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About the inquiry

This part contains:

- a glossary of selected terms used in this report
- information about the conduct of this inquiry, including its terms of reference. Chapter 1 sets out the stakeholder engagement and information gathering activities undertaken by the ACCC for the final report.

1. Conduct of the inquiry

On 8 August 2019 the Treasurer directed the Australian Competition and Consumer Commission to conduct an inquiry into markets for tradeable water rights in the Murray–Darling Basin.

The inquiry direction stated that matters to be taken into consideration in the inquiry (the terms of reference) must include:

- a. market trends since 2012, including demand for water, changes in the location where water is used, the quantity of water traded, water availability, changes in water users and their communities, development of new trading products, and the number of participants and sectors participating in the water markets
- b. the role of carryover arrangements, and the trading of water allocations which have been carried over, on water markets
- c. the role and practices of market participants, including water brokers, water exchanges, investment funds and significant traders of water allocations and entitlements
- d. the availability to the public of information on water market activities and tradeable water right holdings
- e. the timeliness, accuracy, and completeness of public information released on water market activities and tradeable water right holdings, including true trade price reporting and the types of trade (for example, immediate purchases, forward contracts, leases)
- f. barriers to entry, expansion and exit, including transaction costs
- g. the management of constraints on the storage or delivery of water, including adjustments made to give effect to trades and intervalley transfers.

The ACCC received information from a variety of sources, including through submissions, public forums, group feedback sessions, data from state and commonwealth government agencies, compulsory information requests, voluntary information requests and meetings with a range of stakeholders.

1.1 Inquiry framework

The ACCC is required to hold an inquiry in public pursuant to s. 95R (1) of the *Competition and Consumer Act 2010* (Cth) (CCA). As the inquiry is a public process, the ACCC published written feedback from stakeholders on its website.

A number of parties made confidentiality claims over the information they provided to the ACCC. Where the ACCC considered that disclosure of information was necessary in the public interest, the ACCC consulted with the relevant parties before disclosing that information.

1.2 Submissions to the issues paper

The ACCC released an issues paper for public consultation on 17 October 2019.

The ACCC received over 130 submissions in response to the issues paper from a range of stakeholders. Submissions were received from irrigators and their representatives, commonwealth, state and local government bodies, brokers and exchanges, investors, indigenous water user representative groups, environmental groups and members of regional communities.

All public submissions are available on the ACCC's website.²²

²² ACCC, *Murray-Darling Basin water markets inquiry*, 2021, <https://www.accc.gov.au/focus-areas/inquiries-ongoing/murray-darling-basin-water-markets-inquiry>.

1.3 Public forums

In November 2019, the ACCC held 10 public forums across the Basin. The forums focused on hearing the views of those engaged in, or affected by, markets for tradeable water rights in the Basin.

Table 1.1: Public forums held across Basin

Location	Date
Mildura, Victoria	7 November 2019
Renmark, South Australia	8 November 2019
Griffith, New South Wales	11 November 2019
Deniliquin, New South Wales	12 November 2019
Kerang, Victoria	12 November 2019
Shepparton, Victoria	13 November 2019
Dubbo, New South Wales	18 November 2019
St George, Queensland	20 November 2019
Narrabri, New South Wales	21 November 2019
Murray Bridge, South Australia	29 November 2019

The forums were attended by ACCC Commissioners and staff. The ACCC heard a range of views from the approximately 800 market participants and interested parties in attendance. The summaries of these forums are available on the ACCC website. The ACCC thanks all attendees for their time and contributions.

The ACCC also held site visits and over 100 meetings during the inquiry, including with irrigators and their representatives, irrigation infrastructure operators (IIOs), government agencies, brokers and intermediaries, and investors.

The ACCC also hosted group feedback sessions in late October 2020 to hear feedback on the interim report. A summary of the issues raised during these sessions was also published on its website.

1.4 Compulsory information requests

The ACCC used its compulsory information gathering powers under part VIIA of the CCA to obtain information and documents. The ACCC issued over 50 notices under s. 95ZK of the CCA to investors, brokers and intermediaries and large water users.

These notices enabled the ACCC to examine a wide range of information and documents that have not been available to past examinations of water markets. This included reviewing internal strategy documents, communications, contracts and data. Notice recipients claimed confidentiality over the majority of material submitted.

The ACCC conducted two private hearings of representatives of a large investor to examine its investment and trading strategy and trading activities.

1.5 Voluntary information requests

The ACCC also issued voluntary information requests to a number of Australian and Basin State government agencies, in order to analyse the substantial volumes of data that exists relating to water markets. This enabled the ACCC to conduct an in-depth examination of trade data to inform the analysis contained in the final report.

The ACCC also issued 11 voluntary information requests and one compulsory notice to IIOs to obtain information and data.

The ACCC acknowledges the cooperation by Australian and Basin State government agencies, IIOs and other market participants in responding to information requests.

1.6 Data collection and analysis

The ACCC obtained most of the data analysed in this report through the compulsory and voluntary information requests described above. The ACCC's analysis of Basin water markets has relied on the accuracy of the information and data supplied.

The ACCC acknowledges that much of this data has been generated from processes and systems that focus on service delivery and physical water management, rather than facilitating markets for tradeable water rights. This creates very different datasets from one entity to the next, even when providing similar types of data.

The ACCC is confident in its analysis and findings despite the limitations in the data. The ACCC's analysis and findings should be interpreted in the context of these limitations. These are discussed in chapters 6, 10, 13 and 15 of this report, and are more generally explored in appendix G.

1.7 Reports

The ACCC engaged researchers at the Centre for Global Food and Resources at the University of Adelaide and the Health Research Institute at the University of Canberra to analyse data collected in surveys undertaken across the Basin between 1998 and 2018. The ACCC incorporated relevant data and analysis from these reports in the ACCC's final report.

The ACCC also engaged Frontier Economics to assist with its market architecture and governance analysis. Frontier Economics worked with the ACCC, the MDBA and the Southern Basin States, and drew on data and information collected and supplied by the ACCC, to undertake independent analysis. The ACCC has drawn on the Frontier Economics report in preparing this report, and credited Frontier Economics where appropriate. The ACCC will publish the Frontier Economics report on the ACCC website along with this report.

1.8 Interim report, submissions and final report

The ACCC released an interim report on 30 July 2020. The closing date for submissions was extended to 30 October 2020.

The ACCC received over 91 submissions in response to the interim report from a similarly diverse range of stakeholders as those that made submissions to the issues paper. The final report builds on our analysis undertaken throughout the inquiry. The final report was provided to the Treasurer on 26 February 2021.