



RENMARK IRRIGATION TRUST

Constituted by a Statute of the Parliament of South Australia 1893

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SUBMISSION: ACCC Murray-Darling Basin water market inquiry – interim report

Thank you for the opportunity to provide a written submission on the ACCC's interim report dated 30 June 2020 for the Murray-Darling Basin (MDB) water market inquiry.

Renmark Irrigation Trust (the Trust) is Australia's oldest irrigation trust and provides water delivery and salinity management services to the first irrigation settlement in Australia. The Trust is a not-for-profit, member based organisation and represents over 600 small to medium scale irrigators that produce a wide range of high value horticultural crops, mainly from permanent plantings. The land under irrigation is near 5000 ha and the estimated farmgate crop value is close to \$100m. Some crops are produced organically. Produce is either marketed direct within Australia and overseas, or sold for value-adding, including to major Riverland based entities. Water security is essential for the wealth and well-being of our community.

The Trust partners with the Commonwealth Environmental Water Holder to deliver Commonwealth environmental water through its infrastructure for the rehabilitation and maintenance of the extensive floodplains adjacent the Renmark area. The Trust and its irrigator members operate within South Australia's conservative water management framework and use highly efficient water delivery methods. This best practice water stewardship has been globally recognised with the Trust receiving certification at the highest level of platinum from the Alliance for Water Stewardship.

Following the National Water Initiative, irrigator members of the Trust voted to retain their water entitlement on the Trust Licence within individual water accounts. Trading of water allocation, both within and off licence, was embraced by the irrigator members to gain economic value for unused water and for additional irrigation water needs. The ability to lease additional water allocation from interstate was essential during the millennium drought when irrigators in South Australia (SA) did not have sufficient water allocations to sustain their permanent plantings.

Following the *Federal Water Act 2007* and related state legislation changes, the *Renmark Irrigation Trust Act 2009* was also changed to comply with the new requirements and the irrigator members were able to buy and sell their water entitlements and allocations, including off and on the water licence.

Given the high value crops produced in the area and the need for high water reliability for permanent crops, the majority of water entitlement sales off licence by our irrigator members have been under the government's buy back and efficiency programs; 23% of the water entitlements held in the area were returned for the environment. Even under these mutually beneficial programs, very few irrigator members opted to sell the majority of their water entitlements which would have resulted in relying on annual leasing of water allocations. This outcome simply reflects the irrigating members' business need for ongoing, high water security for their permanent plantings.

Underpinning the economic, social and environmental sustainability of the Renmark Community

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Major Concerns

Major concerns and views held by the Trust and its members are as follows:

- 1) The tone of the interim report implies, without evidence, that Irrigation Infrastructure Operators (IIOs), such as the Trust, do not operate in the interests of the irrigators yet our Trust is managed by the irrigators for the irrigators. The final ACCC report and recommendations should not put not-for-profit, irrigator member based IIOs into the same intermediary category as water brokers and other entities who operate in the water market solely to profit from that market.
- 2) Trust members voted to enable the Trust to facilitate water transfers between members. This important service has provided cost effective water transfers between our members for many years and has provided an economic return for any water not needed by members. Even though members can now also access the market through external brokers and traders, the internal transfer service has remained a valued and preferred member service, especially for smaller volume trades which are often difficult to access externally. In the context of point 1 above, it is in the interests of the irrigators in IIOs that proven, low cost water transfer services between members within the IIO should be able to continue without further regulatory imposition and costs and extraction of profit by external parties from those transactions.
- 3) To return irrigators confidence in the water market to previous levels, it is important the ACCC inquiry determines if market manipulation has or is occurring, report on their findings and if it has occurred, address how it can be avoided in the future.
- 4) Any recommendations by the ACCC in the final report for increased regulation should be supported by clear evidence of the need for that regulation and demonstrate a significant cost benefit to irrigators. IIOs and its irrigating members should not need to incur the cost of any increased regulation or reporting imposed on the IIO.
- 5) Despite our irrigators producing high value crops using best practice water delivery, the significant rise in the price of water entitlements over the last four years, driven by demand from corporate investors, has people questioning whether or not their productive use of that water can now provide sufficient economic return to justify the investment. The recent drop in the selling price of SA Class 3 entitlements may indicate others have similar concerns. The only other option is for food prices to rise significantly.

Trust comments on specific ACCC issues raised in the interim report are included in Attachment 1.

The Trust considers the water market is aligned to the property market rather than the share market. Water is a physical asset and each “product” has its own characteristics; registers of ownership are maintained in accordance with state laws and regulations. Just as properties can be sold and transferred without listing with a real estate agent, water should also be able to be sold or transferred between parties without needing to pass through brokers or a centralised exchange, provided there is compliance with the laws and regulations relevant to that physical asset. As for properties, the price of water is largely driven by basic supply and demand principles.

It is not surprising that this market inquiry was called for when demand for water was exceeding supply with resultant high allocation prices. Severe and prolonged drought produces a conundrum under the governments’ water policy that treats water as a commodity in order to move water to the highest value production. Evidence indicates that water allocation restrictions are likely to be more frequent in the future with reducing average annual inflows into the MDB due to a changing climate that is hotter and drier in south eastern Australia. Well thought through and conservative

Water Resource Plans, including private carryover arrangements, will assist in managing tensions caused by water scarcity and prepare the relevant community for the inevitable future periods of lower inflows and reduced water allocation. However, any changes of current plans should occur with community consultation and on a valley by valley basis with overview by the MDBA. Additional market regulation will never increase water supply in the MDB.

Any additional market regulation proposed by this inquiry will add cost. IIOs and their irrigating members should not need to incur any such additional cost. A low-cost strategy to improve market information transparency would be to consolidate additional appropriate market information into Waterflow together with any appropriate information extracted from State Registers.

Good water stewardship is the use of water that is socially and culturally equitable, environmentally sustainable and economically beneficial, achieved through a stakeholder-inclusive process that includes both site and catchment based actions.

The Trust seeks that the test of good water stewardship is applied to any changes proposed by this inquiry.

Thank you for the opportunity to provide comment and we are available to discuss any aspect of this submission.

Yours sincerely



R Humphrey Howie
Presiding Member



Rosalie Auricht
General Manager

29 October 2020

Trust View and Observations on specific ACCC Issues

Chapter 4 Buyers and Sellers: Who trades, where and why?

Issue 1 Some irrigators appear to have limited engagement with water markets, particularly leases and newer water products

There are no specific barriers, other than cost, and information on the many products is readily available. Irrigators with permanent crops need high water security. The majority of irrigators in our area have retained a level of SA Class 3 high security entitlement that meets their water needs and thus only use market products when allocations are likely to be insufficient to meet their needs or for other business reasons. They understand that their land and permanent plantings have little value without ongoing water.

Issue 2 Some irrigators appear to have adopted riskier water ownership and trading strategies that rely principally on sourcing water in allocation spot markets to manage their water supply risks

Only a few irrigators in our area rely on the allocation spot market for most of their water needs. Some sold their entitlement toward the end of the millennium drought when the water market was immature, allocations were around \$60 per ML and there was a wide-held belief that allocation prices would stay “affordable”. Another small group emerged through not fully understanding the water situation when purchasing a property, though the incidences of this have reduced in the later years. It is simply the high, up-front costs of long-term leases and the high cost of water entitlements that has deterred them from securing their water. The allocation spot market enables them to buy, and pay, only when the water is needed.

Issue 3 Some irrigators express a lack of confidence in various aspects of water markets and policy

Two likely explanations for the reduction in market confidence since 2015 are:

1. Some irrigators have stated that the market was working fine until the large investors entered it. Large investors have driven up the value of entitlements in the last four years placing them out of the reach of many irrigators irrespective of their crop type. Whilst policy makers and some investors state that irrigators should be happy because it has made them wealthy, there is a feeling that the market price is simply being driven up by the investment return expectations of investment entities that have little interest in how water is used or the impact on the community it was purchased from. Investors are seen to take the wealth out of the community, and high entitlement prices has left some irrigators with no other option than to be long-term renters of water from the investors. Other irrigators owning entitlement question the economics of continuing to produce.
2. Large investors and large water users have access to professional expertise to constantly monitor the market whereas the majority of irrigators are focussed on food and fibre production. There is a belief by those irrigators that the market can be manipulated by large traders through reducing supply and therefore driving up prices. It is important that the ACCC inquiry determines if such manipulation has occurred and publicly report on that finding.

Chapter 5 Investor roles, strategies and conduct

Our observation is that irrigators with permanent crops in the Renmark area are likely to hold more water entitlement than the annual allocation required. In the absence of a fit-for purpose private carryover policy in SA, this provides practical insurance for any low allocation years. The low allocations and high allocation prices experienced during the millennium drought is still very fresh in people's minds. Annual allocation not required is sold, or, if possible and desired, carried forward.

Chapter 6 Water broker roles, practices and conduct

Our experiences with major, for-profit water brokers has been professional; trust accounts and professional indemnity insurance are expected. Any other regulation imposed would need to have a robust cost-benefit analysis undertaken.

It has been observed that some irrigator members had not sought comparative quotes when trading through a water broker. As a result, they did not receive the best deal available in the market at that point of time.

With respect to the questions on management of trades in IIOs such as ours, all requests for trades are processed systematically, irrespective of whether the member has traded as an internal transfer or through a broker.

Chapter 7 Regulatory settings and solutions

Our view is that the physical nature of our national natural asset, the MDB, already provides sufficient complexity in balancing the social, economic and environmental demands placed upon it. There is no obvious practical reason for irrigators why further complexity would be added to the market through derivative based water options and futures; sufficient market options are already available for irrigators to secure their water.

The Trust would support the licensing of for-profit brokers and other intermediaries with an appropriate level of oversight by government. Licensing should not be extended to member based IIOs. ACCC needs to demonstrate what inappropriate behaviour would be rectified by the implementation of any new regulation and undertake a comprehensive cost-benefit analysis; increased costs associated with new regulation would inevitably be passed to the irrigators using the service. The Trust does not support implementation of the financial regulation framework.

Chapter 8 Trade Processes – advising, matching, clearing, settlement, registration and information

Whilst there is usually benefit in increasing standardisation, the complexity of the MDB, reflected by the many water resource plans and associated Water Licences with different characteristics, would question whether the benefit of increased standardisation could be achieved within a reasonable cost. Licencing of Brokers and any other non IIO traders would provide opportunity for standardisation of some processes and appropriate gaining of knowledge related to the MDB system. Major brokers that regularly deal with the Trust and its members have a clear understanding of the various roles, rules, steps and processes to facilitate trades.

There would be a low-cost opportunity to gather and centralise information from State Based Registers on settled and registered trades, if it is deemed necessary. This is not a process that should be paid for by irrigators/IIOs. Members in our IIO have online visibility of all their water holdings and usage. It would not be practical, efficient or effective, to separate the components of IIO irrigators

water holdings and usage into separate “registers”; entitlement, annual allocation, private carryover and usage are all very interrelated.

Chapter 9 Transaction cost of trade

Transaction costs for members can be minimised through IIO bulk trades and bulk transfers on and off other Water Licences. This is particularly advantageous for members who operate other properties in neighbouring Water Licence areas, as frequently occurs in the Riverland, and undertake regular water holding transfers between their properties and hence Water Licences, to ensure their ongoing water compliance.

For-profit brokers and exchanges can add significant additional “transactional” cost for the irrigator through commissions, particularly for low volume transactions.

Chapter 10 Information transparency

There is an abundance of information available, albeit at various sites. Given the MDB is a physical, natural system, the relevant water resource plan needs to be understood for any given water product. Once more, the cost benefit of significantly changing the architecture would need to be assessed. There would be merit in enhancing existing systems such as Waterflow and gathering and centralising information from State Based Registers on settled and registered trades, if it is deemed necessary. IIO’s should not need to incur any additional costs in relation to any increased requirements for information transparency.

Chapter 11 Solutions to improve trade processes, transaction costs and information

Whilst the value of water entitlements in the MDB is high, the open market turnover seems relatively “thin” once transfers relating to same or related owner water account transfers, private carryover parking, forward leasing and environmental water are excluded. Any increased requirements for data, including a single trading platform, needs to have a clear cost benefit analysis undertaken before implementation. Further development of Waterflow, building on the State registers and linking the BOM and state information through one site such as Waterflow, would be beneficial and cost effective. Imposing additional regulations on IIOs only increases costs for irrigators. Even if data system changes required in IIOs are funded by Government, the need to interface with other key operational and compliance business management systems in the IIO and ongoing administration costs would be incurred by the member irrigators. The Trust does not support a single trading platform that includes IIO internal transfers. It also considers off market deals remain a legitimate part of the irrigators world and can assist in succession planning and/or sale of productive properties.

With respect to collection and disclosure of identifying data, the Trust does not consider this adds any value. However, the suggestion may be due to concerns that large water investors could become future water entitlement monopolies, thereby reducing the volume of entitlement flowing into the open market for irrigators to purchase, especially in smaller parcels. Investor monopolies could also manipulate price by withholding supply. (It is important that the ACCC inquiry determines if such manipulation has occurred and publicly report on that finding.) Such concern could readily be addressed by the current state water registers being required to report the top 10 entitlement holders or holders of volumes above a certain level and/or a regulation that limits investor holdings to a set proportion of the market.

Chapter 12 Market architecture and the impacts of trade and Chapter 13 Assessing market architecture elements

The management complexity of the MDB, reflected by the many agreements, water resource plans and associated Water Licences with different characteristics, has evolved over time to balance the social, economic and environmental demands placed upon our national, natural asset, the MDB. Aspects of this will continue to be refined but the overarching rules and compliance with them, appear to be moving in the right direction. Complexity, in itself, is not a reason to implement substantial change; it merely reflects the ever changing, physical nature of our river system. Is the river system there to serve the market and traders or should the market and traders serve the river system and the communities reliant upon that system? Just as in the real estate market, potential water traders need to undertake their research and/or seek advice.

With respect to private carryover:

- Entitlement holders should be encouraged to conserve water for use in drier years when annual allocations are lower than required. This can be achieved by deferring allocations through private carryover arrangements. Some of the risk of drought and water scarcity is thus mitigated which is particularly important for irrigators with permanent, high value crops.
- Entitlement holders who have deferred allocations from a previous year should not lose the right to that deferred water unless there are physical limitations in the river system, as that allocation has already been granted to them.
- In SA, if opening allocations are >50%, the private carryover policy socialises the benefit of any private carryover water held by Class 3 High Security Entitlement holders.
- This economically penalises those who manage their water conservatively and provide for the inevitable low inflow years.
- The Trust considers this is not a fit-for-purpose policy and continues to advocate for improvements within SA's conservative water management policy to ensure water is conserved for future low allocation years and that the economic value of any private carryover water is retained by the person who conserved that allocation.

Chapter 14 Market architecture reform options

The Trust always supports better communication of current processes and policies related to the architecture and management of the MDB, including decisions on allocations. However, any changes to policy should only occur if the need is strongly demonstrated as being in the interests of good water stewardship within the MDB and the proposed change passes a rigorous cost-benefit assessment; changes can easily have unintended negative consequences in complex systems such as the MDB. The impact of any changes on current entitlement holders needs to be considered and changes to water resource and allocation plans require genuine consultation with the relevant river communities.

- The Trust sees no valid reason why the water entitlement and right of private carryover should be separated and accepts that storage is a natural limiter for carryover volumes. Any carryover arrangements should not reduce annual allocations on a given entitlement. There is no demonstrated need to formalise carryover "parking" markets. However, the Trust believes a key objective for private carryover is to provide water in periods of low inflows and low allocation and would consider harmonisation of private carryover policy that

achieves that outcome, provided the change is equitable and the proposed policy is fit for purpose.

- Storage rights are embedded within water entitlement rights. No obvious need for change has been demonstrated. SA's horizontal storage rights would need to be addressed in any proposed changes to the storage market architecture to ensure market equity.
- Conveyance losses and deliverability are also embedded within water entitlement rights. Further evidence of the benefit of a change for traded entitlement or allocation would need to be provided.
- The Trust supports the principle of positive account balances and continuous accounting; however, water account reconciliation should be addressed within each water valley or zone due to different characteristics including the timing of seasonal flows.

Any proposed changes need to address demonstrated market failures, be cost effective and assessed under the principles of good water stewardship for the MDB. Changes should not just be proposed in response to water users concerns that arose during the recent period of water scarcity.

Chapter 15 Governance

The Trust does not believe there is a need to implement any new regulatory body – this would simply add cost and further bureaucracy and is unlikely to reduce overlap and duplication. Streamlining of policies and processes can be achieved by enhancing current systems provided there is political will and the parties work together.

The Trust does not support further regulation of cost-effective water transfer services within not-for-profit, member based IIOs. The Trust works in the interests of our irrigating members and processes all members requests, either direct or through a broker, in a systematic manner. The ACCC has provided no evidence to support their suppositions with respect to IIOs.

Other comments

Figure 13.7 Number of days taken for high security water allocations to reach 50 per cent 2004-05 to 2019-20 – This graph type cannot present the allocation story in a meaningful way. During the millennium drought, allocations on SA high security entitlements never reached 50% in both 2008-09 and 2009-10; that fact cannot be represented on the graph.