



**National  
Farmers  
Federation**

**National Farmers' Federation**

**Submission to**

**ACCC inquiry into water markets in the Murray-Darling Basin  
Issues Paper**

6 December 2019

## NFF Member Organisations





The National Farmers' Federation (NFF) is the voice of Australian farmers.

The NFF was established in 1979 as the national peak body representing farmers and more broadly, agriculture across Australia. The NFF's membership comprises all of Australia's major agricultural commodities across the breadth and the length of the supply chain.

Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations form the NFF.

The NFF represents Australian agriculture on national and foreign policy issues including workplace relations, trade and natural resource management. Our members complement this work through the delivery of direct 'grass roots' member services as well as state-based policy and commodity-specific interests.

## **Statistics on Australian Agriculture**

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Australian agriculture makes an important contribution to Australia's social, economic and environmental fabric.

### **Social >**

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There are approximately 88,000 farm businesses in Australia, 99 per cent of which are wholly Australian owned and operated.

### **Economic >**

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In 2017-18, the agricultural sector, at farm-gate, contributed 2.4 per cent to Australia's total Gross Domestic Product (GDP). The gross value of Australian farm production in 2017-18 is estimated to have reached \$60.1 billion.

### **Workplace >**

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The agriculture, forestry and fishing sector employs approximately 323,000 people, including full time (236,700) and part time employees (84,300).

Seasonal conditions affect the sector's capacity to employ. Permanent employment is the main form of employment in the sector, but more than 26 per cent of the employed workforce is casual.

### **Environmental >**

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Australian farmers are environmental stewards, owning, managing and caring for 51 per cent of Australia's land mass. Farmers are at the frontline of delivering environmental outcomes on behalf of the Australian community, with 7.4 million hectares of agricultural land set aside by Australian farmers purely for conservation/protection purposes.

In 1989, the National Farmers' Federation together with the Australian Conservation Foundation was pivotal in ensuring that the emerging Landcare movement became a national programme with bipartisan support.

## Introduction

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The National Farmers' Federation (NFF) welcomes the opportunity to respond to the Australian Competition and Consumer Commission's (ACCC) inquiry into water markets in the Murray-Darling Basin (Basin).

The NFF supports a strong and fair water market that underpins the viability and prosperity of communities across the Basin. The water market and the rules governing trade exist as part of broader water reform in Australia through the National Water Initiative (NWI) agreed<sup>1</sup> at Council of Australian Governments in 2004 which facilitated the expansion of water markets across connected valleys and eventually state borders in the Basin. Water trading in the Basin is estimated to be worth \$2 billion annually.

An historic reform, the objective of the NWI was to develop a compatible, market, regulatory and planning-based system for managing surface water and groundwater resources and rural and urban use that optimises economic, social and environmental outcomes. It has largely succeeded in doing so, and still remains, as it should, the blueprint guiding water reform in the Basin.

In the context of the water market and trade arrangements, the NWI sought to deliver the following outcomes:

- i) facilitate the operation of efficient water markets and the opportunities for trading, within and between States and Territories, where water systems are physically shared or hydrologic connections and water supply considerations will permit water trading;*
- ii) minimise transaction costs on water trades, including through good information flows in the market and compatible entitlement, registry, regulatory and other arrangements across jurisdictions;*
- iii) enable the appropriate mix of water products to develop based on access entitlements which can be traded either in whole or in part, and either temporarily or permanently, or through lease arrangements or other trading options that may evolve over time;*
- iv) recognise and protect the needs of the environment; and*
- v) provide appropriate protection of third-party interests.*

The NFF strongly supports a well-designed water market that supports trade whilst avoiding third party (including environmental) impacts. The water market has provided, and continues to provide, opportunity for:

- New and expanding users to gain access to the resource;
- Existing users to realise the value of efficiency gains in water use;
- Water to transfer to higher-value uses;
- Users to exit the water industry through sale of their licence; and
- The government to enter the market to acquire water licences and subsequently retire them.

The flexibility afforded by the water market has provided farm businesses a simple input for farm businesses to make decisions, and therefore operate in a variable climate, including during the millennium drought. These sound principles of the water market should not be discarded. Nevertheless, the NFF acknowledges concerns associated with

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<sup>1</sup><https://www.agriculture.gov.au/sites/default/files/sitecollectiondocuments/water/Intergovernmental-Agreement-on-a-national-water-initiative.pdf>

the water market including: the lack of transparency, increased risks due to greater trade, and potential misbehaviour by market participants.

The NFF would welcome changes to improve the water market. However, there must be a transparent process for considering changes to trade rules and requires full examination of any impacts to avoid unintended consequences given the complexity of the water market.

## **Market transparency**

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The NFF agrees that readily available water market information is needed to support functioning and competitive water markets by giving participants the ability to make informed trade decisions. Poor transparency undermines trust in the system and, in the context of broader water reform which the water market operates in, erodes confidence willingness to engage with the Murray-Darling Basin Plan (Plan), particularly if there is a perception that water reforms are destroying local communities.

Greater market transparency or, at least, a clearer pathway to access information, is needed within the water market. The NFF notes that the water market is relatively new and maturing, and has evolved quickly, and not necessarily in a manner whereby participants can be confident the market is operating fairly and efficiently for communities. Severe drought conditions are reinforcing these concerns. The NFF notes the Plan includes provisions to improve market transparency but is part of ongoing reform which may need to accelerate.

The Productivity Commission (the Commission) five-yearly review of the Plan<sup>2</sup> emphasises the importance of transparency through a number of recommendations, and found that market information and market confidence had improved as a result of the Plan. However, there is scope to improve, in particular, trade price reporting.

In 2019, the Murray-Darling Basin Authority (MDBA) conducted a two-part audit of water trade price reporting: (1) assessing the effectiveness of processes and procedures of each Basin state to collect, validate and reporting accurate water trade pricing information; and (2) assessing water traders' compliance with the requirement to report accurate price information. Overall, they found that:

- no Basin state had robust arrangements in place to ensure comprehensive, accurate price information, and some data reported was incomplete and inaccurate.
- no single point of truth due to the complexity of processes involved.

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<sup>2</sup> <https://www.pc.gov.au/inquiries/completed/basin-plan/report/basin-plan.pdf>

Table 1: Findings by state - Water Trade Price

Audit Findings	New South Wales		Victoria		Queensland <sup>1</sup>		South Australia		Australian Capital Territory	
	Entitlement	Allocation	Entitlement	Allocation	Entitlement	Allocation	Entitlement	Allocation	Entitlement	Allocation
Do application or lodgement forms have provision for price information?	✓	✓	✓	✓	✓	✗	✓	✓	✓	N/A
If so, is providing price information mandatory?	✗	✓	✗ <sup>2</sup>	✓	✓	N/A	✗ <sup>3</sup>	✗ <sup>3</sup>	✗	N/A
Are application or lodgement forms processed where no price or a zero price has been entered?	✓	✓	✓	✓	✓	N/A	✓	✓	✓	N/A
Is there a process to validate price information before trades are processed?	✗	✗	✗	✗	✗	N/A	✗	✗	✗	N/A
Is there a process to analyse and validate price data after trades are processed?	✗	✗	✗	✗	✗	N/A	✗	✗	✗	N/A
Are buyers notified of the price reported by sellers?	✗	✗	✗	✓	✗	N/A	✗	✗	✗	N/A

Table 2: Entitlement and allocation trades reported at \$0 in 2017-18

Murray-Darling Basin state	Total Transactions	Total Volume (ML)	Percentage of Trades reported at \$0	Volume with \$0 (ML)
Australian Capital Territory	2.00	3.00	100%	3.00
New South Wales	7,276.00	3,409,228.70	35%	2,162,767.50
Queensland	574.00	166,296.07	84%	135,032.07
South Australia	1,645.00	431,343.28	44%	310,344.61
Victoria	17,930.00	3,335,757.60	33%	2,222,544.20
<b>All MDB</b>	<b>27,427.00</b>	<b>7,342,628.65</b>		<b>4,830,691.38</b>

Source: The above numbers have been obtained from the Bureau of Meteorology water trade data.

Source: <https://www.mdba.gov.au/sites/default/files/pubs/part-1-audit-basin-state-process.pdf>

Tables 1 and 2 above reflect the lack of consistency, poor quality controls and potential inaccuracies in state water registers. The NFF understands a number of recommendations are currently being actioned by the MDBA.

The NFF does not have a particular model in mind to improve transparency and looks forward to considering the options proposed by the ACCC. However, the NFF supports having accurate trade reporting at a single point which is not occurring now.

The NFF notes that the Victorian Government is separately exploring options for greater transparency in their water market<sup>3</sup>.

## Regulation and institutional settings

The current regulations in the water market should be re-examined to account for increased risks due to significant changes in land use and crop types and subsequent water demand below the Barmah Choke.

Notably, the expansion of the almond industry in the Victorian Lower Murray has seen greater pressure on the Barmah Choke to deliver water to meet downstream demand, which is forecasted to increase as plantations mature. The Productivity Commission review noted the pressure on the Choke imposed by increased trade beneath the Choke which is placing pressure on delivery capacity at peak periods of trade. It is likely this will contribute to an increasing decline of transfer capacity at the Barmah Choke and threaten reliability of water entitlements beneath the Choke.

The NFF notes the Victorian Government's decision to refer all licence applications in the lower Murray region to the Victorian Minister for Water for assessment for 12 months, from 10 July 2019, in response to increasing downstream water demand and associated environmental damage to the Barmah Choke and Goulburn River.

The NFF supports appropriate changes to trade rules to the extent that they are needed to: (1) protect the environment; and (2) mitigate third party effects, including reliability of entitlements, consistent with the NWI principles. However, given the complexity of the water market, there must be a transparent process for considering changes to trade rules

<sup>3</sup> [https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.vic-engage.files/9015/6939/2970/Options\\_paper-Water\\_market\\_transparency.pdf](https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.vic-engage.files/9015/6939/2970/Options_paper-Water_market_transparency.pdf)

and requires full examination of any impacts to avoid unintended consequences given the complexity of the water market.

The NFF understands the Basin Ministerial Council is working to resolve the risk of water delivery shortfall on the River Murray, and is conducting additional modelling and analysis to further investigate compound factors such as Inter-Valley Trade, the Barmah Choke's capacity and climate extremes. The NFF suggests the ACCC consider this work in determining potential changes to trade rules.

## **Market participant practices and behaviours**

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The ACCC rightly identifies that successive policy reforms to separate water from land rights set the foundation for water trade and the emergence of investors — by those who don't own land — or 'speculators'. There are concerns that speculators currently in the Basin are withholding water from the market — in particular, temporary water — to inflate the price of water for profit. While the NFF awaits the results of the ACCC's investigation into the influence of speculators in the market, we make a number of observations:

- Speculators involve not only large companies, but also: individual farmers or small and medium-sized businesses including retired irrigators to use the market water an additional source of income.
- Speculators add financial liquidity to markets, enabling producers to hedge risk efficiently, particularly against a variable climate. If appropriately regulated, they provide a valuable service to communities.
- While the NFF cannot quantify the degree of influence speculators have had on temporary water prices, water scarcity due to drought has been a large driver of temporary water prices increases.

Consistent with other market principles, the NFF believes that controls should be in place to ensure speculators do not have greater than expected market influence nor have the ability to exert undue influence in the market.

The NFF notes that water recovery for environmental purposes within in the Basin due to the Plan has also reduced the consumptive pool available to farmers, subsequently placing greater pressure on the market.

As noted above, speculators add financial liquidity to markets, enabling producers to hedge risk efficiently which plays an important role in Australia where weather is variable and risks have significant consequences if unaccounted for. Effectively, speculators have uncommitted water assets which can be sold on the farm, and includes existing entitlements holders, pension funds, retired farmers who own an entitlement — encompassing those who own and do not own land. The NFF believes there is merit asking what role speculators should have in the water market, but caution against reactive responses that undermine the functionality of the market.

The NFF recognises the inherent conflict between investors, in particular large companies who participate in the market and those who do not believe that water should be commodified, and acknowledges the difficulty to resolving these issues. However, for reasons stated above, markets are the most efficient mechanisms to allocate scarce resources, and play an important role in resource management. Given the difficulty valuing social and environmental outcomes, they are not directly reflected in the price water prices and require regulation to be adequately accounted for.

The principle that markets should be designed to meet the objective of allocating and using water in a way which optimises economic, social and environmental outcomes are sound in theory, but the NFF suggests it should be further interrogated to understand



what optimal social and environmental outcomes are so that, practically, market and trading rules can be designed to align with these values.

The NFF believes that the water market objectives identified by the ACCC are clear and sound principles to ensure the agriculture sector in the Basin has the best opportunity to prosper. However, again, any change will need some transition period to ensure a smooth changeover to a new regime with minimal disruption to the market, which still remains the most effective mechanism that ensures licensees' freedom in deciding what they believe to be in their best interest in how they use their water.

## **Conclusion**

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There are legitimate concerns in the water market that need to be addressed to ensure a healthy and sustainable Basin. The NFF believes this is an important and necessary body of work. We look forward to the ACCC's interim report scheduled next May 2020 where we will provide further comments.