

## **Productivity Commission**

# **Register of Foreign Owned Water Entitlements Submission**

Riparian Capital Partners Pty Limited

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## 1. Introduction

This paper includes responses to select questions posed by the Productivity Commission in the February 2021 Issues Paper titled *Register of Foreign-owned Water Entitlements*. Furthermore, Riparian Capital Partners (RCP) have included relevant additional information in this paper that was initially provided by RCP to the Australian Competition and Consumer Commission (ACCC) inquiry into water markets in the Murray-Darling Basin.

## 2. Riparian Capital Partners Overview

Riparian Capital Partners Pty Limited (RCP), a specialist water, agriculture and food investment firm, was established in early 2019, with the specific purpose of identifying, acquiring and managing investments across the agricultural sector. See [www.ripariancp.com](http://www.ripariancp.com) for further information.

### ***RCP's Interest in Water Markets***

RCP invests in real assets (farmland, agricultural infrastructure and water) that are critical to the production of essential agricultural goods, are fundamental contributors to food security and are predominantly located in regional areas. In doing so, RCP provides capital to support the growth, financial efficiency and sustainability of the Australian agriculture sector.

Select RCP team members have been active in the agriculture sector for more than 20 years across a number of roles, including roles requiring the acquisition and oversight of water entitlements for investment purposes and as part of corporate farming businesses targeting specific production and risk management outcomes. Through its current operations, RCP is involved in Australia's water markets on a regular basis.

## 3. Nature of community concerns about foreign ownership of water

### ***3.1. What specific concerns do community members hold about foreign ownership of Australian water rights? How widely held are these concerns and which are seen as the most problematic.***

RCP's agricultural sector relationships span farmers (private and corporate), commodity trading firms, commodity processing firms, agents and brokers, valuers, legal advisers, agricultural co-operatives, agencies, exporters, advisers and bankers. Furthermore, select members of the RCP team have participated in water markets for over a decade and have been involved in water market transactions for, with and between domestic and offshore owners and/or investors.

To date the RCP team have not encountered specific concern related to foreign ownership of Australian water entitlements. To the team's recollection no sellers of water entitlements have enquired about or rejected a sale based on the geographic domicile of the potential acquirer, no lessee of water entitlements have enquired about or rejected a lease based on the geographic domicile of the potential lessor. Similarly, in RCP's experience, no acquirer or lessor of Australian water entitlements has enquired about or rejected a potential purchase or lease based on the geographic domicile of the potential seller or lessee.

It is RCP's view, as shaped by the experience of its team members, that offshore capital is generally welcome in Australian agriculture, including the Australian irrigated sector that encompasses water entitlements. According to a report published by the Reserve Bank of Australia (RBA), *"Over a long period of time, investment in the Australian economy has been greater than domestic savings. The difference has been*



made up by net capital inflows from abroad<sup>1</sup>. As a capital constrained sector, Australian agriculture has also benefited from foreign capital inflows.

Not only is RCP's view that foreign capital is welcome, but it is also a fundamentally important for the future growth of the agriculture sector. A report undertaken by Natural Capital Economics and published by AgriFutures in 2020<sup>2</sup>, estimates that Australia's agriculture sector needs \$8.7 billion a year in new investment to achieve the National Farmers Federation vision of growing Australia's agriculture, fisheries and forestry sector output to \$100 billion by 2030.

### **3.2. To what extent do the concerns derive from views on foreign ownership generally?**

See 2.2 above.

### **3.3. How much do concerns relate to who owns water rights, or to how water is used and/or managed? Are there greater concerns about certain types of foreign investors more than others? Are any concerns related to structural changes in sectors where water rights are used or to changes in how Australia's water resources are managed?**

It is RCP's view that concerns regarding water markets (which have been widely reported by select news outlets) principally relate to factors other than foreign ownership. In RCP's direct experience, ownership concerns, where raised, are more commonly associated with non-corporate versus corporate ownership rather than a clear distinction between foreign and domestic ownership. It is useful to highlight that according to the Australian Taxation Office ~89% of all Australian water entitlements, ~91% of New South Wales/ACT water entitlements and ~96% Victorian water entitlements were domestically owned as at 30 June 2020.<sup>3 4</sup>

### **3.4. What has given rise to these concerns? For example, is there any evidence of foreign owners acting as 'water barons' and manipulating the supply or price of water**

Australian water markets have facilitated change in the Australian agricultural landscape impacting not only the agriculture sector but also regional communities and the environment. That said, evidence suggests that while water reforms have generated aggregate benefits, the reforms have not yet evenly benefited all.

It is useful to highlight and retain for the record conclusions reached by various government entities (at the Federal and State level) and academia. .

- In May 2018 the Murray-Darling Basin Authority (MDBA) Executive Director stated that *"it was always known that change of the magnitude required to save the Basin system would have some unavoidable socio-economic impacts"*.<sup>5</sup>
- The Department of Agriculture has stated *"trading generates economic benefits valued in hundreds of millions of dollars annually"*.<sup>6</sup>

<sup>1</sup> Reserve Bank of Australia, 2017, Australian Capital Flows.

<sup>2</sup> Natural Capital Economics, 2020, Capital Requirements of Australia's agriculture, fisheries and forestry sector.

<sup>3</sup> ATO, Register of Foreign Ownership of Water Entitlements.

<sup>4</sup> Percentages are measured based on the proportion of total water entitlements on issue as calculated by the ATO.

<sup>5</sup> Murray Darling Basin Authority, 2018, MDBA analysis shows effect of Basin Plan on communities.

<https://www.mdba.gov.au/media/mr/mdba-analysis-shows-effect-basin-plan-communities>

<sup>6</sup> Australian Government, Department of Agriculture, History of Australian Water Markets.

<http://www.agriculture.gov.au/water/markets/history>



- The Wentworth Group of Concerned Scientists published a review of water reforms in the Murray Darling Basin in 2017<sup>7</sup> found the *“national water reform has improved water trade which has provided greater flexibility for irrigators to manage risks and adapt with less water.....The Basin’s economy as a whole has grown since 2002 and has been maintained in the five years since the Basin Plan has been in place”*;
- The Australian Productivity Commission National Water Reform Report<sup>8</sup> concluded *“Water reform has delivered substantial benefits to irrigators, other water users and the broader community”, “The expansion of water trading has provided irrigators with greater flexibility to manage change and has encouraged greater efficiency”* and *“There is emerging evidence of improved ecological outcomes from increased environmental water, but it will take time for the full benefits to be realised”*; and
- As recently as March 2021, University of Adelaide researchers tested claims of water hoarding and speculative behaviour in Murray-Darling Basin water markets and found no evidence of hoarding, or a clear source of speculative behaviour, driving water price rises. *“There are a lot of market myths out there right now but in our research, we found no evidence of hoarding behaviour in the market volume trends assessed and, therefore, dismissed hoarding as a driver of recent higher prices”*.<sup>9</sup>

#### 4. Additional Information

RCP note that the recent (2019-2021) ACCC Review of the Water Markets of the Murray Darling Basin requested market participant views on water market transparency, some of the views provided by RCP are also relevant to this Productivity Commission review. Points below specifically relate to views on water reform outcomes, market efficiency and competition and confidentiality of information. RCP provide these for context.

##### **4.1. The extent to which the objectives of water markets have been achieved and any unintended consequences that may have resulted.**

RCP’s experience has been that the objectives of water markets have been broadly achieved with any unintended consequences limited. RCP makes this observation from team members’ experience as both water market investors and investors and managers of irrigated farmland.

RCP references the Productivity Commission National Water Reform December 2017<sup>10</sup> report with particular emphasis on the section ‘What has been achieved through Water Reform’ pages 7 through 11. The Productivity Commission noted on page 8 and RCP agrees that:

*‘Water markets have been established that have allowed water to be traded to higher value uses and other steps have been taken to improve the efficiency of water markets...’*

Furthermore, in the Key Points on page 2 of the Report, it is noted and RCP agrees:

*‘Water reform has delivered substantial benefits to irrigators, other water users and the broader community....The expansion of water trading has provided irrigators with greater flexibility to manage change and has encouraged greater efficiency.’*

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<sup>7</sup> Wentworth Group of Concerned Scientists, 2017, Review of the Water Reform in the Murray-Darling Basin.

<sup>8</sup> Australian Government, 2017, Productivity Commission National Water Reform Overview & Recommendations, No.87, 19 December 2017

<sup>9</sup> University of Adelaide, 2021, Researchers Bust Myths on Water Market Price Rise

<sup>10</sup> Productivity Commission, National Water Reform, Report No. 87, Canberra



From an investment and operational perspective, the RCP team's experience has been that water markets have broadly supported investment in irrigated farmland development and operation. The ability to structure farmland water balance sheets with a combination of owned, leased and spot traded water has supported investment economics via enhanced returns and attracted domestic and foreign capital into the Australian agricultural sector.

From an operational perspective the flexibility water markets provide to an irrigated farmland operation supports risk management and planning while managing cashflow and finance facilities. The expansion of the water trading has provided irrigators with greater flexibility to manage change and has encouraged efficiency in water use.

#### **4.2. The extent to which water markets are currently operating efficiently.**

RCP's experience is that the sMDB markets are operating efficiently across most regions and trading zones. There are individual zones where liquidity is low and potentially 'thin' markets could exist however in these zones, the underlying water infrastructure, trade rules and agricultural economy contribute to the low liquidity more than any possible market 'weakness'. There is the potential for traders to attempt to influence these individual markets however risk management practices required of such traders (typically by their investors) would suggest that holding large positions in thinly traded markets to be unacceptable – illiquid markets challenge both the trader's ability to buy in volumes required to influence prices as well as to eventually sell such a position. RCP typically views zones with low/thin turnover as constraints to investment and suspects other non-landholder investors would view them similarly. RCP considers that these markets are evolving in a manner consistent with the sMDB's evolution and that this a positive. It has been the experience of the RCP team that the arrival of non-landholder investors in these emerging markets is typically viewed as a positive for liquidity and optionality by irrigators.

RCP believes improvements to the timeliness, availability, accuracy and transparency of information relating to trade in both water entitlements and water allocations will act to improve the efficiency of the water markets in general. Of particular note, certain jurisdictions have very low levels of transparency in relation to water market activity data, such as Queensland. RCP views this as an impediment to the development of efficient water markets across that jurisdiction which is likely reflected in the levels of turnover and trade in water markets.

Current approaches and frameworks for metering and monitoring of water use have the potential to impact water market outcomes, including efficiency, equitability and confidence in the market. RCP views this from an investor perspective as investor concern at participation in a market without transparent checks and balances can cause investors to pause. RCP expects this to be the same for all market participants who own water entitlements. As per the Productivity Commission National Water Reform 2017 report findings;

*'Confidence in accounting and compliance processes is critical to maintaining the integrity of entitlement systems and water markets.'*

#### **4.3. Whether and how competition and efficiency in water markets have changed over time.**

The RCP team's experience since 2007 has been that competition in water markets has steadily increased and that this is expected and reflective of the growth in trade in both water entitlements and water allocations. It is also reflected in the growth of market intermediaries such as water brokers and competing platforms. RCP views this as evidence the water market continues to mature. It is RCP's experience that the strongest competitors and most prevalent participants in the water markets are irrigators.



Water market efficiency in the sMDB has improved from RCP's perspective. Today there are additional trading platforms, brokers and sources of trade opportunity than previously. Market participants are generally more familiar with the mechanics of the market which makes transactions simpler and more cost effective and efficient. In RCP's experience the nMDB markets and markets outside the Basin are beginning to evolve but lag the sMDB and are therefore not as efficient however competition is still strong, again with irrigators being the prevalent market participants.

**4.4. Whether and, if so, how large market participants have influenced water markets (for example, by changing water availability or prices) through their trading strategies.**

RCP does not believe large water market participants have unduly influenced water markets through their trading strategies or involvement in the water markets. Furthermore, RCP believes large market participants play a vital role in the water markets, by providing increased liquidity and turnover, alternative sources of capital to irrigators and the development of a range of risk management products accessible to irrigators.

**4.5. Your views on the types of water market information that should and should not be publicly available.**

RCP believes the following water market information should be made publicly available:

- trade data (price and volume of each trade) for water entitlements, including break out of any related party trades.
- trade data (price and volume of each trade) for water allocations, including break out of trade types more accurately, such as spot sales, forward sales, carryover returns.

RCP does not believe the identification of ownership of holdings of individual water entitlements (whether they be landholders or non-landholder investors) is necessary and does not support this due to privacy considerations amongst other reasons. However, RCP acknowledges that a level of reporting may be required to increase the confidence of certain stakeholders as to which type of market participants control water in a particular region. For that matter, RCP would recommend the following approach to reporting of ownership of water entitlements and water allocations, noting this approach is similar to that employed by many commodity futures exchanges:

- ownership split in aggregate (between landholders and non-landholder investors) for water entitlements for each water entitlement type.
- holdings in aggregate for landholders and non-landholder investors of water allocations in each water trading zone.

RCP believes the level of publicly available information should be limited to ensure commercially sensitive information is not accessible to the public and consistency of privacy laws is maintained. Actual holdings of individual market participants should not, in RCP's view, be divulged. RCP believes that such information, if made public, could encourage anti-competitive behaviour in the markets. If this information were to be divulged, RCP expects significant reluctance from many investor types to participate in the water markets, which RCP believes would be detrimental to the water markets. Investors provide many benefits to the water markets, including but not limited to the provision of alternative sources of capital to irrigators (to traditional bank debt), development and provision of various risk management products (leases, forward sales etc) and creation of market depth through increased turnover and trade. RCP expects many irrigators would not be supportive of this level of reporting either.



RCP supports the Productivity Commission National Water Reform 2017 recommendation that:

*'The role of governments in providing water market information should be focused on ensuring the quality and accessibility of water resource, market rules and basic trade data. In fulfilling this role, State and Territory Governments should improve the quality and accessibility of trade data in water registers.'*<sup>11</sup>

End

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<sup>11</sup> Productivity Commission, National Water Reform, Report No.87, Canberra

