



LEETON
SHIRE COUNCIL

30 October 2020

Director
Murray - Darling Basin Inquiry
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Lodged at: waterinquiry@acc.gov.au

Dear Director

Re: ACCC MDB Water Inquiry - Stakeholder feedback

Leeton Shire Council (LSC) welcomes the opportunity to provide feedback in response to the issues raised by the ACCC in its interim report, and is lodging this document by way of a submission. The submission follows the structure of the *Stakeholder feedback form* provided by ACCC, which summarises its preliminary conclusions and options for reform.

For ease of reference we have attached our recently updated Water Policy Position Statement.

LSC understands that the inquiry is a public process and that, as indicated below, our submission and details will be made available on the ACCC website.

Name	Leeton Shire Council (Contact: Ms Jackie Kruger)	
Occupation	General Manager	
Town/region	Leeton	
Would you like the ACCC to block out your personal information (e.g. name and contact information) so that it does not appear on the ACCC's website?		No

Yours sincerely


Jackie Kruger
General Manager

1. Conduct of market participants

The ACCC considers there is insufficient regulatory oversight, and enforcement and compliance activity, in relation to some practices of some market participants

The ACCC's preliminary view is that market integrity regulation needs to be improved and that regulation should be introduced in the case of water brokers. Additional regulation could be introduced to cover other market participants such as investors and IIOs.

The ACCC has identified three options for improving market regulation:

- a) Introduce a government-initiated licensing scheme for intermediaries
- b) Apply the financial regulation framework to all water products, which would be relevant to the activities to a range of market participants
- c) Establish an independent market-focused government regulator, which would enable the regulation of market participants such as intermediaries, investors and IIOs.

LSC feedback on options to improve market regulation

LSC welcomes the ACCC's preliminary view that market integrity regulation should be introduced for water brokers and other market participants.

With regard to the options proposed by ACCC, we do not feel that we have sufficient level of technical knowledge to provide an opinion on which option would be appropriate.

We do however make the following comments:

- In order to promote confidence, any licensing of participants should be independent, transparent, consistent, mandatory, enforceable and cost effective.
- Irrespective of whether the ACCC recommends a licencing scheme or the application of existing financial services regulation to brokers and other market participants, including IIOs, any regulation must include obligations to avoid conflicts of interest and prevent those market participants from engaging in conduct that undermines the integrity of the water market.
- Voluntary (or self) regulation for brokers (and IIOs) is not viewed as an option, given the disparate allocation of responsibility for water management and regulation across governments and agencies. This distorted accountability, or lack of accountability, is exacerbated by the immaturity of the water market at all levels, including with regard to participants, investors and underlying water products.
- Any market integrity regulation introduced must not impede the timeliness of being able to buy or sell water.

2. Improving trade processes and market transparency

The ACCC considers practical changes to trade processing are needed to improve the quality and timeliness of core market data

The ACCC has identified several practical improvements that, in its preliminary view, should be made as soon as practicable. These improvements relate to the validation and quality checking of trade data, including how zero dollar trades should be approved; capturing additional information in trade forms such as the reason for trade, struck date and intermediaries' details; and increasing harmonisation across Basin States' registers.

The ACCC considers practical changes need to be underpinned by clear and comprehensive mandates to provide efficient trade services and high quality information to market participants

The ACCC has also identified a suite of further changes required to achieve a consistent and comprehensive trade processing and market reporting framework:

- a) Legislative changes to require Basin States to keep registers of entitlement and allocation trades and for Basin State water registers to provide information services with clear publication requirements.
- b) IIOs should be required to establish and maintain registers for temporary and permanent trades, within, out and into their networks.
- c) Update Water Regulations 2008 (Cth) to more clearly specify data reporting requirements for trades of irrigation rights.
- d) Allow for contracts to be registered with or otherwise recorded in water registers such that all allocation trades arising under one contract can be identified together.
- e) Introduce standardised single party identifiers across the Basin, such as using ABNs.
- f) Standards and processes for processing trade applications and recording and disseminating trade data should be mandated and consistent across jurisdictions and apply to all IIOs and Basin State approval authorities. Standardised record-keeping and continuous disclosure rules should also be placed on intermediaries.
- g) Basin States should work towards harmonising allocation trade application fees in the Southern Connected Basin, while recognising the NWI principles for cost recovery.
- h) Basin Plan water trading rules should be revised to require prices to be reported for all tradeable water rights, including irrigation rights and water delivery rights

LSC feedback on practical changes

LSC fully supports the practical changes listed by the ACCC.

2. Improving trade processes and market transparency (continued)

The ACCC considers digital technologies offer the opportunity to streamline trade services, at the same time as improving information quality and availability

The ACCC has identified options for using technological change to make more substantial improvements to improve the integrity of Basin water markets. The ACCC's preliminary view is that while governance remains distributed between Basin States and other actors, options which deliver harmonisation and co-ordination are more suitable than options which deliver centralisation. This approach could be achieved by combining the following options:

- a) a digital protocol that enhances interoperability between Basin State approval authorities and registers, IIOs and exchanges, and automates the collection, clearing and publishing of water market information
- b) a water market information platform which brings together (but does not replace) diverse information sources.

Other options for using technological change include:

- a) a spot market and real-time automated matching of buyer and seller offers, similar to the National Electricity Market
- b) a single exchange platform for posting and matching trade offers by creating a single mandatory online platform for matching buyers and sellers
- c) an ASX-like approach of a single clearinghouse to administer trade but connecting via interoperability protocols to trading platforms and different Basin State registers
- d) Distributed Ledger Technology, such as Blockchain, which administers trade through smart contracts and also records all registry information
- e) a single common register in which all water accounting for both trade and delivery (use) would be accounted for in the same, single system.

LSC feedback on Improving trade processes and market transparency

LSC has called for detailed, accessible, user-friendly and real-time information and for consistency in the provision of information regarding water trades across the Basin States, in order for better transparency and informed trading decisions.

Accordingly, LSC is supportive of the preliminary recommendations and measures to improve the quality and timeliness of market data across all States, including the specific rules and processes outlined by the ACCC, regarding trade application forms, methods, timeframes and charges.

It is noted that the ACCC refers to harmonisation rather than a single national structure. In the longer term LSC is of the view that a single national structure would be preferable.

It is important that whatever systems are deployed they must facilitate the timely buying and selling of water and not cause any delays.

3. Improving market architecture

The ACCC considers the design of the southern connected Basin market architecture has not kept pace with increasing trade activity, and the ACCC is seeking to identify options for reform

The ACCC considers that market architecture that better integrates trade, operational requirements and the physical characteristics of the system will improve the operation of water markets. This will help achieve a range of benefits, including properly pricing the costs of trade and protecting other water users and the environment.

The ACCC is identifying appropriate market architecture reform options, which might include:

- a) Improvements to policy transparency and consultation processes
- b) Alternative approaches for allocation and carryover policies
- c) Creating formal markets for storage and delivery capacity
- d) Applying transmission loss factors to water deliveries in the southern connected Basin
- e) Removing the exemption for grandfathered tags or removing entitlement tagging altogether
- f) Alternative and more dynamic mechanisms to manage inter-valley trades
- g) Changing all allocation trade to tagged allocation trade
- h) Improving consistency across Basin States' accounting and metering requirements.

3. Improving market architecture (continued)

LSC feedback on options to improve market architecture

LSC is supportive of the reform options put forward by the ACCC and makes the following comments with regard to each option:-

- Item (a) - LSC is unequivocally supportive. It is hoped that recent initiatives, coupled with the ACCC Final Report, will facilitate coordinated responses that encompasses both policy and regulatory changes for water management and water market reform. We appreciate the reform will be complex to implement and will require detailed planning and strong leadership.
- Item (b) – LSC supports initiatives to ensure carryover is being used appropriately and does not compromise water entitlements. However, we caution that the impact of any changes be carefully scrutinised, including with regard to catchments, seasonality, Basin State policy and property rights. LSC also supports policies that facilitate visibility of allocation decisions and information that encourages a more predictable market. From our perspective allocation decisions appear conservative (especially at the start of the season when farmers are making time critical decisions around planting) and could well contribute to unnecessary underuse and result in spills that create windfall benefits to environmental account holders.
- Item (c) – LSC does not have a position on formal markets for storage and delivery capacity. Regardless, LSC would advocate for fair and equitable access to that water.
- Item (d) – LSC supports initiatives to improve the understanding and accountability of conveyance and other losses. We understand that there will always be some degree of conveyance loss with system movements, however the more water that is moved downstream, the greater the reduction in the available allocation for general water entitlement holders and the greater the potential harm to the environment. Accordingly, it is important to prevent conveyance losses from physically occurring and the application of a conveyance loss factor to water trades or water extraction would discourage behaviour that causes these losses, such as irrigation development downstream of the Barmah Choke (which we consider an irresponsible use of a scarce/limited resource where more efficient opportunities already exist).
- Items (e) and (f) – LSC supports the removal of exemptions for grandfathered tags and of entitlement tagging, on the basis that: the exemption creates inequitable access to inter-valley trading opportunities; and we support initiatives that reduce the volume of conveyance loss. We note and support that ACCC is exploring alternative options with regard to inter-valley trade mechanisms. It is our view that the current rules are generally not well understood and better communication/education is required. We also consider that inter-valley trade should not undermine the optimisation of existing irrigation infrastructure for productive purposes.
- Item (g) – LSC does not have a position on allocation trade but would promote the principles of fairness and equity and the optimised use of existing irrigation

areas.

- Item (h) – LSC supports the accurate measurement of how much water is taken and used and of metering and telemetry for all water use, as well as the development of harmonised metering and telemetry policies and standards across the Basin States.

4. Changes to market governance

The ACCC considers there is a need to reconsider governance frameworks to enable independent and clear decisions on the development of market settings

The ACCC considers improved governance will help resolve many of the issues identified throughout the inquiry and strengthen the system so fewer problems emerge in the future.

The ACCC is considering options to improve market governance that may seek to:

- a) establish clear, independent decision making structures*
- b) separate market governance roles from broader water management governance*
- c) consolidate or harmonise fragmented roles*
- d) reduce regulatory gaps by creating and assigning new roles or functions*
- e) address conflicting roles.*

Feedback on options to improve market governance

LSC supports the principles around better governance across the Basin States. However, we caution against the principled separation of market governance and broader water management governance. While 'interference' needs to be avoided, the Basin needs to be governed as a whole and requires a fully integrated and coordinated framework to succeed. We regard it as a fundamental shortcoming that no one agency has centralised responsibility for water market reform. This has led to a fragmented regulatory system with agencies unwilling to harmonise their water policies and rules.

Without undertaking the crucial task of developing a strong water market governance framework, where responsibilities and accountabilities are clearly delegated, it will be very difficult to engage in meaningful comprehensive reform.

Systemic and lasting changes are required to ensure that the commitments of the 2004 National Water Initiative (NWI) and the objectives of the Basin Plan are met.

We believe that a key component of any governance framework would be the formalisation of an effective, two-way, review and communication mechanism to assist with identifying and addressing important issues and to help educate and inform both regulators and stakeholders.

Such a framework would assist with coordinating and implementing the findings of the recent and robust water related reports and inquiries, including the Productivity Commission, National Water Reform, Inquiry Report (2018), the Independent assessment of social and economic conditions in the Basin (2020) (the Sefton Report) and the upcoming ACCC Final Report on the water markets inquiry (2021).

5. Other comments

Please provide any other feedback you consider relevant to the ACCC's inquiry.

Other comments relevant to the ACCC's inquiry

Since the introduction of the NWI, the commodisation of water has led to several (unintended) problematic outcomes for established communities who depend on water availability, diverse agricultural production and value-added industries for their employment and livelihoods.

This includes the expansion of permanent plantings where the implementation and growth in the trading of water entitlements and allocations has seen the extension of high value permanent plantings. While this may have generated benefits in terms of farm gate value, there are significant losses at the regional and national level that are not properly accounted for, including the risks associated with a lack of diversification and resilience with the potential loss of established, sustainable and diversified irrigation sectors and value-adding industries. The water market must promote long term economic success and disincentivise trading that fosters only short term success and boom and bust cycles.

We are of the view that to optimise the use of available water, land and the use of our regional infrastructure, there is a need for a regional policy framework to deliver an integrated and coordinated agricultural and agribusiness plan for the communities of the Murray-Darling Basin.

Importantly, with a variable climate we need an appropriate balance of permanent plantings and annual crops to adjust production in response to rainfall and allocations. Without a coordinated approach there is a risk of policy settings that will continue to erode many of the benefits that have contributed to the sustained success of established irrigation communities.

In conclusion, systemic and lasting changes are required to ensure that the commitments of the 2004 National Water Initiative (NWI) and the objectives of the Basin Plan are met. Such changes will require strong and courageous leadership, including a willingness to review and adjust elements of regulation and policies to optimise water, land and infrastructure to deliver positive and sustainable environmental, social and economic outcomes for regional communities and the

national economy.

We recommend strongly that a principles' based and integrated approach needs to underpin all water related reform, including water trading. Water is a limited resource and the Basin Plan further limits its application. So as not to be incongruous with the Basin Plan, the water market must facilitate the same outcomes being sought, notably a sustainable environment, sustainable communities and sustainable economies. To achieve long term success, the water market needs to ensure:-

- a) Water is always being used as efficiently as possible which includes ensuring established irrigation infrastructure and irrigation lands are being optimised before new ones are opened up.
- b) Water trading does not compromise the environmental integrity of the river system.
- c) Economic success is sustainable and is measured at the regional and national level, not (only) at the farm gate.
- d) The resilience of the agricultural and agribusiness sectors is supported by ensuring an appropriate mix of permanent and annual cropping (diversity) relative to water allocation trends.

BACKGROUND

Leeton is the home of the Murrumbidgee Irrigation Area (MIA). The MIA is a purpose built irrigation area that is over 100 years old. It was built along with Burrinjuck Dam to drought proof the nation and ensure food security for Australia. Today the MIA covers an area of nearly 380,000ha, 141,000ha of which was irrigated in 2017 through an intricate network of canals, channels and drains that support a diverse array of crops, both permanent and annual. Aided by world class research and development, together with world class farming practices, farm production levels in the MIA are impressive. The MIA is indeed the premier food bowl in NSW and in the Murray Darling Basin. The area also supports an impressive mix of food and fibre manufacturing, generating prolific export earnings for the nation and sustaining the workforce and communities required to keep the region thriving.

LEETON SHIRE COUNCIL'S 10-POINT POSITION STATEMENT:

1. Council aspires to achieve a Murray Darling Basin River System that is healthy and can sustainably support a prosperous irrigated agricultural sector and its communities. Council recognises that Climate Change makes the task more challenging. Council welcomes further government support to deliver water and farm more efficiently so that the environment can recover and the MIA can continue to thrive into the future.
2. Council aspires to sustain and responsibly grow the MIA's agricultural production through optimised and sustainable use of all irrigable lands, the considered and careful application of water and ongoing research and development. Council aspires to MIA-held water entitlements remaining in the MIA - especially during dry or drought years - to efficiently service a diverse agricultural sector that has an appropriate balance of permanent and annual crops. Council calls for strong leadership from governments, and advocates for a moratorium on the opening up of new farming areas on greenfield sites where the delivery or use of water is less efficient than existing farming areas in the Basin.
3. Council considers that any local, regional or nation Plans, including the Murray Darling Basin Plan, need regular review, including sensible adjustment of delivery timeframes as new information, new science, new opportunities and new risks come to light. Council considers that more time is needed to ensure the more complex Sustainable Diversion Adjustment Mechanism projects are fully and appropriately planned, assessed and implemented so that the outcomes will genuinely benefit the environment and support local communities to thrive.
4. Council only supports interventions that achieve a healthy Basin without impacting the socio-economic wellbeing of communities. Wellbeing and economic success must be considered at a whole of community level, not only at the farm gate. Genuine collaboration and consultation is required between stakeholders to ensure win-win outcomes are achieved.
5. Council does not support any further buybacks of productive water and believes any further recovery needs to be associated with infrastructure projects that drive efficiency and water conservation. The cap on buybacks must be maintained and the 450ML 'upwater' target must never be pursued outside of the 'neutrality test'.

6. Council calls for a more strategic, integrated and transparent approach to water management by the federal and state governments, as well as local irrigation companies. This includes:
 - Honouring the principles of the National Water Initiative 2004 and Water Act 2007, and specifically
 - Addressing the erosion of General Security water entitlements
 - Making provisions to ensure Carryover is being used appropriately and does not compromise water entitlements
 - Reinstating certainty and reliability of water access for users, particularly those located in purpose-built irrigation areas
 - Improving understanding of how groundwater interfaces with rivers and its future management
 - Improving understanding and accountability of conveyance and other losses
 - Implementing more integrated management of Basin water resources.
7. Council calls for federal and state funded resources to be directed to coordinating and implementing the findings of all water related enquiries since the Plan was commissioned, especially the findings of the Productivity Commission 2018 and the upcoming findings of the ACCC. Council considers that water trading policy as it stands is often at odds with the Murray Darling Basin Plan, sometimes compromising river health and failing to ensure the most efficient use of available productive water.
8. Council believes that diversity of crop type is the regions strength. Council calls for federal and state governments to resource the development of a fully integrated Agricultural Strategy, having regard to associated land use planning and the Basin Plan's goal of ensuring water is used as efficiently as possible. In the interim, Council also calls for a moratorium on agricultural developments involving permanent plantings south of the Barmah Choke that require irrigation.
9. Council supports increased coordination and transparency of all policies and decisions related to water, including full and easily accessible visibility of all water trades and all allocation decisions.
10. Council calls for the effectiveness of environmental watering projects and the outcomes of efficiency projects (both on and off farm) to be closely monitored and fully reported, and adjustments made where required to ensure project aims are being appropriately delivered and/or realised.



Mayor Paul Maytom
22 July 2020