Speech by

Andrew Cripps

MEMBER FOR HINCHINBROOK

Hansard Tuesday, 11 November 2008

WATER (COMMONWEALTH POWERS) BILL

Mr CRIPPS (Hinchinbrook—LNP) (2.40 pm): Mr Deputy Speaker, with your indulgence, before I commence my contribution I would like to pay my respects on this most important day, Remembrance Day, to all Australians throughout the history of our nation who have fought and died for our country in wars and conflicts across the globe. Their willingness to make such a significant sacrifice, in many cases the ultimate sacrifice, is one of the most admirable characteristics of the Australian people. I am proud that my grandfather, Sergeant John Cairns of the 31st/51st Battalion, who served in Papua New Guinea and Bougainville in World War II, is amongst those who have loyally served their country.

I pay my respects also to the families of the fine Australians who made those sacrifices. They have carried the burden of the loss of a loved one or supported a loved one who served with distinction, survived and returned home although understandably affected by their experiences. Those families also deserve our respect and appreciation for how those theatres of war have affected them. Lastly, I acknowledge the ongoing contributions and diligence of the Returned and Services League and Legacy in terms of the care and attention they pay to the welfare and circumstances of our veterans and their families. Lest we forget.

I rise to make a contribution to the debate on the Water (Commonwealth Powers) Bill 2008. The primary objective of this bill is to refer certain matters about water management relating to the Murray-Darling Basin in Queensland to the Commonwealth parliament, to enable the Commonwealth parliament to make laws about those matters. This process is facilitated by section 51 of the Commonwealth Constitution, which enables state parliaments to refer matters to the Commonwealth parliament. A schedule in the Commonwealth Water Amendment Bill 2008 will contain reference to the matters referred to the Commonwealth parliament by the Queensland parliament. This enables the enactment and future amendment of provisions set out in that schedule, which deal with certain matters about water management in Queensland that are proposed to be referred to the Commonwealth parliament by this bill. This bill proposes to repeal the Murray-Darling Basin Act 1996.

The bill also proposes a number of amendments not related to the referral of powers to the Commonwealth parliament including amendments to the Water Act 2000, the Land Act 1994 and the Land Title Act 1994. In respect to the amendments to the Land Act 1994 and the Land Title Act 1994, the bill proposes to extend by one year the current stay on the registration of title boundary plans due to lapse on 8 November 2008. The current stay operates only where the proposal is to change the boundary in a title area and only where the public interest is affected. This stay was put in place in November 2005 due to concerns about areas of public beach being taken into private ownership because of ill-defined property boundaries in tidal areas, the potential for restricted public access to those public beach areas and the potential for damage to fragile dune areas to occur as a result. The stay will be extended by one year to allow for the finalisation of this policy to ensure that this does not occur. The LNP opposition offers no objections or concerns in respect to these amendments.

The bill also proposes amendments to the Water Act 2000 that are considered to be necessary for the effective implementation of water resource planning instruments. The bill will amend existing provisions of chapter 2, part 4 of the Water Act relating to the process for preparing a final draft resource operations plan. The intention of the amendment is to allow for a draft resource operations plan to be finalised in

stages or sequences. The amendments would facilitate a process whereby the finalisation of a resource operations plan could be staged by preparing a final draft resource operations plan over part of the area and deferring the finalisation of the remainder of the area until a later date. A notice about the deferral will be published by the Department of Natural Resources and Water. The deferred part of the resource operations plan can then be finalised at a later date as an amendment to the plan.

These amendments are sensible enough and to a degree they have been inspired by some of the difficulties experienced by the Department of Natural Resources and Water with the finalisation of a resource operations plan for the Condamine-Balonne, which has been delayed by legal proceedings initiated by a water user that is not satisfied by the proposed provisions of the plan. There has been widespread and extended consultation with water users in the Condamine-Balonne in respect of this resource operations plan. I understand that most water users in the area are satisfied that they have negotiated and arrived at proposed provisions in that particular resource operations plan that they can live with and are somewhat frustrated that the legal proceedings have been able to hold up the finalisation of this plan. They are seeking certainty after a very long period of negotiation by water users. I hope these amendments will be able to provide some certainty to water users in the Condamine-Balonne.

This bill also amends the Water Act to enable the minister to publish a moratorium notice for a part of the state under section 26 of the act for which there may be a water resource plan or resource operations plan in effect. The LNP opposition offers no objections or concerns in respect to these amendments. The bill also amends the water resource plans for several rivers in the Queensland section of the Murray-Darling Basin to implement the Queensland government's decision to transfer an amount of unallocated water in each plan to the Commonwealth. The Queensland government has announced that it will transfer 8,000 megalitres from the Warrego River, 1,100 megalitres from the Moonie, 1,000 megalitres from the Nebine and 500 megalitres from the border rivers. This proposed amendment will avoid the requirement for each individual water resource plan for those rivers to be amended separately to achieve the Queensland government's policy.

I turn now to the referral of certain matters about water management relating to the Murray-Darling Basin to the Commonwealth parliament. The bill really is a seminal change in the way that Australian governments will manage the Murray-Darling Basin, moving away from a long history of collaborative management in a federal sense between the states and the Commonwealth, most recently through the Murray-Darling Basin Commission, to a more centralised approach driven by Commonwealth legislation.

I would like to commence my discussion of the matters contained in this section of the bill by complimenting the Minister for Natural Resources and Water for the way in which he conducted himself on the *Four Corners* program 'Buying Back the River', televised on the ABC on 20 October 2008. The minister's remarks on that particular program displayed some strong support for water users within the Murray-Darling Basin in Queensland. As the minister himself said on that program, it is unfortunate that ill-informed southern commentators and ill-informed southern academics concentrate on Queensland in respect of the significant difficulties facing the Murray-Darling. The minister rightly pointed out that the allegations that more water will be taken out of the Warrego River are untrue, given that a cap has been set on that river and a moratorium declared over it for several years.

I would like to repeat some of what the minister said on the *Four Corners* program for the benefit of all members and those ill-informed southern commentators and ill-informed southern academics to whom the minister referred and who seem so intent on demonising Queensland in this debate, without justification and without factual evidence. No more water can be taken than that which is currently allocated to entitlement holders on the Warrego River. Even in respect of what are known as sleeper licences, which the minister estimated make up approximately seven per cent of licences on the Warrego, these are included in the cap on water allocations in that river and cannot be correctly argued to represent an increased take of water from the Warrego River if they were revived. If they were included they would be treated differently to sleeper licences for unused allocations in other basin states. As the minister correctly pointed out, why should Queensland irrigators be treated differently?

Therefore, the LNP opposition and, more importantly, waters users in the Murray-Darling Basin in Queensland were pleased and encouraged to see the Minister for Natural Resources and Water sticking up for Queensland in the face of what is a persistent and relentless campaign by others in this debate concerning the problems afflicting the Murray-Darling, including many who should know better, in an attempt to use Queensland as a political scapegoat to camouflage their own significant failings and responsibilities in this respect. I certainly hope that the minister's demonstration of support for Queensland water users in the Murray-Darling Basin will continue going forward.

The Murray-Darling system is one of Australia's largest drainage basins and covers approximately one-seventh of the nation's surface. This is an important point to make. It is a drainage basin and ought not to be considered a system that runs constantly and consistently. The Murray-Darling Basin covers an area of over one million square kilometres from southern inland Queensland into New South Wales and the Australian Capital Territory, South Australia and Victoria. The basin includes Australia's three largest

rivers—the Murray, the Darling and the Murrumbidgee. The system is estimated to have an annual average rainfall of 480 millimetres, which equates roughly to 508,000 gigalitres of water per year. However, the majority of rainfall in the basin evaporates or is transpired by plants. Indeed, potential evaporation is over three times the average annual rainfall in the basin if that volume of water fell on the catchment, such is the geography of the land in those catchment areas through which those rivers flow.

The health of the Menindee Lakes in outback New South Wales is often a focus in the debate surrounding the Murray-Darling. They are also a case in point in terms of the significant part that natural evaporation of water in the Murray-Darling Basin plays in the life of the system. The Menindee system consists of seven natural lakes covering more than 500 square kilometres. Water is trapped in the lakes after making its way many thousands of kilometres down the Barwon-Darling River system.

The catchment area is more than 6.3 million hectares, and when full the lakes are able to hold an incredible two million megalitres of water. Large surface areas and relatively shallow storage depths mean evaporation rates are high, up to 45 per cent. It is estimated that when the Menindee Lakes are at 50 per cent capacity, or holding about one million megalitres, the evaporation in the Menindee Lakes can be as high as 700,000 megalitres a year. So much then for the irresponsible allegations of grand theft of water from the Murray-Darling system by water users in Queensland.

Mother Nature has always dictated and always will dictate much of what occurs in our natural environment. The variability and vagaries of nature have always been the principal obstacle which farmers have had to overcome to produce food and fibre—those staple commodities of our society that we require for our existence.

The latest statistical profile of water use in the Murray-Darling Basin released by the Australian Bureau of Statistics in August this year indicates that in the five-year period ending 2005-06 there were 61,033 farms in the Murray-Darling Basin, accounting for 39 per cent of all farms in Australia. These farms produce a significant proportion of Australia’s food, including 100 per cent of Australia’s rice, 95 per cent of Australia’s oranges, 62 per cent of Australia’s pigs, 54 per cent of Australia’s apples and 48 per cent of Australia’s wheat.

For the same period, of 1.65 million hectares of irrigated crops and pasture in the Murray-Darling Basin, 43 per cent was pasture, 20 per cent was growing cereals other than rice, 15 per cent was growing cotton, six per cent was growing rice, six per cent was growing grapes, five per cent was growing fruits and nuts, and two per cent was growing vegetables.

In 2005-06, the gross value of agricultural production in the Murray-Darling Basin was worth $15 billion, or 39 per cent of the total Australian value of agricultural commodities. Careless changes to a critical input such as water to the operation of this significant agricultural production area would have a major impact on the nation’s economy and would raise strategic food security issues which have become increasingly important in recent times.

In Queensland, the Murray-Darling Basin consists of the catchment of the Condamine-Balonne, the Warrego and the Paroo rivers. Of the basin states party to the memorandum of understanding, to which this bill gives effect, Queensland’s average annual total usage of the Murray-Darling Basin is approximately five per cent in comparison to New South Wales, which uses 54 per cent; Victoria, which uses 34 per cent; and South Australia, which uses six per cent.

Some critical statistics that provide a much more accurate picture of the relative stake that Queensland has in water use in the Murray-Darling Basin is the total annual average usage as a percentage of the run-off that occurs within the catchments in each basin state. In Queensland, the average annual run-off of the catchment areas listed above is approximately 3,104 gigalitres. Average annual water use in Queensland from the Murray-Darling Basin is approximately 584 gigalitres. This equates to about 19 per cent of run-off in Queensland Murray-Darling catchments being consumed by licensed water users in Queensland.

In New South Wales, the average annual run-off in the Murray-Darling catchment areas in that state is approximately 11,295 gigalitres. Average annual water use in New South Wales from the Murray-Darling Basin is approximately 6,265 gigalitres. This equates to about 55 per cent of run-off in New South Wales Murray-Darling catchments being consumed by licensed water users in New South Wales. This represents usage by licensed water users as a percentage of run-off in catchments in New South Wales that is 36 per cent higher than in Queensland.

In Victoria, the average annual run-off in Murray-Darling catchment areas in that state is approximately 9,319 gigalitres. Average annual water use in Victoria from the Murray-Darling Basin is approximately 3,975 gigalitres. This equates to about 42 per cent of run-off in Victorian Murray-Darling catchments being consumed by licensed water users in Victoria. This represents usage by licensed water users as a percentage of run-off in catchments in Victoria that is 23 per cent higher than that in Queensland.

Lastly, in South Australia, the average annual run-off in Murray-Darling catchment areas is approximately 132 gigalitres. Average annual water use in South Australia from the Murray-Darling Basin is approximately 720 gigalitres. This equates to a staggering 545 per cent of run-off in South Australian Murray-Darling catchments being consumed by licensed water users in South Australia. This represents usage by licensed water users as a percentage of run-off in South Australia that is 526 per cent greater than that in Queensland, and that really puts the situation in perspective.

The question is then what does Queensland get for having the smallest total usage of all basin states, apart from the ACT, and the smallest usage as a percentage of run-off in Murray-Darling Basin catchment areas in our own state? For the relatively modest amount of water Queensland draws from the Murray-Darling Basin, southern inland Queensland is a vibrant and productive region, sustaining many vibrant and productive communities. I would like to use one catchment area as an example.

The Condamine-Balonne basin is located primarily in southern inland Queensland. The key industry in this region is dependent upon water as an input into its primary economic activity, which is irrigated agriculture. The Balonne region is located close to the New South Wales border, over 500 kilometres from Brisbane. Two of the main towns in this region are St George and Dirranbandi. The Lower Balonne is that part of the river between the Beardmore Dam at St George and the Queensland-New South Wales border.

Life in the region largely revolves around the river. Highly variable river flows mean the environment and the communities in this area are highly adaptable and responsive to changing conditions. In recent years the Dirranbandi and St George communities have seen a gradual increase in economic development which can be largely attributed to a greater dependency on commodities such as cotton. Agricultural industries are overwhelmingly the most significant employment in the district. The irrigated farming activities in the Lower Balonne account for around 74 per cent of total business activity in the region. The productive capacity, earnings potential and expenditure patterns of irrigated farms are directly related to the water supplies available to them.

Water harvesters currently pay an administration charge for the cost of administering the licence, which is charged on the first 500 megalitres of water harvested. Although irrigators do not pay the government directly for the rest of the water they harvest, it is not true to say that irrigators pay nothing for the water because irrigators have invested their own money in developing on-farm water infrastructure. Private water infrastructure investment in the Lower Balonne is valued at approximately half a billion dollars. As such, irrigators have paid a significant amount for the water that they have drawn from the Murray-Darling Basin.

The Lower Balonne can produce up to 350,000 bales of cotton. Cotton contributes about half of the total agricultural production and almost 60 per cent of production values. Although grain, wool and horticulture make significant contributions to the regional economy, irrigated cotton is the dominant agricultural activity. At the end of 2002, approximately 80 per cent of the cotton in the St George and Dirranbandi districts was grown on farms that had completed a best practice compliance audit. Many irrigation properties along the Lower Balonne have implemented progressive, new technology, on-farm water efficiency programs in an attempt to increase irrigation efficiency.

Amongst these is Cubbie Station. It is a large station worthy of some comment. Cubbie Station has been the subject of ridiculous and unfounded attacks by many of the ill-informed southern commentators and ill-informed southern academics mentioned by the Minister for Natural Resources and Water on the *Four Corners* program that I mentioned earlier. Regrettably, Cubbie Station has also been the subject of some unfounded attacks by the state Labor government in Queensland. These attacks were politically motivated, but that was before the present minister came into this portfolio and I trust that the present minister will be more responsible.

The Cubbie Group has properties located near Dirranbandi and St George. The total holding is about 93,000 hectares. The Cubbie Group has around $475 million in assets invested in these properties, mostly in relation to water storage and management infrastructure. The Cubbie Group directly employs about 50 people in these communities, with a further 120 employed as contractors and/or consultants. The Cubbie Group sets high standards with respect to environmental sustainability in irrigated agriculture.

The Cubbie Group’s diversion is regulated by the Queensland Department of Natural Resources and Water. These licences allow water harvesting into Cubbie’s storage system from the rivers of the Lower Balonne. The water-harvesting activities of the group are regulated under the Water Act 2000. The Cubbie Group’s total capacity is 537,000 megalitres, made up of 462,000 megalitres at Dirranbandi and 75,000 megalitres at St George. The total storage capacity of Cubbie Group properties can only be filled in a major flood event in that river system. The Cubbie Group has been unfairly vilified during the debate on the Murray-Darling system. It is a farming operation that has demonstrated very strong commitment to the local community in which it is located.

From here, I turn to the specifics of the bill in relation to the referral of certain powers by the Queensland government to the Commonwealth concerning the Murray-Darling Basin. I have a number of concerns with this part of the bill which I will now address. This bill is essentially the mechanism for facilitating the provisions of the agreement on Murray-Darling Basin reform in Queensland, and so much of my contribution will concentrate on the provisions of that agreement.

On 26 March 2008 the Commonwealth government, the state governments of Queensland, New South Wales, Victoria and South Australia, and the government of the Australian Capital Territory—known as the basin states—agreed in principle to a memorandum of understanding for the reform of the management of the Murray-Darling Basin. The memorandum sets out the principles for the planning and management of the water and other natural resources in the Murray-Darling Basin.

Under the agreement on Murray-Darling Basin reform signed on 3 July 2008, the Commonwealth and the basin states agreed to pass legislation to provide for a limited text referral of state powers to the Commonwealth to achieve new Murray-Darling Basin governance arrangements. The memorandum outlined how the agreement would enable the development of a basin plan to be facilitated by the amendments to the Commonwealth Water Act to provide for critical human water needs and to extend the role of the Australian Competition and Consumer Commission to the Murray-Darling Basin in relation to the application of the water charge rules and water market rules under the Commonwealth Water Act.

The referral of powers is based on section 51 of the Commonwealth Constitution. The bill operates by reference to the text of schedule 1 of the Commonwealth water bill 2008 so as to enable the enactment and future amendment of provisions set out in that schedule that are to be included in the Commonwealth Water Act. Part 2 of the bill relates to the referral of these matters to the Commonwealth parliament by the Queensland parliament. Part 2 of the bill gives effect to part 3 of the agreement on Murray-Darling Basin reform signed on 3 July 2008 by the Commonwealth and the basin states including Queensland. Section 3.2.2 of the agreement states—

The parties recognise that the Basin Plan provided for in the Water Act, including each of its components, such as sustainable diversion limits, the environmental watering plan and the water quality and salinity management plan, will be a single, consistent and integrated plan for the Basin's water resources.

Section 3.2.3 of the agreement states—

The Basin Plan will contain a range of provisions that will enable it to manage the water resources of the Basin as a whole. These include:

(a) sustainable diversion limits ... ;

(b) the environmental watering plan;

(c) the water quality and salinity management plan; and

(d) provision of conveyance water to enable the provision of critical human water needs.

These sections make the case for referral of these powers from the Queensland parliament to the Commonwealth parliament. It tries to talk up the rationale of the basin plan as outlined in the agreement as being a new and holistic approach to the management of water resources in the Murray-Darling Basin. I have had some trouble justifying in my own mind the need for the constitutional referral of these matters to the Commonwealth parliament by the Queensland parliament. I have asked myself the question at a very basic level: why couldn't the basin states simply strengthen collaborative agreements to do something about the very serious circumstances facing our nation in the Murray-Darling Basin? Or, indeed, if a legislative basis were deemed to be required to implement certain initiatives in the agreement on Murray-Darling Basin reform in the interests of the iconic Murray-Darling, why wouldn't nationally consistent legislation be sufficient to address those matters?

The Commonwealth and the Australian states already implement nationally consistent legislation in relation to a wide range of issues. I concede that I have been in this parliament for only a relatively short time, but even in that relatively short time I have participated in debates during which the Queensland parliament has agreed to nationally consistent legislation in relation to important issues, the Research Involving Human Embryos and Prohibition of Human Cloning Amendment Bill being one and the Transport Legislation Amendment Bill being another. Why is this Murray-Darling Basin issue a special issue? Why does it require a constitutional referral of those powers from the Queensland parliament to the Commonwealth parliament? One part of the agreement which really begs this question in particular is part 7 of the agreement, which deals with critical human water needs. Section 7.1 of the agreement states—

The parties recognise that critical human water needs are the highest priority water use for communities dependent on the water of the Murray-Darling Basin.

The agreement goes on in section 7.4 to state—

The parties agree that the provision of conveyance water to enable provision of critical human needs will be addressed in the Basin Plan together with the arrangements to support jurisdictions to accumulate and store critical human needs, however, responsibility for securing and providing the volume of water required for critical human needs rests with the respective jurisdictions.

So the issue that has been described in the agreement as the highest priority use of water in the Murray-Darling Basin—the critical human water needs of communities dependent on water from the

Murray-Darling Basin—will continue to be the responsibility of the respective state jurisdictions. Basin states will continue to be responsible for securing and providing the volume of water required for critical human needs in these circumstances. I found this section particularly interesting because I would have assumed that, if you are going to go to the effort of referring a constitutional power from a state parliament to a Commonwealth parliament, surely the matter of central importance to the success of the plan, the issue described by the agreement itself as the highest priority issue in the Murray-Darling Basin—in this case, the provision of water for critical human needs—would be part of the requirement that underpinned the referral of power. As it turns out, in respect of this agreement it is not the case. Queensland and, indeed, other basin states will continue to be responsible, subsequent to the enactment of the provisions of this bill, for securing and providing for the critical human water needs of communities dependent on the Murray-Darling Basin system, seemingly in contrast to the new national approach proposed by this bill.

I have searched the agreement on Murray-Darling Basin reform for some other robust foundation on which a referral of power could be justified. The environment is an issue which dominates the debate on the future of the Murray-Darling Basin. The part of the agreement in the Murray-Darling Basin reform that canvasses how the allocated water purchased by the $350 million voluntary buyback will be handled is part 8 of the agreement.

The management of environmental water acquired through the $350 million buyback will see the Commonwealth, under the auspices of an entity known as the Environmental Water Holder, which is established under the Commonwealth Water Act, be the owner of these water allocations purchased from willing sellers in the basin. The Environmental Water Holder will be the owner of these allocations issued by the Department of Natural Resources and Water. Officially, those allocations will remain in the resource allocation plans of the rivers from which they are acquired, and the Environmental Water Holder will then sit alongside other water users as water entitlement holders to the rivers in the Queensland section of the Murray-Darling Basin. However, while the Commonwealth entity will hold the water allocation, the allocation, as it previously existed when it was held by a landowner, will continue. They will continue to exist in the river held by the federal Environmental Water Holder. As such, there is not any radical change in terms of the status of that allocated water. Once again, if there is not any radical change and the allocated water will continue to exist as an entitlement issued by the Department of Natural Resources and Water, why is there a need for the referral of power from the Queensland parliament to the Commonwealth parliament? As I said earlier, I found it difficult to justify this action.

I have some real concerns that this bill is a poor excuse for a referral of power from the Queensland parliament to the Commonwealth parliament and that the objectives of the bill could have been achieved without the referral of constitutional power and a further unnecessary distortion of the balance between the Commonwealth and the states in our Federation.

The second concern I have in relation to this bill is the impact that the proposed $350 million buyback of water allocation from water users in the Murray-Darling Basin in Queensland will have on the economic and social fabric of the communities in southern inland Queensland. As I said earlier when speaking about the communities in the Condamine-Balonne area, in towns like Dirranbandi and St George, the lifeblood of these districts is the rivers that flow through them and the jobs they sustain through the principal economic activity, which is irrigated agriculture. I have studied part 4 of the Agreement on Murray-Darling Basin Reform, which deals with the Commonwealth-state water management partnerships, and I have several questions for the minister in this regard. Firstly, section 4.2 of the agreement states—

> The parties agree that there is an urgent need to undertake water reforms in the Murray-Darling Basin to deliver a sustainable cap on surface and groundwater diversions across the Basin to ensure the future of communities and industry, and enhanced environmental outcomes.

In addition to this, section 4.3 of the agreement states—

> The parties further agree that Basin State Priority Projects must make a substantial contribution to improving water use efficiency and addressing over-allocation in the Murray-Darling Basin.

My question to the Minister for Natural Resources and Water in this regard is: has Queensland already applied the sustainable cap, referred to by the minister in relation to the Warrego River during the *Four Corners* program on 20 October 2008, or can water users in the Queensland section of the Murray-Darling Basin expect further restrictions and regulations under this agreement? Furthermore, section 4.6.1 of the agreement states—

> The Commonwealth is committed to furthering Basin water reform, through the legislative and other actions it has agreed to undertake in the Intergovernmental Agreement. The Commonwealth will develop the Commonwealth-State Water Management Partnerships co-operatively with each Basin State, and will expeditiously meet its obligations under these Partnerships.

I would be grateful if the minister could advise the House whether he is aware or whether the Queensland government is aware of the nature of the further basin water reform referred to in section 4.6.1. What does the Commonwealth's commitment to further basin reform mean for Queensland water users in the Murray-Darling Basin? Immediate commitments to the Murray-Darling Basin in Queensland are a little clearer in terms of the immediate intentions of the Commonwealth to pursue priority projects in each basin state. Section 4.9 of the agreement states—

The objectives of Commonwealth investments in Priority Projects are to:

(a) implement water saving infrastructure projects;
(b) return water to the environment and restore river health; and
(c) adapt to climate change in an environment of reduced water availability.

In addition, section 4.11.1 of the agreement states—

The Commonwealth, based on information provided by the relevant Basin State, has undertaken an initial consideration of each Basin State's Priority Project.

In respect of Queensland, subsection (d) of section 4.11.2, which details the priority projects for each basin state, advises that up to $510 million will be spent in Queensland on irrigation planning and infrastructure investment and for water purchasing from willing sellers. Section 4.11.3 advises that priority projects will be managed by the relevant basin state. We know that $350 million has been earmarked for the buyback of water allocation in the Queensland section of the Murray-Darling Basin. So I am assuming the remaining $160 million in Queensland's bucket, as outlined by the agreement, will be spent on what has been described as irrigation planning and infrastructure investment.

I would certainly like to learn more from the Minister for Natural Resources and Water about how, in the first instance, the $350 million worth of allocation buybacks taken from water allocations in the Queensland section of the Murray-Darling Basin were developed as a priority project. I also ask the minister how the $160 million will be spent on irrigation planning and infrastructure investment in the Queensland section of the Murray-Darling Basin, especially given that the agreement clearly states that the Commonwealth has undertaken an initial consideration of each basin state's priority project based on information provided by individual states. What consultation did the state government undertake to provide that information to the Commonwealth? I ask the minister to advise the House in that regard.

These are important questions to put on the record during this debate because of the amount of taxpayers' money involved in these so-called priority projects. Indeed, even the agreement itself sets out some standards for ensuring that taxpayers are getting value for money for their significant investment in the Murray-Darling Basin.

Section 4.12 of the Agreement on Murray-Darling Basin Reform deals with the matter of due diligence on priority projects. Section 4.12.1 of the agreement states in part—

The parties agree that the in-principle agreement recorded in clause 4.11 means that following in-principle agreement all Priority Projects will be subject to robust due diligence assessment by the Commonwealth.

Section 4.12.2 of the agreement states—

Due diligence will include an examination of information provided by the Basin State in support of their Priority Project. In undertaking the due diligence assessment, the Commonwealth will consider the social, economic, environmental, financial and technical aspects of the Priority Project.

Importantly, the agreement states that the Commonwealth will consider the social and economic aspects of a priority project in addition to the environmental aspect of a priority project. As such, the Commonwealth should have due regard to the impact on the social and economic fabric of communities like Dirranbandi and St George that the $350 million worth of water allocation buybacks will have on those townships in southern inland Queensland.

I would like to ask the Minister for Natural Resources and Water to provide a copy of the advice that the Queensland government provided to the Commonwealth as per section 4.11.1. The LNP opposition and water users in Queensland and Australian taxpayers will certainly be interested to have a look at how the Queensland government resolved the $350 million buyback of water allocations in the Queensland section of the Murray-Darling Basin was to be recommended as a priority project for implementation as part of the Agreement on Murray-Darling Basin Reform. I look forward to that advice being made available by the minister.

I turn now to part 6 of the Agreement on Murray-Darling Basin Reform dealing with the introduction of the Australian Competition and Consumer Commission water market rules and water charge rules into the Queensland section of the Murray-Darling Basin. This is a significant issue. I do not intend to canvass the full details of part 6 of the agreement. However, it is important for honourable members to understand that this matter is yet to be settled, even at the Commonwealth level which is where these rules will be introduced.

The ACCC published its position paper seeking submissions on the development of bulk charge water charge rules on 29 September 2008. The paper represents the ACCC's preliminary position on water charge rules for irrigation infrastructure operators and bulk water operators within the Murray-Darling Basin. Consistent with part 4 of the Water Act 2007, the federal Minister for Climate Change and Water has written to the ACCC requesting advice on the water charge rules.

Water charge rules applied consistently across the Murray-Darling Basin are proposed to facilitate the efficient functioning of water markets by removing distortions to trade and by sending signals to water users about efficient investment in water infrastructure assets. Water charges, based on the full cost

recovery of water services, are intended to contribute to achieving an economically efficient and sustainable use of water resources and water infrastructure assets.

To date, the ACCC's development of advice on water charge rules has progressed through separate consultation processes relating to rules for charges payable to irrigation infrastructure operators and rules relating to bulk water charges. The two consultation processes have been brought together as a result of changes that are to be made to the Water Act following the Agreement on Murray-Darling Basin Reform agreed to by basin states and the Commonwealth on 3 July 2008.

As a result of the proposed changes to the Water Act, the same regulatory options will be available for water charges payable to both bulk water service providers and to irrigation infrastructure operators. The position paper brings together these two processes and is the next step in the consultation process following the issues paper. Importantly, this indicates that the water market rules and water charge rules to be implemented throughout the Murray-Darling Basin, including in Queensland, as a result of the passage of this bill, are yet to be finalised.

To a certain degree, I feel that honourable members may be flying blind in their consideration of this aspect of the bill and the agreement given that the details of the rules are not yet settled. I would expect that Queensland water users are keen to know what effect, if any, the extension of these rules will have on the cost structures of their business. I am anxious to know whether the minister is comfortable in the knowledge that this bill will extend those rules into the Queensland section of the Murray-Darling Basin without these rules having been set down prior to the adoption of this bill.

Out of respect for the work of the committees of the Queensland parliament, I refer to the Scrutiny of Legislation Committee's *Alert Digest No. 11 of 2008* which deals with certain aspects of the Water (Commonwealth Powers) Bill 2008. I will highlight the committee's remarks only in respect of clause 5 of the bill which proposes to allow for the termination on a day fixed by the Governor, by proclamation, of both of the references specified in clause 4.

The Scrutiny of Legislation Committee states that section 51 of the Commonwealth Constitution provides the parliament of the Commonwealth with power to make laws with respect to matters referred to the parliament of the Commonwealth by the parliament of any state or states, but so that the law shall extend only to states by whose parliaments the matter is referred or which afterwards adopt the law. The referral can be made on conditions, including a limitation on the period of the referral. In this respect, the committee noted an aspect of the reference power which is not entirely settled law. The uncertainty relates to whether the state can revoke its referral of power at any time by enactment irrespective of the period of referral, and the effect of the revocation on the Commonwealth enactment made pursuant to the referral.

The Scrutiny of Legislation Committee notes that it is arguable that the states can revoke the referral, given their incapacity to abdicate legislative power. Indeed, it has been argued that the effect of a revocation is not only to terminate the referral of power to the Commonwealth but also to terminate the operation of any Commonwealth law enacted in reliance of that referral. An alternative argument is that state legislation revoking the reference would be rendered ineffective by section 109 of the Commonwealth Constitution for being inconsistent with the Commonwealth legislation enacted pursuant to the original reference. Even where the executive is statutorily authorised to revoke the referral, an executive act is similarly liable to the implications of section 109 of the Commonwealth Constitution. To avoid these difficulties, state referrals of power should usually be for a specified period of time, with the executive empowered to extend the referral by proclamation. I note that the bill does not propose to specify a period of time for this referral to remain in force and draw that to the attention of the Minister for Natural Resources and Water and other honourable members who take an interest in the substance of the legislation that passes through this place.

While I am concerned about those things and will be looking for the minister to provide answers to those things that I have asked during the course of my contribution and give explanations and advice in relation to the questions that I have put to him during this debate, there are a number of matters in the bill which I support, and on that basis the LNP opposition will not be opposing the bill. In the first instance, it is important to note that the $350 million buyback of water allocations in the Queensland section of the Murray-Darling Basin is a voluntary buyback. The LNP opposition could certainly not support a buyback scheme that compelled water licence owners to sell their allocations, and I have no doubt that when the Queensland government—which, I understand, will be managing the voluntary buyback process in conjunction with the Commonwealth pursuant to section 4.11.3 of the Agreement on Murray-Darling Basin Reform—goes out into the Queensland section of the Murray-Darling Basin it will find some willing sellers.

Many Queenslanders have done it tough in Queensland during this long drought. If they have been seriously affected financially by these circumstances, they may be looking for a way to exit the industry with some dignity. The LNP opposition takes property rights very seriously. We have a strong belief in property rights, and the fundamental tenet of that philosophical approach is that there ought not be any impediments between a genuinely willing seller and a buyer who is willing to pay for the transfer of those property rights into their ownership—in this case, water allocations.

Secondly, the balance of the funds allocated to Queensland in addition to the $350 million for the buyback of water allocations in the Queensland section of the Murray-Darling Basin—some $160 million described in section 4.11.2(d) of the Agreement on Murray-Darling Basin Reform—has been earmarked for projects described as irrigation planning and infrastructure investment. This represents a good opportunity for the state government to become a partner in the well-established endeavours of existing waters users in many areas of the Murray-Darling Basin in Queensland to support, as I mentioned earlier, the implementation of progressive, new technology, on-farm water efficiency programs in an attempt to increase irrigation efficiency.

I say to the Minister for Natural Resources and Water that the minister and his department should take the due diligence criteria in section 4.12 of the Agreement on Murray-Darling Basin Reform seriously and really make an effort to speak to stakeholder groups, industry bodies and individual water users in the Queensland section of the Murray-Darling Basin to determine priorities for the investment of these funds. It could prove to be a vital injection of support into these communities and may well maintain jobs and families going forward.

Lastly, there is absolutely no doubt that the great Murray-Darling system does face enormous problems and difficulties for a range of reasons, some of which human beings have contributed to and some of which human beings have had nothing to do with. I have outlined a range of concerns about this bill because it is part of the opposition's responsibility to scrutinise proposed legislation that comes before the parliament of Queensland, and I certainly stand by those concerns. Having said that, while the LNP opposition here in Queensland and the Bligh Labor government, and indeed the federal Rudd Labor government, will disagree on a range of aspects in respect of the details of policy to try to address some of the very significant and concerning issues that face the Murray-Darling, there is a genuine unanimity that there needs to be a coordinated national effort. To that end, the LNP opposition will not oppose the manifestation of that effort as proposed in this bill, which gives effect to the memorandum of understanding signed on 26 March 2008 and subsequently the formal Agreement on Murray-Darling Basin Reform agreed to on 3 July 2008 by the Commonwealth and the basin states.

The future of the Murray-Darling Basin is vital to all Australians but particularly those who earn their living from the production of agricultural commodities on the water drawn from the basin itself. The water provided by the Murray-Darling system is critical to their long-term viability. However, as I outlined earlier, it is also a food bowl for the whole of Australia, and for that reason the eyes of the country are on this reform process with a genuine hope that a balance can be achieved between securing the future of the Murray-Darling and the industries and communities that depend on it. The existing local catchment management groups need to be given recognition and ongoing support for the important role that they play in managing our river systems in a sustainable way.

I suppose in the course of digesting the content of the Agreement on Murray-Darling Basin Reform my concerns have solidified around the intention for the Commonwealth to take control of a system where the on-the-ground, institutional and corporate planning, knowledge and skills and capacity in respect of water distribution and management have traditionally been with the states. I say to the Minister for Natural Resources and Water that it could be a real possibility that, going through a significant shift of skills from state based institutions to the next Murray-Darling Basin Authority, we then find that those skills are really needed back at the regional or even local level. The local knowledge from the catchment groups is absolutely vital in this respect.

I hope that the Commonwealth does not take on a technically based role but rather focuses on putting together an organisation—the Murray-Darling Basin Authority—that has the capacity to set standards for practical work that could be better coordinated on the ground by basin states. As I have previously indicated, the LNP opposition will not be opposing this bill, but I look forward to the minister addressing the matters that I have raised in respect of the provisions of this bill.