

Director  
Murray-Darling Basin Inquiry  
Australian Competition and Consumer Commission  
[via Online Application](#)

November 2019

**Subject: Barossa Infrastructure Ltd's Response to the  
ACCC River Murray Water Market Review**

Dear Sir/Madam,

**Who we are**

Barossa Infrastructure Ltd (BIL) is an unlisted public Company in South Australia with capacity to supply 11,000 Megalitres per annum of non-potable supplementary irrigation water for viticulture in the Barossa.

The Company was incorporated in 1998 with the purpose of meeting the need to replace increasingly saline ground water with high quality water suitable for viticulture over a range of soils. A further purpose was to relieve pressure on the domestic water supply, which was unable to cope with the very high demand experienced during summer hot spells. BIL irrigation water is a supplement to natural rainfall, designed to drought proof vineyards in years of low rainfall.

BIL's 320 customers are the company's shareholders, in proportion to their contracted volume of water. The Scheme cost in the year 2000 was approximately \$30 million, funded 1/3 by share purchase and 2/3 by a long-term bank loan. That loan was paid off in 2016. While no government funding was received during the construction of the Scheme, considerable assistance was provided during negotiation of the necessary permits.

The scheme has expanded from 7GL to 11GL. BIL sources almost all its water from the River Murray and has a long-term water transport agreement with SA Water to bring water to a delivery point, after which BIL uses its owned assets to supply water to customers.

BIL is required to hold River Murray Water Allocations for all water supplied from the River Murray to the scheme. This water comes from Water Access Entitlements, either purchased or in the form of long-term leases, and annual Water Allocations purchased on the market through circa 30 transactions on a dozen occasions per year. Three quarters of our owned or leased Entitlements are South Australian Class 3 Irrigation, with the remainder predominately high reliability Vic Murray below the choke or Vic Goulburn.

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### **How BIL Engages with the Water Market**

BIL has established several long-term relationships with owners of Entitlements with whom we transact directly.

BIL has established relationships with several water brokers who either notify BIL of Entitlement/Allocation offers that may be of interest or use their contacts to find willing sellers in response to requests from BIL.

Finally, BIL has a limited number of relationships with water investors with whom we deal directly or through brokers.

BIL relies on water broker pricing information to determine reasonable purchase prices. BIL occasionally engages water market specialist consultants for strategic advice, and otherwise gleans information from Broker newsletters, MDBA/DEW/NVRM/WaterNSW newsletters and other freely available sources.

### **BIL's Response to the ACCC's Water Market Review**

BIL is an active member of the National Irrigators' Council (NIC) and supports NIC's submission to the ACCC's River Murray Water Market Review.

The following points are drawn from the NIC's policy on Water Market Reform as being particularly salient for BIL.

- Trade restrictions should be based on real physical constraint, avoidance of third-party impacts on the water rights of those not party to the trade and backed by transparent expert analysis of system capacity.
- Reform to the water market should enhance simplicity, transparency and consistency of information without adding administrative burden or additional cost to farmers and irrigation operators.
- Ensure the water market is easily accessible for all potential participants including small entitlement holders.
- Basin Governments should improve the consistency, transparency and timeliness of water market information across State Government registries, including confidence in the accuracy of price disclosure and extent of price disclosure. Market information is improved by including clearer and timelier information on water supply, demand, delivery constraints, allocation and use.
- State based water registry information – particularly in the Southern Murray Darling Basin - is brought together in a consistent platform providing timely information on the market, trades and water availability along with historical usage information.
- Within particular markets, the holders of significant shares of water entitlement or those engaged in the trade of significant volumes of allocation, notify their positions in a similar way to the ASX.
- ACCC takes a continuing role in monitoring and acting, if necessary, to ensure no anti-competitive behaviour or market manipulation in the water market, particularly focusing on periods of low supply.
- Ensure that codes of conduct for water brokers are adequate to ensure market participants' rights are protected.

- As a significant water owner, Government environmental water holders should provide transparent, advance information about intention to engage in particular markets and undertake to minimise impact on the market, including third party impacts on other market participants.

We provide below brief responses of our own to the Inquiry's five Issues.

#### Issue 1 – Market Trends and Drivers

The growth in environmental water holdings and subsequent reduction in water available to irrigators; growth in permanent planting (e.g. nuts, olive), many of which are not yet at maturity / full water requirements; and the commercialisation of the water market by non-irrigators are viewed by BIL as the primary contributors to the fundamental shift in the Water Market. This is compounded by the current drought.

#### Issue 2 – Market Transparency and Information

The markets lack of transparency and lack of timely information are viewed by BIL as a market weakness resulting in a lack of confidence that the market is fair to all participants, particularly given the heavy reliance on broker supplied information with little or no oversight / guidelines / regulations.

BIL suggests a register of all trades containing date, volume, zone, type of water and price, but without entity names to preserve confidentiality, which is updated in real time (or close to) when the parties agree to the trade (not when government departments process it).

#### Issue 3 – Regulation and Institutional Settings

Regulatory and policy differences between regions provide both challenges (e.g. the need to understand 'the rules' for each area we own water Entitlements, IVT restrictions etc) and opportunities (e.g. the ability to use Vic Murray and Goulburn carry over provisions which have greater usefulness than, say, South Australian carry over).

IVTs and the Choke currently heavily impact which markets BIL participates in. On top of closures due to physical constraints, of concern is that the rules are easily changed, potentially rendering that water unsuitable for use at the required location at the required time.

#### Issue 4 – Market participant practices and behaviours

BIL relies on water brokers and investors to meet its business needs. BIL has concerns about the ability of water investors, in particular, who have the volumes or money or both available to unfairly influence the market.

Importantly here, whilst their volumes could be considered relatively small when looked at against irrigation volumes across whole basin, they should be considered against the traded volumes in which case they could be significant.

#### Issue 5 – Competition and Market Outcomes

Generally, BIL's experience is that the market operates reasonably efficiently and fairly. For trades within South Australia where all rights are high security, and the notified annual allocation is released early in the season and updated every two weeks, there is a reasonably transparent market that is readily understood. However once interstate water is accessed the

market becomes more complex with different rules and constraints and physical limitations of what water can be delivered and when (e.g. the Barmah choke). This additional complexity can be managed by larger players, and those of the size of BIL (11GL), with the help of brokers and other advisers, but clearly excludes the smaller player partly through the cost of the transaction and partly the risk of delivery from not understanding the “rules”.

The opening of the water market and separation of the water entitlement from land has underpinned the operation of BIL. That fundamental change has enabled water to move from low value vineyards and citrus to higher value crops in the Barossa Valley. Initially all water allocations secured by BIL were high security Class 3 SA water entitlements. With the opening of interstate trading accelerated by the millennium drought, BIL has acquired smaller parcels of Victorian, NSW and Goulbourn water to spread the allocation risks. During the millennium drought these interstate allocations were higher than South Australian allocations. A benefit of an expanded open market.

The concern in the market is the changing use of water to permanent crops meaning in years of constraint there may not be sufficient water to sustain permanent plantings. However, this is a risk built into the operating business model for each farm should the farmer elect to rely predominantly on annual allocations or low security water.

The era of underutilised allocations resulting from more efficient horticultural irrigation techniques and changes in types of crops requiring less water per hectare (stone fruit and citrus to vines in the SA Riverland), has passed. The millennium drought with government buybacks has moved much of that water to environmental use and enabled those with higher value crops or greater scale of operations to secure permanent rights. Also, climate change has further reduced the underutilisation of allocations with the advent of generally drier and warmer conditions.

The water other than for “critical human needs” is for agricultural pursuits and the users should be familiar with understand the weather-related risks and the inevitability of droughts and water restrictions. Market rules should not be changed during such times but should be designed to cater for thin markets at such times and minimise the possibility of manipulation.

Similarly, the market rules should allow the market to determine where and how the water should be used (subject to environmental and physical delivery constraints). The rules should not direct what crops can be grown or favour one crop or area over another. BIL recognises that this will have social impacts on communities that rely on River Murray water. Those issues need to be addressed by Government and not be affected by constraining the operation of the market.

Please contact me on 0403 743 199 or [Simon@BIL.net.au](mailto:Simon@BIL.net.au) if you have any questions or required further information.

Regards,



Simon Schutz  
General Manager