

28th October 2020

Director
Australian Competition and Consumer Commission
3 Marcus Clarke Street
Canberra ACT 2601
waterinquiry@acc.gov.au

Inquiry into Water Markets in the Murray-Darling Basin – Submission to the Interim Report

Thank you for the opportunity for the Almond Board of Australia (ABA) to provide a response to the Interim Report of the ACCC's Inquiry into Water Markets in the Murray-Darling Basin.

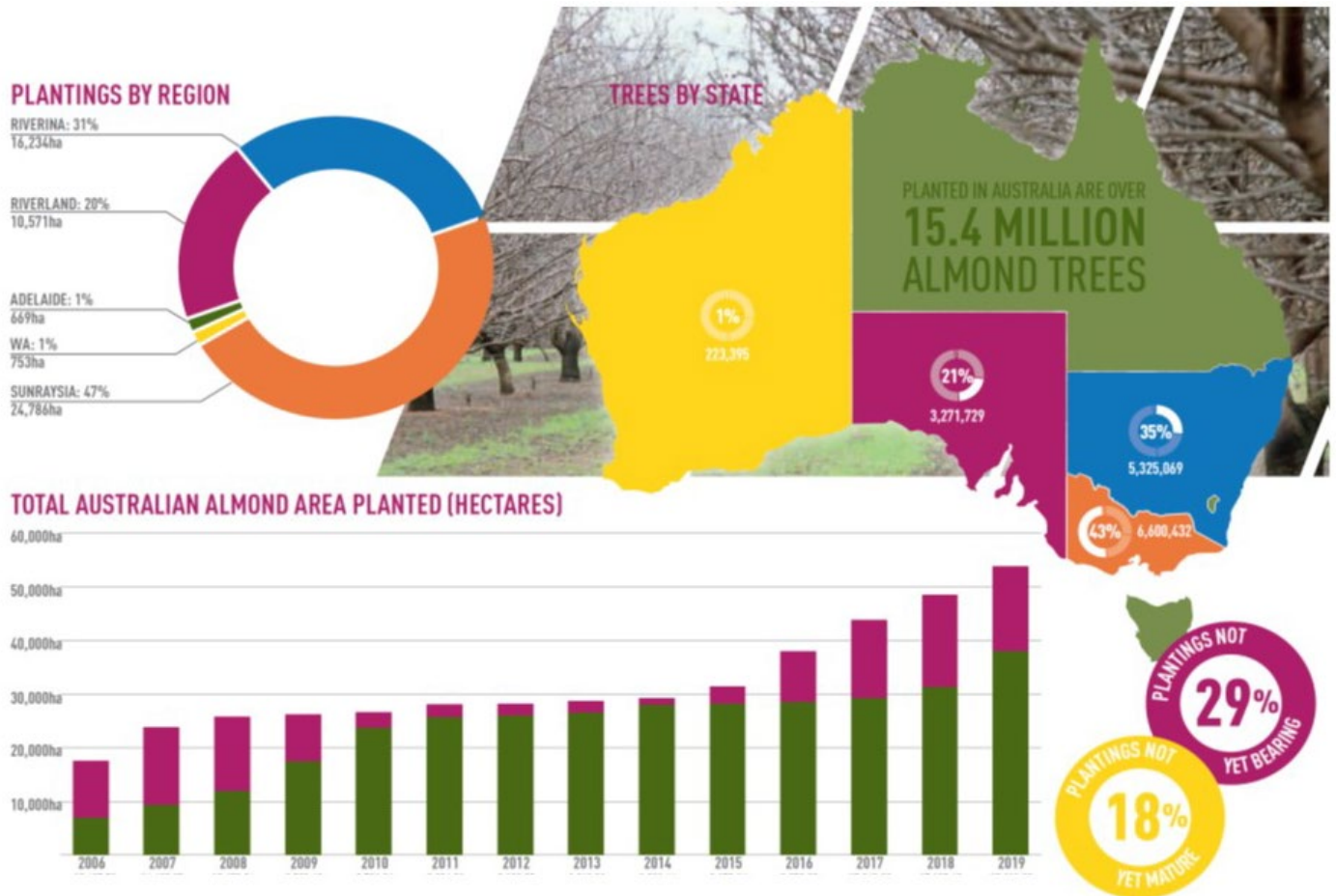
The Almond Board of Australia is an industry development body for the Australian almond industry. With its Board structure, the ABA represents 98% of Australian almonds produced, processed, and marketed and implements the industry's strategic plan on a whole of supply chain basis.

The Almond Board of Australia is the sole representative body for the Australian almond industry. The ABA Board comprises seven Grower Directors representing the five producing regions, four of which are located in the Basin, and four Processor / Marketer Directors. Two of the Marketer Directors represent Olam and Select Harvests which are integrated businesses that together grow, process and market half of the Australian almond crop worth nearly \$1 billion at the farmgate in 2019/20, with export sales of \$772 million. Other Marketer Directors represents Nut Producers Australia and Almondco that process and market the production of most of the industry's independent growers on a co-operative basis.

In 2018, the ABA modified our strategic goal from growing the size of the industry to the development of the industry in recognition of the risk to input surety that the rapid expansion of the industry posed to existing almond producers and other irrigators. Water deliverability during the peak of the irrigation season lay at the heart of this decision.

The global almond industry is a profitable one based on an increasing demand for almonds that has matched the large growth in global supply over the past two decades and delivered strong returns to producers. Almonds are a highly suitable crop for horticultural production in the Basin and plantings in New South Wales, Victoria, and South Australia in 2019 stood at 52,000 hectares.

The following graphic shows the increase in almond area planted since 2006 and the current distribution between production regions.



The ABA’s water policy aims to ensure the Murray Darling Basin river system and its environs are healthy and can sustainably support a prosperous, diverse irrigated agricultural sector and its communities. The outcome of the ACCC Inquiry into Water Markets in the Murray-Darling Basin is key to the optimisation of this goal as the water market lies at the heart of the prosperity of irrigators.

Tradeable water rights not attached to land has allowed the Australian almond industry to double in size since unbundling occurred in 2007. The ACCC interim report acknowledges there have been adverse consequences for some individuals, industries and regions due to water markets, but industry adjustment in horticulture has been occurring for well over a hundred years as circumstances change and crops such as wine grapes, table grapes, citrus and almonds find profitable markets. The ACCC rightly states that managing industry and regional adjustment is a matter for governments. However, governments use of intervalley transfer rules to control outflows does impact the water market.

The Basin is one collective water asset and the ABA agrees with the ACCC’s statement it is necessary to have:

- a governance framework that ensures trading rules and regulations are developed and implemented with a Basin-wide perspective, and in close connection to the river system’s physical characteristics
- clear trading rules that apply consistently across the Basin
- regulation of market participants that promotes open and fair trading, and which is robustly enforced.

The following captures our industry’s views on how the existing deficiencies in the settings and governance of water trading should be addressed:

1. Investment in infrastructure or the utilisation of existing infrastructure such as the Mulwala Canal and Waranga Western Channel (each upgraded as necessary) to enhance the delivery of water, particularly in the peak of the irrigation season, and avoid environmental degradation is required. The ABA has committed to funding a project in the One Basin CRC bid to determine the best on or off river water storage solutions to provide water surety to irrigators below the Barmah Choke

during summer. Such engineering solutions are aimed at addressing constraints to inter valley transfers that are restrictive and inconsistent.

2. Sound, transparent, and consistently applied rules governing intervalley transfers based on substantive data to support the decision making by States are required.
3. Non water user investors provide a valuable service to producers in facilitating leasing arrangements over extended years. However, hoarding strategies of some investors are at odds with a fair market outcome. Although not illegal at this point of time, new regulation and compliance monitoring facilitated by improved transparency needs to be put in place to limit potential for distortions in the market.
4. The actions of some water brokers are the source of great angst with producers. It is noted that there is ACCC documentation relating to the legal obligations of water traders and water exchanges and the fair trading rights of buyers and sellers, but this seemingly has not been an effective deterrent. The ACCC view in the Interim Report that additional Broker regulation is required is welcomed. Deregistration faced by licensed real estate agents and stockbrokers seems to be an effective deterrent for those that transgress and should be part of a similar licensing requirement for brokers in the water market.
5. As noted earlier, the Basin is one water asset however, given the involvement of separate State governments and authorities, the management of water trading needs to be consistent and is urgently needed if the water market is to adequately service irrigators, large and small, that are the productive users of the asset. The Interim Report clearly identifies this issue in Chapter 7 noting *“Despite the existing regulation, there isn’t a sense of a cohesive regulatory framework for the water markets such as exists for other markets like the financial services market. ”*
6. A unified water register and clearance platform is needed to provide transparent, accurate, and as close as possible to ‘real-time’ market information. The current large variance in the time taken in transaction processing by State authorities using paper and electronic methods is farcical in today’s world. The mechanics of this will require: harmonised transactional details including standard pricing and terminology; controls on zero dollar transactions; effective real time metering of all use that would facilitate flow management and water use efficiency in the system; and the application of consistent rules across the Basin, combined with an enforceable compliance regime. The cost of implementing such a platform is raised as a concern but offsetting this is the time and effort currently involved in analysing far from accurate or complete information and the poorer business decisions these inadequacies lead to by the productive users of the water that can heavily impact their viability.
7. The managing authority of the information gathered as per above will be well placed to provide information to the water market that will lead to improved decision making but it would be incumbent on the authority to manage this carefully so as not to adversely impact individual buyers or sellers. This can be done by a similar level of transparency to that which applies to the ASX including ownership disclosures once an appropriate threshold is reached. It is believed that aggregated buyer and seller data by category such as trader type and purpose would achieve a desirable outcome without naming those trading. The ABA believes the purpose of the Murray Darling Basin Plan would be well served by having this information readily available and would assist in restoring confidence in the water market and the Basin Plan.
8. An important step to enhancing confidence in the water market will be the outcome of the ACCC’s ongoing work to determine whether market manipulation has taken place and what is recommended to discourage such action in the future. The ABA supports an independent regulator

like the Australian Energy Regulator being established and believes a shared cost between water users and government is an appropriate funding mechanism.

9. The ABA has concerns with the Bureau of Meteorology being the appropriate managing authority to control the trade information. The ACCC's use of data sources other than the Bureau's is an indictment on the current process.
10. The movement of water throughout the system should account for conveyance losses involved with the trade. In doing so, the most efficient use of the water asset is better realised.

The Interim Report provides a level of confidence that the issues raised in the submissions of the ABA and others are being diligently addressed. Based on our growers' extensive experience, the ABA provides our remarks above on the Interim Report to help guide an improved operation of the water market and the Basin Plan. In offering this as our ideal we acknowledge the jurisdictional challenges of achieving an optimal system for the Basin's water market and Plan's implementation. As a pragmatic approach we urge a strong emphasis in the Final Report on the harmonisation of the regulatory framework and operational processes, registration of brokers, and an effective compliance and enforcement mechanism as short term goals for implementation by governments.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ross Skinner', with a long, sweeping horizontal line extending to the right.

Ross Skinner
CEO Almond Board of Australia