



29 November 2019

Australian Competition & Consumer Commission
Water Market Inquiry Team

Dear Sir / Madam,

AWBA RESPONSE TO THE ACCC INQUIRY INTO WATER MARKETS IN THE MURRAY DARLING BASIN - INTERIM REPORT

The following correspondence represents the response of the Australian Water Brokers Association (AWBA) to the ACCC Inquiry into water markets in the Murray Darling Basin Interim Report (Interim Report).

The AWBA's response to the ACCC Inquiry into water markets Murray Darling Basin Issues Paper (Issues Paper) remains relevant to the Interim Report and is included as part of this submission (APPENDIX 1).

FOREWORD

The AWBA Executive, and many members, have invested considerable time and expense over the course of the past year contributing to this Inquiry. This has included the preparation of formal submissions, participation in formal and informal discussions in addition to responding to detailed and often arduous notice papers. The AWBA Executive have fielded countless questions from members as to the apparent inequity in the distribution of notice papers to water market intermediaries.

AWBA members were pleased to find many of the suggestions included in the AWBA submission to the inquiry incorporated into the Interim Report. Members are also encouraged to note a number of measures identified as key to improving transparency are already being implemented by state governments, including the collection and reporting of reasons for trade data.

Many AWBA members expressed concern over how the report was written, it appeared to accept allegations as fact without presenting supporting evidence. It has leant the weight of the ACCC to unsubstantiated claims from some market participants and observers. The unfortunate result of this has been the wide reporting of a market rife with unconscionable behavior, this has led to negative mental health impacts for some members – intensified due to COVID-19 restrictions. The AWBA expect that with all the information provided to the ACCC, the final report will provide a balanced and qualified view of the behavior of water market intermediaries, resulting in positive and meaningful change that increases market confidence.

The AWBA is proud of the service our members provide irrigation communities, and we will continue to work with all stakeholders to improve confidence in Australia's world leading water markets.

THE ROLE OF WATER MARKET INTERMEDIARIES

The Interim Report rightly acknowledges the important role that water market intermediaries play in assisting water market participants by providing information, analysis, access to market and liquidity.

CONDUCT OF MARKET PARTICIPANTS

Whilst we challenge many of the blanket assertions from some submissions and commentators that unconscionable behavior is rife and that water market intermediaries regularly engage in manipulative behavior, the AWBA recognises that the current regulatory settings are inadequate and we are supportive of improving the regulatory controls, with the goal of improving market confidence.

The AWBA note that water market intermediaries are currently required to comply with the Competition and Consumer Act 2010, which incorporates the Australian Consumer Law (ACL). ACL is administered and enforced jointly by the ACCC and the State and Territory consumer protection agencies, with the involvement of ASIC on relevant matters.



Australian Water Brokers Association

On multiple occasions throughout the inquiry the AWBA received complaints and information from water market participants regarding alleged misconduct by water broker, [REDACTED], this information was provided to the ACCC.

The AWBA has been disappointed in the responses we received from the ACCC with reference to the information provided and the lack of action. We are calling on government to take urgent action to protect the public from the types of behaviours that have been detailed to the ACCC.

WATER MARKET REGULATION

It is the view of the AWBA that above all else, any regulatory framework must be proportionate in both scope and cost to the size of the market and benefit to market participants.

In its formal submission to the Issues Paper, the AWBA included a recommendation for a licensing and registration scheme, based upon that which exists in the real estate market. Recognising the alternative options presented in the Interim Report, the AWBA restate our support for improved regulatory settings for both intermediaries and water market participants.

Whilst AWBA Members are supportive of improved regulatory settings, there is a reasonable degree of anxiety at the lack of detailed information on potential changes included in the Interim Report. Members have expressed their concerns to the AWBA Executive about their ability to provide feedback to the ACCC on potential options that have not been adequately detailed to them and may have significant impact on their business.

Some AWBA members have expressed their concerns that the extra burden in both cost and administration may result in their exit from the market, potentially resulting in reduced competition and service to some segments of the water market – unregulated and unbundled entitlement were both highlighted.

Many of the elements of any proposed regulatory framework that the AWBA consider important, our organization has been advocating for over many years, including (but not limited to) Statutory Trust Accounts, Professional Indemnity Insurance and a mandatory code of conduct.

Statutory Trust Accounts, financial trust accounts will provide clients better protections, whilst simultaneously providing regulatory oversight. There is broad support for the proceeds of interest-bearing accounts to contribute to a fidelity fund.

The AWBA would also like to see Statutory Water Trust Accounts for client water allocations, this was outlined in our submission to the Issues Paper. It is important to highlight that there is some dissent within the AWBA on the issue of broker water accounts, however on balance the majority of members are in favor of the use of broker water accounts to assist clients navigate IVT movements, acknowledging the challenges involved in these movements.

Professional Indemnity Insurance, mandating minimum professional indemnity insurance coverage will provide some protection for both market participants and intermediaries although the AWBA acknowledges that the issue needs to be addressed that in the event that premiums become exorbitant or that insurance cover is unobtainable.

Mandatory Code of Conduct, incorporating clear guidelines around conflict of interest. The AWBA have stated our position on conflict of interest and re-iterate that it is the AWBA's view that whilst we are supportive of brokers having the ability to invest in water products at their own discretion, it is entirely inappropriate that a broker enter into a transaction with a water market participant directly. It is AWBA policy that the broker must engage another broker (from a separate business) to engage the water market.

Any regulatory framework is only effective if the regulatory body is committed to enforcement, this will be critical in providing confidence to the market that the settings are appropriate. At first glance a licensing and registration scheme administered and enforced at Basin State level seems to be the most sensible approach, with common legislative instruments in connected states.



Australian Water Brokers Association

There were concerns raised around the adoption of the Financial Services regulatory framework, the complexity that this framework may add to water market intermediaries and participants in addition to the cost of compliance (both financial and administrative) was expressed as a concern for many. That said there was some support for this framework, albeit heavily tailored to be fit for the water market.

Overall there was a broad apprehension of the unknown with Financial Services regulation and concerns that small changes to the overarching framework may have significant impacts on what is a comparatively small water market.

WATER MARKET TRANSPARENCY

AWBA Members are very supportive of measures to improve market transparency as outlined in our submission to the Issues Paper. It is encouraging to see the implementation of reasons for trade requirements in New South Wales and Victoria for the 2020/21 water year, whilst the collection of this data is a great start it will only provide greater transparency when the data is made available to market.

In line with this view, the AWBA agree that ALL water market intermediaries, indeed any lodging party, should be required to provide reasons for zero-dollar trades. It is acknowledged that this is already the case for brokers in Victoria, New South Wales and South Australia. The AWBA would like to see this data reported transparently to the market.

Access to trading opportunities across IVT barriers is not currently equitable for all Irrigators in the Murray Darling Basin nor to all Water Brokers. Currently Victorian Irrigators have a distinct advantage due to Broker Portal facilities yet there appears to still be interference on trades lodged when IVT openings occur. It is suggested that a more equitable system needs adopting so that all parties wishing to trade or transfer allocation during IVT openings have a fair and equal opportunity to do so. Whilst the AWBA does not necessarily have an opinion on which method may be best to avoid the current bias we believe that a consistent and fair to all alternative needs to be examined whether that be by a ballot system for all trades lodged on the day of opening or some other alternative methodology that brings greater equity to all.

The AWBA would like to see interjurisdictional co-operation to provide a water market information portal with the ability to report real time approvals across the Southern Connected System of the Murray Darling Basin. This would provide a single point of allocation data for market participants to rely upon.

The AWBA also acknowledges the efforts of Marsden Jacobs & Associates with their website and app [waterflow.io](https://www.waterflow.io) – this has provided a good central source of market listings, along with general water market information to assist participants with their research.

The AWBA re-iterate the recommendation that all IIO's report all internal trades individually (including values and reasons for trade) to the market, for allocation and entitlement transfers. It is also the opinion of the AWBA that there is a clear conflict of interest with IIO's being an approval authority, engaging in the market directly and acting as a water market intermediary.

The AWBA is of the opinion that bona fide water options and futures will develop organically in the marketplace should there be industry demand from the irrigation community and that whatever regulatory framework is eventually recommended it should have sufficient scope to allow the further development of new and innovative water market products (not only options and futures) as the industry matures over time.

The AWBA has some concerns over the establishment of an independent market regulator for the water market(s) whether that be an already established regulator with widened powers or a newly established body. These concerns should not however be misconstrued as the AWBA or its individual members have concern about the market oversight that such regulator would have and the ability to call out undesirable market behaviour. The AWBA feels that would be a desirable outcome. The concerns relate more to the inevitable cost that such a role would bring and the basis for the cost recovery for such a regulator. There is real concern that over regulation will bring undue complexity and unwarranted costs which if recovered against irrigators (and /or their water trades) will drive trading costs and water higher. It may also have a disproportionately negative effect in markets which are developing or have few trades.



Telephone 1300 568 668

Australian Water Brokers Association

CONCLUDING REMARKS

The AWBA and our members, have been at the forefront of driving innovation within the water market and are very proud of the service that we provide to irrigators.

Our organisation has been engaging with government, both State and Commonwealth, for more than ten years and have been calling for improvements in transparency with the way that state water registers collect and report trading information. We are supportive of the ACCC review into the water market and are hopeful that some of the improvements we have suggested may be delivered as a result.

Kind regards

A handwritten signature in blue ink, appearing to be "Ben Williams", with a long horizontal stroke extending to the right.

Ben Williams
President - Australian Water Brokers Association



29 November 2019

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Water Market Inquiry Team

Dear Sir / Madam,

RESPONSE TO ACCC INQUIRY INTO WATER MARKETS IN THE MURRAY-DARLING BASIN

The following correspondence represents the response of the Australian Water Brokers Association (AWBA) to the ACCC inquiry into water markets in the Murray-Darling Basin Issues Paper.

The AWBA has developed a series of policies that are relevant to this review, these are included (APPENDIX 2 to 5) as part of our submission.

WATER MARKET TRENDS

Since the millennium drought, there has been significant structural change within the water market and irrigated agriculture more broadly. The most significant change has been the implementation of the Basin Plan, which has delivered approximately 25% of all entitlement on issue in the Southern Murray Darling Basin (sMDB) to the Commonwealth Environmental Water Holder (CEWH).

There has also been a structural shift in the mix of crops grown in the sMDB, in the last 8 years. Irrigated cotton has made inroads in Southern valleys and has displaced rice in the Southern Riverina as the dominant annual cropⁱ. At the same time there has been massive expansion in perennial crops in the sMDB. Almond production particularly and especially in the Murray system downstream of the Barmah Choke. The Victorian Department of Environment, Land, Water and Planning (DEWLP) reported the increase in almond developments in the region from 4,350ha in 2003 to 24,465ha in 2018, and noted that the area planted to almonds was continuing to expandⁱⁱ.

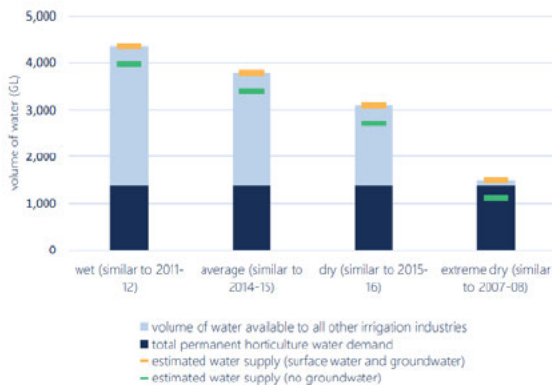
These two factors alone have made a material difference to the elasticity of temporary allocation markets and (to a lesser extent) water entitlement markets – especially in the following trading zones:

- Victorian Murray – Zone 7
- New South Wales Murray – Zone 11
- South Australian Murray – Zone 12

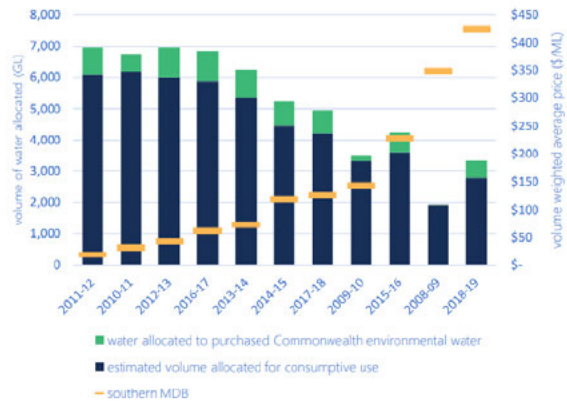
The increased demand below the Barmah Choke from perennial plantings has compressed the demand cycle and placed significant pressure on peak irrigation water deliveries during the summer months. As such the Barmah Choke trade restriction has become an increasingly more prominent influence in allocation pricing, with trade to the high demand areas downstream restricted. This has also impacted on the Goulburn Intervalley Trade limit (IVT) and this year the Murrumbidgee IVT as the MDBA attempt to meet downstream demand via the connected system.

In 2019/20 we are experiencing restricted supply via reduced allocations to entitlement, notably NSW General Security in both the Murray and Murrumbidgee systems, this along with continuing drought conditions has resulted in increased competition for allocation water. Annual crops are unable to compete with permanent plantings in the allocation market during such periods, with many entitlement holders electing to sell allocation rather than grow an annual crop.

Whilst the price of allocation on the temporary market is historically high, the market is responding to the limited supply due to below average rainfall since January 2017 and increased baseline demand from permanent plantings – see charts belowⁱⁱⁱ.



WATER AVAILABILITY SCENARIOS AND BASELINE PERMANENT HORTICULTURE WATER DEMAND (AT FULL MATURITY), SOUTHERN MDB (EXCLUDING MURRUMBIDGEE)



WATER ALLOCATED AND AVERAGE ANNUAL VOLUME-WEIGHTED AVERAGE PRICES, 2008-09 TO 2018-19

In addition to the long-term changes to demand and supply factors, the water market has also innovated new products to assist irrigators manage their water risk over both short- and long-term horizons. Many of these innovations have had their genesis with AWBA members through engagement with irrigators and are now commonplace across the industry. Some of the secondary products are:

- Long-term entitlement lease
- Limited allocation risk entitlement lease
- In-season Forward Allocation (also known as "deferred delivery")
- Intra-season Forward Allocation (can be single year or multiple year)
- Carry Over Parking

On the whole irrigators are becoming more sophisticated in their interaction with the water market, this is a direct result of the education that water brokers, water authorities and government departments are providing to them. There is an enormous volume of information that is disseminated on a weekly basis by water brokers, water registers, water authorities and government departments. Some Irrigators may as a result be "overwhelmed" by the both the volume and increasing complexity of the information which is currently available

Many irrigators are also looking at the sMDB entitlement market in its entirety with a view to balancing the risk within their entitlement portfolios, whether by leasing or purchasing. It is now common for a South Australian irrigator to hold entitlement in Victoria and NSW, and vice versa.

"Irrigators in GMW districts and LMW diverters are relying on the water market and carryover to help meet their water allocation needs." DEWLP Water Market Trends – March 2019



Australian Water Brokers Association

WATER MARKET TRANSPARENCY

The AWBA acknowledges that there is a vast volume of information that is available to market participants, particularly in the sMDB. There is, however, significant room for improvement in the way that some of this information is collected, recorded and reported which would have a beneficial impact on market transparency.

State Water Registers must collect information from market participants relating to the type of transactions lodged. Specifically, allocation trades should be coded to indicate the type of transaction that they relate to, for example: Forward Allocation, Deferred delivery, Carry-Over delivery, Entitlement Lease delivery. Rules for price recording of these deliveries need to be agreed upon. We acknowledge that a zero-dollar trade value is legitimate in some cases. It is for this reason that, zero-dollar trades must also be codified on water registers, the ability for market participants to understand the purpose of a zero-dollar trade will enhance confidence in the market.

Recommendation 1

"The AWBA calls on each of the State Water Registers to adopt and implement a common coding system on all water transactions that allows such data to be segregated into differing transaction types"

The AWBA would like to congratulate DEWLP for their work around increasing transparency, however we acknowledge that some information has the ability to create confusion and reduced transparency – for example the seven day average allocation price listing – which doesn't separate prices the zones of the Murray resulting in tainted data. A more appropriate time frame for an average price would be to have a daily and three day weighted average that also indicates the volume traded. DEWLP also have implemented their Broker Portal for allocation trading which has increased the speed of allocation approvals (instantaneous) whilst reducing the cost to water market participants, however the AWBA would like to see real time price recording on the Victorian water register as trades are approved (currently next day).

Recommendation 2

"The AWBA calls on the Victorian Water Register to adopt and publish a daily and a three-day weighted average price for each separate Trading Zone."

New South Wales trade approvals can vary between same day to two days, South Australia allocation trade approvals are up to 10 business days (in addition to a transfer fee that is five times higher than NSW or VIC). The latency in trade approvals not only has a significant impact on water market information, but also impacts the individual irrigators involved in trades.

The AWBA would welcome a Broker Portal that encompassed South Australia, New South Wales and Victoria, creating the opportunity to have a singular point of registered trade data.

Recommendation 3

"The AWBA calls on the Victorian, South Australian and New South Wales Water Register(s) to adopt a common Broker Portal for processing Temporary Allocation Water Trades".

The AWBA acknowledge that our members have an important role to play with respect to water market transparency, in so far as ensuring that the information presented on member websites and marketing material is accurate, current and maintained in a timely fashion. This could be audited against trades lodged to ensure that there are no misrepresentations to customers in respect of pricing or volume.



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The AWBA would encourage the requirement for Irrigation Infrastructure Operators (IIO's) to also report all internal trade data transparently.

Recommendation 4

"The AWBA calls on the Victorian, South Australian and New South Wales Water Register IIO's to be required to submit daily to the respective Water Registers all internal water trades (temporary and permanent) and for such data to be recorded and published on the respective Water Register websites in a timely manner."

The AWBA does not support the calls for full market transparency as part of the DEWLP Water Market Transparency Options Paper (2019). It is our view that the ability to identify which irrigators have been actively purchasing allocation or entitlement, may expose those irrigators to unintended consequences. These may include increased unsolicited contact from agricultural service providers (chemical/fertiliser businesses, water brokers, insurance companies, financiers etc) or unwarranted negative public reaction.

One of the key objectives of the National Water Initiative (NWI) was to create a water market to "ensure scarce resources are allocated to their most valuable and productive use" This is evidenced in today's water market, however it is also true that any trading market creates winners and losers. Full market transparency under the guise in which it has been proposed in DEWLP's Water Market Transparency Options Paper, has the potential to intensify negative commentary as water moves to higher value use – particularly in dry times, which undermines confidence in the market.

Recommendation 5

"The AWBA calls on the Victorian, South Australian and New South Wales Water Register(s) to adopt a common "non-identity revealing" disclosure of all water transactions due to concerns about probable unintended consequences of "full" identity" disclosure."

The AWBA also note commentary regarding the creation of a central exchange for water. We believe that the current water market has proven to be innovative and that if a central exchange were a genuine market need then it would be met by the private sector. We are unaware of any other market where Government has introduced and or operated a central exchange successfully. We also question whether the market would be accepting of the costs involved in regulating, overseeing and prosecuting breaches of fair trading and market manipulation rules via a central exchange.

It is also noted that water is only one input of many for irrigators (albeit a vital one) , other markets have significantly less transparency than water (e.g. fertilizer, fuel, grain, livestock, milk etc.) and yet are able to operate efficiently without the need for a regulated central exchange.

Recommendation 6

"The AWBA does not support the concept of a "Centralized Exchange" model akin to say the ASX on the grounds that the regulatory and cost burdens of adopting such an exchange with monitored fair market trading principles would be excessive to most market participants, particularly smaller irrigators .and in low volume and infrequently traded markets"



Australian Water Brokers Association

WATER MARKET REGULATION & INSTITUTIONAL SETTINGS

AWBA member brokers (including those who identify as exchanges) voluntarily agree to a Code of Conduct (APPENDIX 1), however we are acutely aware that not all entities who act as water market intermediaries are members of the AWBA. As such the AWBA would welcome Government regulation that applies to any entity that lodge water trades on behalf of clients.

The AWBA suggest that under the current settings, a Licencing and Registration system for water market intermediaries could be administered by the States. In this instance an entity would need to be licenced by the state in which it is lodging a transaction on behalf of a client (whether as a buyer or a seller or both), importantly this would apply for Broker Portal/online trades as well as manually lodged or paper trades.

The Licenced Entity must register the brokers (client facing employees) that are employed or contracted by them, the licenced entity would be responsible for ensuring that brokers registered under their licence adhere to an industry wide Code of Conduct.

The registration of brokers would prevent brokers changing employees (under questionable circumstances) and continuing to deal with water market participants, as the Licensee will be required to self-report serious misconduct and de-register the broker from their licence and provide the relevant licencing authority appropriate reasoning.

This would have the added advantage of requiring the Licensed Entity to maintain a Statutorily recognised audited Trust Account on which any interest earned may go to an Assurance Fund (administered by Government) which would assist in funding water market participants who faced losses for defalcation of Trust Funds and ongoing education in the Industry (similar to other schemes for other professions).

The Licenced Entity would be subject to annual audits, of the same nature of the current DEWLP Broker Portal audits to ensure procedural and financial compliance.

The AWBA note that if Victoria, New South Wales and South Australia agree to participate in a common Broker Portal, then the Licencing and Registration regime could be based with that entity.

The AWBA also note that any cost of regulation will eventually be passed on to water market participants and this needs to be considered when determining the appropriate model.

Recommendation 7

"The AWBA recommends that a Water Market Intermediary Licensing and Registration Scheme be investigated and if found to be desirable, then adopted by the Victorian, South Australian and New South Wales Governments as a common legislative scheme".

The AWBA have concerns around the lack of clarity and transparency in NSW Water announcements over the past 12 months, particularly regarding the lack of clear information presented to the market between April 2019 and June 30 in announcements concerning carry over in the Murray Regulated River System. An announcement from August 2019^{iv} indicated how perilously close irrigators were to losing all their carry over water, despite this not being communicated to the market prior.

Generally, Victorian DEWLP's allocation announcements and outlooks are consistent and transparent. South Australia's have improved immensely over the past 12 months, with an increased focus on forward looking projections.

Recommendation 8

"The AWBA calls on the Victorian, South Australian and New South Wales Governments to adopt "a common style" announcement methodology with sufficient clarity and transparency."



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MARKET PARTICIPANT PRACTICES AND BEHAVIOURS

Since the Millennium Drought, water markets have developed and innovated to meet the needs of participants, it is also noted that water market participants have become more sophisticated in their interaction with the market.

Secondary water market products, which are predominantly offered to the market by investors, have provided non-capital intensive ways to manage irrigator risk over short, medium and longer term horizons. Since 2017 there has been an increase in the uptake of these products, especially:

- Carry-Over Parking
- Forward Allocation (single year and multi-year)
- Long Term Entitlement Lease

In addition to these products, we have also noted increased sophistication in the methodologies employed by irrigators in managing their entitlement portfolios, this may be diversification via ownership or entitlement lease. Many irrigators now hold interstate entitlement as a hedge against allocation announcements or to access more favourable carry-over characteristics.

Many large allocation buyers inhibit transparency by insisting on receiving "off-market" offers which they can negotiate on, rather than interacting directly with live allocation markets. When deals are negotiated in this manner, they have often not been made available to other market participants.

There are several existing water exchanges that offer open transparency to the public, others hold their listings and trade data behind a login wall and consequently are not open to all members of the public. Others operate a bulletin board listing for their water offers that is manually updated. It would be valuable to the broader market for individual companies claims to be able to be fact checked, especially trade prices and volumes to ensure that market misrepresentation is not occurring.

Recommendation 9

"The AWBA calls on greater market transparency from the wider Broker market with industry wide reporting standards being mandated".

There is an enormous amount of water market information disseminated by water brokers every week and providing weekly education opportunities for market participants. Indeed, much of the improved water market literacy of water market participants is thanks to the work of water brokers educating their clients via websites, newsletters, webinars, seminars, meetings and phone calls.

We are aware of increased activity by parties trading allocation within a given year with a view to making a profit, this strategy carries an inherent risk equal to the quantum of the position taken. We note that whilst this is within the rules, it is up to market regulators to determine if this practice is anti-competitive or in excess of the social licence settings. We note however that their participation in the market provides significant capital injection into the agri-business sector.

The AWBA has a code of conduct and conflict of interest policy which covers member behaviour see APPENDIX 1.

The AWBA note that there are some water market intermediaries who take personal positions in the market (on both allocation and entitlement), it is unclear as to whether these positions are explicitly disclosed to potential clients as we believe they should. The AWBA have further enhanced the conflict of interest policy within the code of conduct, see APPENDIX 2.

Recommendation 10

"The AWBA suggest that within any Licensing/ Registration scheme (if adopted) there should be conflict of interest guidelines for all water brokers, not just AWBA members"

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The AWBA note that the environmental water holders are subject to the same market rules as all other market participants. In most cases their actions are clearly communicated to the market prior to interaction. The state based environmental water holders tend to engage with the market via AWBA member water brokers.

We note that in the case of the Commonwealth Environmental Water Holder (CEWH), they choose to act via an open tender process. This process takes more time than direct market interaction and has a greater impact on the market.

Recommendation 11

"The AWBA calls on the respective Victorian, South Australian, New South Wales and Commonwealth Environmental Water Holders Register(s) to adopt a common full disclosure of all water transfers (or sales/purchases) which may affect water market operating conditions including opening of IVT relationships."

We note the importance of carry over arrangements as an important tool for irrigators to manage their water from year to year, but equally important is the impact that carry over arrangements have on secondary market products such as forward allocation. In times of reduced allocations, forward allocation products between years offer irrigators the opportunity to secure water with the benefit of being able to manage cash flows more efficiently.

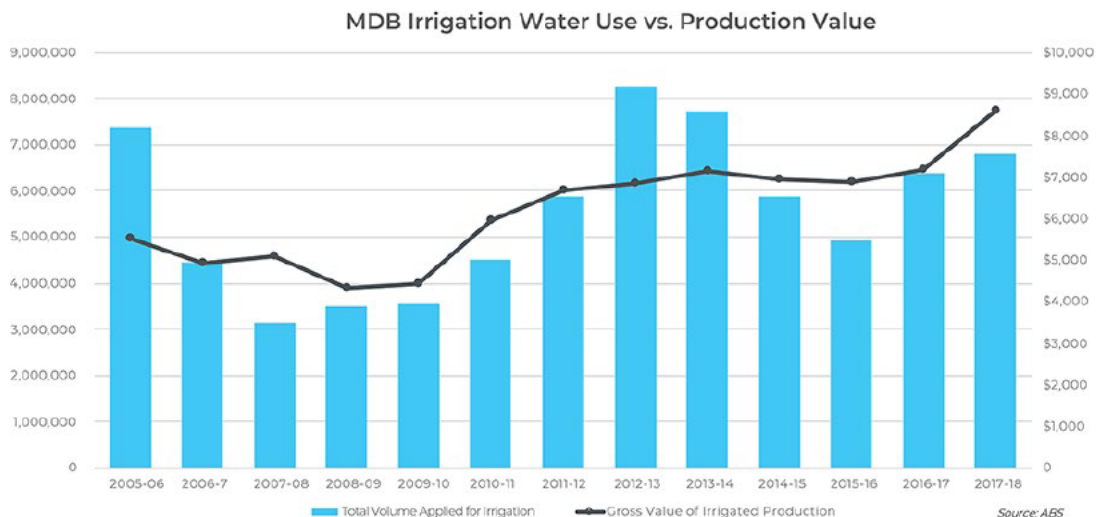
These products are generally offered by investors who may secure the water in the year prior and offer the water in the following year at a fixed price. We have received direct feedback from many investors regarding some of the proposed changes to carry over arrangements. As a direct result of the public discussion regarding Carryover certainty, these clients no longer have the confidence to offer forward allocation into the 2020/21 season. This will have a significant impact on the ability for irrigators (particularly small to medium sized irrigators) to manage their water risk and cash flow through this incredibly tough period.

Recommendation 12

"The AWBA calls on the Victorian, South Australian and New South Wales Water Register(s) to resist changing existing carryover arrangements or publicly releasing information about "possible changes" as this adversely affects water market behaviour and increases uncertainty for irrigators"

COMPETITION AND MARKET OUTCOMES

The re-allocation of water from lower value annual crops to higher value permanent plantings has been particularly evident over the past two seasons. The water market has enabled irrigators to make commercial decisions to trade their water in lieu of growing a crop. The table below⁴ indicates the productive outcome of the existence of water markets, despite water availability being significantly constrained the corresponding reduction in economic output remained comparatively stable.





Australian Water Brokers Association

The AWBA acknowledge the existence of grandfathered tags that exist in the Murray, Murrumbidgee and Goulburn systems of the SMDB create discrimination within the market at times of restrictions between these valleys and that they allow water transfer in conflict with the objectives of the MDBA river operation requirements.

Recommendation 13

"The AWBA calls on the Victorian, South Australian and New South Wales Governments to examine the effect of "Grandfathered Water Use Tags" where they have the effect of contradicting the Basin Plan objectives".

It is the belief of the AWBA that the water market has and continues to operate efficiently, but we would point out that when the Government intervenes in the water market, it is critical that an explanation of planned actions are clearly articulated to the market with clear time frames.

Failure to clearly communicate planned actions results in water market confusion and can disadvantage some market participants through both action or inaction predicated on opaque Government intervention. An example of this is the Water for Fodder program, it has also been applicable to announcements ahead of trade from the CEWH (however this is mainly due to the latency from announcement to action).

Recommendation 14

"The AWBA calls on each of the Victorian, South Australian, New South Wales and Commonwealth Governments and their various instrumentalities to clearly articulate and publish widely to the market any proposed intervention in the water market with clear timelines.

The AWBA are supportive of the changes that have been made in South Australia to account balancing for the 2019/20 irrigation season, ensuring irrigators are balancing their water accounts on a quarterly basis, however, we believe that a consistent approach to metering and compliance in all basin states would improve market equity.

Recommendation 15

"The AWBA congratulate the South Australian Governments move towards a more equitable water meter reading system and that for equity reasons, we call on further improvements to a real time water use accounting system similar to those adopted in Victoria and New South Wales."



Australian Water Brokers Association

BACKGROUND

The Australian Water Brokers Association (AWBA) was established in May 2007 and represents the interests of water brokers and other participants of the water trading industry throughout Australia. The Association's primary role is to set and maintain the highest standards of professional practice, education, ethics and professional conduct for its members and the broader water broking industry.

Members of the AWBA are individuals (in conjunction with the Companies through which they are employed) who have been at the forefront of the emerging water trading market within Australia. From as far back as 1991, many members have been responsible for pioneering water broking services and new products to rural customers Australia wide.

Currently the water broking industry is unregulated with low barriers to entry and as such any firm or individual can offer services to vendors and purchasers without a basic level of experience and knowledge. Sometimes such services provided by such operators are not satisfactory which creates a negative experience to clients participating in the water market.

The AWBA has sought to address this issue by introducing such measures as a Code of Ethics and Standards and Policy Guidelines with ongoing Continuous Professional Development (CPD) requirements for all its members.

CONCLUDING REMARKS

The AWBA and our members, have been at the forefront of driving innovation within the water market and are very proud of the service that we provide to irrigators. Our members are acutely aware of the difficulties that the current drought conditions have placed upon our clients and are very active in assisting them navigate their way through these challenging times.

Our organisation has been engaging with government, both State and Commonwealth, for the past ten years and have been calling for improvements in transparency with the way that state water registers collect and report trading information. We are supportive of the ACCC and Victorian Government reviews into the water market and are hopeful that some of the improvements we have suggested may be delivered as a result.

Kind regards

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Ben Williams
President - Australian Water Brokers Association

ⁱ Aither Water Markets Report – 2018/19 Review and 2019/20 outlook

ⁱⁱ DEWLP – Water Market Trends (March 2019)

ⁱⁱⁱ Aither Water Markets Report – 2018/19 Review and 2019/20 outlook

^{iv} NSW DPI Fact sheet - https://www.industry.nsw.gov.au/__data/assets/pdf_file/0003/272154/imposing-restrictions-on-carryover-water-in-regulated-rivers.pdf

^v Marsden Jacobs & Associates (ABS data source)