pdf>

<sup>28</sup> Costello (2015) *Email to Mary Colreavy: RE: CEWO preferences for Murrumbidgee portfolio*, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22publications%2Ftablepapers%2Ffa585f8d-6f39-43ec-9e46-bef903173df5%22>

After the purchase CEWH now holds 407,766 megalitres of water licences in the Murrumbidgee in LTAAY terms. Of that, 177,117 megalitres, or over 43% of the total portfolio are Lowbidgee supplementary water licences.

Holding nearly half of the Murrumbidgee portfolio in one licence type exposes the CEWH to significant risk. If the reliability of that licence type is reduced, then the reliability and value of nearly half of the portfolio will be reduced.

The reliability of Lowbidgee supplementary licences is under threat. There are several new large on-farm storages in the Hay plains, upstream of the Lowbidgee area. These dams are designed specifically to capture supplementary water, so will reduce the amount of water available to the Lowbidgee water licences.<sup>29</sup>

Despite the CEWH having such a large volume of Lowbidgee holdings, the Australian Government has funded at least some of these new dams through its efficiency program under the Basin Plan.<sup>30</sup> That is, the government has bought an asset, then subsidised private infrastructure that erodes the value of that asset, then purchased more of the original asset despite it being devalued.

## VALUE FOR MONEY

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DAWR paid \$370 per megalitre in the 2017 Murrumbidgee strategic purchase of Lowbidgee Supplementary water. The value for money assessment was based on a comparison of Lowbidgee Supplementary water against similarly named Murrumbidgee Supplementary water share prices:

The proposal represents exceptional value for money at the seller's proposed price. Which is considerably lower than current prices observed for similar entitlements. Supplementary entitlements have a lower reliability than other entitlement classes and are therefore often used for opportunistic irrigation.<sup>31</sup>

An extract of the pricing advice prepared by DAWR is shown in Figure 1 below.

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<sup>29</sup> Slattery and Campbell (2019) *Dam Shame*, <https://www.tai.org.au/content/dam-shame-new-dams-politicians-won-t-talk-about>

<sup>30</sup> Slattery and Campbell (2019) *Dam Shame*, <https://www.tai.org.au/content/dam-shame-new-dams-politicians-won-t-talk-about>

<sup>31</sup> Slatyer (2016) *Minute to Minister: Unsolicited proposal to sell water: NSW Murrumbidgee (Lowbidgee) – further advice*, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22publications%2Ftabledpapers%2Ffa585f8d-6f39-43ec-9e46-bef903173df5%22>

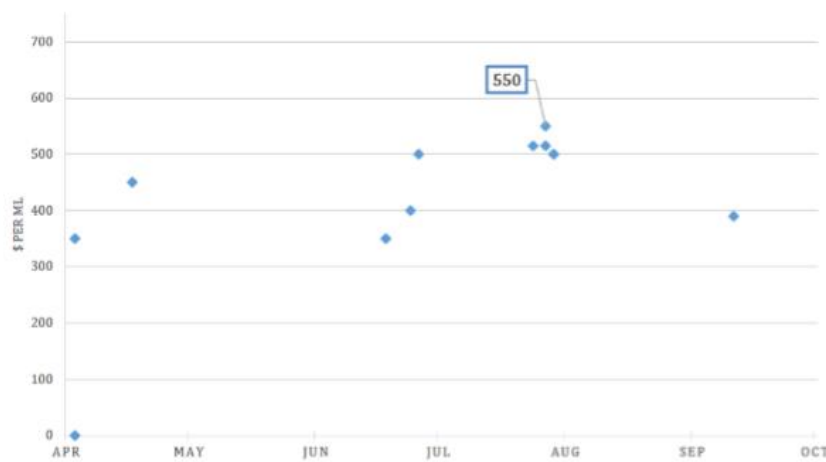
Figure 1: Extract from OPD - NSW Murrumbidgee Supplementary - Pricing Advice

### NSW Murrumbidgee Supplementary

Table 1 Summary of pricing analysis for NSW Murrumbidgee Supplementary

Entitlement type	Valuation method	Data source	Current (\$/ML)	3 month projection (\$/ML)	6 month projection (\$/ML)	12 month projection (\$/ML)	24 month projection (\$/ML)
NSW Murrumbidgee Supplementary		State register State register					

Figure 1 NSW Murrumbidgee, Supplementary, Trade data for previous six months from the NSW Water Register



Data source: NSW Water Register

Source: <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=id%3A%22publications%2Ftabledpapers%2Ffa585f8d-6f39-43ec-9e46-bef903173df5%22>

Figure 1 shows that DAWR considered the assessment as ‘exceptional value’ based on the prices paid for supplementary water shares between around \$350 and \$550. However, while the name is similar, Supplementary shares are a different licence category to Lowbidgee Supplementary shares and should not be used as a price comparison.<sup>32</sup> There are no trades of the Lowbidgee water shares, except the Nimmie-Caira purchase by the Australian government in 2014, at \$175 per megalitre.<sup>33,34</sup>

<sup>32</sup> NSW (2016) *Water Sharing Plan for the Murrumbidgee Regulated River Water Source 2003*, <https://legislation.nsw.gov.au/inforce/cbc48d17-0102-4a03-9259-f11dd3fe12f1/2002-1038.pdf>

<sup>33</sup> WaterNSW (2019) *NSW Water Register*, <https://waterregister.waternsw.com.au/water-register-frame>

<sup>34</sup> ANAO (2015) *Funding and management of the Nimmie-Caira System Enhanced Environmental Water Delivery Project*, <https://www.anao.gov.au/work/performance-audit/funding-and-management-nimmie-caira-system-enhanced-environmental-water>

The ANAO undertook a performance audit of the Nimmie-Caira purchase in 2015. One of the conclusions was the government paid a premium on that purchase:

Environment ‘market tested’ the \$120 million asking price for the land and water entitlements using two independent valuers. The independent valuations obtained were subsequently subjected to a review by the then Australian Valuation Office (AVO). On the basis of this review, the fair market value for the land and water assets in current use was determined by Environment to be \$103.1 million—meaning that the asking price included a price premium of \$16.9 million.<sup>35</sup>

That is, rather than providing ‘exceptional value’, DAWR paid more than double (211%) of the price that was previously determined to be at a premium.

## ETHICAL PROCUREMENT

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We understand there have been no offers to purchase water entitlement in the Lowbidgee North except for the Redbank purchase. This was only 10% of water entitlement for this district. This contradicts DAWR’s responsibility for ethical procurement, to treat all potential suppliers equitably.

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<sup>35</sup> ANAO (2015) *Funding and management of the Nimmie-Caira System Enhanced Environmental Water Delivery Project*, <https://www.anao.gov.au/work/performance-audit/funding-and-management-nimmie-caira-system-enhanced-environmental-water>



# Warrego purchase

In 2017, DAWR purchased 10,611 megalitres of unsupplemented water licences in the Warrego Valley for \$16,977,600.

This purchase does not meet the government's policies of:

- Reducing water for irrigation– the vendor noted that there was “still plenty of un-utilised water on the [Warrego] river that can be used for future development if needed”, while the water savings have been transferred to the Border Rivers;
- strategic purchases in an area where there is a remaining gap to be bridged to the SDLs – the local mayor saw this purchase as the “federal government was taking water from an under-allocated river to fix over-allocation problems in another river”; or
- accountability and transparency – DAWR wrote to the Queensland Government to say “Thank you for keeping this information in-confidence”.

This purchase also does not represent value for money, as prices were roughly double those of an earlier Warrego purchase.

For detail on all these points, see The Australia Institute's February 2018 report, *Moving Targets*.<sup>36</sup>

The documents related to this sale tabled to the Senate had all of the valuation information redacted. Senators have repeatedly asked for those redactions to be removed through the Rural and Regional Affairs and Transport Legislation Committee in several Senate Estimates. In response, Senators Ruston and Canavan have maintained the redactions are necessary to preserve the Government's negotiating position in future water purchases. However, the price paid per megalitre and in total is known, so the argument to redact the valuation advice is implausible.

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<sup>36</sup> Slattery and Campbell (2018) *moving Targets*,  
<https://www.tai.org.au/sites/default/files/P495%20Moving%20Targets.pdf>

# Condamine-Balonne Purchase

In May 2017, DAWR purchased 28,740 megalitres of overland flow water licences in the Condamine-Balonne valley for \$78,891,300.

This purchase does not meet the government's policies of:

- reducing water for irrigation – the overland flows purchased can legally be extracted by neighbouring properties;
- accountability and transparency – this purchase has been mired in scandal, particularly around price negotiations and the fact that the vendor company is domiciled in the Cayman Islands and was founded by Energy Minister Angus Taylor; or
- ethical procurement - one of the licence volumes was determined by an agent of the vendor before it was issued by the Queensland government. That agent has a conflict of interest and the estimation was not made independently.

This purchase also does not represent value for money, with per megalitre prices being negotiated upwards through the sale, without securing guaranteed access to required infrastructure.

These points are covered in detail in our March 2018 report *That's not how you haggle...* and May 2019 report *#Watermates*.<sup>37,38</sup>

The documents related to this sale that were tabled in the Senate had all of the valuation information redacted. Senators have repeatedly asked for those redactions to be removed through the Rural and Regional Affairs and Transport Legislation Committee in several Senate Estimates. In response, Senators Ruston and Canavan have maintained the redactions are necessary to preserve the Government's negotiating position in future water purchases. However, the price paid per megalitre and in total is known, so the argument to redact the valuation advice is implausible.

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<sup>37</sup> Slattery and Campbell (2018) *That's not how you haggle*,

<https://www.tai.org.au/sites/default/files/P502%20That%27s%20not%20how%20you%20haggle.pdf>

<sup>38</sup> Slattery and Campbell (2019) *#Watermates*,

[https://www.tai.org.au/sites/default/files/P740%20%23%20WaterMates%20-%20\[WEB\]\\_0.pdf](https://www.tai.org.au/sites/default/files/P740%20%23%20WaterMates%20-%20[WEB]_0.pdf)

# Lower Darling/Barka purchase

In June 2017 DAWR purchased 21,901 megalitres of water licences in the Lower Darling / Barka in exchange for \$78m and the CEWH's 2017/18 water allocation. This comprised of:

- 2,540 megalitres of High Security (\$8,262,620)
- 19,361 megalitres of General Security valley (\$29,738,496);
- The surrender of works approvals relating to Tandou irrigation development and decommissioning of on-farm and off-farm infrastructure (\$39,998,884)

This purchase does not meet the government's policies of:

- Recovering water for the environment – in fact this purchase appears to be part of a strategy to reduce the need to have any water in the Darling/Barka downstream of Bourke; or
- ethical procurement -we are aware of several water holders in the Lower Darling/Barka that have offered their water licences to DAWR prior to when Webster Ltd started negotiations with DAWR on their sale. It is our understanding that no other water holder in the Lower Darling/Barka have been successful in selling their water, let alone compensation. In fact, we are not aware of any one else in the Murry-Darling Basin that has received compensation for the sale of their water, contradicting DAWR's responsibility for ethical procurement, to treat all potential suppliers equitably.

This purchase also does not represent value for money, with prices based on higher Murrumbidgee prices and the unprecedented compensation.

This is described in our September 2018 report *Trickle Out Effect* and October 2018 report, *I'll have what they're having*.<sup>39,40</sup>

After publishing these reports, The Australia Institute had correspondence with Webster Ltd. Webster Ltd identified an error in *I'll have what they're having*. This was our claim that there was “no requirement for Webster to actually decommission any

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<sup>39</sup> Slattery and Campbell (2018) *Trickle Out Effect*,

<https://www.tai.org.au/sites/default/files/P584%20Trickle%20Out%20Effect.pdf>

<sup>40</sup> Slattery and Campbell (2018) *I'll have what they're having*,

<https://www.tai.org.au/sites/default/files/P584a%20III%20have%20what%20theyre%20having%20%5BWEB%5D.pdf>

irrigation infrastructure in the contract.” On review of the available documents we saw that a final \$8m payment was “On condition surrender of works & decommission of infrastructure”, with payment due by 1 May 2018.

It is unclear if, or when, Webster Ltd complied with these conditions. Local contacts suggest that activity that appeared consistent with decommissioning took place only after our report was published. We were advised that a WaterNSW officer contacted a local and asked him to advise if the decommissioning had taken place after the matter was raised in the Rural and Regional Affairs and Transport Legislation Committee in Senate Estimates.

We would be happy to discuss this further with the ANAO team.

# Conclusion

The so-called strategic purchases of water in 2017 represent some of the lowest points of water management in the Murray Darling Basin. Huge benefits have flowed to powerful, well-connected parties, while taxpayers, communities and the health of our rivers have been sacrificed. We urge the ANAO to dedicate considerable resources and time to this important investigation and we would be happy to provide further assistance.