

Public submission to water trading rules draft advice by ACF

21 January 2010

This paper summarises ACF views on particular elements of the ACCC draft advice and recommendations on water trading rules published in December 2009 that are important to the environment. We welcome the opportunity to comment and for ease of reference we specifically note the chapter and section information to which these views pertain.

Summary

Section 3.1.4: Rule Advice (3-A)

ACF supports the ACCC advice that water trading rules should prevent restrictions on the ownership of water access rights based on the characteristics of a particular class of entity, including environmental water holders.

Section 3.3.4: Rule Advice (3-C and 3-D)

ACF supports the ACCC advice that approval of an application to trade a water access right should not be conditional on the purchaser holding, obtaining, or terminating a delivery, works or use right, in unbundled systems (3-A) or on the purchaser being an owner or occupier of land (3-D).

Section 3.4.4: Rule Advice (3-E)

ACF supports the ACCC advice that there should be no restrictions on the trade of water rights based on how the water will be used and the purpose for which traded water is used should not be restricted as part of the trade approval process.

Section 3.4.4: Recommendation (3-F)

ACF supports the first part of this recommendation that environmental water holders should be subject to the same rules and privileges as other entitlement holders but we caution against a rigid adherence to the second part of the recommendation, that water entitlements and allocations held by environmental water holders should be treated no differently from those held by any other people.

We agree with the general premise that all entitlement holders should be treated equally but a strict application of this rule could create barriers to creative ways of providing for the environment whilst minimising third party impacts, in particular from using carry-over provisions to optimise ecological outcomes. For example, Drew and Scoccimaro¹ showed that compared to a situation without carry-over, the ability to carry-over water up to a limit of 4.5-times the volume of entitlement held, reduced by 70%, the amount of water needed to meet environmental demands 80% of the time. Preferential carry-over provisions for environmental water need not impact on the security of irrigation water if such arrangements are contingent on it being 'first to spill' and indeed may benefit allocations to all entitlement holders by increasing the volume in storage when carried over and therefore reducing loss by evaporation.

Section 3.5.4: Recommendation (3-H)

ACF supports the ACCC recommendation that new stock and/or domestic rights should not be issued in fully or overallocated systems but must be sourced through the market.

Section 3.6.4: Rule Advice (3-I)

ACF rejects the ACCC advice that trade of water out of the Murray-Darling Basin should not be refused or restricted. Given the extent to which the MDB is overextracted and the level of adjustment required amongst existing users in the Basin we could only countenance support for this position once genuinely, ecologically sustainable diversion limits are established and enforced across the Basin. Until this is achieved there should be no more extractions from a Basin which remains unable to meet the water needs of existing users, particularly the environment.

Section 3.7.4: Recommendation (3-J)

ACF supports strong planning provisions and use approvals to prevent environmental damage resulting from the use and trade of water.

¹ Collins and Scoccimaro (2006). Natural resource buybacks and their use to secure environmental flows. Land and Water Australia, Canberra, August.

Section 3.8.4: Rule Advice (3-K and L)

ACF accepts the ACCC advice that trade of water access rights should not be conditional on a reduction in volume to address overallocation nor that it should be restricted because a water resource is overallocated *provided* the ACCC and other agencies and governments continue to support and action water reallocation to the environment to properly address overallocation and overextraction and that genuinely, ecologically sustainable diversion limits are established and enforced across the Basin.

Section 3.10.4: Rule Advice (3-N)

ACF supports the ACCC advice that there should be no restrictions on trade that specifically address carryover and traded water should not be excluded from accessing carryover.

Section 4.4: Rule Advice (4-A) and Recommendation (4-B)

The 4% cap and any other volumetric restraints to trade should be removed immediately as they are a restraint to trade and slow down rather than accelerate the scale and pace at which water reform is taking place. ACF is disappointed that the ACCC has adopted a half way house approach in terms of the rule advice and we urge the adoption of the recommendation that the limit should be immediately removed by Basin states.

Section 6.1.4: Rule Advice (6-A)

ACF supports the notion that trade between trading zones established in regulated systems should be restricted on the basis of environmental constraints, physical constraints, or hydrologic connections and water supply considerations.

Section 6.4.4 and 6.5.4: Rule Advice (6-P and 6-T)

ACF agrees with the ACCC that trade in groundwater resources or between groundwater and surface water should not be allowed where there is low or no hydraulic connectivity.

The authors

The Australian Conservation Foundation (ACF) is committed to inspiring people to achieve a healthy environment for all Australians. For more than 40 years it has been a strong voice for the environment, promoting solutions through research, consultation, education and partnerships. It works with the community, business and government to protect, restore and sustain our environment.

Australian Conservation Foundation

Floor 1, 60 Leicester Street

CARLTON, Vic 3053

Ph: (03) 9345 1111

Fax: (03) 9345 1166

Email: a.buchan@acfonline.org.au

www.acfonline.org.au

If you have any questions or comments in relation to this submission please contact:
ACF's Healthy Rivers Program Coordinator:

Dr Arlene Buchan: Phone (03) 9345 1124, mobile 0407 883 907