



ACCC inquiry into water markets in the Murray-Darling Basin

Outline of issues

On 8 August 2019, the Treasurer, the Hon Josh Frydenberg MP, directed the Australian Competition and Consumer Commission (**ACCC**) to hold an inquiry into markets for tradeable water rights relating to water in the Murray-Darling Basin (**the Inquiry**). More detail on the Inquiry is available on the ACCC's website, [here](#).

On 17 October 2019, the ACCC released an [Issues Paper](#), which invites submissions from the broad range of people with interests in the use and trade of water in the Murray-Darling Basin. The Issues Paper sets out five key areas of focus for addressing the Inquiry's terms of reference and lists a range of questions to consider. This document summarises the key areas of focus described in the Issues Paper.

The ACCC welcomes your comments, which you can make by email, through the [consultation hub](#) on the ACCC website, via telephone, and at [public forums](#). More detail on public forum times and locations, and how to provide your comments, is at the end of this document.

Issue 1 – Market trends and drivers

Water markets in the Murray-Darling Basin cover a variety of tradeable water rights and water market products, and operate within and across a geographically diverse area. These markets are also continually evolving in response to a number of climate, economic, policy, legal and social factors.

Water supply, or availability, is closely linked to climatic conditions, with rainfall, evaporation and conveyance losses all influencing the volume of water held in storages. Since 2017, hot, dry conditions across much of the Murray-Darling Basin have led to falling water supply in most catchments. Other influences of supply can include infrastructure programs and changes to government policy (including water buybacks).

The levels, timing and location of demand for water can be influenced by climatic conditions as well as by shifting cropping patterns (often associated with changes to commodity prices) and changing market dynamics (such as new market entrants).

Water prices in the Murray-Darling Basin change with shifts in supply, demand and market expectations. Over the last decade, prices have varied significantly in the southern Murray-Darling Basin, where the majority of consumptive surface water use and trading activity occur. Southern Murray-Darling Basin water allocation prices in 2019-20 are the highest they have been since 2008-09, while entitlement prices have also reached record highs.

The ACCC is interested in better understanding the trends in water supply and demand, particularly since 2012, and their potential impact on water prices, trading and other market activity. The Inquiry will also investigate other factors impacting market operation, such as changes to the mix of market participants, changing behaviours and any other relevant trends.

The ACCC welcomes your feedback on any of the following issues (where possible, please include supporting information and specific examples in your responses):

- How water availability and demand are changing over time, the reasons for these changes, and the impact they are having on water markets.
- The factors that have been driving movements in prices for water access entitlements and allocations over time.
- Changes to the number, diversity and behaviour of water market participants over time, and how this is affecting water markets.
- Changes to the number, diversity and amount of trading activity of water market products on offer over time, and how this is affecting water markets.

Issue 2 – Market transparency and information

Current, accurate and readily available water market information supports functioning and competitive water markets by giving market participants the ability to make informed trading decisions.

The ACCC considers that ‘water market information’ extends beyond price data to include a broad range of information and data that can assist market participants in using water markets. This includes information about the characteristics (such as reliability and carryover arrangements) of water access entitlements and other tradeable water rights, market rules and regulations (including those applying within irrigation networks), water availability, river operations, trade constraints and their operation, weather and climate, water use, environmental water ownership and use, and agricultural production and prices.

The ACCC wishes to identify where significant information gaps exist and seeks to understand where participants encounter practical difficulties in using currently available data to participate in water markets with confidence. The ACCC is also interested in identifying any flaws in information reporting processes and rules that are undermining the accuracy or accessibility of water market information.

The ACCC welcomes your feedback on any of the following issues (where possible, please include supporting information and specific examples in your responses):

- Your use of market information, including the types and sources of information you currently access, the information you would like to access, the methods and tools you use to access it (including whether you get information through public sources, such as state water registers, or private sources, such as through water brokers) and the reasons for using your preferred sources.
- Whether and how the availability, accessibility, accuracy, consistency and timeliness of water market information affects your trading decisions or markets more generally.
- Your views on the types of water market information that should and should not be publicly available.
- How much you rely on the information and knowledge possessed by water market intermediaries, such as brokers, exchanges and advisors.
- What avenues you are aware of to increase or improve your knowledge of water markets, and any suggestions on additional information and delivery methods would you like to see become available.

Issue 3 – Regulation and institutional settings

An appropriate level of regulation, effective market settings and clear institutional roles are all essential to instilling confidence in market operation, ensuring equitable access to water markets and managing third party impacts.

The regulation of water markets in the Murray-Darling Basin has changed over time. Key changes include moves to develop interoperability and harmonise regulatory approaches across Basin states, primarily driven by the National Water Initiative, and to expand the role of the Australian Government in the Murray-Darling Basin.

Because responsibilities are split between governments, there are differences between states in the regulatory settings for issues such as carryover provisions, management of physical constraints, and processes and procedures for managing trades and allocating water. In the northern Murray-Darling Basin, different water access rules (including carryover arrangements) reflect different climatic conditions and hydrological characteristics, resulting in more fragmented markets than in the southern Murray-Darling Basin

The Inquiry will examine how the current regulatory and policy settings influence the operation of water markets across the Murray-Darling Basin. In particular, the Inquiry will explore how the roles and operation of regulatory and policy making institutions support or hinder the efficiency of, and access to, water markets. It will also consider whether the current split of roles and responsibilities between governments and agencies is the most effective form of governance for the future operation and development of water markets.

Water resource planning processes, water resource plans and the sustainability of any extraction caps imposed under these are outside the scope of the Inquiry.

The ACCC welcomes your feedback on any of the following issues (where possible, please include supporting information and specific examples in your responses):

- Whether regulation and institutional settings in Murray-Darling Basin water markets are effective and appropriate.
- The impact of regulatory and policy differences between states and trading zones on competition, efficiency and access to water markets.
- The extent to which market settings, such as trading rules and management of constraints, are positively or negatively impacting efficient and equitable water market activity.
- The extent to which regulatory functions, settings and actions are clear and understood.

Issue 4 – Market participant practices and behaviours

The number and diversity of water market participants has increased over time. When water markets were first established, they largely involved irrigators, irrigation corporations, water brokers and water exchanges. Policy reforms to ‘unbundle’ water rights from land holdings have allowed the emergence of investors who trade water rights (sometimes without owning any irrigable land) for profit maximising purposes. Over time, water market participants have expanded to include investment funds, retired irrigators, large water users that do not own much or any water entitlement (and rely on allocation markets to purchase water), indigenous users and communities, urban/town water authorities and environmental water holders.

These different types of water market participants all have different ways of using and trading water, and hence will affect water markets in different ways. The ACCC is looking to better understand the differing practices and behaviours of the various participants in water markets in the Murray-Darling Basin, and the role of brokers and exchanges as providers of

related services. The Inquiry will investigate the impacts, both positive and negative, of having a diverse range of market participants accessing water markets.

The ACCC welcomes your feedback on any of the following issues (where possible, please include supporting information and specific examples in your responses):

- How you use water markets, and your understanding and experience of how other market participants use water markets.
- How the practices and behaviours of different water market participants are positively or negatively impacting water market access, transparency, efficiency, and competition.
- Whether and, if so, how large market participants have influenced water markets (for example, by changing water availability or prices) through their trading strategies.
- How you use different water market products (including carryover, leases, options and forward contracts) and services provided by water market intermediaries.

Issue 5 – Competition and market outcomes

Water markets in the Murray-Darling Basin are intended to drive an adaptive and productive irrigated agriculture sector, while supporting a sustainable level of water diversion. By allowing water to move to its most productive or “highest value” use, water markets are intended to facilitate the efficient allocation of water over time and across hydrologically connected regions. Water market policy seeks to:

- facilitate the efficient trading of shared water resources, including by minimising transaction costs, enabling good information flows and compatible arrangements across jurisdictions and removing barriers to trade
- contribute to the economically efficient allocation and use of water, including through enabling the appropriate mix of water products to develop and enhancing the productivity and growth of water-dependent industries
- appropriately manage the third-party hydrological and environmental impacts of changes in the timing and location of water use that arise from water trading activities
- enable open and non-discriminatory access to water markets
- provide participants with confidence in the market rules, regulations and institutions, and enable them to make informed decisions.

The development of water markets in the Murray-Darling Basin in recent decades has resulted in significant changes, including in the way the irrigated agricultural sector operates and the mix of industries reliant on irrigation. Such a significant shift to the way a sector operates will have a range of both positive and negative impacts, which may not be experienced evenly by all affected industries and individuals.

Water markets may be relatively ‘thin’ in the volume of trade conducted compared to other trading markets, especially in times of low water availability. This may be associated with the natural limit on the volume of the tradeable commodity. The Inquiry will explore whether the design of water markets is working in circumstances where there may not be a large volume of trade occurring, and whether limited volumes of water availability and trading activity increase the ability of some water market participants to influence particular markets.

The ACCC welcomes your feedback on any of the following issues (where possible, please include supporting information and specific examples in your responses):

- The extent to which the objectives of water markets have been achieved and any unintended consequences that may have resulted.
- Whether and how competition and efficiency in water markets have changed over time.
- The extent to which water markets are currently operating efficiently.
- How the outcomes of water markets vary between different industries, locations and individuals.

Potential solutions

The ACCC has been asked to recommend options to enhance markets for tradeable water rights, including options to enhance the markets' operations, transparency, regulation, competitiveness and efficiency.

The ACCC invites your views and ideas regarding potential solutions to any problems you may have raised in your submission. Please briefly summarise the problem, describe your proposed solution and give your reasons for proposing it.

Giving your feedback

You can ask a question about the Inquiry or make a submission in response to this document:

- Either in writing, to waterinquiry@acc.gov.au, on the ACCC [consultation hub](#) or over the phone (contacts provided below). Submissions to the Issues Paper and this summary document are requested by **29 November 2019**.
- At [public forums](#) to be held by the ACCC in a number of locations across the Murray-Darling Basin. The timing and location of these forums is listed below and will also be made available on the ACCC's [website](#).
- Following release of the ACCC's interim report, which must be provided to the Treasurer by 31 May 2020.
- Over the phone, by contacting Peter Scott on 02 9102 4027 (peter.scott@acc.gov.au) or Andrew Tan on 02 6243 3345 (andrew.tan@acc.gov.au).

The Inquiry is a public process and written submissions will generally be made available on the ACCC website, though interested parties that provide written submissions can make claims for confidentiality in certain circumstances. The ACCC invites interested parties, where appropriate, to discuss confidentiality issues further with the ACCC in advance of providing a written submission or other information.

Public Forums

The ACCC is hosting a series of [public forums](#) in November to hear the views of those engaged in, or affected by, water markets in the Murray-Darling Basin.

Locations	Venue	Times / dates	Register
Mildura	Benetook Room, Alfred Deakin Centre, 190 Deakin Avenue, Mildura, VIC	11.30 am, Thursday 7 November	Register here
Renmark	Renmark Club, 160 Murray Avenue, Renmark, SA	10 am, Friday 8 November	Register here
Griffith	Griffith Exies Club, 6/12 Jondaryan Avenue, Griffith, NSW	2 pm, Monday 11 November	Register here
Deniliquin	Mountbatten Room, Return Services League Club, 72 End Street, Deniliquin, NSW	10 am, Tuesday 12 November	Register here
Kerang	Kerang Senior Citizens Community Meeting Room, 169 Boundary Street, Kerang, VIC	6 pm, Tuesday 12 November	Register here
Shepparton	Shepparton Golf Club, 15 Golf Drive, Shepparton, VIC	12 pm, Wednesday 13 November	Register here
Dubbo	Return Services League Club, Cnr Brisbane Street & Wingewarra Street, Dubbo, NSW	10 am, Monday 18 November	Register here
St George	St George Cultural Centre, 112 Victoria Street, St George, QLD	11 am, Wednesday 20 November	Register here
Narrabri	The Crossing Theatre, 117 Tibbereena Street, Narrabri, NSW	11 am, Thursday 21 November	Register here
Murray Bridge	Murray Bridge Golf Club, 40 Ritter Street, Murray Bridge, SA	12 pm, Friday 29 November	Register here