

29 November 2019

Ms Gabrielle Ford
Murray-Darling Basin Inquiry
Australian Competition and Consumer Commission
<https://consultation.accc.gov.au/agriculture/murray-darling-basin-inquiry-issues-paper/consultation/subpage.2019-10-15.3276925484/>

Dear Gabrielle

Coleambally Irrigation Co-operative Limited (CICL) Submission to the ACCC inquiry into water markets in the Murray-Darling Basin

Key points

CICL supports this inquiry making recommendations to regulate the water market in order to:

- improve the quality and accuracy of price reporting of both annual allocation trades and permanent trades;
- improve the timeliness of reporting of annual allocation trades, water availability and use at a water sharing plan scale. This should include separation of held environmental water entitlements, the volume available and current use;
- remove opportunities for brokers or agents to have an unfair advantage in the water market;
- remove opportunities for market participants to have an unfair advantage, for example trade exemptions, negative allocation account balances; and
- remove opportunities for market participants to exert unfair influence on the water market, where the ACCC establishes an evidence base that demonstrates current settings and or behaviours are detrimental to its operation and water users.

The tying of land and water back together, whilst popular with some farmers and communities, will have significant implications for asset values and be extremely disruptive to today's irrigation farm businesses and is not supported.

The water market has some unique characteristics which make it different to other markets. In exploring opportunities to improve the operation of the water market CICL believes it is essential any recommendations to enhance the water market do not act to undermine the unique characteristics of the different water products.

To this end CICL supports continuation of catchment based water sharing and allocation policies, as these rules form the basis of water entitlement holders' property rights. The current rules in NSW provide certainty and stability to water entitlement holders and the water market.

In addition, ensuring the operation of the water market does not negatively impact on the yield and reliability of the various water allocation products in the Murray-Darling Basin (the Basin) is essential. CICL supports consideration of 'freight' factors as a mechanism for avoiding third party impacts on other entitlement holders of changing water use patterns that could impact on reliability. CICL also supports the introduction of delivery rights in the river system as a policy mechanism for managing congestion.

CICL supports continuation of the current IVT limits in the Murrumbidgee Valley. We believe the current limit strikes an appropriate balance between supporting annual allocation trade and mitigating the impact of trades on third parties.

CICL supports valley based access to carryover as it offers flexibility to general security entitlement holders to manage their between years access to allocations.

Introduction

CICL welcomes the opportunity to make a submission to this inquiry and considers the inquiry is an important opportunity for the ACCC to make recommendations that will improve the operation of water markets in the Basin.

It is also CICL's view that this inquiry presents a unique opportunity to analyse the operation of the water market including behaviours of participants and to provide an evidence base that will improve the public discourse on the water market and its operation.

CICL supports the ACCC completing a forensic analysis of water market behaviours of market participants to identify opportunities for improvements, including increased regulation, where the ACCC is able to provide evidence of weaknesses in current regulation.

This submission provides CICL's views on water markets and the issues included in the ACCC's issues paper. CICL also advocates in the interests of its members¹ as a whole, therefore this submission includes comments which CICL considers are in the interests of its members as water users, holders of irrigation rights and participants in the water market.

About CICL

CICL is based in the Riverina and supplies irrigation and drainage services to nearly 500 farms via an open, earthen, gravity fed, channel network. Coleambally Irrigation has a dual governance arrangement, CICL and Coleambally Irrigation Mutual Co-operative Limited (CIMCL). CICL's infrastructure (excluding its earthen channel and drainage network) has a modern engineering equivalent asset value of \$168M.²

The CICL area of operations is 456,821 ha including 317,281 ha which is serviced by the West Coleambally Outfall Channel. The intensively irrigated area is approximately 80,000 ha. Our members grow a range of irrigated crops, their farming systems are predominately annual production, and there is some investment in permanent plantings.

CICL operates and maintains the irrigation supply and drainage system and delivers a range of corporate services on behalf of its members. CIMCL has responsibility for the future replacement of the major assets within/under/over the supply and drainage systems.

CICL was previously government owned and on separation from government our customers' 'statutory water' rights were converted to contractual rights or 'irrigation rights' (CICL water entitlements). Our [website](#) contains more detailed information about our operations.

¹ Members is inclusive of members as defined in CICL's [Rules](#) and customers.

² Jacobs Coleambally Irrigation MEERA Valuation, November 2016.

Our interest in water markets

The reasons CICL is interested in water markets include:

- CICL believes water markets, both permanent and annual allocation, are essential to providing certainty and confidence to both CICL's but also its members' 'property rights'. The effective operation of water markets is essential to maintaining CICL's and its members' property rights to water, which are of underlying importance to the value of our and our members' businesses and asset base.
- Water markets allow for the movement of capital providing opportunities to deliver benefits to both sellers and buyers and overall improvements in economic output.
- The annual allocation market provides an effective mechanism for sharing the available water in all seasons; it is particularly important during times of scarcity offering a market mechanism and is superior to government intervention in the distribution of water between commercial activities.
- The annual allocation market provides an important opportunity for farm businesses with annual cropping systems to expand and contract in response to variable seasonal water availability.
- CICL is interested in effective regulation of water markets that protect the property rights of third parties that are not involved in market transactions, for example appropriate rules are in place to ensure the movement of water between zones does not increase the volume of operational water required.
- CICL is interested in improved transparency, accessibility and ease of use of water market information.
- CICL is interested in regulation of water brokers, traders and other intermediaries to ensure these participants' behaviours provide water market participants with confidence in the integrity of the water market's operation.
- CICL is an operator of a water trading platform, WaterMart (refer Figure 1).

Where is CICL located, where does CICL hold and trade water?

- CICL's water access licences are held in the Murrumbidgee Regulated River Water Source and CICL's water supply is from the Murrumbidgee River, trading zone [13](#).
- CICL also holds an aquifer licence for extraction from the Lower Murrumbidgee Deep Groundwater. This licence is to augment conveyance allocations and support 'winter' water supply.
- Annual allocation can be traded within the regulated Murrumbidgee without restriction from our licence.
- Annual allocation can be traded out of the regulated Murrumbidgee subject to the Murrumbidgee IVT rules which are explained [here](#).
- CICL places no restrictions on the trade of our members' allocation from our licence other than a restriction that may apply to our licence.
- Permanent trade of general security and high security entitlements from our licence to the regulated Murrumbidgee is not restricted.
- In the Murrumbidgee the NSW Government uses tagged trade, not entitlement conversion, to facilitate inter-valley permanent trade.
- Trade of supplementary water entitlements is restricted to zones by the Water Sharing Plan Murrumbidgee Regulated River Water Sources 2016.
- CICL is not a market participant in the water entitlement market other than as part of its commercial transactions involving conveyance entitlements with Governments in exchange for capital for investment in modernisation of its infrastructure generating water savings.
- CICL administers customers' accounts in real-time which allows for real-time trade opportunities for customers and approves annual allocation trades to and from our licence as the 'bulk licence holder' on behalf of our customers.

- CICL administers water entitlement trades and delivery entitlement trades within our licence and approves external water entitlement trades to and from our licence on behalf of our members.
- CICL is not a market participant in the annual allocation market except:
 - to the extent it may sell water in its small trading account. This account only exists as a consequence of separation from government; or
 - in the sale of annual allocation from holdings of G class water entitlement. This water entitlement is owned as a result of commercial transactions by members as part of Government water recovery, where G class water entitlements³ were exchanged for CICL conveyance entitlements.
 - CICL has also on one occasion, and may again in the future, sell annual allocation from its aquifer licence, where this volume is surplus to CICL's needs.

The nature and frequency of our dealings

- CICL has made a separate commercial-in-confidence submission as an addendum to this submission which details annual allocation transactions within and to and from our licence and water entitlement dealings to and from our licence and within our area of operation.

The types of water right held

- CICL holds the following water access licences
 - Murrumbidgee Regulated River Water Source
 - Conveyance
 - High Security (irrigation) and High Security (town water supply)
 - General Security
 - Supplementary
 - Domestic & Stock (stock)
 - Lower Murrumbidgee Deep Groundwater
 - Aquifer

Other information

- CICL's Board consists of four member elected directors and two external directors. CICL endeavours to have an open and constructive relationship with its members. Our close relationship with our members, governance arrangements and discrete, concentrated community place CICL in a strong position to have a sound understanding of the issues confronting irrigated agriculture in our region and the opportunities presented by water markets. This background and our lived experience of the changes facing irrigated agriculture provide context to our submission.
- CICL also operates an online allocation trading platform, WaterMart. Details of WaterMart are included in Figure 1. While transaction volumes through WaterMart are not significant in the context of total transactions in the Murrumbidgee, anecdotally WaterMart is a valued and trusted source of price disclosure to the annual allocation market in the Murrumbidgee. This is evidenced by the number of enquiries from members asking when it would commence operation at the start of the 2019/20 irrigation season when the WaterMart platform was not operational.

³ G class stock supply for West Coleambally Channel.

Figure 1 WaterMart Trading Platform

WaterMart Coleambally Pty Ltd – a fully owned subsidiary of CICL

- WaterMart is an online allocation trading platform which can be accessed via CICL's website [here](#).
- It was initially established in 2002/03 to provide CICL Members with the ability to buy and sell annual allocation within the CIA and to also access the southern connected market.
- The platform is now open to all market participants who register and it is the responsibility of any external buyers to ensure their purchase can be transferred to their Water Access Licence.
- The WaterMart platform is a 'matching' service – not a brokering service.
- All transactions via the platform are transparent.
- There is flexibility in the parcel size sold and purchased with a minimum parcel size of 5ML and no maximum trade limit.
- Once a parcel is purchased, a contract is established and the buyer is obliged to complete the transaction.
- WaterMart charges a fixed fee per trade matched, and passes through the authority fees that are required per trade.
- WaterMart operators (CICL staff) do not provide water market advice.
- WaterMart provides a trade matching service and electronic invoicing, settlement and approvals.
- WaterMart also provides an electronic document delivery service to approval authorities assisting with real time approvals.
- A distinguishing feature of WaterMart is it provides a settlement process that guarantees that sellers are paid and buyers receive the volume of annual allocation purchased.
- WaterMart also has a market licence.

Issue 1 – Market trends and drivers

More water in the environmental water bucket

In the NSW southern Murray-Darling Basin there has been a quantum reduction in the volume of surface water available for irrigation as a result of government investment in water for the environment. The Basin Plan surface water recovery equals 777.3 GL of long term average annual yield with a further 19.2 GL contracted. Of this 54 percent is from the Murrumbidgee.⁴ In addition, water recovery in the southern Basin from the Living Murray and Water for Rivers program has reduced long term average water availability by a further circa 679 GL⁵.

Since 2001, CICL has invested in modernisation of our channel regulators and water supply points to improve our water supply service and delivery efficiency. CICL's delivery system is managed under Total Channel Control (TCC), an automated water delivery system developed by Rubicon Water™. This investment has included direct investment and in partnership with Government. Investments by Government have had a share of the water savings returned to Government for environmental purposes.

⁴ <https://www.agriculture.gov.au/sites/default/files/sitecollectiondocuments/water/progress-recovery/water-recovery-under-basin-plan.pdf>

⁵ <https://www.mdba.gov.au/sites/default/files/docs/Pre-2009-water-recovery-table-2017.pdf>

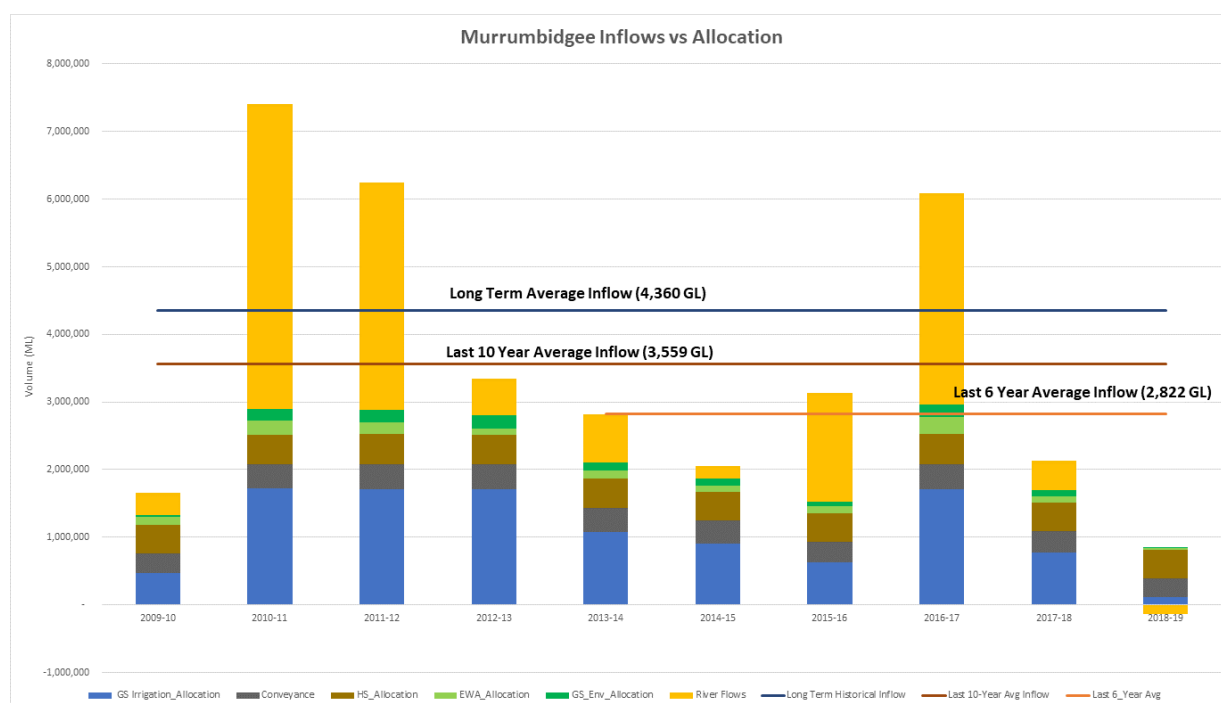
CICL argues that this investment has generated a 'win win' outcome for CICL and its members and Governments and has not removed "productive water" from the consumptive pool. This investment has helped mitigate the social and economic impact of the reduction in entitlements held on farm on CICL and its members' holdings which is in the order of 26 percent of our 2008 general security licence volume and 47 percent of our 2008 high security licence volume.

This reduction has not been matched by a contraction in irrigation foot print and in CICL disconnection from our infrastructure is virtually zero. This means some farm businesses are more dependent on the water allocation market than prior to government intervention and the separation of land and water.

Lower inflows

WaterNSW data⁶ shows the inflows in the last 10 years and last six years are 82 percent and 64 percent respectively of the long term average in the Murrumbidgee (Figure 2).

Figure 2 Murrumbidgee Inflows 2009/10 – 2019/20.



More conservative decision making and changing irrigator behaviours

Post the millennium drought government allocation policy has become more conservative. Allocation announcements are based on a 99% chance of exceedance inflows (i.e. low) and in addition water is being set aside to guarantee high priority needs in the next water year prior to announcing improvements in general security. For example, in the Murrumbidgee valley on 15 November 2019 350 GL, or nearly 19 percent of the volume available, was reserved for 2020/21 high priority needs.

⁶ https://www.waternsw.com.au/data/assets/pdf_file/0005/144572/Murrumbidgee-Community-Update-May-2019.pdf

Irrigator behaviour has changed. In the CICL area the crop mix has changed from being dominated by rice to increased areas of cotton and maize and some permanent plantings. The expansion of cotton with its forward sale option results in irrigators making decisions about carryover to optimise their business returns.

In the wider southern Murray-Darling Basin the potential demand for permanent plantings has expanded, with Aither estimating future demand will equal the total volume available in a repeat of 2007/08 inflows⁷.

Anecdotally some of these developments do not have the volume of high security water entitlements required to meet their demand. They are therefore reliant on the water market and are using the range of new, innovative products available to assist businesses source their water demand.

Anecdotally irrigators have become more risk averse, with a significant reluctance by some to plant summer crop areas greater than their assured water supply when the optimal planting window closes.

Separation of land and water

The separation of land and water has allowed investment by government in water for the environment. In parallel it has opened investment and succession planning options for farmers, brought capital to irrigated agriculture and increased asset values. Any consideration of tying land and water back together, whilst popular with some farmers and communities, would have significant implications for asset values.

Carryover arrangements

Carryover arrangements at a water access licence level are state based policy. CICL is aware that NSW and Victoria have different policies as do South Australia and these different policies may have different market implications.

CICL believes the NSW Government carryover policy in the Murrumbidgee and Murray Valley is a sound policy. In these valleys there is annual water accounting. The policy limits carryover to a percentage of general security entitlements. In addition, carryover plus the announced allocation is also limited to a maximum percentage of entitlements. This maximum is nett of any annual allocation trade.

In the regulated Murrumbidgee Valley the carryover rules achieve the right balance between providing irrigators with a risk management tool whilst minimising impacts on other water entitlement holders.

In the regulated Murrumbidgee Valley the following rules apply:

- Water remaining in general security accounts at the end of the water year (June) is automatically carried over up to 30% of the water entitlements.
- The total volume made up of annual allocation plus carryover net of any allocation trade is 100 percent. i.e. carryover is a risk management tool; it is not a policy option for having access to more than 100 percent of water entitlements in any one year.
- Carryover is not available on high security water entitlements.

⁷ <https://waterregister.vic.gov.au/about/news/269-new-report-on-water-supply-and-horticulture-demand-in-the-murray>

CICL has heard the arguments that all carryover rules should be the same and does not support this approach. CICL supports valley based allocation policy with known allocation rules providing certainty to water entitlements and the water market. CICL argues that in the Murrumbidgee Valley access to carryover is not causing perverse outcomes in terms of the water market, rather carryover offers flexibility to general security water entitlement holders to manage their between year access to allocations.

Advocates for removing carryover are asking for socialisation of under use on the assumption that water will remain in individual accounts and not be used. CICL argues this assumption is flawed. Reducing carryover will encourage inefficient water use at the end of the water year, for example onto land and into farm storages with high evaporation rates.

CICL does not support increasing the carryover volume in the Murrumbidgee to 50 percent (the NSW Murray level) because increasing the potential volume of carryover stored may impact on air space for storage of new inflows and increase the risk of access to high priority needs on 1 July in the next water year.⁸

Issue 2 – Market transparency and information

Many of the questions on market transparency relate to how market participants gather and use information, therefore CICL has only limited observations on the questions.

It is CICL's view that whilst there is a lot of information available about both allocation trade and entitlement trade, it is in different places, it is not easy to find, presented in different ways, and navigation of the plethora of sites is not easy, with limited information on how to use the sites.

Take for example the NSW Water Register [here](#). There is no supporting information about what is available or how to use the register. So often it's a case of you don't know where to start.

There are also obvious gaps in registers where rights are held within the irrigation corporations. CICL is required under the *Water Regulations 2008* to provide the Bureau of Meteorology with trade data both annually and weekly as outlined in the following. <http://www.bom.gov.au/water/regulations/report.php?personid=44> CICL supports increased regulation to improve the transparency of reporting of annual allocation trade and water entitlement trade information, including price disclosure. However, any increased disclosure must result in improved quality, consistency and transparency of information available in the public arena and not impose requirements on organisations like CICL to make further investment in software systems or additional administration which will ultimately increase costs to our members.

CICL supports improvements in the quality of water market information available in the public domain and considers consistent data, available in as close to real-time, either via a single register or consistent state registers, would improve market discovery and understanding. The highest priority for improvements is for annual allocation trades.

CICL is a member of National Irrigation Corporations Water Entitlement Register (NICWER). This is a national register which includes a publically searchable facility, where entitlements which are not captured on the statutory Government registers can be accessed, like a title search or Water Access Licence search (applicable to NICWER

⁸ NSW allocation framework targets having sufficient water on 1 July of the next water year to announce 95 percent for high security, irrigation corporation conveyance allocations and full delivery of carryover in allocation accounts.

members) and encourages the ACCC to consider this register as an option for other Irrigation Corporations. The register can be accessed at <http://www.nicwer.com.au/>.⁹

CICL observes an interest in publically accessible information of volumes and use at an individual water access licence scale. This interest is driven by two different motives: commercial motives in relation to the operation of the water market, in particular the allocation market in the southern Basin; and secondly public interest from some sectors in relation to the operation of the water market and compliant water extraction.

CICL questions the extent to which providing public access to individual accounts will necessarily improve public confidence in regulation or Government's compliance framework. CICL considers this approach potentially exposes individuals to vexatious scrutiny and community policing. However, CICL strongly supports a seamless, unfettered sharing of information between compliance regulators, in NSW's case - WaterNSW, Department of Planning, Industry and Environment and Natural Resource Access Regulator (NRAR) and development of a mechanism for data sharing at this level should be a priority.

In relation to volumes in individual water allocation accounts, **CICL does not** support this information being publically accessible. NSW Water Registers already contain significant information. Unfortunately accessing this information is not straight forward, in particular information about current water use within a catchment, which is potentially important to market decisions in the regulated system.

CICL considers it would be beneficial in the Murrumbidgee Valley to be able to access current allocation account volumes at water sharing plan scale, not on an individual licence scale. This information should provide sufficient information to market participants. CICL acknowledges improvements have been made by NSW with the introduction of the water trade dashboard which can be accessed [here](#); however information about volumes remaining in accounts at a catchment scale is difficult to find.

In exploring improvements it is essential that volumes held in environmental accounts are distinguished from volumes in the consumptive pool. The WaterNSW insights portal [here](#) is an improvement in this respect as is the NSW Water Register [here](#) which has total holdings but not current water availability and or use.

This inquiry is an opportunity to bring together earlier attempts to establish nationally compatible registers and to bring forward considered recommendations to improve the extent, quality and consistency of information about water markets including allocation and water entitlement, water availability and use and account balances at a catchment scale. This should include the separate reporting of environmental holdings and use.

In making recommendations the ACCC needs to be clear about:

- What information is required and how this information will materially improve the operation of the water market?
- What granularity or detail is required?
- What timeframe is required for the information to effectively inform the market i.e. the circumstances where information is as close to 'real time' as possible in order to have an informed market?

⁹ Fees apply to use the NICWER and access to the entitlement holders' identification number is also required.

- The nature of the platform and the technical limitations of delivering consistency between states.
- Who should be responsible for currency of the information? Who should be responsible for communication, education and extension?
- Whether enhancement of the Bureau of Meteorology platform is the most efficient and effective way to progress better information or whether alternatives may be more suitable.
- The cost of regulation to the industry.

Issue 3 – Regulation and institutional settings

Zero trade disclosure

CICL would support recommendations that result in a reduction in the number of allocation trades being reported as zero trades. The MDBA's Water Audit pricing report June 2019, identifies the issues and articulates solutions.

Reporting of zero allocation trades should be limited to:

- Trades between environmental water accounts with these trades publically reported.
- Trades between related parties where the parties are required to provide evidence of the relationship. Most irrigation corporations provided account management options to minimise the requirement for allocation trades within the system between related businesses. Linked licences in NSW provided a similar option. These options effectively combine all annual allocation water into a single pool.
- The transfer of irrigation corporation annual allocation and any water savings to customers' accounts.

Trading zone restrictions

CICL supports the current trading zones for the Murrumbidgee Valley and believes the transparency of operation of the inter-valley trading (IVT) account in the Murrumbidgee has improved.

CICL believes the current IVT account limits in the Murrumbidgee present a reasonable risk management arrangement for protecting the interests of other water entitlement holders not party to inter-valley trade whilst also allowing for movement of annual allocation from the Murrumbidgee into the Murray and or Goulburn via back trade arrangements.

CICL supports tagged trading as the appropriate mechanism for facilitating trades between the Murry and Murrumbidgee and this mechanism is superior to conversion of entitlements.

However, CICL recommends the protections provided in the Basin Plan Clause 12.23 which allow for tagged trade between linked licences to be **exempt** from the IVT restrictions be removed. CICL argues the protections have no basis and provide an unfair advantage to a small number of water access licence holders.

CICL understands there are six NSW licences protected by this Clause, five from the Murrumbidgee to the Victorian Murray and one from the NSW Murray to the Murrumbidgee, and encourages the ACCC to explore with WaterNSW and the NSW Department of Planning, Industry and Environment the impact and inequity between water users of these linked licences and their behaviour.

In terms of the Goulburn IVT CICL understands significant volumes are delivered from the Goulburn to the Murray outside of the 200GL limit as a result of historical decisions

including entitlement conversions, and intergovernmental agreements to recover water for the Snowy River. CICL also understands Victoria has similar issues to NSW in terms of linked licences protected by Clause 12.23 of the Basin Plan.

CICL encourages the ACCC to fully understand the historical differences between the Victorian Goulburn IVT and the Murrumbidgee IVT before proposing any changes to the IVT arrangements in the Murrumbidgee.

Freight rate, flow share and deliverability

CICL supports the ACCC exploring the impact, if any, on the volume of water required to deliver water orders as a result of increased annual allocation market activity, in particular change in use patterns of either consumptive or held environmental water or both.

Current arrangements in the southern Basin use trade restrictions to manage physical delivery issues and a megalitre sold equals a megalitre purchased, even though the delivery distance may be significantly greater when water moves from an upstream licence to a downstream licence.

This is an important area which requires greater transparency to provide water users the confidence that changing water use patterns are not resulting in third party impacts on the reliability of water entitlements.

CICL supports consideration of 'freight' factors as a mechanism for avoiding third party impacts on other entitlement holders of changing use patterns on reliability. A freight rate will allow trade to continue and force the market to price the cost of increased volumes of operational water.

CICL does not believe river operators have in place suitable mechanisms for managing network congestion with governments largely arguing it is not an issue. This has been a contentious issue particularly in the Murray where 'over bank' flows with their associated higher losses were required in 2018/19 in order to provide South Australia with their entitlement flow.

In the Murrumbidgee, CICL has verbally raised this issue with both WaterNSW and the NSW Department of Planning, Industry and Environment who have shown no enthusiasm for considering the need to establish flow shares or extraction limits despite the NSW legislation providing for establishment of extraction limits

Within the CICL footprint, access to water in the event of restrictions is based on delivery entitlements held with a known standard of 14ML/day per 1,400 tier one delivery entitlements. The policy has been in place for a number of years and is used effectively to share access to flow volume in a known and equitable way between members during times of restriction. CICL has developed a capacity model which is used to assess the impacts of permanent trades of delivery entitlement between channels. This process ensures that movement of delivery entitlement between channels does not reduce the flow share per delivery entitlement in that system to less than the standard. In an added level of sophistication, to support permanent trade of delivery entitlements, trade is still possible to channels with no 'spare' capacity. The trades are classified as tier two delivery entitlement and do not have access to 'flow share', when daily demand exceeds the channel capacity.

CICL supports the development of delivery rights on river systems as a proactive tool to provide current water users and new entrants with a known framework for how daily flow access will be managed in times of congestion and mitigation of third party impacts.

Trade processing times, metering and account balances

CICL encourages the ACCC to identify the different approaches between states for trade processing times, metering and account balances that may contribute to reduced effectiveness of the allocation market and inequity.

CICL notes the trade processing time performance metric for interstate trades between NSW and Victoria is 10 business days, but to and from South Australia it is 20 business days. In contrast, within state trades have a performance metric of five business days.

CICL believes measures to reduce processing and approval times will improve the operation of the water market and requests the ACCC document differences between states and identify any improvements that will result in more consistent performance between states and faster processing times.

CICL has invested in technology which provides real time water availability and use at a farm scale. CICL farmers are unable to have negative account balances and CICL is able to efficiently approve annual allocation trades as on farm volumes are known.

Issue 4- Market participants practices and behaviours

CICL encourages the ACCC to utilise its powers to complete a forensic analysis of the market behaviour of market participants. This analysis should be at a scale that will allow the ACCC to either refute the multitude of accusations about the behaviour of market participants or identify potential market behaviours which are detrimental to the effective operation of markets and the movement of water to higher value uses.

Detailed below are CICL's actions which may be considered relevant to this inquiry.

CICL passes onto its members water savings as a result of modernisation and investments in technology and system improvements that have reduced CICL's annual operational losses. These water savings are passed in two ways; as a member benefit, as described in our [Rules](#) clause 83.2, and additional water offers which are sold to members at a known price. CICL places no restriction on its members' use and or trade of any water available as member benefit or additional water.

CICL requests the ACCC, when making recommendations to improve the operation of the water market, including price disclosure, account for these circumstances.

As noted in the first section, the only other market transactions CICL is involved with relate to small volumes of groundwater sold and sales from its small trading account.

Issue 5 Competition and market outcomes

CICL's views on some of the issues raised in this section are detailed above.

CICL supports the principles of water property rights and does not support restrictions being imposed on the holding of water entitlement or use of annual allocation. However, CICL does not support market manipulation by market operators which may be possible in a 'thin' annual allocation market. As previously stated, if there is evidence of this type of market influence the ACCC should recommend changes to market regulation to prevent this behaviour. If the ACCC identifies any current practices that are in their view illegal, they should pursue action against the identified offenders.

It is CICL's view that regulation is not sufficiently developed at a catchment scale to ensure the third party impacts, including impacts on the riparian zone, are prevented in the event of shifts in the timing and location of water delivery as a result of both the water market and behaviour of the environmental water holder to protect third parties.

In the Murrumbidgee Valley the current account management rules (30 percent carryover on general security licence and maximum announced allocations of 100 percent) and the IVT rules go a long way to protecting third parties from unintended consequences of water trade.

However, there is no protection or policies in place to avoid third party deliverability risks as a result of the movement of water further downstream, either for production or

environmental use. The attitude of regulators seems to be, we will consider this, **if** it becomes an issue.

Potential solutions including recommendations

CICL considers the operation of the water market will be improved by the following:

- Consistent requirements for registers and on-line public access to registers.
- Consistent trade approval times between states and a movement to instantaneous approval.
- Real-time reporting of trades, water availability and water use at a catchment and state scale.
- Consistent metering and telemetry and negative balance rules between states.
- Development of location based delivery rights in river systems as a policy mechanism for managing congestion and mitigation of third party impacts.
- Regulation of brokers including licencing.
- Licencing should include limitations on brokers and their related parties participating as a buyer and or seller of annual allocation and permanent water trades. Zero trade reporting to be restricted to related party transactions with evidence of the related party status.
- Audit verification of trade price data.
- Improved supporting information for market participants, including how to navigate registers, explanation of rules etc.
- Improved supporting information about the yield and reliability of different water products to support water users' investment decisions.

CICL would be pleased to have an open discussion with the ACCC about our management of channel restrictions, our administration of irrigation rights and annual allocation trades for its members as well as our operation of WaterMart.

If you require further information, or would like to discuss any aspect of this submission, please contact Jenny McLeod, Policy and Communication Manager on E:jmcleod@colyirr.com.au or M: 0429 819 348.

Yours sincerely



Clifford Ashby
CEO