

Gwydir Valley Irrigators Association Inc.

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Public submission to the ACCC's Water Trading Rules Draft Advice by the *Gwydir Valley Irrigators Association*

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Introduction: The Gwydir Valley Irrigators Association (GVIA) represents the interests of irrigation entitlement holders in the Gwydir Valley of North-West, NSW. GVIA is a voluntary organisation with an active financial membership that exceeds 90% of the irrigation entitlement in the Gwydir Valley.

GVIA is a member of both the NSW Irrigators Council and the National Irrigators Council, and while very supportive of these organisations, it does reserve the right to hold and pursue views that may be contrary to these peak organisations.

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General Comments: GVIA remains very concerned that these draft rules will not be evenly applied across all the Basin States, and believes this represents a considerable failure in the water planning process.

GVIA is aware that both the NSW Irrigators Council and the National Irrigators Council will be making significant comment on this issue, and GVIA endorses the arguments put forward by these two organisations.

Storage Rights: GVIA notes the ACCC response (10p) regarding rules for the trade of storage rights, and while it accepts that “storage rights” may not be a right included in the Water Act’s definition of Water Rights, it is disappointed that the ACCC has chosen not to comment further on this area of potential water trade.

This once again highlights the great limitations of the whole ACCC’s role in providing advice under the Water Act. In effect, the ACCC has been limited to providing advice on what the Act currently allows, rather than on providing advice on how to develop and implement the best system.

Extraction Rights: GVIA also believes the ACCC has failed to address the issues surrounding extraction rights, in the context of the scenario raised by GVIA in its submission to the ACCC Water Trading Rules position paper.

The failure of the NSW Government to resolve the issue of extraction limits within the Gwydir Regulated River Water Sharing Source represents a significant restraint on permanent entitlement trade.

Specific Comments on Rules Advice and Recommendations:

Rule advice (3–A)

The Basin Plan water trading rules should provide that there are no specific restrictions on the ownership of water access rights based on the characteristic of a particular class of entity such as non-landholders (unless use has not been unbundled from water access rights), environmental water-holders and urban water authorities.

GVIA concurs with the ACCC, but restates its position that water purchases should be subject to Foreign Investment Review Board, in a manner similar to that which is applied to the purchase of other assets such as land or businesses.

Rule advice (3–C)

The Basin Plan water trading rules should provide that approval of an application to trade a water access right should not be conditional on the purchaser holding, obtaining, trading or terminating:

- a water delivery right, or*
- a works approval, or*
- a water use approval*

where these rights or approvals are governed through separate instruments or processes.

GVIA Concurs with the ACCC.

Rule advice (3-D)

The Basin Plan water trading rules should provide that approval of an application to trade a water access right should not be conditional on the purchaser being the owner or occupier of land where water access rights are unbundled from land.

GVIA concurs with the ACCC.

Rule advice (3-E)

The Basin Plan water trading rules should provide that, in the case of tradeable water access rights:

- there should be no restrictions on trade due to the purpose for which the water has, is currently, or will be used*
- fees or charges should not be charged by an IIO solely for the reason that a water access right has been traded and will be used outside the IIO's irrigation network*
- the purpose for which water arising from a trade is used should not be restricted as part of the trade approval process (water use on land should be separately addressed through use approvals).*

GVIA concurs with the ACCC.

Rule advice (3-I)

The Basin Plan water trading rules should provide that a water access right trade should not be refused on the basis that the water will be used in an area outside the MDB (and the use of water inside the MDB should not be restricted solely because it was taken from a water resource outside the MDB).

GVIA concurs with the ACCC.

Rule advice (3-K)

The Basin Plan water trading rules should provide that water access right trades should not be conditional on a reduction in the trade volume to address overallocation.

GVIA concurs with the ACCC.

Rule advice (3-L)

The Basin Plan water trading rules should provide that trade within an overallocated system should not be restricted solely on the basis that the system is overallocated.

GVIA concurs with the ACCC.

Rule advice (3-N)

The Basin Plan water trading rules should provide that there are no restrictions on trade specific to water carried over, nor should there be any specific exclusion of traded water from having access to carryover (assuming other criteria, such as the possession of a water access entitlement, are met).

GVIA concurs with the ACCC.

Rule advice (4–A)

The Basin Plan water trading rules should provide that:

- *if not already removed, a limit on the volume of trade out of an area (other than a limit for environmental or physical reasons) should only be applied on permanent trades of water access entitlements (of any priority class) out of an irrigation area as defined in the NWI (i.e. the area under control of an individual water service provider (e.g. an irrigation corporation, cooperative or trust, or water authority), rather than a number of particular areas under the control of the one water service provider).*
- *if not already removed, any such limit should be raised according to the following minimum transition path:*
 - *1 July 2011—raised to 6 per cent of the total water entitlement of the applicable irrigation area*
 - *1 July 2012—raised to 9 per cent of the total water entitlement of the applicable irrigation area*
 - *1 July 2013—raised to 12 per cent of the total water entitlement of the applicable irrigation area*

and must be completely removed by 1 July 2014.

GVIA believes Rule advice 4-A is a second best option. While the issue does not directly affect irrigation entitlement holders in the Gwydir Valley, as matter of principle GVIA is opposed to volume restrictions on trade, and is also very concerned that the application of restriction by some jurisdictions accentuates the “uneven playing field” of water trading.

GVIA believes the ACCC should be putting forward a Rule Advice that would lead to the immediate lifting of restrictions.

Rule advice (5–G)

The Basin Plan water trading rules should provide that approval authorities are required to accept duly completed applications to trade a water access right submitted by email to an email address established by the approval authority for this purpose. This requirement would not apply to situations where an approval authority offers a web-based form for applications (although approval authorities may wish to offer both facilities), nor would it apply to applications to register a trade where this is conducted as a separate process. Approval authorities may also continue to accept trade approval applications by post and in person.

GVIA concurs with the ACCC, but adds that while application should be able to be lodged electronically, it is also important that any fee can also be paid through a variety of means. There is no point in having electronic application lodgment, if fees have to be paid by cheque or in person. It is also important to note that authorities should accept payment through a variety of electronic means – While credit card payment may be acceptable to

some consumers, governance arrangements might mean other consumers are limited to direct EFT deposits, or possibly Bill Pay.

Rule advice (5-J)

The Basin Plan water trading rules should provide that a trade approval authority must not approve a trade unless it has first informed all other parties to the trade of any direct interest that it has (and, if so, the nature of that interest) in the trade (other than in its approval role).

An interest would include where a trade approval authority owns or operates a water market intermediary involved in the proposed trade.

GVIA concurs with the ACCC.

Rule advice (5-K)

The Basin Plan water trading rules should provide that trade approval authorities must inform the market of any trade of a water access right to which they have been a buyer, seller, lessee or lessor. This disclosure should be made as soon as possible after the trade has been completed and on the approval authority's website.

GVIA concurs with the ACCC.

Rule advice (6-A)

The Basin Plan water trading rules should provide that trade between regulated system trading zones should only be restricted based on physical constraints, environmental constraints, or hydrologic connections and water supply considerations. While the existence of a Basin state border may necessitate different trading zones, it should not (in isolation) limit trade between these two zones.

GVIA concurs with the ACCC.

Rule advice (6-F)

The Basin Plan water trading rules should provide that exchange rates should not be used to manage the trade of water access entitlements between trading zones in regulated systems. The ACCC recommends a transitional exemption to this rule in cases where an exchange rate is being used to reverse the impact of past exchange rate trades (specifically, from the Murray to the Goulburn system up to the historical volume previously traded out using exchange rates).

GVIA concurs with the ACCC in general terms, but is unable to comment on the validity or otherwise of its suggested exemption.

Rule advice (6-G)

The Basin Plan water trading rules should provide that any current restrictions on the ability to trade water allocation between two zones apply equally to the delivery of water allocations pursuant to a tag between the same two zones, at the time when delivery is requested (i.e. when water is ordered against the tag).

GVIA concurs with the ACCC.

Rule advice (6-P)

The Basin Plan water trading rules should provide that trade of water access rights should be permitted within appropriately set groundwater trading zones, and should not be permitted between groundwater zones that have low, or no, hydraulic connectivity.

GVIA concurs with the ACCC.

Rule advice (6-T)

The Basin Plan water trading rules should provide that trade between surface water and groundwater systems with a low level of connectivity (or that are not connected) is prohibited.

GVIA does not support trade between surface water and groundwater systems at this present time. GVIA notes the ACCC's position, but does not believe that there is sufficient understanding of connectivity issues to support any trade at this present time.

Rule advice (7-A)

The Basin Plan water trading rules should provide that IIOs are required to specify in writing the following for each member or customer who holds a water delivery right against them:

- *the volume or unit share of the member's/customer's access to the irrigation network under the water delivery right*
- *where they have been determined, other characteristics that could restrict trade of that water delivery right to another person (including whether the water delivery right can be transferred to all or only part of the IIO's network).*

This is not a matter directly applicable to GVIA members, so GVIA will refrain from making comment.

Rule advice (7-B)

The Basin Plan water trading rules should provide that IIOs are prevented from requiring a person to obtain, terminate or vary the volume of a water delivery right as a result of, or condition for approval of, a trade of a water access right or an irrigation right.

This is not a matter directly applicable to GVIA members, so GVIA will refrain from making comment.

Rule advice (7–C)

The Basin Plan water trading rules should provide that an IIO cannot unreasonably prevent, deter or delay the trade of water delivery rights (in part or in full) between persons who own or occupy land that is serviced by the IIO's irrigation network. Factors that may inform whether a trade has been unreasonably prevented, deterred or delayed include, but are not limited to:

- *overall capacity in the network*
- *capacity in the parts of the network where the water delivery rights would potentially be traded to*
- *reconfiguration or decommissioning work in the parts of the network where the water delivery rights would potentially be traded to*
- *connectivity of the network (i.e. whether there is one large network or several component networks that are not physically connected)*
- *payment of previous water access fees or security for future water access fees and other relevant charges*
- *the amount of water delivery rights reasonably required to irrigate a person's property for both current and expected future water use*
- *whether the necessary administrative arrangements are in place to assess and give effect to a trade in water delivery rights.*

This is not a matter directly applicable to GVIA members, so GVIA will refrain from making comment.

Rule advice (8–A)

The Basin Plan water trading rules should provide that, for each person who holds an irrigation right against an IIO, the IIO must make a determination of that person's entitlement to water under their irrigation right, expressed as either a volume of water (denominated in megalitres) or a unit share of the IIO's water access entitlement(s), and provide a written notice of this determination to that person.

This is not a matter directly applicable to GVIA members, so GVIA will refrain from making comment.

Rule advice (8–B)

The Basin Plan water trading rules should provide that, to facilitate negotiations in the event of a dispute between the IIO and irrigation right holders, the IIO must provide each irrigation right holder with written details to support the determination of the volume of water or unit share of their entitlement to water under an irrigation right.

This is not a matter directly applicable to GVIA members, so GVIA will refrain from making comment.

Rule advice (8–C)

The Basin Plan water trading rules should provide that both (8–A) and (8–B) should not apply to an IIO that has given a written notice to each person who holds an irrigation right against that IIO, specifying that person's entitlement to water under their irrigation,

expressed as either a volume of water (denominated in megalitres) or a unit share of the IIO's water access entitlement(s).

This is not a matter directly applicable to GVIA members, so GVIA will refrain from making comment.

Rule advice (9-A)

The Basin Plan water trading rules should provide that state government agencies must provide information about the different licensed water access rights (but not water allocations) available under the water management regime in their state.

The information should be provided according to a standard template and available at a central location (such as the NWMS National Portal).

The information to be provided should include (if applicable):

- 1. location (water source name)*
- 2. water source type (regulated, unregulated, groundwater)*
- 3. priority class*
- 4. total entitlement on issue of that kind*
- 5. reliability profile (both long-term and more recent)*
- 6. fees and charges payable by the holder of the entitlement*
- 7. applicable carryover policy, if any*
- 8. dates of allocation announcements, method for announcing allocations and any other applicable regular policy announcements (e.g. link to appropriate allocation determination website)*
- 9. information on how allocation levels are determined (for water access rights in regulated systems)*
- 10. links to applicable trading rules, especially applicable trading zone rules*
- 11. areas where the water access right, and where any water allocation made against that water access right if it is a water access entitlement, can be traded (tagged) to*
- 12. areas from which water can be traded to the water source location.*

For some of these categories of information, it may be sufficient for a link to be provided. The link should be to a readily accessible source of information and not simply to master documents such as water resource plans. The ACCC considers that links may be appropriate for item 6 and onwards.

While GVIA supports the provision of the above information, it is very concerned that jurisdictions will try to recover the cost of providing this information from water users. GVIA would argue that this information is already publicly available, and while there may be some advantage in having it all stored in the one place, irrigators should not have to bear the cost of its provision.

Rule advice (9–B)

The Basin Plan water trading rules should provide that state governments must provide all applicable rules regulating the trade of water access rights to a central information point (which could be provided by the MDBA or the National Water Market System's National Portal).

The rules should be provided in a compiled form but may use cross-references to other documents. Where cross-references are used, the document must explain the context in which the linked document relates to rules contained in the compilation.

Like the previous Rule advice, GVIA is not opposed to the provision of the information, but is against any attempt to recover any costs associated with its provision from water entitlement holders.

Rule advice (9–C)

The Basin Plan water trading rules should provide that IIOs must provide their trading rules for:

- *trade internal to the IIO's irrigation network*
- *trade to and from water market participants external to the IIO's irrigation network*

to:

- *for IIOs with a total water access entitlement of 10 GL or more for irrigation purposes, the same central information point as for government water trading rules in rule advice (9–B)*
- *for all IIOs, on their website and/or upon request.*

The rules should be provided in a compiled form but may use cross-references to other documents. Where cross-references are used, the document must explain the context in which the linked document relates to rules contained in the compilation.

This is not a matter directly applicable to GVIA members, so GVIA will refrain from making comment.

Rule advice (9–D)

The Basin Plan water trading rules should provide that:

- *water access right holders participating in a trade must ensure that the agreed price, for all trades of water access entitlements and water allocations, is accurately reported to approval authorities or registers at the time of seeking trade approval or registration*
- *approval authorities and registers must require pricing information to be provided as a condition of seeking approval and registration.*

GVIA is supportive of this Rule advice, but believes the rules must insist that the pricing information is made publicly available in a timely manner. If the requirement is to provide the information at the time of application, there should be a requirement for the

authority to make the information publicly available at that time. Currently in NSW, the price only appears when the trade is added to the register, and that can be many months after the application is made, making the information almost worthless from a market standpoint.

Rule advice (9–F)

The Basin Plan water trading rules should provide that governments (or their delegates) making:

- *allocation announcements*
- *announcements of market-sensitive policy changes or information, including but not limited to:*
 - *changes to carryover conditions*
 - *changes in the ability to trade between trading zones*
 - *amendments to previous announcements*

should make those announcements to the entire market at the same time by methods such as, for example, email mailing lists, media releases and press advertisements.

GVIA concurs with this advice, and adds that although NSW has made some attempts to introduce such a system its application has been haphazard at best.

Rule advice (9–G)

The Basin Plan water trading rules should provide that parties privy to allocation announcements and announcements of market-sensitive policy changes should be prohibited from trading relevant water access rights until the announcement is made to the entire market.

GVIA concurs with the ACCC.

Recommendations

Recommendation (3–B)

The ACCC recommends that Basin state governments review the existing arrangements for trade or subdivision of co-held water access rights by members of a co-holding that are not related entities.

GVIA concurs with the ACCC.

Recommendation (3–F)

The ACCC recommends that:

- *there should be no exemptions from water trading rules for, or additional restrictions placed on, environmental water holders.*

- *water access entitlements and water allocations held by environmental water holders should be treated no differently to water access entitlements and water allocations held by any other person.*

GVIA concurs with the ACCC.

Recommendation (3–G)

The ACCC recommends that stock and domestic rights (including special purpose water access entitlements and unlicensed statutory stock and domestic rights) could be turned into volumetric water access entitlements that are tradeable where:

- *no new stock and domestic rights (of any kind) will be issued, except where a water source is not fully allocated and it is considered appropriate to allocate additional stock and domestic rights as part of the water resource planning process*
- *adequate safeguards are in place to meet critical human water needs in the event of very low allocation levels.*

GVIA believes the recommendation of the ACCC is far too simplistic. While GVIA has some sympathy with making stock and domestic rights a tradable volumetric entitlement, it is a matter that requires much more consideration and development. For example, in NSW, a landholder may simply opt to sell a stock and domestic entitlement, and meet water requirements by activating a riparian right. This would cause all sorts of equity issues, and most likely lead to a total increase in water consumption.

A solution may be to extinguish any basic/riparian rights, and replace them with volumetric entitlements, but this is just one possibility that requires much greater consideration.

Recommendation (3–H)

The ACCC recommends that in fully or overallocated water sources, new stock and/or domestic rights (water access entitlements, riparian rights or otherwise) should not be issued. Where a water source is fully allocated, water for new stock and/or domestic needs should be sourced through the market.

GVIA would be generally supportive of this recommendation, but believes it should be considered as part of a total review of stock and domestic licensing and basic rights.

Recommendation (3–J)

The ACCC recommends that:

- *water trading should only occur within the environmental bounds set through the water planning process*
- *where environmental impacts result from the use of water on land (e.g. salinity), these impacts should be managed through separate use approvals, not restrictions on trade*

However the ACCC considers that it is unnecessary for the Basin Plan water trading rules to incorporate these positions explicitly.

GVIA concurs with the ACCC.

Recommendation (3–M)

The ACCC recommends against allowing for conversion between priority classes of water access rights. The benefits of allowing conversion may be realised through more efficient water markets and the potential disadvantages may be severe in terms of third party impacts.

GVIA concurs with the ACCC.

Recommendation (3–O)

The ACCC recommends the use of continuous accounting, capacity sharing and spillable water account with no limits on carryover volumes to increase water holder's access to water across seasons. Where these are not feasible, other methods to extend access to carryover water should be pursued.

GVIA concurs with the ACCC.

Recommendation (3–P)

The ACCC recommends that relevant agencies should determine appropriate signals about the likelihood of carryover water being available (and the timing of that availability in the season) and how this should be communicated to water access right holders. This could possibly be linked to the tiered water sharing arrangements in the Basin Plan.

While GVIA is supportive of this recommendation, it is concerned about any system where access to carry-over is not guaranteed. In GVIA's opinion, carry-over water should be the highest priority water after basic human needs.

Recommendation (3–Q)

The ACCC recommends that all jurisdictions should take steps to improve the accuracy and extent of metering in the MDB. Jurisdictions should ensure that all water access right holders have an approved meter installed at all off-take points, except where metering is assessed as not being cost-effective (although such assessments should be regularly reviewed with reference to changes in metering costs and expected benefits).

The ACCC recommends that meters should comply with relevant national standards or frameworks, such as that being developed through the Water Metering Experts Group.

GVIA concurs with the ACCC.

Recommendation (4–B)

The ACCC recommends that, as the rationales for the 4 per cent limit are better addressed through other mechanisms, the 4 per cent limit should be immediately removed by Basin states throughout the MDB.

GVIA concurs with the ACCC.

Recommendation (5–A)

The ACCC recommends that Basin states provide to the MDBA the following information in relation to their approval authorities’ performance against the COAG / NRMMC standards for each month and water year:

- *the number of water allocation and water access entitlement trades processed (both approved and rejected)*
- *the percentage of water allocation and water access entitlement trades processed (both approved and rejected) within the applicable COAG / NRMMC service standards.*

GVIA supports this recommendation provided it is not an extra cost burden for irrigation entitlement holders.

Recommendation (5–B)

The ACCC recommends that approval authorities’ performance against the COAG / NRMMC service standards should be published by the MDBA (or another Australian Government agency nominated by the MDBA, such as the NWMS National Portal).

GVIA supports this recommendation provided it is not an extra cost burden for irrigation entitlement holders.

Recommendation (5–C)

The ACCC recommends that the MDBA should:

- *continuously monitor approval authorities’ performance against the COAG / NRMMC service standards*
- *review the appropriateness and effectiveness of the COAG / NRMMC service standards at least every two years to consider whether the service standards can be further tightened and by how much. This review process should include an opportunity for stakeholder comment on the appropriateness and effectiveness of the service standards.*

GVIA concurs with the ACCC.

Recommendation (5–D)

The ACCC recommends that if approval authorities are consistently not meeting the COAG / NRMMC service standards as they exist from time to time, or the service standards are not regularly reviewed, the MDBA should reconsider the need for a Basin Plan water trading rule mandating service standards for trade approval times.

GVIA concurs with the ACCC.

Recommendation (5–E)

The ACCC recommends that a working group comprising representatives from the Australian Government, Basin states and approval authorities would be an appropriate forum to more formally consider the longer term potential for cross-delegating selected trade approval functions or consolidating particular trade approval functions relevant to

the MDB into one entity. Relevant considerations—for both cross-delegating approval functions and consolidating approval functions into one entity—include:

- *the types of trade approvals most amenable to such measures*
- *likely benefits to water market participants and approval authorities*
- *the initial and ongoing costs*
- *the extent of any legislative changes that would be required*
- *the future role and effect of the National Water Market System.*

GVIA concurs with the ACCC.

Recommendation (5-F)

The ACCC recommends that jurisdictions continue to prioritise work towards the National Water Market System and complementary interstate information-sharing arrangements.

GVIA concurs with the ACCC.

Recommendation (5-H)

The ACCC recommends that approval authorities consider the development of web-based forms for applications to trade water access rights. Approval authorities may also continue to accept trade approval applications by post and in person.

GVIA concurs with the ACCC.

Recommendation (5-I)

The Basin Plan water trading rules cannot directly regulate the conduct of water market intermediaries. The ACCC notes that industry-specific legislation is a matter for governments (federal and Basin state) to consider. The ACCC recommends that fair trading agencies also continue to monitor complaints against water market intermediaries.

GVIA believes that it would be appropriate for the Basin Plan water trading rules to include some regulation of water market intermediaries.

Recommendation (5-L)

The ACCC recommends that approval authorities and Basin state governments develop policies and procedures to identify and appropriately manage potential or perceived conflicts of interest of trade approval authorities.

GVIA supports this recommendation, and wishes to highlight its concern that in NSW the Department of Environment, Climate Change and Water is not only is responsible for

developing and implementing water policy, but is also a significant holder of water entitlements. GVIA acknowledges there is some degree of separation through the creation of the NSW Office of Water, but argues that this separation is not entirely adequate.

Recommendation (6–B)

The ACCC recommends that the MDBA considers requiring water resource plans to:

- *Define trading zones for regulated systems, on which location-specific trading rules are referenced.*
- *Where trade is restricted between two zones, the rationale behind this restriction should be explicitly stated in the water resource plan and based on physical constraints, environmental constraints, or hydrologic connections and water supply considerations.*

Trading zones and water trading rules that refer directly to these zones, should be reassessed and if necessary amended in the event that physical or environmental constraints or water supply considerations change.

GVIA concurs with the ACCC.

Recommendation (6–C)

The ACCC recommends that the MDBA considers requiring water resource plans to incorporate the following principles for trade in regulated systems:

- *trades within a trading zone should generally not be restricted*
- *downstream trades between hydrologically connected systems should generally be possible*
- *where a downstream trade is impeded by a physical constraint to channel capacity (and delivery shares across that constraint have not been created), it should only be approved as back trade*
- *where an upstream trade is made into a separate hydrological system, it should only be approved as back trade*
- *trades should be possible between the upper reaches of regulated river systems that converge downstream, provided that any supply obligations of the original location's river below the point of confluence, which may be affected by the trade, are assumed by the destination location's river upstream trades from a location supplied by more than one source to a location supplied by only one of those sources should be possible, but may be subject to special limits and conditions.*

GVIA concurs with the ACCC.

Recommendation (6–D)

The ACCC recommends that river operators and/or relevant infrastructure operators should regularly provide information to market participants about the likelihood of short-term changes to trading restrictions due to changes in hydrologic connectivity. This information should include relevant values (such as streamflow volumes, trading volumes or storage levels) relative to defined trigger values, estimates of transmission losses, the

use of available delivery capacity and back trade opportunities. However, the ACCC is not recommending this be a requirement under the Basin Plan water trading rules.

GVIA concurs with the ACCC.

Recommendation (6-E)

The ACCC recommends that the MDBA coordinates a study to investigate the current and likely future magnitude and variability of river transmission losses in the MDB and, if these losses are found to be significant, options to account for these losses should be explored.

GVIA concurs with the ACCC.

Recommendation (6-H)

The ACCC recommends that the MDBA—in consultation with Basin states and other relevant stakeholders—revisits the advantages and disadvantages of various administrative options, such as automated allocation trade and improvements to tagging processes, and assess whether they should be reconsidered following the implementation of the National Water Market System.

GVIA concurs with the ACCC.

Recommendation (6-I)

The ACCC recommends that Basin states should examine options for improving the clarity and excludability of water access rights in unregulated systems. This should include an investigation of a range of management strategies, including rostering, restrictions and options to ‘shepherd’ water through zones, while recognising that different management approaches may be better suited to different stream types.

GVIA is generally supportive of this recommendation, but warns that developing an equitable trading system on unregulated streams is extremely difficult. GVIA would suggest that the Basin States look at ways of utilising/amending the NSW supplementary water sharing plan/trading rules as one possible method of facilitating trade in unregulated systems.

Recommendation (6-J)

The ACCC recommends that where the likely benefits outweigh the likely administrative costs, trading zones should be established for unregulated rivers, defining areas within which trade can occur without detailed assessment. Trading rules should be expressed with reference to these trading zones. Trading zones should consider:

- that hydrology should be homogeneous within the zone*
- the location of important environmental assets and major off-takes*
- the existing volume of available water and likelihood of further development*
- transmission losses and local catchment inflow.*

GVIA concurs with the ACCC.

Recommendation (6–K)

The ACCC recommends that the MDBA considers requiring water resource plans to provide for the assessment of individual trades between zones on a case-by-case basis in unregulated systems where trading zones (and related trading rules) have not been established.

GVIA is wary of any case-by-case assessments as this can lead to inconsistent assessment of applications. GVIA would have to much more closely assess guidelines prior to providing full support for this recommendation.

Recommendation (6–L)

The ACCC recommends that the MDBA considers requiring water resource plans to explain the rationale behind transmission loss factors where these are applied to trades in unregulated systems.

GVIA concurs with the ACCC.

Recommendation (6–M)

The MDBA and Basin states should investigate the potential for trade of water access rights along rivers that are intermittently connected. To inform this process:

- *more detailed information should be established and publicly reported about delivery losses*
- *arrangements for better communication between water users about options to minimise delivery losses for such trades should be investigated*

If triggers are used to define hydrologic connectivity, these should be clearly stated, reported against and communicated

While GVIA would support further investigation, it believes this may be an example where the costs involved in investigating and developing an equitable system may outweigh the benefits, primarily because of the complexities involved, and the likelihood of minimal demand.

Recommendation (6–N)

The ACCC recommends that trade of water access rights from an unregulated to a regulated trading zone (or vice versa) should not be allowed until:

- *property rights are clearly defined and unbundled from land within the unregulated catchment*
- *it has been demonstrated that third party interests will be appropriately protected*
- *a range of alternative approaches to managing such trade have been assessed (see recommendation 6–O below).*

GVIA supports this recommendation, and while it cannot completely rule-out a future trading environment crossing these two water source classes, it recognises that there are considerable hurdles that would need to be overcome.

Recommendation (6–O)

The ACCC recommends that further options to manage trade between unregulated and regulated systems should be considered by the MDBA and Basin states. The conditions for such trade may vary between catchments. Options such as tagging extraction conditions from the unregulated system to the regulated system, or crediting inflows from the unregulated system to storage associated with a regulated water access right should be considered. Where the market is thin in the unregulated system, the ability to use exchange rates to manage trade should be investigated to assess what conditions are required to ensure third party impacts are appropriately protected. The appropriateness of different methods to manage trade between unregulated and regulated systems would need to be assessed for individual catchments.

GVIA would support the consideration of options, but highlights the fact that considerable difficulties would have to be overcome prior to the introduction of an equitable system.

Recommendation (6–Q)

The ACCC recommends that the MDBA considers requiring water resource plans to ensure that trade of water access rights is not permitted between highly or moderately connected groundwater trading zones unless the following can be demonstrated:

- *lag times are clearly understood*
- *where the zones have separate SDLs, accounting for trades can occur between the SDLs of the two zones*
- *water access rights in the two zones have substantially similar extraction conditions, or a tagging approach is in place*
- *where unbundling has not occurred, local extraction issues have been considered and extraction capacity is available in the destination zone and third party interests are appropriately protected.*

While the existence of a Basin state border may necessitate different trading zones, it should not (in isolation) limit trade between these two zones.

GVIA concurs with the ACCC.

Recommendation (6–R)

The ACCC recommends that the MDBA considers requiring water resource plans to include definitions of groundwater trading zones and the levels of hydraulic connection within and between those zones.

GVIA is generally supportive of this recommendation, but notes that in many cases the level of knowledge on hydraulic connection is far from perfect.

Recommendation (6-S)

The ACCC recommends that Basin states consider unbundling water access rights from extraction rights (or ‘partial unbundling’) within a trading zone. Impacts on neighbouring bores and surface water users could be assessed as part of the extraction right assessment process, rather than as part of a water access right trade assessment.

While this may be a possibility, GVIA would not be supportive of such a move until all possible implications had been considered and assessed.

Recommendation (6-U)

The ACCC recommends that the MDBA considers requiring water resource plans to only permit trade of water access rights between highly or moderately connected surface water and ground water systems when it can be demonstrated that:

- *lag times are clearly understood*
- *WRPs are integrated and specifically consider the relationship between the two water systems*
- *there is a process to ensure no double accounting of surface and ground water*
- *accounting for trades can occur between the SDLs of the two systems*
- *water access rights in the two systems have substantially similar extraction conditions, or a tagging approach is in place*
- *third party interests are appropriately protected.*

The ACCC notes that meeting the above criteria will be more difficult—and therefore trade less likely to be permitted—in relation to moderately connected surface water and ground water systems.

GVIA notes the range of criteria that the ACCC is suggesting should be met prior to allowing trade between highly connected groundwater and surface water systems. However, GVIA believes this issue has not been fully considered, and the level of knowledge on connectivity is inadequate at this stage to allow such trade to occur.

Recommendation (6-V)

The ACCC recommends that the MDBA considers requiring water resource plans to provide that—where a water resource plan permits trade of farm dam water access rights—applications must be assessed on an individual basis and the following conditions met before such a trade is approved:

- *the farm dam water access right is licensed*
- *the new location is in the same catchment as the original farm dam (to ensure similar characteristics)*
- *the size of the (current or proposed) dams is comparable*
- *the catchment areas (or inflow volume) of the two dam locations are similar in size*
- *third party interests are appropriately protected at the new location, and potentially impacted parties are consulted.*

GVIA would not support the trade of farm dam rights at this stage, as the “Basic Right” provisions in NSW would have to be altered; otherwise “double-dipping” would occur. Even if this issue was overcome, there would be very considerable monitoring and compliance issues.

Recommendation (6–W)

The ACCC recommends that the MDBA considers requiring water resource plans to only enable trade between farm dams and surface water systems if it can be demonstrated that:

- the hydrological connectivity between the two specific locations and water sources is well understood*
- the nominal volume, timing and reliability of supply in the destination mimics that in the origin*
- water access rights in the two systems have substantially similar extraction conditions, or a tagging approach is in place*
- third party interests are appropriately protected at the new location, and potentially impacted parties are consulted*
- an assessment has been made to determine the maximum volume that can move between farm dams and surface water systems while providing appropriate protection for third party interests*
- such trade will not jeopardise the provision of planned (or ‘rules-based’) environmental water.*

For similar reasons as outline in GVIA’s response to 6-W, GVIA does not support this recommendation.

Recommendation (8–D)

IIOs have significant incentives not to restrict the trade of entitlements to water under irrigation rights that do not involve transformation. In addition, there is a strong countervailing threat of IIO customers/members seeking to transform their entitlement to water under an irrigation right and employing the protections offered to them under the water market rules.

In light of these considerations, the ACCC recommends against making Basin Plan water trading rules relating specifically to either the trade of water allocated under an irrigation right, or the trade of entitlements to water under irrigation rights.

This is an issue that does not directly affect irrigators in the Gwydir Valley.

Recommendation (9–E)

The ACCC recommends that the Bureau of Meteorology considers increasing the frequency with which it collects and reports water access entitlement price information.

GVIA is supportive of an efficient and timely system for the prompt disclosure of water access entitlement price information. However, it does not support a system that will increase costs to entitlement holders.

Recommendation (9–H)

The ACCC recommends that water authorities should provide information on how allocation levels are calculated, including:

- *disclosing the framework for making allocation announcements*
- *providing information on the major inputs (such as dam storage levels) for calculating allocation levels whenever an announcement is made.*

GVIA is supportive of a transparent water allocation determination system.

Submission Ends