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Submitted to **Murray-Darling Basin water markets inquiry - interim report**
Submitted on **2020-10-20 12:28:45**

Interim report submission form

Contact information

Name/organisation:
Riverland Horticulture Futures Group

[redacted]

Do you use Murray-Darling Basin water markets for trading water rights or water market products?

No

Which trading zone(s) do you own or trade water in?

SA Murray

If you selected other, please provide further details::

Which of these options best describes your roleor interest in the water market?

Role in water market:
Irrigator

If you selected other, please provide further details::
This submission is lodged on behalf of the irrigators viticulturists and horticulturists who have formed the Riverland Horticulture Futures Group. These irrigators all belong to regional industry organisations whose role it is to represent and advocate on behalf of their respective member groups. These groups have unified to make this submission on the basis that water challenges are common across each of the groups. This should be considered as a submission representing the views of all Riverland irrigators. The groups are Riverland Wine, Almond Board of Australia, Summerfruit SA, Citrus SA. and SA Avocado Growers' Association. The two main regional IIO's, Central Irrigation Trust and Renmark Irrigation Trust are also contributing members.

Attach submission

Public submission:
201014 Riverland Horticulture Futures Group ACCC Submission October 14 2020.pdf was uploaded

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Submission: ACCC Murray-Darling Basin Water Markets Inquiry – Interim Report

Introduction

Thank you for the opportunity to provide a response to the ACCC's Murray-Darling Basin Water Markets Inquiry Interim Report.

Background: Riverland Horticulture Futures Group

RHFG was formed in 2019 comprising horticulture and viticulture industry groups and irrigation trust representatives whose businesses depend on irrigated water supplied by the Murray River in the Riverland region of South Australia.

Members rely on government and non-government water management authorities to consult widely and to develop, implement and maintain fair, reasonable and sustainable policies and regulations governing the ownership and utilisation of irrigation water.

At the enterprise level, and as a collective of horticulturalists and viticulturalists, members of RHFG aspire to develop and influence sustainable water policy and encourage the adoption and implementation of best practice – i.e. technology, infrastructure, engineering works, measurement, monitoring and reporting systems (on and off farm).

The Riverland Horticulture Futures Group (RHFG) welcomes the opportunity to provide the following comments from an industry perspective to assist in ensuring the industry and associated rural communities benefit from a transparent, fair and efficient water market system.

Our response focusses on four key issues:

1. Governance
2. Speculation and Hoarding
3. Transaction costs
4. Water Data infrastructure

Governance

- The main findings in the interim report could be summarised as a need for improved market governance, transparency, rigour, and regulation; especially with respect to water brokers and the overall water market system.
- We understand responsibility for the above is largely in the ACCC's mandate as it relates to water market activities. To this end, we note current federal and state legislative and regulatory powers exist in support of that mandate. Further, we note the ACCC has produced specific documentation related to the legal obligations applying to water brokers and exchanges, and the fair trading rights of those who use them.
- Specifically, water brokers and exchanges must not:
    - Engage in misleading or deceptive conduct
    - Make false or misleading representations
    - Accept payment if they are unable to deliver
    - Engage in unconscionable conduct
    - Use harassment or coercion
- An assessment of submissions to the Inquiry Issues Paper, and numerous recent commentaries, highlight the extent and magnitude of the behaviour described above in direct contravention to the

above ACCC documentation. To us, if the behaviours and observations mentioned in the submissions are indeed correct, this evidences that the ACCC have failed in their role as a market regulator. Further, the interim report appears to lean towards **this very same finding**, which is deeply concerning to Riverland Irrigators and their communities if such widespread market manipulation and deceptive conduct is occurring.

- It is therefore disappointing to see little detail from the ACCC in relation to how they, as a water market regulator, will address these failings in future and take the leadership and responsibility for their portfolio as they relate to water markets. Just as it is equally sobering to find that the ACCC, prior to this inquiry, were not fulfilling their obligations as a market regulator.
- Effective governance requires both regulatory power and a willingness to discharge those regulatory powers by those responsible. Much of the evidence and narrative provided in the interim report highlights reluctance on the part of the ACCC to accept and discharge their responsibility in this regard. This must change, and quickly. And where the ACCC has no appetite for their water market regulatory duties, then it would be prudent for them to exit the sector in favour of an organisation both capable and willing to discharge their responsibilities as required.

Speculation and Hoarding

- Lots of the discussions at South Australian public forums from an irrigator perspective centred on speculative and hoarding drivers of recent high water allocation prices in the sMDB
- Though the interim report acknowledges a potential link between 'hoarding' and high water allocation prices, it does not in our view at this point provide any detailed, or systematic analysis of this behaviour.
- We understand that a structured methodology leading to an informed analysis of this issue has been developed and undertaken by South Australian based researchers. Our assessment of that work is that it provides a fit-for-purpose evidence base to inform debate on this matter and would add substantial value to the inquiry process.
- Further, we understand the ACCC's approach to date for analysing 'speculation' in water allocation markets has been to focus on the trade activities of four large investors. Our view is that, even if the ACCC identifies "suspect" trade behaviour within this small collective, it will be impossible for them to categorically identify that behaviour as speculative, deceptive, or actually unlawful behaviour.
- We acknowledge the challenges of studying speculative trade behaviour in water markets; indeed, the South Australian research points to limitations on applying "traditional" analytical approaches to identifying speculative behaviour in Australian water markets, (based on a reflection of asset types and data requirements), which drive different market fundamentals. This is principally based on the poor/narrow nature of publicly available water data, in particular the limited attribution or richness of appropriate speculative driver variables. To this end the South Australian researchers have applied alternative analytical techniques to inform drivers of speculative behaviour at a broad level to develop a fit-for-purpose analytical framework, and the ACCC could benefit from this approach.
- On the basis of the above, we believe there is merit in the ACCC engaging with these South Australian based researches to inform what is, at present, in our view a light analysis of both speculation and hoarding ahead of completing the Final Report to the inquiry.

Transaction costs

- In our view it is first important to recognize that water trade takes place on a number of platforms. Water traders can engage a broker, use a local agent and/or transfer their water using exchange

services offered by irrigation infrastructure operators (IIO, e.g. Central Irrigation Trust and Renmark Irrigation Trust). IIO exchange trade is likely the lowest-cost option in this mix, where the transactions costs are usually offset by a cost recovery process (i.e. they operate their trade exchanges as non-profit services). Other exchange options such as brokers can set fees of 3% of the trade at each end (i.e. both buyer and seller pay). This constitutes a considerable transaction cost, especially if additional effort is required to settle a dispute or enter into formal contracts requiring due diligence by all parties. In addition IIO exchanges enable small parcels of water to be aggregated for trade on the open market thereby reducing transaction costs for the irrigators.

- The interim report presents three options with respect to enhanced water market regulation. In our view water broker and exchange licensing, along with government oversight, would provide the basis for better market regulation of brokerage exchanges. Appropriate oversight should also enhance price signals, reduce information asymmetry, increase transparency with respect to speculative and hoarding behaviour, and greatly increase the level, quality/accuracy and timely access to market data. Other transaction costs such as dispute resolution and contracting would also fall dramatically over time.
- However, we do not believe that such regulation should be similarly imposed upon IIO exchange platforms, where transaction costs remain negligible. In fact, any move to increase regulation for such platforms would raise transaction costs, thereby reducing the gains from trade.
- In this context it is important to note that transaction costs are the investment of time, effort and resources by market participants with respect to searching for trade opportunities, conducting due diligence prior to any trade, contracting between the parties, and (potentially) resolving any disputes that arise (McCann and Easter 2004).

Table 1
IIO key values and trends—water allocation trade for various periods between 2009/10-2016/17.
Sources: Various IIO websites, annual reports, and privately provided information from 2009/10 to 2016/17.

Irrigation scheme	Allocation transfer costs	Unit	Mean	Std. dev.	Percentage change over time-period (%)
Western Murray Irrigation (2012/13-2016/17)	External Temporary Water Transfer fee	$/transfer	70.74	3.04	−7.56
	Internal Temporary Delivery Entitlement Transfer	$/transfer	25.25	2.16	−14.96
	Internal Temporary Water Transfer fee (Customer to Customer)	$/transfer	25.25	2.16	−14.96
	Internal Temporary Water Transfer fee (WMI to Customer)	$/transfer	56.76	1.34	−3.87
	Internal Internet Water Transfer fee	$/transfer	24.55	0.85	−3.36
Murray Irrigation (2012/13-2016/17)	External Temporary Water Transfer fee	$/transfer	63.49	2.10	4.04
	NSW Government Temporary Transfer fee (min)	$/transfer	46.62	6.85	−28.82
	NSW Government Temporary Transfer fee (max)	$/transfer	154.39	3.74	−6.34
	Water Exchange Successful Seller listing fee	$/successful listing	67.45	3.35	7.84
	Water Exchange Successful Registered Buyer Bid fee	$/successful purchase	67.45	3.35	7.84
	Water Exchange Purchase fee	$/successful purchase	23.48	1.92	15.55
Goulburn-Murray Water (2009/10-2016/17)	Application for temporary transfer of water	$/application	82.03	1.27	−1.44
SA River Murray PWC (2009/10-2016/17)	Application to transfer water allocation (A1)	$/application	242.45	2.32	−0.03
	Tag an interstate allocation to SA (T1)	$/application	241.95	2.02	−1.64
	Tag an SA allocation to interstate (T2)	$/application	242.45	2.32	−0.03

- Research into water market transaction costs in the sMDB (Loch et al. 2018) clearly illustrates how investment by state government agencies into improved processing frameworks and systems resulted in lower transaction costs over time. Where State Agencies had centralised their activities with respect to water markets, they demonstrably reduced the time to process and approve trades. In addition, where that centralisation supported local exchange assessments (e.g. Goulburn-Murray Water) they were able to reduce the fees associated with water transactions. See excerpt above, where reductions in transaction costs have reduced over time (RHS of Table 1).
- To ensure accuracy in the process, we would strongly suggest that prior to any change with respect to exchange platform regulation, the ACCC commission a benefit-cost analysis with a set of reference terms negotiated with the relevant IIOs. This work could also be undertaken by some of

the South Australian researchers named in this submission (i.e. Loch and Adamson) who have considerable expertise and a peer-reviewed track record with such analysis. A detailed benefit-cost analysis would serve to further streamline water trade processes and highlight search, negotiation, contracting and dispute-resolution investment needs.

- Further, we understand that fit-for-purpose frameworks exist and are suitable for adoption by the water market; without the substantial investment and on-going economy of scale and licensing overheads associated with larger financial exchange platforms (e.g. ASX). However, before agreeing to the adoption of any such framework we would expect that a full assessment of these options would be explored via a benefit-cost analysis to fully explore the impacts of change.

Water Information Data Infrastructure

- The adequacy of information about water resources has a long history in Australia including a Royal Commission in New South Wales in 1887 which reported that information was fragmented and that "*public opinion was in danger of being misled by statements and theories which there was ample evidence to refute*" (Parliament of the Colony of New South Wales 1887, as reported in NLWRA (2002) Australian Natural Resources Information 2002). One hundred and fourteen years after that Royal Commission, the House of Representatives Standing Committee on Environment and Heritage Inquiry into Catchment Management reported that "*The Committee () is aware that the dissemination of reliable information throughout government, industry and local communities can be very poor…the Committee concludes that while there is an expanding body of information in this area, it is often inaccessible, patchy, uncoordinated and uncontrolled.*" (Parliament of the Commonwealth of Australia 2000). The National Land and Water Resources Audit (NLWRA) reported in 2002 "*That the messages about the availability and quality of natural resources information today are fundamentally the same as in 1887*" and that:
    - *"Data and information are often fragmented and difficult to find*
    - *Some fundamental natural resources data are not being managed systematically*
    - *Coordinated programs are needed to maintain and fill gaps in time series data"*
- Considerable emphasis was placed by the 2002 NLWRA Audit I report (NLWRA 2002) on the development of standards and data access with the report also mentioning that "*collecting, collating and standardising information () is expensive*" and that "*lessons from the past suggest there is a danger that the systems, data and partnerships that have been developed () will not be maintained*". In addition, the final report of NLWRA Audit II (2002-08) mentioned that "*Leadership, commitment, and appropriate institutional arrangements are required in the natural resources information arena to promote and support coherent action to deliver an improved information infrastructure and sustain it in the long term*."
- We understand that under the Water Regulations 2008 BoM has a responsibility for providing water trade information as part of the Australian Water Resources Information System (AWRIS). In this respect BoM i) collects data from over 200 organisations, ii) quality checks, standardises, and subsequently store that data in a central database, iii) organises data within the Geofabric, iv) analyses, interprets and integrates the data to v) deliver high quality information in the form of data, reports and forecasts for improved water management. We also understand that (in addition to other initiatives) in 2008 a $80 mil program commenced to assist organisations to upgrade and expand their water information monitoring, collection and reporting systems (BoM AWIS Information Sheet), and that $25 mil was also spent on a National Water Market System prior to it being abandoned.
- Despite the above efforts, we note with concern that much of the narrative in the ACCC's interim report refers to data, information and rules etc being fragmented and inconsistent in 2020.

Consistent with this, Mr Mick Keelty, in his Northern Basin Commissioner first year report 2019 (Keelty, 2019) reported that "*A single source of accurate and relevant information relating to water entitlements and availability for the entire MDB is essential, instead of each agency and/or sections of the same agencies having their own websites. This will go a long way to addressing misinformation or the lack of timely information. Manoeuvring through the plethora of websites for stakeholders is slavish and not conducive to achieving high levels of compliance*".

- From an industry perspective, it appears that the current status related to water information in Australia may be summarised as:
    - Cost-inefficient
    - Being based on a supply chain architecture/interoperability model that is structurally unable to provide the level of seamless transition of relevant water related data (including storages, flows and trade data) from State to national levels with the degree of currency, accuracy and metadata that many users expect[1].
    - Has significant duplication of effort, inconsistencies and ambiguities. This relates to such basic things as determining the volume weighted average price, and thresholds etc for what constitutes a commercial trade, where various jurisdictions have different metrics. In relation to the later, it is concerning to note in the recent 2018-19 Australian Water Market Report (BoM, 2020) BoM set the price threshold for analysing commercial water allocations to be above $5ML or below $10,000 ML (increasing it significantly from the $1,000 ML threshold used in the 2017-18 report). We fail to see how a water allocation price approaching anywhere near $10,000 ML could be considered within a valid commercial threshold. Such prices are more likely associated with water entitlement trades than allocation trades. (Refer page 32 http://www.bom.gov.au/water/market/documents/TheAustralianWaterMarketsReport2018-19.pdf)[2]
    - Raises questions as to whether taxpayers are getting value for money from investments over the last 15 years, and points to foundational issues related to a lack of consistent standards and governance, and an inefficient water data infrastructure thereby limiting the ability to "*lead to improvements in the timeliness, quality and efficiency of water management and policy decision-making*" as envisaged under the AWRIS.(Bom Information Sheet 3: Australian Water Resources Information System AWIS). By way of example, analysis of the current BoM water trade entitlement dataset reveals over $20B in trades in the 2009-10 financial year of which over $18.5B occurred in Western Australia involving only three trades at an average price in excess of $3 mil / ML. Collectively, when indexed to

[1] In this respect, based on recent work by South Australian researchers, we believe the current meta-system also lacks sufficient linkage between 'water storage and trade data', and 'supply and demand data' at suitable scales (and level of disaggregation or richness of attribution) thereby limiting overall application and utility, and as a consequence the cumulative net return or value of investments to date. We believe overcoming these shortcomings can readily be achieved, however in the short term developing fit-for-purpose consistent datasets covering the necessary range of thematic areas requires a level of spatial modelling, analytical skill and contextual understanding that appears beyond most currently working in the water analysis, advisory and planning field (resulting in fundamental shortcomings in numerous recent reports).

[2] Consistent with this it is interesting to note that in implementing the Generalised Additive Model (GAM) smoothing methodology referred to in the report (E.g. Figures 3, 3.4.,3.3.4 etc) ABARES excluded trades between $1 and $5k ML when considering Allocation Trades, thereby introducing an additional stratification threshold (Refer ABARES, 2019). On this basis is it also somewhat confusing to note that in the figures mentioned above the ACCC reports that the charts in question were derived using ABARES GAM methodology excluding zero-dollar trades. In this respect, if the ACCC were following the ABARES GAM methodology it follows that the data would be stratified between $1 and $5K not above $0?

June 2019 prices, entitlement trades in 2009-10 account for over $2B, or more than 50% of the total entitlement trades ($46B 2019 prices) contained in the BoM database for the time series 2007-08 to 2018-19 inclusive. Many would question the reliability of these records contained in a system that is reported as being .."*a secure repository for water data and () a means to deliver high quality water information to all Australians. AWRIS is a powerful information system capable of receiving, standardising, organising and interpreting water data from across the nation*".

- Within the above context, we note that much of the analysis in the Interim report is based on information provided separately to the ACCC by the states in response to voluntary information requests. For example, it is interesting that in relation to numerous figures (e.g. 3.2, 3.3, 3.4. 3.5, 3.7 etc.), State data was used in preference to BoM water information data which raises the question as to why, with some assuming it might be because of anomalies such as those illustrated in the dot point above?
- To this end, we are aware of many fundamental integrity issues within both the BoM and State water data which may indicate one reason as to the ACCC's preference; but even having used State water data, it is our view that problems of integrity and a lack of consistent standards persist, creating substantial potential/probability of flawed analysis and conclusions. This raises two questions:
    - Does the fact that the ACCC didn't use the BoM resource for their analysis indicate an admission that the BoM database is not fit-for-purpose, even though it was set up to provide such a service to water users, managers and regulators? This must be addressed in the final report in order for users and managers to have any trust in the conclusions.
    - Further, it is readily accepted that up-to-date and timely information is critical for informing current drivers of trade behaviour. Why then does the ACCC (via their commissioned work) consider insights based on a survey of sMDB irrigators in 2014-15 suitable for informing current (i.e. 2019-20) analytical requirements? It is important to recognise key differentials between these time periods (e.g. median water allocation trade prices of around $150 / ML, compared to the recent median prices of around $700 / ML at the time this inquiry was commissioned?). Further, we note on page 407 of the interim report, the ACCC acknowledges there …"*have been fundamental changes in the water market since the last drought*" and that new measures such as carryover are now more widely available which in turn impact on irrigator behaviour. Collectively this has changed the frame conditions considerably since the 2014-15 period, thereby raising additional concerns about the applicability, utility and fit-for-purpose nature of drawing insights on irrigator behaviour based on survey data that is between 5 to 10 years out of date. In our view, it is also critical to recognise that irrigator adaptation responses are constantly changing - fundamentally driven by supply - and these are very different between drought, normal and wet states of nature (Adamson et al 2017, Loch et al 2020). Again, the ACCC must make it clear as to why they have relied on this out-dated data source as a basis for (presumably) informing trade drivers and behaviour in a post 2014-15 era.
- Unfortunately, the cumulative impact of the above is that it undermines overall trust and integrity and therefore credibility users have with current systems, analysis and reports

In addition to the comments provided above, we note with interest the analysis in the interim report related to carryover, allocation announcements and inter-valley trade rules etc, and look forward to the findings of this work. We also believe however, it is likely that complications and community concerns related to water will continue to remain until issues associated with over-allocation, over-entitlement and

river operations – delivery risk etc are resolved. Collectively this speaks of the need for a deeper analysis and better understanding of supply, demand and trade dynamics across the basin at different scales, along with an informed assessment of future dynamics based on a range of climate models to quantify risk and uncertainty (something that RHFG has been actively pursuing with interest in recent times).

We look forward to our issues being addressed in the final report.

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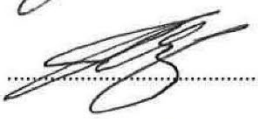
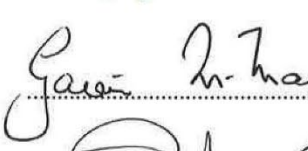
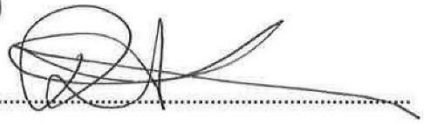
Jason Size	Summerfruit SA	
Mark Doecke	Citrus Growers SA	
Gavin McMahon	Central Irrigation Trust	
Rosalie Auricht	Renmark Irrigation Trust	
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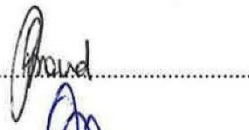
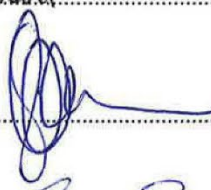
Brett Proud	Riverland Winegrape Growers Assoc	
Sheridan Alm	Riverland Winegrape Growers Assoc	
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